**PARLIAMENT OF VICTORIA**

# PARLIAMENTARY DEBATES (HANSARD)

## LEGISLATIVE COUNCIL

## FIFTY-SEVENTH PARLIAMENT

## FIRST SESSION

**Thursday, 19 April 2012**

**(Extract from book 7)**

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

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## The Governor

The Honourable ALEX CHERNOV, AC, QC

## The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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| | |
|---|---|
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| Deputy Premier, Minister for Police and Emergency Services, Minister for Bushfire Response, and Minister for Regional and Rural Development | The Hon. P. J. Ryan, MP |
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| Minister for Agriculture and Food Security, and Minister for Water | The Hon. P. L. Walsh, MP |
| Minister for Mental Health, Minister for Women's Affairs and Minister for Community Services | The Hon. M. L. N. Wooldridge, MP |
| Cabinet Secretary | Mr D. J. Hodgett, MP |

## Legislative Council committees

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

**Procedure Committee** — The President, Mr Dalla-Riva, Mr D. 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, #Ms Hartland, #Mr Leane, #Mr Lenders, #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 Leane, #Mr Lenders, #Mr Ondarchie, Ms Pulford, Mr Ramsay and Mr Somyurek.

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

*# 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*): Mr Brooks, Ms Campbell, Mr Gidley, Mr Nardella and Mr Watt.

## Heads of parliamentary departments

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

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

*Parliamentary Services* — Secretary: Mr P. Lochert

**MEMBERS OF THE LEGISLATIVE COUNCIL**

**FIFTY-SEVENTH PARLIAMENT — FIRST SESSION**

**President:** The Hon. B. N. ATKINSON

**Deputy President:** Mr M. VINEY

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

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

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

**Leader of the Opposition:**
Mr J. LENDERS

**Deputy Leader of the Opposition:**
Mr G. JENNINGS

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

**Deputy Leader of The Nationals:**
Mr D. DRUM

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

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## THURSDAY, 19 APRIL 2012

## Thursday, 19 April 2012

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

**The PRESIDENT** — I have a couple of things that I would like to bring to the attention of the house. The first one is that the Parliament will be honoured to have the opportunity this afternoon, albeit briefly, to welcome the President of Lebanon into this chamber. Members who wish to see the president in this chamber need to be very precise in their attention to their clocks because this is a fleeting visit. The president will be in the chamber for only 3 minutes. As I understand it, the time will be 4.49 p.m. If members are not here between 4.49 p.m. and 4.52 p.m., they will miss the opportunity to see the President of Lebanon, who will be acknowledged in this place. I say in advance that obviously I am not aware of where the proceedings will be up to at that point in time, so it is likely that I may have to interrupt somebody who is on their feet to make the acknowledgement to the president. I promise to not use up the entire 3 minutes in that acknowledgement.

I also remind members that as part of the science program of forums at the Parliament today there will be a lunchtime briefing session on 'How green can brown coal can be?'. I urge members who are available at lunchtime to take up the opportunity to attend that science briefing.

## STATEMENTS BY THE CHAIR

**The PRESIDENT** — Order! I also wish to make a statement to the house. At the outset I emphasise that this is not a ruling, but it is a statement that I think is nevertheless important to be made to the house. I wish to advise the house that I have received a letter from Mr O'Donohue and a copy of a letter to Mr Viney from Bill O'Shea, general counsel, Alfred Health, in relation to the resolution of the Legal and Social Issues References Committee to call the Alfred Health chief executive, Andrew Way, to provide further evidence to the committee after it has tabled its report on organ donation, which members will recall occurred in the last sitting week. I also indicate very clearly that the letters from Mr O'Donohue and Mr O'Shea came quite separately, and, as I said, Mr O'Shea's letter is a copy of a letter sent to Mr Viney.

I wish to advise the house that I am not making a ruling on the matter, but I am bringing it to the attention of the house because I believe that there are closely related matters that should be considered by the Procedure Committee and the house in due course.

For the benefit of the house I wish to quickly outline the circumstances of the matter. On 29 March this year the Legal and Social Issues References Committee tabled its report to the house on organ donation in Victoria. On page 93 of its report the committee stated its intention to further examine Mr Way in relation to a perceived inconsistency in his evidence to the committee. I subsequently received correspondence from Mr O'Donohue and then from Mr O'Shea, and, without touching on the aspects of the correspondence, I can summarise the concerns as being whether the committee has the authority to further examine Mr Way once it has tabled its report and met its deadline, provided by the house, given that the committee does not have the power to self-reference.

I do not have the power to direct or rule on this committee matter. However, I have reviewed that committee's report, the relevant Hansard transcript and relevant practice in other jurisdictions and held discussions with the chair of the committee, Mr Viney. I am prepared to provide some guidance on the issues that have arisen, pending further consideration by the Procedure Committee and perhaps the house.

The issue of whether a Council standing references committee, which does not have self-referencing powers, can pursue general matters in the terms of reference after tabling a report is a grey area. It is not expressly covered by standing orders and is subject to various points of view. As I have indicated, I intend to refer the general issue of the powers of the standing committees to conduct inquiries to the Procedure Committee as I believe this issue, along with other related standing committee issues, warrants the attention of the Procedure Committee and the house.

That said, I wish to clearly distinguish the general continuation of a committee inquiry after a final report is tabled from the circumstances of the actions of the Legal and Social Issues References Committee on this occasion. I am satisfied that the Legal and Social Issues References Committee intends to take evidence from Mr Way solely in order to clarify a matter of parliamentary privilege arising from the evidence previously given by Mr Way. The Legislative Council standing committee system is very closely based on the Senate system of standing committees and their roles, responsibilities and powers. Indeed we made a considerable examination of the Senate committees to inform the establishment of our legislation and references committees here.

It may be that the Legal and Social Issues References Committee concluded it inquiry into the substantive terms of reference for the organ donation inquiry

referred to it by the house upon the tabling of its report in the house on 29 March 2012. However, the tabling of the report does not preclude any standing committee of the Council from investigating a matter arising from the evidence it receives which it considers may undermine the integrity of the committee and parliamentary system. This fundamental principle is upheld by, firstly, the express practice of the Senate in relation to its parliamentary privilege resolution no. 1, in particular paragraph 18, *Odgers' Australian Senate Practice*, 12th edition 2008, pages 597 to 599, and, secondly, a very recent inquiry by the Senate's Legal and Constitutional Affairs Legislation Committee into inconsistent evidence relevant to an inquiry reported to the Senate 12 months prior to the committee's decision to inquire into the matter. That concerned a report on the Northern Land Council's evidence to the committee's inquiry into the provisions of the National Radioactive Waste Management Bill 2012, paragraph 1.15.

It is my personal view, and hopefully the view of most members, that the integrity of evidence given to parliamentary committees is of great importance to the integrity of our institution. It is therefore important that committees be able to properly investigate any possible misleading evidence or other interference with proper processes. It is important to remember that this power to pursue possible contempts is equally important for witnesses who are adversely affected by third parties by virtue of their giving evidence, which could also be a contempt.

It is just as important that committees and the house be able to protect witnesses as well as being able to pursue witnesses who give misleading evidence. I do not imply in any way that that is the case in the circumstance currently before me. The remarks I am making are guidance in terms of general principles that I believe would apply in this committee process. In any such case of alleged contempt I would expect that a committee, having made its subsequent inquiries, would report to the house with either a finding that no further action is required or a recommendation that the Privileges Committee inquire into the matter.

Before concluding I wish to comment on a related aspect of the aftermath of the committee's inquiry into organ donation. The committee has used the statutory power to refer a very closely related matter at the Alfred hospital to the Ombudsman for inquiry. This type of referral has a precedent in the 56th Parliament, and the statutory power is not in question. However, I do think it is unfortunate that the power is used and unfortunate that it may be used before a committee has concluded what I regard as closely related inquiries. I believe people subject to committee inquiries deserve procedural fairness, and this would be better provided if people were not subject to an inquiry by a committee and a second inquiry, in this case a referral to the Ombudsman, at the same time.

It is also my opinion that a reference of a matter by a committee to the Ombudsman could imply some shortcomings in the powers or capacities of committees and this place, and that should not be the case. Indeed I believe there are ample opportunities for this house to address some of the matters raised by this issue with our committee on this occasion.

Finally, I wish to acknowledge that both the chair and deputy chair have pursued their different views on this matter in a very appropriate manner. Mr O'Donohue has properly written to me seeking my ruling, but, as stated, it is not within my power to rule on this matter. Only the house may direct the committee to desist from any further action on a matter. The only course of action that was available to me was to provide this guidance to the house, and no doubt that will be taken into account by the Procedure Committee and the house on other occasions.

In Mr Viney's case I acknowledge that he has sought advice throughout this process when dealing with the matters before his committee to ensure that he and the committee complied with relevant practices. Mr Viney has certainly been open and helpful in his discussions with me about the matter.

**Hon. D. M. DAVIS** (Minister for Health) — Further to your commentary, if I can put it that way, I welcome your decision to refer what you have described as a grey area to the Procedure Committee. I think that is relevant and sensible. I think a related matter that should also be referred to the Procedure Committee is the decision of the committee in question, in perhaps similar circumstances, to run on with an inquiry beyond its term, particularly in defiance of an express order of the house, which was to complete a final report by a particular date. The committee did in fact complete the final report by that particular date. A related matter that needs to be considered by the Procedure Committee is the ability to ensure that committees comply with a direction from the chamber, which in this case was to complete a final report by a particular date. Quite frankly, 'final' is a very clear word.

**The PRESIDENT** — There are two things I would say to that. The first one is that obviously it is within the power of the house to direct the committee; it is not within my power, as in this matter. But I was at pains to try to explain that after considerable examination of this

matter I have come to the view that the committee has discharged its responsibility in presenting its report by the deadline date and in conformity with the instructions of the house.

The matter of recalling Mr Way is not to do with the substantive inquiry. The matter of recalling Mr Way is to do with the concerns of some members of the committee — and I acknowledge there are majority and minority positions in this — about the apparent inconsistencies in the evidence that was provided to the committee by the witness compared with documentation that the committee had available to it. As I have said in the guidance that I have provided to the house today, which will be made available to the Procedure Committee when it meets to consider this matter, there is a firmly established practice and a number of precedents — not simply one precedent but quite a number of precedents — in the Senate where there has been concern about evidence and the committee has been able to pursue its concerns about that evidence.

As a Presiding Officer and somebody who is very concerned about the integrity of our processes, I believe if we do not ensure that evidence placed before committees is accurate and provided honestly and openly, then there is little point in us pursuing our committee work, because it invites witnesses to decide what evidence they will venture, what questions they may or may not answer and the way in which they answer, which might well be misleading — perhaps not mischievously but nonetheless misleading.

I regard the evidence given to committees and the responsibility of people coming before committees as being very important in a legal sense and absolutely crucial to the workings of this house and this Parliament. Therefore I think the Senate practice provides some relevant guidance in terms of saying that if a committee has concerns about evidence, then it can return to examine that matter and that matter solely — in other words, not to reopen the entire investigation but to go to find out whether the evidence it was provided with was accurate and honest. If it was not, then it is a very serious matter for the house to consider.

It is not always open to a committee in such a circumstance to know the validity of evidence at the time it is reporting. Indeed, as I indicated with the most recent example from the Senate, it was 12 months later that that committee went back to look at some evidence because it became aware that there was inconsistency or that misleading evidence had been given, but it was not aware of that at the time it reported. In the case of the Senate it was most appropriate for that committee, having heard the original evidence, to go back to check the validity, accuracy and consistency of that evidence. That is a practice, or guidance, which informs our house as we approach these matters.

**Hon. M. P. Pakula** — On a point of order, President, on Tuesday you indicated to members of the house that it was inappropriate for them to wear badges in support of the parliamentary staff. Yesterday in the other place the Speaker, in response to a point of order from the member for Tarneit, indicated that in the Assembly he believed it was acceptable for those badges to be worn by members. There are a number of members who would appreciate the opportunity to demonstrate their support for the staff in that way. I wonder whether in consideration of the Speaker's ruling in the other place you would be prepared to reconsider your own ruling.

**Mrs Peulich** — On the point of order, President, I had the honour of serving as Acting Speaker in the other place for 10 years. I believe, without reflecting on the Presiding Officer in the other place, that there are previous rulings that prohibit the wearing of slogans, badges, T-shirts and the like, and I think it would be a retrograde step to allow that for the reason that every one of us could be wearing something. I am not diminishing the significance of the cause, but there are a myriad of very valuable and worthwhile causes. If we go down the track of wearing badges, it might be something like 'No GST' or whatever it is — —

**An honourable member** interjected.

**Mrs Peulich** — 'No carbon tax' or 'No GST' during a debate on the GST. I think it diminishes the dignity of this place. It makes a mockery of what it is intended to do, and the presiding officers ought to uphold what has been a longstanding practice in this place and the other place.

**Mr P. Davis** — On the point of order, President, briefly: in my time in this place there has never been an opportunity for members to express their views on any issue in any way other than orally. All previous presidents have been consistent in their rulings on matters such as bringing signs or any physical embellishments into the chamber, and I think that is a reasonable position.

**The PRESIDENT** — Order! In regard to this matter I welcome the point of order raised by Mr Pakula because it gives me the chance to clarify a couple of points, and I would like to do so. First of all, I indicate that I, and I think many members of this house, are concerned at the protracted nature of the negotiations

on the wage claim involving both the staff of this Parliament and the broader public service. I can understand the frustration of the staff of the Parliament about the finalisation of our negotiations on the parliamentary enterprise bargaining agreement, but it is linked to the Community and Public Sector Union negotiations on behalf of members of the public service more broadly — in other words, we are tied into those negotiations. I am not in a position, with the Speaker and the management of the Parliament, to finalise those negotiations until the broader issues are established and the parameters are set with the CPSU. I look forward to that happening at the earliest possible stage.

Notwithstanding that, and recognising that some members would like to express their support for the staff — in my mind there is absolutely no doubt about the valued work that our staff perform here in the Parliament — I note there is a longstanding practice in this house that there should be no badges, scarves, T-shirts, paraphernalia or props brought into this place and used to convey some sort of message, particularly a message that might have political or industrial ramifications. In my view, once we depart from that long-established practice I would be required, as Presiding Officer, to adjudicate and make value judgements on all sorts of badges, materials or props that MPs might bring into the house. Once you start to push outside the envelope, what is the next step? Will the next action be more worthy than this one? Where do we go with this?

I also indicate that, whilst I am not precious about this matter, notionally I am the employer involved in these negotiations and am responsible for the staff of the Parliament. In some ways this particular badge campaign would, if it were to occur on the floor of this chamber, be a reflection on the President.

I am aware that the Speaker of the Legislative Assembly has indicated he has a different opinion in the other house. This house is not bound by the same rules as the other house. This house often has different practices. Dare I say the traditions of this house are traditions I think we can be very proud of; they serve good purpose. From that point of view, I see no nexus between the decision of the Speaker and my decision the other day. I thank members for the manner in which they accepted that decision, and I think it is quite appropriate that Mr Pakula should seek a review of that decision.

I am not at all affronted or concerned about the point of order taken by Mr Pakula, because I think it was an appropriate course of action. Indeed Mr Pakula gave me the courtesy of indicating that he may well raise this point of order today. I thank him for that. I think it has been appropriately broached as a subject, and I thank all members.

## PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

### Financial and performance outcomes 2009–10 and 2010–11

**Mr P. DAVIS (Eastern Victoria) presented report, including extracts from proceedings, appendices and minority report.**

**Laid on table.**

**Ordered to be printed.**

**Mr P. DAVIS** (Eastern Victoria) — I move:

That the Council take note of the report.

The Public Accounts and Estimates Committee's inquiry into the 2009–10 and 2010–11 financial performance outcomes examined the many achievements of the public sector in those two years, along with how those achievements were reported. The committee has been particularly interested in this topic to ensure that the appropriate accountability mechanisms are in place for the large expenditure of the public sector, which exceeded $50 billion in both of those years. This report focuses on what was delivered and what was achieved by the two different state governments in that period. In conducting the inquiry the committee has been particularly interested in how the actual achievements compared to what had been planned at the start of each year. The reporting loop that begins with the preceding year's budget papers and ends with annual reports is a critical component of the accountability and transparency of the government.

The report examines the government's performance in a number of areas, including overall financial performance, how the income and expenditure of departments compares to the budget estimates, what outputs were delivered and how departments performed compared to the targets in their performance measures, how asset investment projects have progressed compared to time lines and cost targets and what outcomes were achieved.

The report also includes a chapter looking at the performance of the Victorian Auditor-General's Office in 2010–11. This report comments on the Victorian Auditor-General's Office establishing measures to

quantify the impact of performance audits on efficiency gains from public sector entities.

The committee is keen to in future explore the issue of value-for-money audits, demonstrating measurable benefits to the community. Assessing the achievements and performance of government departments and agencies in a meaningful way which can be readily understood by members of Parliament and the community is the implicit key performance task of the committee. Terms such as inputs and outputs are generally understood and relate to resources producing estimated or measurable units of products or services, whereas outcomes relate to the measures of actual impact on the community which can be regarded as the achievement judged against the objectives and commitment of resources.

In this context, and based on data reported in the budget papers and questionnaire responses provided by departments, it is surprising that the previous government only met 36 per cent of the measures set under the Growing Victoria Together vision. Some 25 per cent were not met and 20 per cent only partially met. Given the widely proclaimed central objective of its vision to make Victoria a better place in which to live, work and raise a family, this demonstrates the challenge for governments to show a meaningful impact or outcome of their vision, strategy, input and investment. This example must be regarded as disappointing in any retrospective analysis of the previous government, and is a signal to the current government to ensure integrity of future visions and objectives achieving measurable outcomes for the benefit of the community.

An important element of this inquiry has been the responses from the departments and agencies to the committee's 2009–10 and 2010–11 financial performance outcomes questionnaire. This is a detailed questionnaire requiring responses on a large range of topics. I thank the presiding officers, the Premier, Deputy Premier, Treasurer, Assistant Treasurer, Attorney-General and ministers and departmental secretaries and their staff for preparing those responses.

Prior to the preparation of the report, the committee adopted a scoping paper to establish the framework for the research task of the secretariat. The secretariat staff have again provided an impartial and high-level analysis to enable the committee to prepare and adopt this report.

I thank all the committee staff involved in the inquiry for the quality of their research and advice. Members of the committee had an extended period for consideration, comments and suggestions of amendments during the drafting process. It is important that the integrity of the objective analysis of the secretariat is not influenced by differing policy views of committee members. Further, it is fundamental that the committee itself is prepared to set aside partisan differences to provide transparent analysis and advice to the Parliament.

In conclusion, I again express my sincere gratitude to the secretariat, to the members of staff who have worked diligently on assisting the committee members with the inquiry: the executive officer, Valerie Cheong, senior research officer Chris Gribbin, research officers Ian Claessen, Priyanaka Narayan and Bill Stent, the business support officer, Melanie Hondros, and desktop publisher Justin Ong.

I thank members of the committee, albeit that this is the first report that we have tabled where there has been a difference of view between the government and opposition members. I hope in the future those differences of view will be ameliorated by a better process to adopt the report.

**Hon. M. P. PAKULA** (Western Metropolitan) — In the 2 minutes available to me to make a contribution to this motion I am going to have to skim across my view. I might take the opportunity in the statements on reports and papers debate next week to give a more fulsome view.

I start by thanking the secretariat for all its work. I also thank the chair for the manner in which he endeavoured to find common ground between what were competing views.

Let me indicate that there is a minority report. It is a matter of some regret to opposition members of the committee that there is a minority report, but we have a disagreement with the majority members about the methodology used to analyse 11 years of the previous government's activity in the Growing Victoria Together framework. In our minority report we have outlined but three examples where we say the analysis by the majority seems to be either subjective or incomplete. We have looked at the measure of how the health of Victorians will improve, the appreciation of diverse neighbourhoods and communities, and the measure about Victorian taxes remaining competitive. We have outlined in our minority report why we believe the majority has failed in its endeavour to properly analyse the Growing Victoria Together targets in those three examples.

In the 30 seconds remaining to me, let me just reflect on the comment the chair of the committee made at the

end of his contribution, where he said it is important that the secretariat do its work objectively and that partisan political views should not impinge. I simply say to the chair that what is good for the majority in that regard is good for the minority as well, and it should not only be where the secretariat's view conforms with that of the majority that that is the case. In that respect I invite members of Parliament to look at the minutes and some of the resolutions that were rejected by the majority and ask them to reflect on why those resolutions might have been moved.

**Mr O'BRIEN** (Western Victoria) — As a member of the Public Accounts and Estimates Committee, I too wish to briefly comment on the tabling of this important report. It is titled *Report on the 2009–10 and 2010–11 Financial and Performance Outcomes*, which is an important part of the Public Accounts and Estimates Committee's role in that it is effectively reporting over a period during which there were governments of both political persuasions. It was a very difficult task that all members of the committee had to undertake as parliamentarians and committee members. They applied themselves to that task together with the work of the secretariat, which has again been very commendable. In my time I will not list them all, but I particularly thank the staff members, who have also been thanked by the chair of the committee.

What is important in all this is that wherever a government is subject to a performance measure that is capable of being scrutinised by the Public Accounts and Estimates Committee in its important joint house committee role, it is important that that be done for the benefit of all Victorians into the future. The commentary that is made on the performance measures by the previous government is commentary that is made in the context of the measures that were set by that government. I accept that there is subjectivity in analysis of performance measures, and that is part of the problem with some performance measures in that they are very difficult to measure. I agree with some of the concerns about that, but those are the measures that were set by the previous government and on which its 11 years have been judged.

In relation to another disagreement between the majority and minority of the committee in relation to debt, there is a view of the previous government that somehow debt arises without regard to expenses. The way a government spends taxpayers money results in net debt via the net result from transactions, and if you do not look after the budget in a holistic way, you will have difficulty funding infrastructure into the future.

**Motion agreed to.**

## PAPERS

**Laid on table by Clerk:**

Bendigo Regional Institute of TAFE — Report, 2011.

Box Hill Institute of TAFE — Report, 2011.

Central Gippsland Institute of TAFE — Report, 2011.

Chisholm Institute of TAFE — Report, 2011.

Driver Education Centre of Australia Ltd — Report, 2011.

East Gippsland Institute of TAFE — Report, 2011.

Gordon Institute of TAFE — Report, 2011.

Goulburn Ovens Institute of TAFE — Report, 2011.

Holmesglen Institute of TAFE — Report, 2011.

Kangan Institute of TAFE — Report, 2011.

Northern Melbourne Institute of TAFE — Report, 2011.

South West Institute of TAFE — Report, 2011.

Sunraysia Institute of TAFE — Report, 2011.

William Angliss Institute of TAFE — Report, 2011.

Wodonga Institute of TAFE — Report, 2011.

## PRODUCTION OF DOCUMENTS

**The Clerk** — I have received a letter dated 17 April from the Minister for Public Transport.

*Letter at page 2241.*

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

## BUSINESS OF THE HOUSE

### Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 1 May 2012.

This will be budget day.

**Motion agreed to.**

# MEMBERS STATEMENTS

## Peter Paras

**Ms MIKAKOS** (Northern Metropolitan) — I was very saddened to learn of the loss of Mr Peter Paras. I knew Peter quite well from his work over the past 10 years as secretary of the Hellenic Stegi Friendly Elderly Citizens Club of Darebin. I knew him to be a learned man who spoke many languages. He was dignified and worked hard for the local Greek community, especially the elderly. I know he will be sadly missed by many, and I wish to express my deepest condolences to his wife and children and the members of the Hellenic Stegi Friendly Elderly Citizens Club.

## National Youth Week

**Ms MIKAKOS** — On another matter, this week is National Youth Week 2012. The theme this year is 'Imagine, Create, Inspire'. Last Friday I visited the Northland Youth Centre, which is a youth centre run by the City of Darebin, and I am looking forward to participating in other local activities this week. The Baillieu government in the state budget needs to provide more support for youth programs. It axed FReeZACentral, which was dedicated to youth mentoring funding, and has neglected important issues facing young people, such as body image.

## Public transport: northern suburbs

**Ms MIKAKOS** — On another matter, I wish to call on the Baillieu government to address the issue of public transport funding, particularly for residents in Melbourne's northern suburbs. The government recently cut back on the only bus service available for residents of the Mount Cooper estate in Bundoora — that is, bus service 506. We have missed out on upgrades to railway crossings, which have been directed to safe Liberal seats rather than being based on the Department of Transport's independent priority list. We have also seen the scrapping of the South Morang to Mernda busway project, with the government failing to provide an alternative to commuters in the Whittlesea growth corridor. The people in the north expect better from this government and more in the state budget.

## Australian Labor Party: survey

**Mrs PEULICH** (South Eastern Metropolitan) — The Peulich family, who are residents of Dingley Village, recently received a flyer — —

**An honourable member** interjected.

**Mrs PEULICH** — Yes, I do live in my electorate. The flyer was from local Labor MPs Gavin Jennings and Lee Tarlamis, neither of whom lives anywhere nearby. A family member opened up the flyer and noted a photograph with red banners showing the Leader of the Opposition pointing his finger in a very aggressive stance. The family member said to me, 'When did this revolution take place?'. It was a very revolutionary image. The flyer asks a lot of survey questions, many of which are loaded.

I welcome the Labor Party finally trying to understand what is important to the community. Its members like to characterise themselves as hardworking, grassroots and caring, but when this family member filled out the survey and tried to fit it into the envelope, it would not fit. I reflected on this, because it is a very accurate characterisation of Labor: a lot of words and a lot of stunts that unfortunately are not matched by the reality. When the family member tried to fold the survey into three so that it could fit in the envelope it would not fit into the letterbox! Could I suggest that whoever is doing Labor's brilliant design work get in touch with reality and allow people to have a genuine input so they are able to tell Labor what is important to them, and then Labor can start listening.

## Housing: first home owner bonuses

**Ms TIERNEY** (Western Victoria) — My member statement is in relation to the first home builders bonus. A recent report was commissioned by the McKell Institute, and it found that two-thirds of Geelong residents under the age of 35 will never be able to achieve homeownership due to the costs of purchasing a home. Quoted in the *Geelong Advertiser* of 6 April, report co-author Dr Kim Williams stated:

> Even in Geelong homeownership is becoming something for older people … In Geelong it now costs between six and a half and seven times the median salary to purchase a home.

To assist with purchasing their new home, first home builders or buyers in regional areas like Geelong are eligible for an extra $19 500 under the current first home buyers bonus scheme up until 1 July this year. This bonus is essential to the growth of suburbs such as Armstrong Creek and many new developments around Ballarat and other parts of western Victoria. In the *Weekly Times* of 4 April, Ballarat builder Tony McMaster is quoted as calling the bonus 'critical', and he is reported as saying that the on-flows of this to the rest of the community are massive.

The Baillieu government is refusing to commit to continuing the first home bonus program past 30 June this year. The dithering of this government around

making this commitment creates a huge amount of uncertainty for those who are buying a house and who depend on the housing and construction market for their jobs. Failing to commit to this program will make it more difficult for Victorians to build or purchase their first home, and it will also have a damaging impact on Victorian jobs and the state of the businesses of local builders.

## Fintona Girls School: achievements

**Mrs COOTE** (Southern Metropolitan) — I wish to congratulate the school principal of Fintona Girls School, Balwyn, Miss Suzy Chandler, on Fintona being the top non-selective school in the country in the latest NAPLAN (national assessment program literacy and numeracy) test results. The school staff, the principal and the students themselves are all to be highly congratulated.

An article in the *Weekend Australian* about the NAPLAN tests says:

> The analysis reveals the leading comprehensive, or non-selective, school in the nation is the independent Fintona girls grammar in Melbourne, which had the highest score among non-selective primary and secondary schools.

I congratulate everybody at the school. At Fintona students are encouraged to use the benefits of education not only for personal advancement but also for the benefit of the community, society and the preservation of the planet and all living things.

Fintona Girls School is a K–12 non-denominational school for girls based on Christian values, and its aim is to cater for the needs of individual students through broadbased education programs.

I am very happy to say I am an old girl of Fintona. I put on the record how proud I am of the school. The school motto, 'Age quod agis', means, 'Do what you do well'.

## Rex Theatre, Charlton: reopening

**Ms DARVENIZA** (Northern Victoria) — I take this opportunity to congratulate the team of volunteers who have spent many hours repairing the Rex Theatre in Charlton. The theatre was severely damaged in the floods of January last year, and it had to close to undertake significant repairs. The theatre had to be completely rewired. The seats had to be replaced, and in fact the seats were donated by East Gippsland TAFE and Tongala's Golden Cow. The theatre has installed a disabled lift as well as carrying out repairs to the projection room, and it has upgraded to a digital system.

Next Saturday the theatre will be reopened, and it will show as its feature film *The Artist*, which is the first silent movie for 80 years to win an Oscar. I encourage people to take time to go back to the Rex Theatre now that it has reopened and has been refurbished. It is an iconic theatre. I congratulate all who have been involved in carrying out those renovations and repairs to bring the theatre, which really is an important iconic community asset, back to life.

## World League for Freedom and Democracy: annual conference

**Mrs KRONBERG** (Eastern Metropolitan) — Delegates who arrived in Melbourne to attend the annual conference of the World League for Freedom and Democracy were welcomed in this Parliament on Wednesday, 11 April. It was an important occasion for all concerned.

The conference was organised this year by the Australian president and his team, and I congratulate them. The delegation swelled to a large number of conference attendees who came from 46 countries, with every continent and Oceania very well represented. It was with considerable pride that I played a key role in seeing that they had a good appreciation of our version of the Westminster system of parliamentary democracy, and I wish to thank the Speaker of the Legislative Assembly, the Honourable Ken Smith, for his welcoming gestures on the day.

I joined delegates and luminaries such as Tim Wilson and the federal member for Menzies, Kevin Andrews, in delivering an address to the assembly. It was a delight to witness such a large number of leaders from around the world experiencing Melbourne at its best, with our Parliament providing such an important symbol, as they focused on freedom, democracy and world peace.

Later I was privileged to hear the address from the delegate from Myanmar as he outlined his country's progress towards democracy and the change that has taken place there with elections that saw Aung San Suu Kyi elected as a member of its Parliament. Congratulations to the organisers who have really put Melbourne in the hearts and the minds of so many important people.

## Member for Ferntree Gully: election commitments

**Mr LEANE** (Eastern Metropolitan) — Prior the 2010 election the member for Ferntree Gully in the other place made an election commitment to upgrade

four primary schools in his electorate — Ferntree Gully North Primary School, Mountain Gate Primary School, Fairhills Primary School and Wattle View Primary School. I am concerned that if there is not funding in the upcoming budget, the member's ability to deliver this election commitment might not be reached. I will be interested to see if that particular funding is in the next budget.

I give the member credit for the previous budget, where money was delivered for a feasibility study for the Rowville rail, which was completed. Unfortunately the feasibility study found that the Rowville rail is not feasible, so I hope the commitments by the member to the primary schools are completely feasible and will be delivered as the member promised.

## Anzac Day: commemoration

**Mr O'DONOHUE** (Eastern Victoria) — Next Wednesday is Anzac Day, a day to reflect and honour the sacrifices of those who have gone off to war or conflict to defend us. It is important to acknowledge that Australia has servicemen and servicewomen in a range of places — from East Timor and Afghanistan to a host of United Nations and other peacekeeping missions around the world as we speak. I am pleased the coalition government is giving support to a range of RSLs and memorials in my electorate, including the Upwey-Belgrave RSL, which has received funding to upgrade the cenotaph rails to enhance safety in the cenotaph area for elderly people with disabilities.

## Shire of Yarra Ranges: bus shelters

**Mr O'DONOHUE** — On another matter, prior to the last election the coalition promised, if elected, to deliver 10 new bus shelters in 2011. As reflected in a press release from the Minister for Public Transport of 28 June 2011, 12 new shelters had already been delivered by that time. I am pleased to advise the house that since coming to office this government has delivered 34 new bus shelters in the shire of Yarra Ranges. Bus transportation is obviously a critical form of transport for many people who live in the shire of Yarra Ranges, and I am pleased the government is investing to make bus transportation safer by providing shelters to encourage people to use buses in the shire of Yarra Ranges.

## Western Metropolitan Region: multicultural events

**Mr ELSBURY** (Western Metropolitan) — I rise this morning to mention that I was pleased to attend the Padamati Sandhya Raagaala, which was an event run by the West Telugu Forum, an Indian community in the Wyndham area. A group of families got together a few years ago and decided to promote Indian culture. It was a great night, with Tollywood dancing and vibrant music and a comedy skit about a young man getting married — and I will not comment any further, lest I get into trouble when I go home this evening.

I also went to the Al Mustafa multifaith complex dinner in Coburg on Sunday evening. The plans are for a mosque and an education centre to be built on Leakes Road in Plumpton, which is just outside my electorate but services the people of the western suburbs. I was pleased to support that organisation in spreading its faith.

## Anzac Day: commemoration

**Mr ELSBURY** — I also point out that Anzac Day is coming. If it were not for the sacrifices of the many men and women who have defended our democracy and our way of life, we would not be living in the peaceful society we have today that has attracted people from all over the globe, such as those from the West Telugu Forum or from the Al Mustafa multifaith complex.

## Anzac Day: Vietnam veterans

**Mr FINN** (Western Metropolitan) — Anzac Day is a sacred day on the Australian calendar. It is a day we, as individuals and as a nation, remember those who have fought for Australia and its people, and give thanks for the sacrifices our brave fighting men and women have made so that we may live in freedom.

Next Wednesday will be a particularly significant Anzac Day for one group of veterans. This year, 2012, marks 50 years since Australia began its involvement in the Vietnam War. In August 1962, 30 army advisers were sent to assist the South Vietnamese government. The Australian-Vietnamese community has already been very active in commemorating those who fought in a foreign land to defend it from communism.

The thousands of diggers who followed went to Vietnam for the same reason our diggers went to Gallipoli, our diggers fought in France and our diggers battled on Kokoda. Those brave Aussies went to Vietnam to serve their country in defence of freedom and liberty. Those hundreds of Australians who paid the ultimate sacrifice in Vietnam died as heroes, and we should always honour them as such.

The psychological impact of war on many veterans was compounded by despicable scenes on our streets as the feral left, led by Jim Cairns and his ilk, conspired to

give our returning troops a 'welcome' they most surely did not deserve. Others were smuggled back home under the cover of darkness to avoid what amounts to political hooliganism. It was disgraceful in every way.

Australia owes the Vietnam vets a huge debt of gratitude. They served with honour and valour and are every bit as important in Australia's military history as those who fought in any other conflict. When I lay wreaths at a number of memorial services this Anzac Day I will say a special prayer and reserve a special thankyou for those who served our nation in Vietnam. Lest we forget.

## Rail: Geelong–Ballarat line

**Mr RAMSAY** (Western Victoria) — It gives me great pleasure in my members statement this morning to highlight the success of the celebration of the 150th anniversary of the opening of the Geelong–Ballarat line. I would like to congratulate the Parliamentary Secretary for Transport, Ed O'Donohue, on representing the Minister for Public Transport, Mr Mulder, in celebrating the anniversary at the Geelong railway station. I would also like to acknowledge the mayor of Geelong, John Mitchell, who is in fact a train driver and who provided us with many funny stories of the work he did as a train driver travelling on that line in a past era. The mayor of Ballarat, Mark Harris, also joined us in celebrating this important milestone. Geelong and Ballarat are both very important regional cities to Western Victoria Region, which I represent. Both cities have ridden on the sheep's back and enjoyed the golden era of the 1800s.

I would like to congratulate the Baillieu government on its review to see if there are opportunities to reinvigorate that line as a passenger rail service between two important linkages — Ballarat and Geelong. In the present day it is an important linkage for the freight corridor, particularly for grain being received from the northern areas at the Geelong port. I also congratulate Engineers Australia, V/Line, Heritage Victoria and my parliamentary colleagues David Koch, who attended with me in Geelong, and David O'Brien, whom we picked up in Lethbridge, and the — —

**The ACTING PRESIDENT** (**Mr Eideh**) — Time!

## Anzac Day: Wattle Park

**Hon. D. M. DAVIS** (Minister for Health) — I too join others in the chamber today who have noted Anzac Day and the significance of Anzac Day for our community. For many years on the Sunday before Anzac Day I have been at Wattle Park supporting the number of Australians who have served and remembering those who have served and given their life. Wattle Park is significant because of the presence of a lone pine there. A small number of lone pines were planted post-Gallipoli; 7 May 1933 was the date that the lone pine from Gallipoli was planted at Wattle Park. I was proud to work with others to advocate strongly for the planting of a new lone pine, a progeny of the original lone pine, so continuity will exist there. I record today that I have a wedding to attend, so I will not be with those who I would normally attend Wattle Park — —

**Mr Elsbury** interjected.

**Hon. D. M. DAVIS** — Not my wedding, I hasten to add. I pay tribute to the ongoing tradition at Wattle Park conducted by the 24th Battalion Association, 2/24th Australian Infantry Battalion Association, the 7th Battalion (First Australian Imperial Force) Association, the 2/7th Australian Infantry Battalion Association, and the 2/23rd Battalion Association.

## Child abuse: parliamentary inquiry

**Ms HARTLAND** (Western Metropolitan) — Sometimes in this Parliament there are issues that affect us in ways that other things do not. This week, listening to a lot of the conversation about the need for an inquiry into abuse of children by clergy across a range of religious orders, it has really struck me that referring this matter to a parliamentary committee rather than to a royal commission, which is the clear recommendation of the Cummins report in recommendation 48, is just not going to be good enough.

I am not reflecting on the people on the committee, because having worked with Ms Crozier and being aware of the work of some of those other committee members I know they are diligent members. But will they have enough resources, will there be enough money and will they be able to bring in the staff who will be needed to do the hard work that this kind of inquiry requires? Is the Catholic Church going to be able to be compelled to give evidence? If the church decides it does not want to, and it could take months to force the church to do that, this inquiry only has one year. The church could then be in contempt of Parliament. I do not believe that this committee actually has this power. This is something that should be done by a royal commission. We could be betraying these victims yet again.

The other thing that has come to my attention is that the abuse of people who were in state care will not be

investigated by this inquiry. People in the Care Leavers Australia Network will miss out yet again. Have we betrayed these people again?

## JUSTICE LEGISLATION AMENDMENT BILL 2012

*Statement of compatibility*

**For Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations), Hon. D. M. Davis 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 (the charter act), I make this statement of compatibility with respect to the Justice Legislation Amendment Bill 2012.

In my opinion, the Justice Legislation Amendment Bill 2012, as introduced to the Legislative Council, is compatible with the rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

**Overview of bill**

The Justice Legislation Amendment Bill 2012 will make amendments to the Children, Youth and Families Act 2005, the County Court Act 1958, Magistrates' Court Act 1989, Liquor Control Reform Act 1998 and Victorian Law Reform Commission Act 2000 to:

clarify the procedural framework for the assessment and referral court (ARC) list of the Magistrates Court;

empower the Governor in Council to make regulations with respect to court fees for civil matters in the County Court;

streamline appointments of dispute resolution convenors in the Children's Court;

clarify requirements for the Victorian Law Reform Commission (VLRC) chair;

make a statute law revision to the Liquor Control Reform Act.

**Charter act right relevant to the bill — recognition and equality before the law (section 8)**

Section 8 of the charter act provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination.

The bill may be considered to engage section 8 of the charter act, as part 5 of the bill relates to the ARC list of the Magistrates Court which provides differential treatment on the basis of impairment.

The ARC list is designed to better achieve just, fair and effective outcomes for persons with an impairment who come before the criminal justice system. The bill provides for procedural improvements in and reporting on the operations of the ARC list. These provisions of the bill do not limit any charter act right.

**Conclusion**

I consider that this bill is compatible with the charter act because this bill does not limit any right set out in the charter act.

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. D. M. DAVIS (Minister for Health).**

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

That the bill be now read a second time.

**Incorporated speech as follows:**

The Justice Legislation Amendment Bill 2012 will strengthen the justice system through amendments that:

clarify the procedural framework for the assessment and referral court (ARC) list of the Magistrates Court;

empower the Governor in Council to make regulations with respect to fees for civil matters in the County Court;

streamline appointment processes in the Children's Court;

allow a part-time chairperson to be appointed to the Victorian Law Reform Commission.

The bill will also make a statute law revision to correct a reference to the director of liquor licensing in the Victorian Commission for Gambling and Liquor Regulation Act 2011.

**Clarifying the procedural framework for the assessment and referral court list (ARC list) jurisdiction in the Magistrates Court**

The assessment and referral court list was established in 2010. It is a criminal procedure framework in the Magistrates Court of Victoria (MCV) available for offenders who have cognitive impairments, including mental illness, an intellectual disability, an acquired brain injury, autism spectrum disorder or a neurological impairment such as dementia.

The bill will introduce four amendments that will improve upon the existing framework for the ARC list by:

clarifying that the Magistrates Court must also have regard to any assessment undertaken by a person with appropriate clinical qualifications and experience in relation to the particular impairment or principal impairment that the accused may have;

inserting an additional power which would allow the Chief Magistrate to create separate hearing lists and hear matters that relate to particular impairments where this may be required. The amendment will also clarify that the Chief Magistrate can make any other arrangement for the needs or requirements of persons with particular impairments;

specifying information about the operation of the ARC list to be included in the court's annual report;

clarifying that an individual support plan must have regard to the particular functional and diagnostic criteria that apply to the accused, as well as other relevant facts.

Similar amendments were proposed by the then opposition when legislation to establish the ARC list was before the Parliament under the previous government, but were not accepted by the then government. These amendments will give explicit recognition to the fact that offenders with different forms of impairment may have different needs and circumstances that need to be taken into account, and will provide for Parliament and the community to be kept informed about the operation of the ARC list.

**Empower the Governor in Council to make regulations with respect to fees for civil matters in the County Court**

The bill amends the County Court Act 1958 to provide a regulation-making power to the Governor in Council with respect to fees payable for any matter in the court and fees payable regarding bailiffs or the execution of a warrant or other process. This replaces the current outdated procedure for setting fees in the County Court.

The power granted to the Governor in Council providing for the imposition of fees may be exercised by providing specific fees, maximum fees, minimum fees, fees that vary according to value or time or class of matter, fees by way of percentage of the amount of demand, manner of payment of fees, and times when fees are to be paid.

This amendment will also make the County Court provisions consistent with all other court jurisdictions in relation to the manner of making regulations for court fees.

**Children, Youth and Families Act — dispute resolution conference convenors**

The Children, Youth and Families Act 2005 allows the family division of the Children's Court to refer a matter to dispute resolution conference. The bill will remove the requirement that dispute resolution conference convenors be appointed by Governor in Council, and instead provide a process for convenors to be appointed by the president of the Children's Court. This current process presents significant hurdles for the efficient allocation of resources in the Children's Court. The streamlining of the appointment of conference convenors will allow the court more flexibility in recruiting convenors at times and in locations where they are required. Most convenors are registrars, employed full time to work in the court already. Sessional convenors may be appointed as appropriate from time to time, particularly in the regions, to meet the court's dispute resolution conference requirements.

**VLRC chairperson**

The bill amends the Victorian Law Reform Commission Act 2000 in order to remove the mandatory requirement for the chairperson of the commission to be a full-time appointee, in order to allow the option of appointing a part-time chairperson. It will remain open to the government to appoint a full-time chairperson, and the government will continue to be able to appoint full-time commissioners to work on specific references from time to time.

As members may be aware, the term of office of the current chairperson, Professor Neil Rees, ended at the end of February, and I would like to place on record the government's appreciation of the valuable work done by the commission over a number of years under Professor Rees's leadership.

In seeking a new chairperson, the government wishes to be able to consider possible appointees with the widest possible range of backgrounds, skills and experience. The amendment will create the potential for suitably qualified academic and expert candidates to contribute to the important task of law reform without having to sacrifice their existing careers.

**Statute law revision to the Victorian Commission for Gambling and Liquor Regulation Act 2011**

The Victorian Commission for Gambling and Liquor Regulation Act 2011 (VCGLR act) commenced on 6 February 2012. The VCGLR act established a new integrated regulator for both liquor and gambling in Victoria. In doing so, the Liquor Control Reform Act 1998 was amended to give the new commission all the regulatory powers of the former director of liquor licensing. This bill allows a statute law revision to that act to clarify a reference to the director of liquor licensing.

I commend the bill to the house.

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

**Debate adjourned until Thursday, 26 April.**

## ASSOCIATIONS INCORPORATION REFORM BILL 2011

*Second reading*

**Debate resumed from 29 March; motion of Hon. P. R. HALL (Minister for Higher Education and Skills).**

**Hon. M. P. PAKULA** (Western Metropolitan) — It gives me pleasure to rise to speak on the Associations Incorporation Reform Bill 2011 and to indicate that the opposition will not be opposing the bill. The situation in regard to this piece of legislation is very curious. I do not intend to spend a very long time on the second-reading debate because we will have a committee stage — unless a motion to refer this bill to the appropriate legislation committee is carried, which could be no more appropriate than today, and I will go to that in a little while. The committee stage may be

reasonably lengthy, so to compensate for that we will try to keep the second-reading debate relatively brief.

This bill has had an interesting passage. I believe the government moved some 28 house amendments in the Legislative Assembly. It did that because the Victorian Bar Council, the Law Institute of Victoria and, more importantly, the state government reference group had significant concerns in regard to the rewrite of this bill which were raised with the government prior to the debate in the Legislative Assembly. Those amendments were moved, but unfortunately the significant concerns have not been totally ameliorated by those amendments.

The government, the opposition and the Greens have all received correspondence from the Victorian Bar, signed by Fiona McLeod, SC, the senior vice-chair of the Victorian Bar Council, indicating that the bar continues to have serious, ongoing concerns about many of the provisions of this bill. It is appropriate to recognise that many of those concerns are concerns of a technical nature. As the minister would be aware, the bar has provided a series of amendments to all parties that it believes need to be moved for this bill to be in an appropriate form. The opposition has agreed to move some of those amendments — we are not going to move all of them, but we will certainly move some of them. Equally important is going to be the motion Ms Pennicuik will move at the end of the second-reading debate to refer this matter to a legislation committee.

I do not believe anyone could suggest that this is an urgent bill in any way. I believe the review of the Associations Incorporation Act 1981 has been under way since 2003. This is obviously a very large bill, but it is a very complex and technical bill, and the fact that this has been under review for so long would suggest that there is no urgency about it. I think it would be quite appropriate for the appropriate legislation committee to hear from the Victorian Bar and from other interested parties, including the law institute, so that they can provide the committee with some detail about why they believe this bill ought to be further amended. I do not think it is necessary — and it is certainly not appropriate — for the bill to be passed and simply amended later when there is an opportunity to get it right this time.

I make these remarks at the commencement of my address so that government members can perhaps have time to seek instruction from the Minister for Consumer Affairs on whether the government might be favourably disposed on this occasion to refer this bill to the relevant legislation committee for further scrutiny. As I have indicated, if the government does not agree to that, then there will be a committee stage where a variety of the bar's concerns will be addressed and a number of amendments moved.

It would be remiss of me not to at least make some comment about what the bill is proposing to do. This bill is designed to be a rewrite of the Associations Incorporation Act 1981. It seeks to establish a scheme for the incorporation and registration of voluntary associations and for the registration of other registrable bodies as incorporated associations and to make provision for the corporate governance, financial accountability and other matters relating to the rules of membership of associations registered under that scheme.

We all would agree that incorporated associations are in many ways the backbone of the not-for-profit sector. We are talking about clubs, community groups and associations that do not operate for profit. Members of those organisations have decided to give those organisations some kind of legal structure by incorporating. As from the introduction of this bill in the other place late last year, something like 37 000 incorporated associations were registered in Victoria.

As I indicated a few moments ago, there have been a number of reviews of and amendments to the act in recent years. When the current Leader of the Opposition in this place, Mr Lenders, was the minister responsible for this area, there was a review. One review was conducted by the State Services Authority, and there were amendments as a consequence of those reviews in 2009 and 2010. In 2011, on advice from the sector, a rewrite of the act was undertaken. It is important work, but it is also work that can wait the weeks that it would take the relevant upper house legislation committee to hear from the bar and the law institute about the technical, ongoing concerns that they have, and it is an opportunity the Parliament should not pass up.

Let me indicate also that I met with representatives of the bar earlier this week. As I have indicated, amendments were made back in 2009–10. They were substantial and good amendments, but they are not all in operation yet. Certainly one of the substantial reforms from 2009, and all of the reforms from the 2010 amendments, has not been implemented because of the view that it was better for the rewrite of the act to occur before those amendments came into operation. However, as I am advised, the relevant reference group was meant to get a draft of that back in August or September last year. The reference group was given a

200-page draft at the beginning of November 2011, and the bar, the law institute and the reference group were given a week to consider that 200-page draft bill. While those groups were seeking an extension of time to give themselves more time to consider the draft bill they had received and to respond to it, the bill was introduced. It was introduced while that extension was being sought and while those comments were still being put together.

It seems to me that in terms of an appropriate consultation process on such a weighty piece of legislation the consultations were rushed and the introduction of the bill was made in haste, and that is why 28 house amendments were required in the Assembly and, according to the bar, why a substantial number of amendments are still required to the bill. I am told that at that time the bar wrote to the minister asking that debate on the bill be adjourned to enable further consultation to occur, to enable those further amendments to be considered before the bill was debated in the Assembly, and the government refused a request for an adjournment at that time.

I do not know whether the government now believes that all of the amendments that need to be made have been made and that there are no further amendments required, but certainly the Office for the Community Sector regulatory reform reference group, on which the bar and the law institute are both represented, believes further amendments can be made. As I have indicated, correspondence has been received from Ms McLeod, the senior vice-chairman of the Victorian Bar Council, that makes it clear to the government, to the opposition and to the Greens what the concerns of the bar are. Without reading into *Hansard* a letter which all parties have, allow me to go to its most salient points.

One matter the bar is resolute on is that throughout the bill where there is reference to rules, the reference ought to be to a constitution, because that is what most incorporated associations describe their governing document as. Certainly for the sake of clarity and to avoid confusion, the act ought to be consistent with the way these documents are described by incorporated associations themselves.

The bar also makes the point that the bill is not merely a consolidation. To quote from Ms McLeod's correspondence dated 17 April:

> It would, as proposed to be amended, make significant changes to the act. As the chairman's 28 March letter to the minister and Ms D'Ambrosio and the accompanying 14-page memorandum of comments made clear, the bar has significant concerns with the bill.
>
> Even with the substantial government amendments to the bill in the Legislative Assembly, the bar still has major concerns with the bill.

I do not think those concerns should be easily ignored by the government or by the Parliament.

It is also worth putting on record that a further email was sent by Ross Nankivell, with whom many of us would have dealt over the years in his role as manager assisting the general manager of the Victorian Bar. His email was to, again, me, Ms D'Ambrosio, the member for Mill Park in the Assembly, Ms Pennicuik and the minister. He wanted to clarify one matter from Ms McLeod's correspondence of 17 April. His email was sent in order to make clear the point that it would not be an acceptable compromise from the bar's perspective to have the concerns dealt with by regulations, explanatory material, prescribed forms or register of incorporated associations office practice. In his correspondence Mr Nankivell says:

> The bill, once enacted and proclaimed, is the law in the wording and detail of the bill in its present form. Subsequent regulations, explanatory material, prescribed forms and register of incorporated associations office practice are valid only to the extent that they are consistent with the statute as passed into law. They cannot therefore meet any concerns about the bill in its present form. In particular they cannot meet the bar's outstanding concerns about the bill. The bill needs to be amended.

We have therefore two compelling pieces of correspondence that have gone to the government, the opposition and the Greens: one outlining the significant concerns that the bar has with the bill; one indicating in no uncertain terms that those concerns cannot be dealt with via regulation or practice or explanatory memorandums or prescribed forms and that those concerns can only be dealt with by amendments to the legislation.

As I have indicated, the opposition is proposing to move a number — not all of them — of the bar's concerns as amendments in the committee stage. Frankly, if we had more time, we might move more of those amendments. But all members of Parliament and all parties in the Parliament are entitled to have an appropriate period of time to consider amendments. I make the point that the substantive change the bar seeks, to have the rules described as a 'constitution', would mean substantial amendment to many clauses in the bill.

Frankly, in the time we have today we cannot move all those amendments. It is the opposition's strong desire that the motion that Ms Pennicuik will move later to refer this matter to the appropriate legislation committee of the Parliament until a date in May ought

to be unanimously supported by the house. That would give the bar an opportunity to present to the government all its concerns in a consolidated form, it would give the law institute the opportunity to submit to government any concerns it has and it would allow the minister and the government sufficient time to give those concerns proper consideration. There is nothing urgent about this bill, as I said. There has been a process of review of the Associations Incorporation Act going back to 2003–04. Another month will not kill anybody.

With those words I indicate that the opposition is absolutely desirous that the government support that referral. We are very concerned that the peak body for the bar, the Victorian Bar Council, believes this bill to be incomplete and wrong in a number of aspects. This is not a matter that ought to invite fervent political debate; this is about the Associations Incorporation Act, for goodness sake! But it is a piece of legislation that has a major impact on 37 000 incorporated associations across the state, and as a Parliament we ought to be able to take the additional time we need to get it right.

I would be incredibly surprised if the government took the view that it was simply going to ignore the significant ongoing concerns that have been expressed by the senior vice-chairman of the Victorian Bar Council, Ms McLeod, which have been added to by the correspondence received from Mr Nankivell. They ought to be treated seriously by not just the opposition and the Greens but the government as well. In those circumstances it would be in the best interests of the government, the opposition, the Greens and the 37 000 incorporated associations across the state for this Council to unanimously support a reference to the relevant legislation committee so this bill can be given further consideration.

**Ms PENNICUIK** (Southern Metropolitan) — The bill that we have before us today, the Associations Incorporation Reform Bill 2011, is a very large, complex and, in many ways, technical bill. It introduces a new principal act that will repeal the Associations Incorporation Act 1981 and re-enact that act with modifications. The bill incorporates amendments to the Associations Incorporation Act contained in the Associations Incorporation Amendment Act 2010 that have not yet been implemented and amendments in part 3 of the Associations Incorporation Amendment Act 2009. It also provides for the repeal of those acts.

The bill provides for the incorporation of voluntary associations and the registration of other bodies as incorporated associations and makes provision for the corporate governance, financial accountability and other matters relating to the rules and membership of those associations. The bill is supposed to rewrite and restructure the provisions of the Associations Incorporation Act to reflect contemporary best practice and plain language drafting. A number of additional amendments have also been made for the purpose of enhancing the clarity of the provisions and removing obsolete or redundant provisions.

Those are the aims and intent of the bill that we have in front of us, according to the explanatory memorandum and as outlined in the second-reading speech. However, in the limited time we had to consult on the bill serious concerns regarding whether the bill achieves these aims have been raised with us, particularly by PilchConnect and, as Mr Pakula has outlined, the Victorian Bar Council and the Law Institute of Victoria. Standing here with the bill in front of me, with correspondence received only on Tuesday from the Victorian Bar and the law institute which incorporates 13 pages of amendments proposed by the bar and the law institute and pages outlining the serious concerns they still have regarding the bill, coupled with the outstanding concerns that PilchConnect has with the bill, I cannot be satisfied that the bill I am agreeing to the Parliament passing is going to be of benefit to the thousands of incorporated associations, particularly voluntary incorporated associations, throughout Victoria.

Since receiving the pages of amendments and concerns from the Victorian Bar and the law institute I have not had the opportunity to sit down and consider them, because I have been involved in speaking on other bills in the Parliament. The amendments that Mr Pakula has foreshadowed he will move in the committee stage were handed to me 5 minutes before we started the debate on this bill. They run to two pages and, as Mr Pakula said, incorporate some of the amendments that have been put forward by the Victorian Bar and the law institute but not all of them. If we are in such a situation as this, with a bill in front of us, do we pass it or do we not pass it? The pre-eminent legal bodies in the state are saying the bill needs to be amended and not passed. They do not support the bill — and they represent the legal practitioners who would have to give advice to voluntary organisations and deal with the bill in practice. I am not confident that I should support the bill if they are not supporting the bill.

PilchConnect, the organisation which also assists voluntary associations and others in understanding consumer law, still has very serious concerns about the bill and the ability particularly of voluntary associations to understand the provisions in the bill and fulfil their duties as outlined in the bill. PilchConnect has basically said office-holder duties are drafted in a complex and

inconsistent way and that, in its view, under the bill a committee member of an incorporated association will be worse off than a director of a company, because they will have to read two pieces of legislation and apply modifications to the wording in the Corporations Act 2001 to make it relevant to the association's context.

I raised some of these issues in the briefing that the department and a ministerial adviser were kind enough to give me, and I will go to what they said in their answers to our questions in a moment. I can see them sitting up there in the advisers box. I acknowledge that they were as helpful as they could be in answering the queries that we put to them about the bill.

PilchConnect has put to us that it must be possible to draft provisions that clearly articulate each duty and any specific defences and outline the general defences and penalties other than by burying them in complex applied provisions of the Corporations Act. It is also concerned about a mixture of criminal and applied civil penalties provisions resulting in a jumble of penalty units and dollar figures which are difficult to understand. The amounts of the penalties also appear inconsistent with the seriousness of the contraventions. Under clause 83, for example, an officer who knowingly or recklessly commits a breach of the duty not to misuse information can be liable under criminal penalty provisions for up to 60 penalty units, whereas under clause 84 an officer who negligently or inadvertently breaches a duty could be liable for a civil penalty of up to $20 000 under the Corporations Act provisions.

In answer to that query in the briefing, the department said the commonwealth has established the civil penalty regime which the department has had to apply in the bill, but it is important to keep in mind that a court, under the civil penalty provisions, has the discretion not to impose a penalty or only to issue a penalty of up to $20 000. It could really be a very nominal amount that is required to be paid in cases of minor breaches or negligence. I understand and accept that, and I also accept that the penalty under the Corporations Act which applies to corporations is much higher than $20 000; it is something like $200 000. However, I think the concern still stands.

PilchConnect also says the transitional provisions are confusing and that incorporated associations will need guidance and support — particularly organisations that use the model rules. As Mr Pakula has outlined, the law institute and the Victorian Bar have raised the issue regarding the use in the bill of the terms 'constitution' and 'model rules' as being very confusing. I am not in a position right now to come to a decision as to whether they are right or wrong. That is why I think the bill needs to be referred to the Legal and Social Issues Legislation Committee, and I will move to so refer it after the second-reading debate. I urge the government to agree to that referral.

A couple of weeks ago the government referred the Wills Amendment (International Wills) Bill 2011 to that committee for reasons that still mystify me, but if the government feels that there is a reason, I am sure it will outline those reasons to the committee. If ever there was a bill that needed to be referred to a legislation committee, it is this one, which still has such a cloud over it and has the pre-eminent legal bodies of the state not supporting it and saying strongly in their correspondence to us that it needs to be amended and cannot be passed the way it is.

The model rules deeming provisions, according to PilchConnect, are ambiguous and clumsy — for example, PilchConnect refers particularly to clause 48(3), which says:

> If the rules of an incorporated association do not make provision for a matter as required by section 47(2), the model rules, to the extent that they make provision for that matter, are taken to be included in the rules of the association.

That is an example of some of the wording in the bill which is confusing and unclear.

The department and the minister's staff went to some lengths in the briefing to assure us that while there might be concerns about the complexity of the bill and the referral in the bill to the Corporations Act, the bill refers to the Corporations Act and does not reproduce the provisions of the Corporations Act because it is better to refer to the Corporations Act which may be changed from time to time so that then the act in Victoria does not have to be changed to reflect the changed provisions in the Corporations Act as they would immediately apply because the act has been referred to. I can understand that. However, the point still stands that that is very difficult for voluntary committees and voluntary associations to keep up with.

In answer to that, the department also said that the insolvency, administration and winding-up provisions are difficult to simplify anyway and sometimes require expert legal advice, and also the fact sheets will provide clear outlines of the meaning and effect of these provisions. The department is telling us that its fact sheets and the information that Consumer Affairs Victoria will supply to all associated incorporations, because we were told it will write to all of them and also provide this information on its website, will overcome those problems. Be that as it may, in any case

if the act has been rewritten, consumer affairs would need to provide information for associated incorporations to be able to understand the changes to the act. We are told that the model rules are being settled at the moment and should be ready by the start of May.

We also asked whether it was possible to have a table drafted into the bill to clearly explain the civil and criminal penalties, breaches and defences to alleged breaches, as is the case in commonwealth legislation. We were told that this is not normal practice in Victorian law. That may be so; however, it probably would have been a good thing to start with this particular bill. We were told that a table would be drafted, or could be drafted, in the explanatory material and that the department would look into doing that. That is a good outcome, but maybe it is not enough.

In regard to the plain English guide to the act and explanatory material, I was told that PilchConnect and others would have the opportunity to give feedback during the drafting stage, a secretary's handbook would also be provided and there will be mail-outs, as I mentioned. We asked about transitional provisions, which PilchConnect raised with us as being an issue, and particularly whether there would be a waiving of the fee to amend association rules as a result of the reforms. Staff in the minister's office said they would get back to us. They referred us to clause 207 of the bill, which authorises the registrar to waive a fee if the registrar has indicated that a waiver would be appropriate where a traditional application to change rules is made. That is not quite the same as saying that the registrar will waive fees, particularly for voluntary associations, as they may have to change their rules to ensure that they are in compliance with the new act.

I go again to the correspondence that we have received from the Victorian Bar Council. Mr Pakula referred to the letter that was sent by the Victorian Bar Council on 28 March to the Minister for Consumer Affairs, Minister O'Brien, and Ms D'Ambrosio, the member for Mill Park in the other place, in which Victorian Bar Council chair Melanie Sloss, SC, asked both sides of Parliament to consider postponing debate on the bill before the resumption of the second-reading debate in the Legislative Assembly in order that debate on the bill be informed by a proper consideration of the views of the practising legal profession. I want to put on record that that particular letter was not sent to the Greens. It was sent to Minister O'Brien and Ms D'Ambrosio as representing both sides of Parliament, but it was not sent to us. I only received this information on Tuesday afternoon — less than 48 hours ago.

The copy of the letter sent to me on 17 April by Ms McLeod does say very clearly:

> The bill is presented to the Parliament as responsive to submissions by not-for-profit sector stakeholders …

That is not correct.

> The bill is not merely a consolidation. It would, as proposed to be amended, make significant changes to the act. …
>
> Even with the substantial government amendments to the bill in the Legislative Assembly, the bar still has major concerns with the bill.

Attached was a seven-page memorandum of comments, which I have had a chance to read but not consider in any detail or give any considered thought to except to get a basic understanding of where they are coming from with these concerns at this late hour in the debate.

Along with that seven-page memorandum of comments, we received 13 pages of proposed amendments. One of those proposed amendments was a strong recommendation to change the terminology from 'rules' to 'constitution'. That seems to be one of the key issues that the Victorian bar still has with the legislation.

As Mr Pakula mentioned, it is impossible to do anything about it at the moment. It would require so many consequential amendments to the bill that it has just been left hanging in the air at the moment, but it seems to be a very important issue. I think it is an issue that could be better dealt with by the Legal and Social Issues Legislation Committee. That would enable the Victorian bar and other stakeholders to attend a committee hearing and go through the issues they have with the bill in detail. It could then be brought back to this chamber to be amended, or not, as the committee may recommend. It is difficult to imagine how this bill could not need to undergo further amendment.

I would also like to turn to the email that was sent by Mr Nankivell at 6.13 p.m. on 17 April, in which he says that, further to the three emails he sent earlier that day, he understands from the Australian Greens that:

> … it is being suggested that any concerns about the Associations Incorporation Reform Bill 2011 as amended in the Legislative Assembly and now before the Legislative Council can be met by regulations, explanatory material, prescribed forms or registrar of incorporated associations practice.

This is not so. I would like to explain the position of the Australian Greens there and indicate that that is what the department told us. It is not necessarily our view. It is not the view of the Australian Greens; it is the view of the department and the minister's office that was

conveyed to us. I want to make it very clear that the Australian Greens are not making that claim. It is the department and the minister's office that told us that in answer to our questions in the briefing that was given to us by the department and the minister's office. They conveyed to us that our concerns could all be met by regulation, explanatory material, prescribed forms or a register of incorporated association office practice.

Mr Nankivell goes on to say:

> That is not so. The bill, once enacted and proclaimed, is the law in the wording and detail of the bill in its present form. Subsequent regulations, explanatory material, prescribed forms and registrar of incorporated associations office practice are valid only to the extent that they are consistent with the statute as passed into law.

I think we all know that. Mr Nankivell continues:

> They cannot therefore meet any concerns about the bill in its present form, in particular, they cannot meet the bar's outstanding concerns about the bill. The bill needs to be amended.

As I stand here now, not having had time to fully consider the information that has been presented to me at the last minute or even to consider the amendments that were forwarded to me by Mr Pakula just before we went into debate on this bill — I will have to look at those as we proceed through the committee stage — I cannot, in all conscience, be satisfied that we have before us a bill that has genuine public support and support from the key stakeholders who have been participating with the government in its process of reform and rewriting of the act. It was put to us, exactly as Mr Pakula outlined, that the stakeholders were given only a week or so to look at the substantial bill. When we raised this in the briefing it was deflected with the comment, 'Well, they actually had plenty of time. It wasn't just a week. We couldn't wait forever'. I then said, 'Why not?'. It does not seem that there is any urgency with this piece of legislation. It is not something that must be passed immediately.

It is a huge undertaking to rewrite the associations incorporation law, and if the stakeholders that have gone through the whole process are still saying to us they are not satisfied — not only are they not satisfied; they have serious concerns — why is the bill being rushed through? That is what I asked at the briefing, and I was told it is not being rushed through, but I still believe it is.

I would also like to say that in the last couple of weeks we were waiting for the Australian Consumer Law and Fair Trading Bill, or the ACL and FT bill, to appear, but it did not appear, and then it was on the notice paper with this bill. I went into the departmental briefing and said, 'This is very confusing', because as I understood it the ACL and FT bill could not pass before this bill, the Associations Incorporation Reform Bill, and that is why it was held up. Then both bills appeared on the first notice paper for this week, on 17 April. I suggested in the briefing that they be separated by a week so it would be very clear which bill had passed first and they would not both be passed on the same day, and I have now seen that the ACL and FT bill is listed for 24 May.

**Hon. W. A. Lovell** interjected.

**Ms PENNICUIK** — Yes, on the notice paper it is. Anyway, that is interesting. I was told that was not necessary, but it appears it is necessary.

**Hon. D. M. Davis** interjected.

**Ms PENNICUIK** — It was great advice from me. Thanks, Mr Davis. As I stand here now, I cannot be satisfied that this bill is in a state where we should pass it in the Legislative Council. We have a duty to make sure that the laws we are passing are as free from harm and do as much good as possible for the community. I am not suggesting that the government is not trying to do that. I just hear from the key stakeholders that they have not quite got there yet. Of all bills, this is one that should be referred to the Legal and Social Issues Legislation Committee for its consideration and inquiry, so at the end of the second-reading I will be moving that that occur. I have given the date of 24 May, which gives five weeks for the committee to consider, inquire into and report back to the Parliament on the bill.

I urge the government to support that reference. Then we can all be satisfied at the end of that that we have heard everything, and we would hope the bill that comes before us after that process would be a bill that we could all support.

**Mr ELSBURY** (Western Metropolitan) — It is my pleasure to rise this morning to speak to the Associations Incorporation Reform Bill 2011. This bill has developed improved administrative guidelines for incorporated associations which do many varied tasks in our community. From the local football club to seniors groups through to kindergartens, associations enable organisations to conduct their business for the benefit of their members, and certainly associations come in many shapes and sizes.

Much of the burden of administration is borne by volunteers who care for their community, so any effort to improve the efficiency and make their roles easier needs to be supported. Before I get too far into my speech, I would like to emphasise that the people for

whom we are making these amendments are for the most part not lawyers. They are the mums and dads, the team mates; they are the local community advocates who are out there in the community every day trying to make sure that their associations are running in the best possible manner they can and within the law. Most of these people do not really care for the legislation. They just want to make sure that their team is going to be able to run out on the field at next week's match. That is why this bill will repeal the Associations Incorporation Act 1981 and replace it with an all-encompassing piece of legislation, incorporating amendments made in 2009 and 2010 as well as some new elements.

I ask members to bear with me for a moment as I let the inner revhead come out and say that this legislation is a bit like a car. It was created in 1981 and did not hit the road until 1983, but since then the tyres have had to be changed and there has been rust cut out. It has been in a few bingles, so a few of its panels have been beaten out again and some have had to be replaced. A new stereo has been installed, and the seats are looking very worn. It still goes, but is it really as efficient as it could be for the people who are using it? In this case changing the spark plugs will not do, and forcing it to tow the 2009 and 2010 amendments behind it just makes blue smoke pour out from somewhere under the hood.

Like many things which have been in existence for the last three decades, the legislation has grown. I can vouch for that; I am standing here being over three decades old, and I have certainly grown — not necessarily up! The legislation has had many things added to it and other things removed — for me, it is a few kilos that have been added. This is evidenced by the 2009 and 2010 amendment acts that have been added as ancillary legislation that needs to be merged into the associations incorporation legislation governing many of our clubs and associations.

This bill makes the legislation easier to read, drawing related topics together, allowing for easier referencing and highlighting sections with headings which make sense to most people. This is a document someone can pick up and ask, 'What do they mean by this?', then flick to the correct section and see what is meant, because it does not require cross-referencing with other legislation or other parts that have been amended by previous governments. You are not flicking from page 14 to page 128 to see what is really meant. It has been set out so that it flows. People should be able to look at what their question is and see whether or not their association is doing what it needs to be doing.

Annual reporting by incorporated associations will be revised and clarified to make sure that treasurers, presidents and public officers are clear about their roles and what needs to be presented in reports. The membership list of an association will have terms of access defined to make it clear that the use of such information is for the administration of the organisation. Obsolete and redundant provisions will be removed, and other related amendment acts will be incorporated where they still maintain relevance.

The introduction of this legislation means there is no point having older legislation sitting alongside the provisions we are introducing today. Again, going back to my car analogy, it would be like the driver of a brand new Commodore towing a Gemini because the driver of the new car felt comfortable in the old car and could not imagine life without it. Referencing the former legislation would develop even further problems. It would be like keeping the Gemini instruction manual to try to do a service on the Commodore. Referring back to the old legislation would develop further confusion about the legislation. That would wipe out any of the benefits we are seeking as a result of simplifying and reformatting this legislation so that it is readable by mere mortals. Referencing former legislation which is no longer active in the new legislation would be a fine exercise in assisting lawyers to understand the new legislation, but it adds unnecessary complexity to laws governing associations.

The new user-friendly layout of the legislation will provide clarity to office-bearers and reduce the need for reference to other legislation. The amendment acts of 2009 and 2010 will be in part incorporated into the legislation to smooth out the legislative aims of the amendments, allowing them to be activated. As they will become part of this legislation, their existence is no longer required. They will therefore be repealed, except for the elements needed, which include part 3 of the Associations Incorporation Amendment Act 2009 and the Associations Incorporation Amendment Act 2010. The Consumer Acts Amendment Act 2011 deferred the commencement of part 3 of the 2009 amendment act and 2010 amendment act to allow for the Associations Incorporation Reform Bill 2011 and the making of regulations with new model rules.

The secretaries of associations will be required to keep a register of members. Generally this is a useful tool for associations to have in the first place, as it allows for the proper communication of the executive with members of the organisation in day-to-day operations. The register will hold the normal contact information as well as class of membership, like voting, non-voting, junior or life member. The date of the member's

admission and the secession date will also need to be kept in the event the member decides to leave the association.

Information like this is sensitive, and that is acknowledged by the Associations Incorporation Reform Bill providing for the proper use of the register. It must be used for the affairs of the association and cannot be used for private or commercial purposes. The address of members can be given to a third party if it is easier for the operation of the association, such as to a mail house for the distribution of newsletters. It cannot be used to advertise your own business to fellow members, so Jeff's Electronics cannot go off and send a catalogue to each and every member to try to convince their fellow soccer club members to come to Jeff's shop. He will have to do his own footwork — pardon the pun. The register must only be used as part of participating in the affairs of the association.

A member can request to have their personal information removed from the general register. I am sure there are members here in this house who are members of a local men's shed and do not want their private home phone numbers in the hands of 140 people. They are great blokes, but you do not necessarily want a phone call at 12.30 at night about a loud party next door. The seriousness of having access to the register as a member of an association is reinforced by a penalty of 20 penalty units if there is an infringement.

Annual financial reporting will be brought into line with contemporary accounting practices and requirements. The bill also brings this legislation into line with the definitions of the Australian accounting standards and the Australian auditing standards. In developing this bill the government consulted with Consumer Affairs Victoria and key legal and not-for-profit stakeholders, including the Victorian Bar and the Law Institute of Victoria, through the regulatory reform reference group (RRRG). Other organisations, including CPA Australia, Swinburne University of Technology's faculty of business and enterprise, the Victorian Government Solicitor's Office and private legal practitioners, also participated.

A draft of the legislation was provided to RRRG on 31 October 2011. An original deadline of 9 November was moved to 11 November, at which time two members of RRRG provided a response. On 28 November a further meeting of RRRG occurred where an updated version of the bill was provided, giving time for people to raise any concerns they had. Members of RRRG could raise any issues they had at that time. The bill was introduced on 7 December 2011. Following the introduction of the bill to the lower house, the bar and the law institute offered their advice in the form of amendments to the bill as it then stood. As the government is reasonable, it looked at what was being proposed and accepted 28 of the recommendations — not all, but a large portion of the items that were presented to the government. Much like optioning a car after a sale has started, we took on board the suggested amendments which would add to the bill and smooth out some of its intent. Additional recommendations will be sent to RRRG. As I said, this group consists of the Victorian Bar and the Law Institute of Victoria, and it also has as members Clubs Victoria, VicSport, the Victorian Council of Social Service and PilchConnect. This action is in recognition of the fact that legislation continues to evolve at all times, and if RRRG finds that any of these recommendations bear additional benefit to associations, it can be considered in future legislation.

Just like a new car, the Associations Incorporation Reform Bill will save money. Mr Pakula and Ms Pennicuik have said they see no urgency for the passage of this bill. If you have to pay the costs of running an association, I am pretty sure you want this bill to be passed, because it is expected that associations will save $3 million a year as a result of the passage of this legislation. I do not believe any member here would begrudge providing associations such as charitable organisations with a reduction in operating costs.

The legislation itself is bigger by 41 pages, but it incorporates both part 3 of the 2009 amendment act and the 2010 amendment act, which consisted of 50 pages in its own right, as well as accommodating the new formatting. If associations need to change their constitutions or their version of the model rules because of the implementation of this legislation, the amendment fees will be waived, but this is not an opportunity for associations to further tweak their constitutions.

Mr Pakula has advised that he will be moving some amendments. That is interesting, because the clerks only received those amendments half an hour before we entered the chamber, and I received them some 10 minutes before getting to my feet. If that is how we want to proceed, it will be an interesting committee stage.

In conclusion, we are introducing the Associations Incorporation Reform Bill 2011 to make the management of associations simpler. It will make reporting easier, and it uses current terminology. It provides for membership registers to be kept and used

for the purposes of an association while protecting the privacy of members. It incorporates a number of suggested amendments without making the bill clumsy and reducing its efficiency. This bill is progressive and reduces costs to associations. I am pleased to support the bill as it supports the associations, clubs, organisations and charities which support our communities.

**Mr ONDARCHIE** (Northern Metropolitan) — What a blessing it is to follow one of the great orators in this chamber, Mr Elsbury, to speak on the Associations Incorporation Reform Bill 2011. The bill will establish a new principal act that will replace the Associations Incorporation Act 1981. That act was established to provide a simple and inexpensive means by which unincorporated non-profit associations could obtain corporate status. Subsequently, 30 separate pieces of legislation have amended the 1981 act. Substantial amendments have been made in recent years, with some amendments not yet having come into operation. As Mr Elsbury pointed out, there are some late amendments coming in at the 11th hour from the Australian Labor Party as it suddenly works out that it might have something to add to its policy.

Following substantial amendment, the principal act requires thorough consolidation, including standardisation of expression and style in accordance with contemporary best practice usage. Not-for-profit sector stakeholders have submitted that the structure and sequence of provisions in the act have become disjointed and difficult for members of incorporated associations to follow. Commonly these are volunteers with no legal qualifications or training. Volunteers are Australia's greatest workforce. We undervalue the work they do in the community, and Mr Elsbury touched on where they come from very explicitly in his contribution this morning. I encourage volunteerism in this country. Each of us should find a way of getting out and helping in our community in whatever capacity we can, whether it is through Lions clubs, Rotary clubs, Apex, football or other sporting clubs. It is about helping someone who needs a hand through volunteering. I encourage all Victorians to think about their day-to-day lives and how they could help somebody else.

In my office John is a volunteer with the Little Athletics Association and helps run its activities at the weekend, and Jacky, who many members know, is very active in the Stroke Association of Victoria. These are good people, and there are lots of good Victorians who are helping in their private capacity as volunteers. I have been working with volunteer organisations for over 35 years. It is wonderful to give something back to your community. Additionally, in my private capacity, and prior to joining this place, I assisted a number of associations with not-for-profit governance and how they govern their organisations in accordance with the act. There is a lot to be learnt. In the main, they said that the previous act was cumbersome. This bill provides a way of making it easier and of reducing the red tape and allowing them to get on with what they have to do, which Mr Elsbury talked about in his contribution this morning.

Incorporated associations play a central role in enriching Victorian communities through their social, cultural, environmental and economic contributions and in providing support to the most vulnerable in our society, and is that not our reason for being as a Parliament — that is, to contribute and help the most vulnerable in our society? The bill will rewrite and restructure provisions as well as incorporate the amendments to the act contained in the Associations Incorporation Amendment Act 2010 and in part 3 of the 2009 amendment act, which are yet to commence.

The bill will also introduce a number of new features, including revised annual reporting provisions for incorporated associations and a requirement for an incorporated association to keep and maintain a register of members, which means you can find out when they joined. One of the issues we have with volunteer organisations is that you cannot always determine when someone joined one of them. There has been a long and proud history of many Victorians helping out in their local communities and they should be recognised for that but no-one can determine exactly when they joined. This bill will help that.

The new act will be much easier to access. Part 1 sets out the purposes and definitions; part 2 specifies how an association can incorporate under the bill; and parts 3 and 4 address requirements for the name and registered address of an incorporated association and outline the legal capacity and powers of an incorporated association as a body corporate. A significant provision of part 4 is the general prohibition on an incorporated association securing pecuniary profit for any of its members, and Mr Elsbury touched on that when he talked about members of associations who use that members list for their own interests.

When we talk about members it is appropriate that we recognise the contribution that members make to associations and indeed that members make to their own parliamentary parties. If, for example, you are a member who has a portfolio — say, a shadow portfolio — looking after a particular industry group, it is important that your party gives you an opportunity to speak to that and that it does not just dive into using failed people, as it might have done in the past, but that

it uses its newer up-and-coming members to speak to that portfolio. We should recognise the value of members. They should not be controlled by, say, a leader's media unit which decides who is and who is not going to speak. There are some new up-and-comers in the Parliament and they should be given an opportunity, but often they are gagged.

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

**Mr ONDARCHIE** — Here we have the very media-hungry Mr Pakula interjecting. If you see a camera, you will find Mr Pakula; it is pretty simple.

Part 5 of the bill sets out the obligations of an incorporated association in relation to its rules and membership, including maintaining a register of members. Part 5 also provides for the conduct of general meetings and the procedure for passing special resolutions, and it provides for court orders to enforce the rules or the rights of members.

An up-to-date register of members is central to the effective management of an incorporated association. It will enable members to be kept informed of what is happening in their associations and about association business and meetings, and it is the primary resource for determining eligibility to vote. Disclosure of information about a person from the register will be an offence unless it is for a purpose clearly related to participation in the affairs of the incorporated association or a purpose approved by the association. If the secretary is satisfied that there are special circumstances where a member of an incorporated association has a legitimate reason for not wishing their personal information on the register to be generally available to other members, he or she must agree to the request to restrict access. The bill provides for a right of review of the decision by the Victorian Civil and Administrative Tribunal.

Part 6 deals with the administration and management of incorporated associations, including the appointment of a secretary and committee, the holding of committee meetings and the duties of office-holders. Often when you come to a volunteer position in an association and you become an office-holder with a certain portfolio you do not have the skills to do it. More often than not the people who join associations and who rise to positions in office do so because they have great hearts; they really want to help and they are really good people. But we should ensure that they have the opportunity to develop their skills.

Part 6 includes a duty of care and diligence and a duty of good faith and proper purpose for office-holders of an incorporated association. These duties reflect the fiduciary obligations of committee members at common law and are modelled on equivalent provisions in the Corporations Act 2001. They were first introduced by the 2010 amendment act.

Part 6 also provides for the return of documents of an incorporated association to it by a former member or office-holder — that is, when you leave, you must give them back. Documents must be returned within 28 days of a person ceasing to hold office or be a member, and failure to do so will be an offence.

Part 7 reproduces the three-tiered reporting structure introduced by the 2010 amendment act and restructures and consolidates the financial reporting provisions. The revisions in reporting requirements will reduce regulatory burden for a range of incorporated associations while ensuring that financial transparency and governance are maintained.

Part 8 provides for circumstances in which an incorporated association seeks to transfer its registration to another corporate form, such as a company or cooperative. Part 9 provides for matters regarding the statutory management of incorporated associations. Part 10 sets out the processes for winding up an incorporated association. Part 11 provides for the interaction between associations incorporation legislation and corporations legislation. Except where explicitly applied by the bill, an incorporated association is declared to be an excluded matter for the purpose of section 5F of the federal Corporations Act 2001 in relation to the whole of the corporations legislation.

Parts 12 and 13 provide for the administrative and operational implementation of the bill, including the office, function, capacity and responsibilities of the registrar of incorporated associations. Consistent with current law, the bill provides that the registrar is a body corporate with perpetual succession. Part 14 provides for offences and proceedings under associations incorporation legislation.

Division 1 outlines the general enforcement provisions, including the limitation period for commencing proceedings, and makes provision for continuing offences and the power to serve infringement notices. Part 15 outlines other general matters, including deemed notice of facts or matters noted in the register of incorporated associations, assumptions that may be made by a person dealing with an incorporated association, matters that may be certified by the registrar and the manner of service of documents on an incorporated association, and it provides qualified privilege for auditors, statutory managers, administrators of incorporated associations and for

independent accountants who conduct a review of the accounts of an incorporated association. Often they do that pro bono; a lot of professional service people give their time and effort to support incorporated associations, and we thank them for that.

The bill provides a simple process for execution of contracts or other documents by an incorporated association, whether or not the association has a common seal. However, the simplified process will be subject to any more restrictive arrangements specifically required by the rules of an incorporated association.

Consistent with the 2010 amendment act, restrictions upon trading by an incorporated association have been omitted. This will allow the association to engage in trade or trading activities in pursuance and support of its purposes. As I outlined before, the bill continues to prohibit an incorporated association from securing pecuniary profit for its members, who might have skills and value to add. Sometimes we see this in the Parliament too; members of the Leader of the Opposition's media unit are precluded from making media statements.

The bill provides for general meetings and committee meetings to be held in two or more venues using any technology that allows participating members to clearly and simultaneously communicate with each other. Associations can come together these days in a whole range of ways: not via tweeting, but with Skype and webcam. This will enable members to participate in a meeting even though they are physically remote from each other or physically incapable of getting to a meeting. We should respect all Victorians, of all abilities, and their right to the opportunity to be part of an association. This provision brings the regulation into line with modern technology and promotes greater participation by members of associations and all Victorians.

The savings and transitional provisions included in the bill will ensure that upon its commencement the existing incorporated associations will be deemed to be incorporated under the new act. A public officer of an incorporated association will be deemed to be the secretary of the association under the act. Where an existing incorporated association has a separate statement of purposes, that statement of purposes will be deemed to form part of the rules of that association. Associated incorporations are things like sporting clubs, playgroups and Lions clubs, with many long-serving volunteer members. The provisions of the bill allow us to keep a register of those members and reward them for their long-serving commitment to those associations.

**Mr Tee** — Sounds like Big Brother.

**Mr ONDARCHIE** — Taking up the interjection from Mr Tee, they can also apply for privacy; there is a provision for that as well. Once again Mr Tee is short on facts.

The bill will see a reduction in costs across the board of about $3 million for incorporated associations, whilst not increasing registration fees for those associations. The amendments have been made with significant consultation. This bill makes things easier: it reduces red tape. I commend this bill to the house, because it is going to encourage more Victorians to become part of their local associations and help those who are more vulnerable in our community. It is a bill worth supporting, and I am hopeful that we get through the committee stage very quickly so that Victoria can get on with its job.

**House divided on motion:**

*Ayes, 37*

| | |
|---|---|
| Atkinson, Mr | Lenders, Mr |
| Broad, Ms | Lovell, Ms |
| Coote, Mrs | Mikakos, Ms |
| Crozier, Ms | O'Brien, Mr (*Teller*) |
| 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 |
| Elsbury, Mr | Rich-Phillips, Mr |
| Finn, Mr | Scheffer, Mr |
| Guy, Mr | Somyurek, Mr (*Teller*) |
| Hall, Mr | Tarlamis, Mr |
| Jennings, Mr | Tee, Mr |
| Koch, Mr | Tierney, Ms |
| Kronberg, Mrs | Viney, Mr |
| Leane, Mr | |

*Noes, 3*

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

**Motion agreed to.**

**Read second time.**

*Referral to committee*

**Ms PENNICUIK** (Southern Metropolitan) — I move:

> That the Associations Incorporation Reform Bill 2011 be referred to the Legal and Social Issues Legislation Committee for inquiry, consideration and report, by 24 May 2012.

I move this motion to refer the bill to the committee for the reasons outlined in my contribution to the

second-reading debate, which is that key stakeholders still seem to have quite serious concerns. The Law Institute of Victoria, the Victorian Bar Council and PilchConnect are all members of the government's reference group, and not only are they not happy with the bill but they are still expressing serious concerns with the bill as it stands, which is why the Greens were unable to support the bill at its second reading, given that so many concerns about the bill are still outstanding.

To start with, we have 13 pages of suggested amendments to the bill from the Victorian Bar, let alone the concerns that PilchConnect outlined to us and which I have outlined with regard to the ability of voluntary associations to navigate their way through the legislation. Of course that was the actual purpose of the rewriting of the legislation, which was to make it simpler and easier for associations to deal with; and there are still outstanding concerns with regard to that particular aim of the legislation.

That is why I think the house should support a referral to the Legal and Social Issues Legislation Committee, which is the appropriate committee to look at this type of legislation. It has obvious and comprehensive social and legal implications, and I have given a time frame that is not going to unduly hold up the bill, and it will also give the committee time to hear from those stakeholders and give consideration to the bill in a lot more time than is going to be available in the committee stage of the bill, where we have amendments that have been given to us this morning. We do not have the time to do that, so I urge the house to support the motion.

**Hon. M. P. PAKULA** (Western Metropolitan) — The opposition will support the motion of the Greens for the reasons I outlined in the second-reading debate. The Victorian Bar Council has indicated a number of things. It has indicated that it considers the legislation to be in need of significant amendment. Equally, it has indicated that it does not think the shortfalls or shortcomings in the legislation can be dealt with by regulation, practice note or memorandum of understanding. It is equally the bar council's view that it is not appropriate to pass this bill into law and then amend it by subsequent legislation, particularly in an environment where there is a method available to the Parliament to get the bill right before it is passed.

That is the purpose of the Legal and Social Issues Legislation Committee; that is exactly what it ought to be used for. There is nothing urgent about this bill. The reference would give that committee the opportunity to examine suggestions from the bar council and PilchConnect — that is, to discover in detail what ongoing concerns they have. The committee could then provide that information to the minister in a timely way before the sitting week of 22, 23 and 24 May. It is a win-win suggestion. The government would be better informed, the Parliament would be better informed and the stakeholders would have their opportunity to put those concerns to government in a more fulsome way. I say today what I have said before: it is not appropriate for the government to only ever support resolutions to refer legislation to the upper house legislation committees when those motions are moved by members of the government. The Greens and the ALP have moved a significant number of motions for referral, and so far not one of them has been supported. This would be a good opportunity to rectify that record.

**Business interrupted pursuant to standing orders.**

## QUESTIONS WITHOUT NOTICE

### Seniors: concessions

**Ms MIKAKOS** (Northern Metropolitan) — My question today is for the Minister for Ageing. I refer the minister to the rally held today by the Fair Go for Pensioners Coalition to highlight the cost of living issues currently facing senior Victorians and the specific call on his government to increase the utility and rate concessions available to pensioners, and I ask: given that the increase in energy concessions provided in last year's budget has largely been eaten up by significant increases in power bills, will the minister be providing any further concession relief to Victoria's seniors in this year's budget?

**Hon. D. M. DAVIS** (Minister for Ageing) — I thank the member for her question. I can strongly indicate that the government is concerned about energy costs and the cost of living for pensioners and indeed the whole community. It is instructive to remember back to the election. Labor went to the election with a policy of a discount on electricity for pensioners for the winter only. This government, in its first budget, delivered all-year energy concessions for pensioners — a magnificent and important contribution to the living standards and support — —

**Hon. M. P. Pakula** — Pat yourself on your back!

**Hon. D. M. DAVIS** — Mr Pakula, you advocated a winter-only energy concession. We went for the whole year — all year, 365 days — rather than just one winter quarter. That is a very big — —

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

**Hon. D. M. DAVIS** — You did. We also advocated free weekend travel on Saturdays and Sundays as that would make a significant difference for seniors.

**Hon. M. P. Pakula** — We did it. We implemented it. That was me; I did it!

**Hon. D. M. DAVIS** — That is why I am pointing it out to you, but you did not. We did, I can tell you too.

**Hon. M. P. Pakula** — No, I did it.

*Honourable members interjecting.*

**Hon. D. M. DAVIS** — We have done it.

**Hon. M. P. Pakula** — I did it before the election!

**Hon. D. M. DAVIS** — But it was not in before the election. Let me be very clear on this. Labor brought $2 million of costs every day to the state through the desalination plant, money that would have enabled us to provide even more energy concessions or other worthy projects for seniors. But let me be also clear on this. The Labor Party supports the carbon tax, which is going to impose more energy costs, more pressure on families, on seniors, on a whole range of people. I think it is very important for the Labor Party in Victoria and for seniors groups to advocate against this carbon tax that is going to hit seniors very hard. Be clear that health costs will go up under this Labor carbon tax. Members will remember that there will be more than $13 million of extra costs generated for our health sector in Victoria, and that will directly impact on seniors and others and require greater supplementation from the state government.

The state government has also increased participation by seniors from culturally and linguistically diverse communities, with extra funding in the budget last year. There was also funding for additional eye care and dental health in the budget last year. As I said, there is the energy concession, the residential aged-care funding for Geelong, public transport concessions and, importantly, stamp duty concessions. The stamp duty concessions will assist those who are older and seeking to downsize their properties with the transfer of land. These are very significant concessions. This is very significant support for older Victorians.

Many of those measures were bitterly opposed by Labor. Labor was against the all-year concession on energy in the last — —

**Ms Mikakos** — That is nonsense.

**Hon. D. M. DAVIS** — You were so; you would not do it. You would only do one winter quarter, you would not do all year, and you stand condemned for your failure to actually agree with this all-year concession.

*Honourable members interjecting.*

**Hon. D. M. DAVIS** — I have to say that the former Treasurer, Mr Lenders, and the former Minister for Water, the member for Lyndhurst in the Assembly, stand condemned for the costs they forced on every Victorian who will pay additional costs for the desal plant for 30 years. These are massive hits against the state budget. I have to say to Ms Mikakos that it is about time Labor apologised to Victorians.

*Supplementary question*

**Ms MIKAKOS** (Northern Metropolitan) — It is absolutely excruciating to listen to the minister take credit for Labor initiatives like the free weekend public transport, which was delivered by Mr Pakula. It is time for this government and this minister to take responsibility and support our senior Victorians. My supplementary question is: a number of members of the Fair Go for Pensioners Coalition are visiting the Parliament today. Will the minister and the Premier agree to meet a delegation of members today to hear their concerns directly?

**Hon. D. M. DAVIS** (Minister for Ageing) — I am always prepared to meet with community groups, with seniors.

**Mr Lenders** — You haven't yet.

**Hon. D. M. DAVIS** — I have met with many seniors over the last 12 months and before. I have to say I meet with many seniors and aged-care centres and a whole range of different groups, so I am very prepared to meet with community groups and seniors groups. But what I want from Ms Mikakos is a commitment that she has got it wrong on energy concessions all year — —

*Honourable members interjecting.*

**Hon. D. M. DAVIS** — All year. You still have not admitted that you got it wrong in the election, you still have not admitted that the energy costs that are hitting Victorians are something that you generated in government — —

**Mr Lenders** interjected.

**Hon. D. M. DAVIS** — As Treasurer in the last government they are things that you generated. Of course I will meet with people.

## Aged care: federal policy

**Mr RAMSAY** (Western Victoria) — My question is also to the Minister for Health and Minister for Ageing, the Honourable David Davis. I ask the minister: can he advise the house of the impact of the commonwealth's proposed cuts to aged care on the Victorian community and the Victorian aged-care sector?

**Hon. D. M. DAVIS** (Minister for Ageing) — I do not think we know precisely what the commonwealth government is proposing to announce tomorrow; that will be a matter for the release of precise information. But I think there is growing concern in the aged-care community and amongst older Victorians that the commonwealth government is going to take away support from older Victorians and that it is going to do that by increasing user charges directly on those in residential aged care.

Let me put down some principles here so the community understands what is important. The first thing is that the coalition in Victoria strongly supports a shift to greater community support — greater support in the community — to enable people to remain in their homes with additional support. We have worked very hard to do that. We have worked very hard to have greater support in the community, and we will support commonwealth initiatives that take that step. But I put on record our concern that it appears the commonwealth government is going to take away some of the support that is available for residential aged care.

*Honourable members interjecting.*

**Hon. D. M. DAVIS** — The basis is a number of newspaper articles that indicate this, and a number of people on commonwealth working parties who have spoken to me, Mr Lenders. They have spoken in confidence to me — —

**Mr Lenders** — Says you.

**Hon. D. M. DAVIS** — That is right; I am telling you that. And as I said, we will know what they are proposing to do in the fullness of time tomorrow. I am putting on record that there is increasing concern amongst residential aged-care providers and people who are in receipt of that support that increases in consumer charges will be put in place by the commonwealth government. That will hit older Victorians in a number of clear ways.

**Hon. M. P. Pakula** — If.

**Hon. D. M. DAVIS** — Indeed. I hope, Mr Pakula, that the rumours that abound and the information that has been supplied to me is wrong. I hope it is wrong. Let me be clear here: the impact on older Victorians will be very significant if people in residential aged care are hit with additional user charges that are not in place at the moment. It will also impact significantly on the state system, because if aged care is not accessible and supported in the appropriate way, there will be a risk of those patients falling back — —

**Mr Viney** — On a point of order, President, a question that asks the minister to create views about what he has admitted is a hypothetical scenario based on rumours is hardly appropriate for a minister answering questions about state administration. He has admitted that his comments are based on rumours, and he is now presenting hypothetical scenarios as to what might happen if those rumours are correct.

**Hon. D. M. DAVIS** — On the point of order, President, it is highly appropriate for me as Minister for Ageing to answer a question from a member of Parliament about some of the concerns that are alive in the community, concerns about things that I can confirm to the house are very much believed to be the case.

**Mr Tee** interjected.

**Questions interrupted.**

## SUSPENSION OF MEMBER

### Mr Tee

**The PRESIDENT** — Order! I ask Mr Tee to leave the chamber for half an hour.

**Mr Tee withdrew from chamber.**

## QUESTIONS WITHOUT NOTICE

### Aged care: federal policy

**Questions resumed.**

**Hon. D. M. DAVIS** (Minister for Health) — They are concerns that are very much alive in terms of members of a number of commonwealth committees who have passed information to me about proposals that are under active consideration by the commonwealth. For those who did not read the *Age*

today, I suggest that they read the article by Andrew Probyn headed 'PM to unveil user-pays changes — —

**The PRESIDENT** — Order! When I interrupted proceedings to suspend Mr Tee Mr Davis was not debating; he was making a remark on the point of order. Let us return to the point of order.

**Hon. D. M. DAVIS** — The point of order is very simply that there is significant concern in the community, reflected in the newspapers today, about proposed commonwealth changes. I am aware of some details that are being discussed by a number of commonwealth committees, and they have a significant impact on Victoria. It is appropriate for a state minister to answer a question about the impact on their portfolio of proposed commonwealth changes.

**Hon. M. P. Pakula** — On the point of order, President, there is a matter of greater significance in this. If you rule that the minister's answer is appropriate, by extension it is open to all members to ask ministers about hypothetical scenarios and expect an answer to them. That is what the minister is doing. A rumour, a hypothetical scenario, has been put to the minister by the member and the minister is answering on that basis. If it is okay for a member of the government to ask a minister a question on the basis of a rumour and a hypothetical scenario, it must by extension be available for members of the opposition to do likewise.

**Hon. D. M. DAVIS** — Further on the point of order, President, of course it is a matter for members of Parliament to ask questions of community significance and where there is significant debate on a matter in the community that affects the minister's portfolio.

**Ms Broad** — Further to the point of order, President, almost the first statement the minister made in response to Mr Ramsay's question was that he does not know what is going to be announced tomorrow. After he spoke those words everything else was quite clearly rumour, speculation, innuendo and opinion.

**Hon. D. M. DAVIS** — Further on the point of order, President, information passed to me directly by members of commonwealth committees — —

**Mr Lenders** — We don't know that.

**Hon. D. M. DAVIS** — I am asserting that, and it is a fact. I am not revealing who they are. I make the point that those are not matters of doubt. I can indicate very clearly that those commonwealth committees have these matters under active consideration.

**The PRESIDENT** — Order! I am very concerned about this. For a start, I think Mr Davis is on fairly dangerous ground if he is saying that he has received advice from commonwealth committees in confidence and he has then relied on that in his answer in this place. That puts those people who have passed on that information in a very invidious position. I am most concerned about that approach in answering a question. I further say that Mr Davis's initial remarks that he did not know what was going to be in the statement contradict what he said later.

Another point is that it raises the question of speculation. A minister is on very dangerous ground if a minister is prepared to answer a question and to speculate, and then to be invited to speculate by another member in asking a question. That opens up a very broad horizon for our question time. It is something that has been contested by points of order. In the conduct of our question time we do not encourage the practice of asking members to speculate or look at what might happen in a context where there is no substantial information before the house that would allow that speculation to have any currency or root, if you like.

To rely on a newspaper article is a rather dangerous precedent. It concerns me. Frankly we are all in a very difficult position because of some of the reporting by media these days and the behaviour of governments of selectively leaking stories to certain media, so that that media gets a run and suggests what might be coming out tomorrow in a report.

The article Mr Davis has referred to — and I suggest and I hope he is relying on more than what might be confidential sources — is an article that quite possibly has been leaked to the newspaper to give it some sort of a jump on other media in terms of program changes that are to be announced by the Prime Minister tomorrow. I cannot verify and nor can the house whether or not this article is accurate, whether or not the journalist has been properly briefed or whether or not all aspects of this article are correct. In that sense, yes, it does go to speculation. I am concerned that by the minister saying he did not really know what was coming up in the package, that means most of the minister's answer is therefore speculative.

**Hon. D. M. DAVIS** — They haven't actually released it yet.

**The PRESIDENT** — Order! That is right. They have not released it.

**Hon. D. M. DAVIS** — But they are considering it — —

**The PRESIDENT** — Order! We are not having a debate about this. I ask that the minister in his concluding remarks keep to matters of state administration and perhaps be very wary of the speculation issue that I have raised as a point of concern from the Chair.

**Hon. D. M. DAVIS** — It is not just me who has concerns about a number of these points that the commonwealth has under active consideration. Aged Care Association Australia has put out formal news releases indicating the impact on Victorian and Australian seniors if the aged-care changes that are under consideration by the commonwealth are implemented. There are significant major consumer groups and associations that are very concerned about the commonwealth's consideration of increased user charges for those in aged care. If the concerns that are being pointed to very directly by Aged Care Association Australia prove to have been sound, it will impact directly on Victorian seniors. That impact will be on those who are in residential aged care and those seeking access to residential aged care, and it will affect some of the most vulnerable Victorians.

**Ordered that answer be considered next day on motion of Mr LENDERS (Southern Metropolitan).**

## Hospitals: western suburbs

**Mr EIDEH** (Western Metropolitan) — My question is also to the Minister for Health, Mr David Davis. Given the well-known fact that Wyndham and Melton are the fastest growing municipalities in the entire nation, when will the government give proper consideration to a new regional hospital in that area as a major priority to come out of the government's metropolitan health plan?

**Hon. D. M. DAVIS** (Minister for Health) — The member is quite right that there is significant growth on the western side of the city. Some of the fastest growing municipalities in the country are on the western side of Melbourne, and there is a need for greater resources and support on the western side of the city. There is no question about that. But I note that over 11 years Labor did not give the support to the western side of the city that it should have. For 11 years Labor neglected the west, for 11 years it failed to deliver proper health services in the west and Mr Eideh was relatively silent through that period. I record as a matter of disappointment that he was unprepared to stand up to his own ministers and advocate on behalf of his side of the city. I have to say — —

**Mr Jennings** interjected.

**Hon. D. M. DAVIS** — He asked the question, Mr Jennings. And you did nothing either. I make the point very clearly that this falls into the category of what I call one of the pre-budget questions: will you do X, will you do Y and will you do Z in the budget? The answer is: on budget day, the budget will be revealed by the Treasurer, so we look forward to 1 May. What I will say very clearly is that it is disappointing that Mr Eideh and other Labor members who represent the western side of the city were not prepared to advocate for their area during that period.

*Supplementary question*

**Mr EIDEH** (Western Metropolitan) — Will the minister guarantee that the government's health priority will be set in future budgets on the basis of the objective health needs identified in the plan?

**Hon. D. M. DAVIS** (Minister for Health) — The government will take advice from a range of sources: from community groups, in some cases from members of Parliament from particular areas who advocate, from those who are able to put a strong case for the needs of a particular area and from demographic and other data that directly and actually reflect the needs of particular areas. Certainly we will look to information of that kind. Again I record my disappointment that Mr Eideh did not advocate for these resources through the last period of government and was silent in that period. I find it curious that he has now found his tongue.

## Planning: community works program

**Mr KOCH** (Western Victoria) — My question without notice is to the Minister for Planning, the Honourable Matthew Guy. Can the minister inform the house what action the Baillieu government has taken to provide funding for local community works to create jobs and build better suburbs and towns?

**Hon. M. J. GUY** (Minister for Planning) — After all that excitement, let me talk about the community works program, which I thank Mr Koch for asking me about. Recently I had the pleasure of launching a Baillieu government initiative, the community works program, which will be a boon for small towns, suburbs and municipalities across Victoria. This government has put forward $6.9 million for regional Victoria and metropolitan Melbourne for smaller suburban works programs that councils have been dying to have a chance to submit for 1-to-1 funding, or in regional Victoria 2-to-1 funding — the state paying two to get those small community works programs up and running. A key driver of this initiative is job generation in local areas across Victoria. The Baillieu government

makes no apology for finding this $6.9 million for works up to $200 000, matching grants with municipalities 1-to-1 in Melbourne and 2-to-1 in regional Victoria.

**Mr Lenders** interjected.

**Hon. M. J. GUY** — I like it when you interject, Mr Lenders. I have been noting your front bench. It goes old guard, old guard, old guard, new guard, new guard, new guard, so you are kind of evenly separated. Like the 1-to-1 for the community works program there is a 1-to-1 and a 3-to-3 on this side as we look at you. Maybe we will offer some community works grants to some Labor members to launch in their electorates.

This is a worthwhile initiative, a very strong initiative and one that we know will go to the heart of helping local communities to apply for those grants and get some money from the government to improve those small infrastructure works. It might be a playground or streetscaping work, it could be local infrastructure in terms of park upgrades or it could be the upgrade of a suburban shopping strip, such as the one I recently launched with Mr Finn and Mr Elsbury.

This government is committed to making cities, towns and suburbs in this state the best in Australia. We are putting our money where our mouths are, which is what the community works program is about. As I said, there is $6.9 million to go forward for community works for councils to apply for until 17 May.

As I said, this program — 1-to-1 in metropolitan councils and 2-to-1 in regional Victoria — is one that I recently had much pleasure in joining the member for Swan Hill in the Assembly, the Deputy Leader of The Nationals, Peter Walsh, in launching and being part of in the Gannawarra shire and in the rural city of Swan Hill, where we had a great conversation with the local councils about how this program will make a real difference to some of those smaller municipalities. We went off to the shire of Buloke where the local council will be applying for some programs under the community works program, which could have a major impact on some of the towns within the shire. I believe we will get some worthwhile applications, particularly from regional Victorian areas, which could have great local job generation programs under another fantastic Baillieu government initiative for suburbs, towns and regional municipalities across Victoria that will directly create jobs.

## Kindergartens: funding

**Ms MIKAKOS** (Northern Metropolitan) — My question is for the Minister for Children and Early Childhood Development. I refer the minister to a recent letter, dated 29 March, she sent to kindergarten service providers. In this letter she states:

> … the Victorian government will continue to work with …

service providers unable to provide the 15 hours by 2013 —

> to facilitate a considered move towards 15 hours …

I know this letter has caused a great deal of angst amongst kindergartens who are now unsure of whether on not they need to provide 15 hours and by when. Can the minister advise the date by which every kindergarten in Victoria will need to provide 15 hours for four-year-olds?

**Hon. W. A. LOVELL** (Minister for Children and Early Childhood Development) — I thank the shadow minister for children and young adults for her endorsement the other day of my stance on kindergartens — she tweeted that I had provided enough funding for kindergartens to enable them to continue their three-year-old programs and also to implement 15 hours of four-year-old programs. It was a glowing endorsement, and I thank her very much. However, I know that more needs to be done, and I am in constant contact with the kindergarten sector.

**Ms Mikakos** interjected.

**Hon. W. A. LOVELL** — The shadow minister is obviously not interested. She does this all the time. She asks a question and then decides to have conversations around the chamber.

**Ms Mikakos** interjected.

**The PRESIDENT** — Order! The minister makes a valid point. On frequent occasions Ms Mikakos poses a question and then as the minister stands to answer she is, let us say in the most charitable sense, adding to her question. I do not think it is necessary, not to the extent that it occurs. The minister to continue without assistance.

**Hon. W. A. LOVELL** — I am in constant contact with the kindergarten sector. I know some of them are struggling to implement the 15 hours of kindergarten. This is largely because the former government signed up to this commonwealth election promise without first doing an assessment of the capacity of Victoria's kindergartens to deliver the program, the need to train

additional teachers and the need to build additional infrastructure. The former government also signed up to an underfunding of this promise.

We are working with kindergartens to ensure that they can delivering 15 hours of kindergarten programs for four-year-olds without displacing the three-year-old programs, which are highly regarded in this state. They are unique to Victoria but they are something the federal government does not seem to want to take into consideration. Obviously the former state government and the federal government are happy to see the three-year-old programs go. As we have seen from the *Lateline* program this week, three-year-old education is an important part of an early childhood education experience, and we want to see those programs maintained. As there are services that are not ready to deliver 15 hours next year, we have allowed two funding rates: one for a 10.75-hour program, and one for a 15-hour program for the services that are ready to move to 15 hours.

*Supplementary question*

**Ms MIKAKOS** (Northern Metropolitan) — I agree that it is important to retain three-year-old programs as well as offering four-year-old programs, but the minister has not actually addressed the issue of when kindergartens will need to comply with this. While the minister can come in here and verbal the things that I say, this is causing a lot of anxiety. My supplementary question again refers the minister to her letter, which states, 'A significant number of kindergarten service providers are ready to offer 15 hours of kindergarten in 2013'. I ask the minister to advise me what that number is.

**Hon. W. A. LOVELL** (Minister for Children and Early Childhood Development) — I thank the member for her question. We do expect around 60 per cent of service providers to be providing 15 hours next year, but that still has to be confirmed by the service providers themselves. As the shadow minister would be aware, kindergarten programs in this state are delivered through community-provided facilities by community organisations and local government; they are not services that are delivered as part of our education system. They are funded by the state government on a per capita rate but delivered largely by local government and community providers. We are working with the sector to establish exactly what that percentage is, and we will continue to support those services that are not yet ready to deliver 15 hours.

Another problem with the agreement that the former government signed up to is that a large portion of the funding will come in the last two years of the agreement — $170 million out of $210 million. That has made it very difficult to invest in the infrastructure needed to deliver this policy.

## Technology: national broadband network

**Mrs PEULICH** (South Eastern Metropolitan) — My question without notice is for the Minister for Technology, Gordon Rich-Phillips, and I ask: how is the Baillieu government supporting the uptake of broadband, and what are the challenges in doing that?

**Hon. G. K. RICH-PHILLIPS** (Minister for Technology) — I thank Mrs Peulich for her question and for her interest in this very important area of infrastructure development in Victoria. Last year the government was very pleased to release Victoria's technology plan for the future. One of the key elements of that technology plan was to drive technology-enabled innovation in the broader economy.

**Mr Lenders** interjected.

**Hon. G. K. RICH-PHILLIPS** — One of the key programs under the technology plan for the future is in fact the broadband-enabled innovation program (BEIP), as Mr Lenders points out, because the Victorian government sees enormous potential for community organisations, institutions and Victorian businesses in harnessing the potential of high-speed broadband.

Late last year I was very pleased to visit the University of Ballarat to see a demonstration of one of its new projects under the BEIP banner, which is a new telehealth project designed to allow clinicians in regional or metropolitan centres to undertake consultations with patients over a high-speed broadband link using three-dimensional cameras. This alleviates the need for patients receiving certain types of treatment to travel to regional or metropolitan centres to have consultations with clinicians. They are able to do it over the high-speed broadband link. That highlights the potential for high-speed broadband in the Victorian community in driving innovation for community organisations, research institutions, tertiary institutions and business.

Mrs Peulich asked about the challenges in the uptake of broadband in Victoria. The Victorian government is very committed to driving that uptake, but one of the challenges we face is the level of rollout of the NBN (national broadband network) in Victoria.

**Mr Lenders** interjected.

**Hon. G. K. RICH-PHILLIPS** — Mr Lenders says the Victorian government does not support it. Since the commonwealth government committed to the $40 billion NBN rollout, the Victorian government's position has been consistent — that is, Victoria should receive its fair share of the rollout under the NBN program. Last year we saw the first 12 months of rollout of NBN announced by NBN Co and the commonwealth, and Victoria received only 12 per cent of the NBN rollout in the first year. Following that first-year announcement, the Victorian government led representations to NBN Co and to the federal Minister for Broadband, Communications and the Digital Economy, Senator Conroy, and received assurances from NBN Co that when the three-year rollout was announced this year Victoria would receive its fair share.

As recently as February of this year we received correspondence from Senator Conroy indicating that concerns around disparities in the rollout of NBN to this state and to other states would be addressed, so it was very disappointing that at the end of last month we saw the three-year rollout for NBN announced by NBN Co and the commonwealth, and under that three-year plan announced at the end of March Victoria will only receive 19.5 per cent of the NBN rollout against a population share of nearly 25 per cent. On the figures announced by NBN Co last month, Victoria is more than 190 000 premises short of its population share of the NBN rollout. This is despite the commitments given by NBN Co last year and despite the commitments given by Senator Conroy in February.

The Victorian government will continue to advocate for Victoria to receive its fair share of the NBN rollout. We call for those opposite to advocate for Victoria to receive its fair share of the NBN rollout, and we call on the commonwealth to deliver Victoria's 25 per cent share.

## Housing: waiting list

**Mr O'DONOHUE** (Eastern Victoria) — My question is to the Minister for Housing and Minister for Children and Early Childhood Development, Minister Lovell, and I ask: can the minister provide details of the current status of the public housing waiting list?

**Hon. W. A. LOVELL** (Minister for Housing) — I thank the member for his question and his ongoing interest in those Victorians who unfortunately are on the waiting list for public housing. Nothing has been more important to me since becoming the housing minister than tackling the massive waiting list that I inherited from Labor in December 2010. In fact in the dying days of the former government the former Minister for Housing, the member for Richmond in the Assembly, published his final waiting list, showing 41 212 applicants were languishing on the waiting list under the former government. From the Auditor-General's report that was tabled a couple of weeks ago we know that Labor had given up trying to make the public housing system in Victoria effective and efficient. It was a scathing report card on Labor's 11 years of neglect and mismanagement of public housing in this state.

I am pleased to report that as of 31 March 2012 the waiting list is now 38 887. That is 3325 less than the last waiting list that was published under Labor. You might ask how we are doing this. We are doing it by better management. We are not throwing our hands in the air and giving up like Labor does. We have introduced better management of public housing in this state. We are turning over properties quicker so that they are not left vacant but are housing families sooner. We are also reprioritising many of those who were languishing on Labor's waiting list as being in urgent need and housing them sooner. We are providing more assistance to people who are on the waiting list with information about housing associations and assistance to get into the private rental market to ensure that they are housed appropriately.

We have also made better use of properties. One of the first things I did was to arrange an audit of the empty properties that Labor was prepared to leave vacant. We returned 1000 of those to being tenanted straightaway. By getting on with the job we have reduced the number of people waiting on the public housing waiting list.

Waiting lists will always move up and down as a result of external factors such as the recent floods, but better management has resulted in significant reductions in less than 18 months of coalition government.

## Housing: refugees

**Ms HARTLAND** (Western Metropolitan) — My question today is for the Minister for Housing. The Footscray Community Legal Centre recently released a report entitled *Making It Home — Refugee Housing in Melbourne's West*. It contained a scathing account of how our most vulnerable community members are being taken advantage of and living in unacceptable circumstances because of their language difficulties and a lack of understanding of the system. The report found, for example, that real estate agents have acted dishonestly and unlawfully such as by falsely claiming expenses for repairs; landlords and agents are ignoring repeated requests for repairs and are not fixing things

such as hot-water systems; and refugees face significant disadvantages at the Victorian Civil and Administrative Tribunal. My question is: based on the findings of this report, what action is the state government going to take to prevent refugees from being abused?

**Hon. W. A. LOVELL** (Minister for Housing) — The private rental market is not in my jurisdiction as the Minister for Housing, so I cannot take questions on the private rental market; the member would have to direct those to the Minister for Consumer Affairs. However, in the public housing sector, as I have said, we are working to deliver a more fair and equitable public housing sector in Victoria. We inherited a basket case from Labor. Labor ignored the sector for 11 years. It was warned by Treasury; it was warned by the Auditor-General not once but on two occasions that public housing was in crisis, and yet it chose to ignore the problems. We will soon be releasing discussion papers that will lead to a discussion to develop a new housing framework in Victoria to put social housing on a more sustainable footing.

*Supplementary question*

**Ms HARTLAND** (Western Metropolitan) — Would the Minister for Housing recommend to the Minister for Consumer Affairs that the government look at the recommendations of this report, which I hope it would have done by now, and look at something that has been tried and has proven to be successful and integrate it into the Department of Human Services — that is, the provision of specialist refugee housing workers in areas of high-density refugee settlement? Obviously funding those specialist workers for refugees would be a good idea. Is that something the minister would recommend to the Minister for Consumer Affairs?

**Hon. W. A. LOVELL** (Minister for Housing) — Reports of this nature are very important and are considered by departments. I know my department has been looking at that particular report. I am happy to pass Ms Hartland's concerns on to the Minister for Consumer Affairs.

## Planning: Point Cook

**Mr TEE** (Eastern Metropolitan) — I welcome the opportunity to ask a question of the Minister for Planning. The chief executive officer of the Growth Areas Authority (GAA), Mr Peter Seamer, has told the *Wyndham Weekly*:

> The only way … to fix [the infrastructure shortfall] —

at Point Cook —

> is from more development in Point Cook West.

Is that the government's position?

**Hon. M. J. GUY** (Minister for Planning) — I welcome the opportunity for Mr Tee to ask me this question. I was wondering whether it would be asked by one of the 13 shadow minister favourites of the Leader of the Opposition and member for Mulgrave in the Assembly, Daniel Andrews, or if it was going to be the shadow Minister for Planning, Mr Tee. I am glad it was Mr Tee, and I have got to say, what wizardry to come up with a question from a local newspaper in the western suburbs, so thank you, Merlin, for that insightful question. I think it is fabulous and deeply researched from the *Wyndham Weekly*.

There is one key piece of information in relation to infrastructure in the growth areas. Just after it was elected this government sought to change the ability for the growth areas infrastructure charge to be directed to state infrastructure in growth areas. It was called the works-in-kind legislation. It came before both chambers and gave us the ability to speed up state infrastructure — not local — to get state infrastructure to growth areas at the time of development and not after it. Do members know what the Labor Party did? It opposed it and voted against it. It cried poor for infrastructure in metropolitan Melbourne. When the first test came to provide extra funding for growth area suburbs, the Labor Party voted against it.

I find it astounding that the members of the Labor Party walk into this chamber, crying about infrastructure in growth areas, and the first test to support greater infrastructure delivery in growth areas was opposed by the Labor Party.

*Honourable members interjecting.*

**Hon. M. J. GUY** — I notice that the only people interjecting are 3 of the 13 failed Brumby government ministers. And here is another one, here is no. 4. Here she comes, right on cue.

**Ms Broad** — On a point of order, President, the minister has had a lot of time to debate the question rather than answering it, and it would be timely, before he completely runs out of time, that he comes back to attempting to answer the question, rather than debating it.

**The PRESIDENT** — Order! On the point of order, there is some validity in saying that a measure of debate has crept into this answer. I thought the point of order might go to the remarks being made about members of the opposition, which I found to be out of order,

particularly when Ms Broad got up to raise a point of order and was referred to — I do not know the exact wording — in effect as another failed minister of the previous government. That reflection is unparliamentary and out of order. Certainly the answer was debating to a fair extent, and I ask the minister to come back to answering the question.

**Hon. M. J. GUY** — I must say I look forward to the point that referring to another member as a failed member or failed minister is, indeed, unparliamentary in this chamber.

In answer to Mr Tee's question, the coalition government has not approved a single precinct structure plan in the western suburbs since coming to government — not one. Point Cook and the failures of infrastructure around Point Cook are entirely the fault of the former government. Those opposite can bleat and scream and blame, but Daniel Andrews, John Lenders, Martin Pakula, Gavin Jennings and every single defeated Labor minister remain absolutely condemned for leaving it to the current government, and indeed to me, to deal with infrastructure problems, since I have not approved a single piece of residential land in that area.

When Peter Seamer from the Growth Areas Authority comes forward and says, 'We have an issue in relation to infrastructure which we are addressing and which this government is addressing by the works-in-kind legislation' — voted against by the members opposite — it is very clear that the mess left to us as a government entirely because of the previous government knows no bounds, as does the hypocrisy of those opposite when they get up and shed crocodile tears about the infrastructure problems that exist in the western suburbs — entirely at the making of the Australian Labor Party!

**The PRESIDENT** — Order! I just want to make a clarification, because Mr Guy did take up my remarks. It is absolutely true that the term 'failed minister' is not necessarily unparliamentary. This is one of the problems we have with phrases that are used from time to time. Mr Pakula had a debate with me yesterday about a remark that he had made that was taken up on a point of order by Mr David Davis. Mr Pakula asserted that it was a common phrase and that it was not derogatory of the minister.

The issue here is that sometimes phrases or words can be used in the context of debate quite safely and they are not unparliamentary and perhaps convey an accurate position on some matters that are before the house. But in question time in particular, as members know, we have sought — and this is not just my position, this has been established in standing orders and through rulings of former presidents — to take out the remarks that are disparaging to the opposition or simply seek to ridicule members of the opposition as individuals or to reflect on the opposition parties. It is not so much the words in themselves that I was concerned about, but the way in which they were being used in that particular answer to the question.

*Supplementary question*

**Mr TEE** (Eastern Metropolitan) — I am concerned that this issue, which is causing such anxiety in the community, has been ignored by the minister. The minister has indicated that he has not approved a single structure plan in the area. Does that mean he will not approve the GAA's structure plan at Point Cook West, which will put another 2500 homes in that area? Will the minister rule out approving that? If he does, will he ensure — —

**Hon. D. M. Davis** — On a point of order, President, the member is entitled to ask a relevant supplementary question, not a train of questions.

**The PRESIDENT** — Order! I take it that the supplementary question is actually about this specific subdivision.

**Mr TEE** — That is right. The minister indicated that he did not support any of the structure plans. There is a current structure plan that is being considered. My question is: will the minister rule that out?

**The PRESIDENT** — Order! I accept that. It is fine to have that as the question. I make the point that the Leader of the Government is right: we do not have multiple choice questions here.

**Mr Barber** — The people of Point Cook are listening intently to this answer.

**Hon. M. J. GUY** (Minister for Planning) — Yes, they are listening intently to this answer. Mr Barber is quite right. The people of Point Cook should listen intently to this answer, because the government does not rule out any option when it comes to ensuring that it provides adequate infrastructure for people living in areas which have been failed by the previous administration — which, I might add, Mr Barber preferenced. Mr Barber preferenced the Labor Party through the Greens. We do not rule out anything, because we are going to get precinct structure plans right. The Point Cook West precinct structure plan was one which was developed under the previous Labor government. It was developed under the — I will quote

Mr Somyurek as reported in the *Age* of 5 April — 'suffocating influence of former failed Brumby government ministers'. I could not agree with him more.

### Higher education: deferral rates

**Mrs PETROVICH** (Northern Victoria) — My question is to the Minister for Higher Education and Skills, who is also the Minister responsible for the Teaching Profession, Peter Hall. I ask: will the minister advise the house of the outcomes of the most recent research on university place deferrals?

**Hon. P. R. HALL** (Minister for Higher Education and Skills) — I thank Mrs Petrovich for her question and her shared interest, as a member representing Northern Victoria Region, in university participation rates, particularly for students who live in regional Victoria. I know interest in this topic is shared by a number of members in this chamber, particularly those of us who represent regional parts of Victoria.

Last Friday I had the honour of launching a report which was managed by the Youth Affairs Council of Victoria and authored by three people, Professor John Polesel, Dr Malgorzata Klatt and Clare O'Hanlon, entitled *Deferring a University Offer in Regional Victoria*. This is the fourth such report undertaken by Professor John Polesel and co-authors. Previous reports were published in 2008, 2009 and 2011, and the most recent one was published just last Friday. What the reports have been able to do over that period is track the university deferral rates and compare what occurs in metropolitan Victoria and non-metropolitan Victoria.

This most recent report looks at the longer term trends in deferral rates, but it also in particular looks at the destination of those students who completed year 12 in 2010 and whether they picked up their university deferred places in 2012. I think members would be interested to know that apart from 2009, when there seemed to be a spike in these figures, the deferral rates have been fairly consistent over the last five years in that for students who attended a non-metropolitan school and completed year 12, the deferral rate has consistently been close to 16 per cent. In the 2011 year the deferral rate was 15.6 per cent for non-metropolitan areas. For metropolitan areas the comparative figure was 8.4 per cent. The comparative numbers of deferrals between metropolitan and non-metropolitan areas show it is twice as likely that country students who complete year 12 and are given a university place defer it compared to metropolitan students.

This report is also, as I said, very instructive in that it looks at whether those who have deferred go on after their deferral to participate at university. Looking at the 2010 year 12 completers, 2011 deferrals and what students have done in 2012, the report finds that approximately 61 per cent of those who deferred have gone on and taken up their university places. A further 11.8 per cent entered vocational education and training courses, and a further 4.3 per cent had entered a traineeship or apprenticeship, so close to 80 per cent of those who deferred have gone on and picked up either their university place or an alternative vocational training option. Others have picked up and continued with employment, and there was only a small fraction still inactive or unemployed after that.

This is a very useful document which I know is going to serve all of us, and I know the three previous reports have helped guide government policy in this area. Not the least of our responses to those deferral rates is the provision of the opportunity for students to study at higher education while living at home, and the Regional Partnership Facilitation Fund which I have spoken about before has been very successful in that regard.

I thank the authors of the report, I thank the Youth Affairs Council and I am pleased that the government was able to financially support the Youth Affairs Council in managing and having this report published.

## QUESTIONS ON NOTICE

### Answers

**Hon. D. M. DAVIS** (Minister for Health) — I have answers to the following questions on notice: 458, 705, 2320, 4040, 4822, 8200–1, 8206, 8210, 8212–3, 8233–4 and 8239.

## PERSONAL EXPLANATION

### Minister for Higher Education and Skills

**Hon. P. R. HALL** (Minister for Higher Education and Skills) (*By leave*) — I thank the house for the courtesy of leave to make a personal explanation. During question time on Tuesday of this week when responding to a question from Mr Lenders, I stated that — and these are the exact words I used:

> In the last 12 months no government funding has been applied to VRQA.

That is, the Victorian Registration and Qualifications Authority. This statement was inaccurate. Last financial

year the VRQA received $10.8 million in government funding. As I stated in my answer to Mr Lenders's question, the VRQA is moving to a cost recovery model; however, this transition has not yet been completed. I apologise to the house for that error.

**Sitting suspended 12.57 p.m. until 2.02 p.m.**

## ASSOCIATIONS INCORPORATION REFORM BILL 2011

*Referral to committee*

**Debate resumed.**

**Hon. M. J. GUY** (Minister for Planning) — I just say that the government acknowledges the contribution made by the Victorian Bar to reform the Associations Incorporation Act 1981, particularly through its participation in the regulatory reform reference group, the RRRG. A number of the reforms that will be implemented through the bill have been derived from proposals made by the Victorian Bar and the Law Institute of Victoria and their representatives on that committee. In addition to input from them, the bill has been subject to some fair consultation with the regulatory reform reference group, not-for-profit sector representatives and legal and accounting professionals. The Victorian government subsequently made 28 house amendments to the bill in the Assembly, the majority of which addressed the concerns identified by the law institute and the Victorian Bar. As such, we believe we have responded adequately.

We have not been close-minded about this feedback. If there is a need for future finetuning, the government is not closed to future consultation. However, the government wishes to implement the bill as it stands and to ascertain its progress later on. We will certainly be doing so. We will not be supporting the referral.

**Ms PENNICUIK** (Southern Metropolitan) — In reply, I thank the opposition for its support of the referral. That is a sensible position to take on this bill, which is complex and has raised so many concerns in the community and with members of the reference group, notwithstanding that the minister says he appreciates the work of the reference group and that the government has adopted some of the amendments. It is obvious and clear to everybody that there is still a lot of concern out there, and it would have been better for the government to agree to the referral so that we could have had all this sorted out with good time to consider it and allow those parties to make their representations to the committee and have some ability for questions to and fro with those organisations, which we cannot do in the committee stage of the bill. This puts us at a disadvantage.

I make the point again that we had the Wills Amendment (International Wills) Bill 2012 sent off to the Legal and Social Issues Legislation Committee. People are still not quite sure why that is; however, we are not opposed to that. That is what the committee is for. This is a bill that should have gone to the committee. In my view, when there is concern and a member of the opposition requests that a bill go to a committee for consideration, the government should have better reasons for not supporting that referral than simply not wanting to do it.

**House divided on motion:**

*Ayes, 19*

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

*Noes, 21*

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

**Motion negatived.**

**Committed.**

*Committee*

**Clause 1**

**Hon. M. P. PAKULA** (Western Metropolitan) — There is just one brief matter in regard to clause 1, but before I raise it I say that I expect this will be quite a difficult committee stage, not because of anyone's desire to make it difficult; I will certainly endeavour to explain the amendments and our concerns as simply as possible, and I am sure the minister will attempt to answer them in a similar fashion. But the fact remains that the government, the opposition and the Greens are all in the same boat in that we have all been in

possession of the latest iteration of the Victorian Bar's concerns for no more than 48 hours. In those circumstances it is a bit difficult for us to deal with those concerns in the most knowledgeable and well-informed way, which is why — and I know the vote has been had — we are disappointed that the government did not take the opportunity of having this matter examined in more detail by the Legal and Social Issues Legislation Committee. Certainly I believe the Victorian Bar is better placed to express its concerns than I am to express them on its behalf. Having said that, we will give it a go.

In regard to clause 1, one of the concerns that has been raised is the rationale for the use of the term 'rules' rather than the use of the term 'constitution' throughout the bill. The point made by the bar council in the memorandum that has been sent to all parties is that the term constitution is both legally appropriate and widely understood by association members and the public. In those circumstances I ask the minister to explain why in the drafting of the bill the government has chosen to use the term rules rather than constitution and whether in his review of the act after it passes he would be prepared to reconsider the use of that term.

**Hon. M. J. GUY** (Minister for Planning) — I am advised that since the inception of the incorporated associations scheme with the introduction of the Associations Incorporation Act 1981 the governing document of an incorporated association has been known as the 'rules' of an incorporated association. The 'rules' of an incorporated association is now the commonly and widely understood term in the sector. There is no evidence that the use of the term 'rules' is confusing for incorporated associations and their members. The not-for-profit sector organisations have not contacted the registrar to express confusion over the term 'rules', and that is why the government has kept with that name.

**Ms PENNICUIK** (Southern Metropolitan) — In starting my questioning on the bill, I agree with Mr Pakula that it is very difficult for us. I have twice now read through the seven pages of the memorandum from the Victorian Bar. There has not been enough time to go to each clause of the bill and think about it, so we are in some difficulty. I reiterate that it is a pity that we have not referred the bill to the committee to allow the particular organisations to come and prosecute their case in front of it.

I am sure the government has the memorandum, because it has been sent to it. At page 1 the bar council states:

> In normal usage, the word rules in the context of an association includes not just the principal constituent document, but also any subordinate domestic legislation by which members are bound such as by-laws or regulations. The use of rules in a narrow statutory sense is therefore confusing.

It notes further:

> A further confusion arises because, once the bill comes into operation, the term rules will have two different meanings. Prior to commencement of the bill, the rules will not include the purposes of the association, while, after commencement, they will. This confusion could simply be avoided by adopting the terminology we propose.

I just add to that that, having been a member of quite a few incorporated associations, I know they have 'constitutions'. I think the Victorian Bar raises a legitimate concern. Associations have constitutions and then they have other rules, which may not be the constitutions. It seems to me that it is confusing.

**Hon. M. J. GUY** (Minister for Planning) — With great respect, Deputy President, Ms Pennicuik is making a subjective assessment when she says it seems confusing. As I said, the government has stated very clearly that the term 'rules' of an incorporated association is commonly and widely understood in the sector. We have not had evidence to say the term 'rules' is confusing for incorporated associations.

**Clause agreed to; clauses 2 to 4 agreed to.**

**Clause 5**

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

1. Clause 5, after line 12 insert —

> "( ) If the association approves the adoption of the model rules as the rules of the proposed incorporated association, a majority of members must also approve —
>
> (a) the name of the proposed incorporated association; and
>
> (b) the purposes of the proposed incorporated association.".

I believe this is a test for my proposed amendment 2. This amendment is designed to reduce ambiguity. The concern is that clause 5 as it is currently drafted does not clearly outline the process for members adopting the model rules, as well as the extra element of name and purpose, and that that creates ambiguity about the process of approving the name and purpose of the organisation which must be taken to be elements of the organisation's application independent of the model rules in order for the model rules to be used without

modification. The purpose of the amendment is to make it clear to applicants that their members must ratify the name, the purpose and the model rules, and that a statement that this has occurred should be included with the application for incorporation. It is for those reasons that amendment 1 has been moved.

**The DEPUTY PRESIDENT** — Order! Mr Pakula is correct. His amendment 1 is a test of his proposed amendment 2, not clause 2, as that already stands part of the bill.

**Hon. M. P. PAKULA** — That is what I said, but thank you for correcting me, Deputy President.

**The DEPUTY PRESIDENT** — Order! We are dealing with Mr Pakula's amendment 1, which is to clause 5, and it is a test for his proposed amendment 2, which is really a renumbering of clause 5(2).

**Hon. M. P. PAKULA** — I thought it might test amendment 3 as well.

**The DEPUTY PRESIDENT** — Order! We will regard this question as concerning amendment 1, which is a proposed amendment to clause 5, and as a test of proposed amendments 2 and 3. Everybody is satisfied with that.

**Hon. M. J. GUY** (Minister for Planning) — I am advised that the group of amendments relate to the bar's concern about the ability of the registrar to accept applications for incorporation that choose to adopt the model rules for incorporated associations. I am advised that there is not a problem with the acceptance of model rule applications under the provisions of the bill, and accordingly the proposed amendments should not be required.

A simple, concise, common-sense interpretation of the provisions of the bill enables model rule applications to be made with applicant groups identifying the proposed name, purpose and financial year of their association, and the model rules must leave the name, purposes and financial year sections blank as they will be specific to each association. The applications form for incorporation choosing model rules asks each association to specify its name, purpose and financial year. Having done so, the rules will have addressed all the requirements as listed in schedule 1, and the same situation currently exists under the Associations Incorporation Act 1981. Issues with those existing provisions have not been raised by the Law Institute of Victoria or the bar.

**Ms PENNICUIK** (Southern Metropolitan) — Having viewed these amendments briefly and read the comments made by the bar association, the Greens will support the amendment. Notwithstanding what the minister says about the form with the blank space left, that does not really stand in for what the requirements are under the act. Part 2 of what will become the act should be clear for incorporated associations to understand what their basic duties are in forming an association.

**Amendment negatived; clause agreed to; clause 6 agreed to.**

**Clause 7**

**Ms PENNICUIK** (Southern Metropolitan) — The problem with clause 7 and several other clauses, but I will address it under clause 7, is that according to the bar association there is no provision either under that clause or subsequent clauses, including clauses 47 and 49, that deems the purpose to be part of the rules and thus justifiable under clause 67 — it is looking forward to other clauses in the bill! I am asking the minister to address the issue raised by the bar association with regard to clause 7 and further clauses that it would affect.

**Hon. M. J. GUY** (Minister for Planning) — Similar to the previous clauses we have just been through, I understand Ms Pennicuik is effectively stating that once the association writes its name it would automatically invalidate its registration, and that is not a premise the government accepts.

**Ms PENNICUIK** (Southern Metropolitan) — I was not asserting anything, Minister. I was asking a question with regard to the problems that the bar association has raised with the government, and the government has this in front of it. On the bar association's behalf I am raising the issues raised in paragraphs 4, 5 and 6 of its memorandum, which refer to clause 7 and subsequent clauses. If that is the minister's answer, that is his answer, but I was not asserting anything.

**Hon. M. J. GUY** (Minister for Planning) — I apologise if I have misstated Ms Pennicuik's point, but the point she puts forward on behalf of the bar council is one we do not accept.

**Clause agreed to; clauses 8 to 13 agreed to.**

**Clause 14**

**The DEPUTY PRESIDENT** — Order! We will pause briefly, and I will get an answer to Mr Pakula's question about testing of clauses.

**Hon. M. P. PAKULA** (Western Metropolitan) — Thank you, Deputy President, for the advice that amendment 4 does not test amendment 7, but I am of the view that they deal with a similar matter. I move:

4. Clause 14, after line 9 insert —

"(4) The certificate of registration must state —

(a) the name of the registrable body immediately before it was registered as an incorporated association under this Act; and

(b) the name of the Act under which the incorporated association was previously registered as a registrable body.".

As has been put forward by the bar council in its memorandum to all parties, the view behind the amendment is that clause 14 should be amended to include an explicit requirement that when a company limited by guarantee or a cooperative becomes incorporated under the act, or two or more incorporated associations amalgamate, the new certificate of registration should state the name and the form of incorporation of the previous body or bodies. Otherwise it is almost impossible to show the connection between the old and new forms of incorporation, which is critical in relation to dealings with the Australian Taxation Office (ATO) and the Australian Business Register.

I am grateful to the bar council for the details provided in its memorandum. They have assisted the Parliament in considering amendment 4. It appears to me to be an important amendment. When you have a certificate of registration of a body that is an amalgam of other bodies, I believe not just members of that incorporated association but other individuals or organisations that deal with that incorporated association are entitled to be clear on what that incorporated association used to be. As the Victorian Bar Council points out, that is critical for the ATO. It is critical for the Australian Business Register, and we would see this as being a crucial amendment.

**The DEPUTY PRESIDENT** — Order! I will invite Mr Pakula to make comment on his amendment 7. If he wishes amendment 4 to be a test of his amendment 7, that is in order, but the only thing is that I would need to ask the minister whether he is also happy, because if Mr Pakula's proposed amendment 4 were to be passed, then that would be a test in favour of his amendment 7. Therefore the minister would need to agree to that. I ask the member how he wishes to proceed.

**Hon. M. P. PAKULA** — I am happy to deal with them separately.

**The DEPUTY PRESIDENT** — Order! We will continue on the basis that this is a stand-alone test of Mr Pakula's amendment 4 to clause 14.

**Ms PENNICUIK** (Southern Metropolitan) — The Greens will support this amendment, because I think it is in the interests of good governance to be able to see where associations have come from and what they have turned into. I do not need to repeat what Mr Pakula has just said in committee, but I support what he said.

**Hon. M. J. GUY** (Minister for Planning) — The government believes it is not appropriate for the registrar to include information in a certificate of registration that relates to the responsibility and authority of another regulator. An example in this case is the Australian Securities and Investments Commission. Information on an incorporated association's former corporate status is publicly accessible from the Register of Incorporated Associations. An interested person could inspect or obtain a copy of those relevant documents. The register will include details of the former status of each incorporated association where associations have amalgamated, and the register will include a copy of the previous certificate of incorporation where a company or cooperative has become incorporated as an association. As such we do not believe the amendment is necessary.

**Committee divided on amendment:**

*Ayes, 19*

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

*Noes, 21*

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

**Amendment negatived.**

**Clause agreed to; clauses 15 and 16 agreed to.**

**Clause 17**

**The DEPUTY PRESIDENT** — Order! We need to get some clarification on one point from parliamentary counsel on the question of Mr Pakula's amendments 5 and 6. The simplest way to deal with this is to postpone clause 17 and deal with Mr Pakula's amendment 6 to clause 19. We will carry clause 18, move to clause 19 and deal with Mr Pakula's amendment 6, and then return to clause 17.

**Clause postponed; clause 18 agreed to.**

**Clause 19**

**The DEPUTY PRESIDENT** — Order! Mr Pakula, to move amendment 6, which we believe is a test of his amendment 5 to clause 17.

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

6. Clause 19, page 22, after line 6 insert —

"(3) If —

(a) the Registrar decides to register the proposed amalgamated association; and

(b) by special resolution referred to in section 17(1), the associations have specified a date on which the amalgamation is to take effect —

the Registrar must register the amalgamated association with effect from that date.".

I thank the committee for its forbearance, and I thank the clerks for obtaining that clarification from the Office of the Chief Parliamentary Counsel, because it certainly appears to me that amendment 5 is consequential on amendment 6. Amendment 6 is a relatively straightforward amendment. It is designed to make it explicitly clear, in relation to the registration of an amalgamated body, that if there is a special resolution of an association to amalgamate with another only after a particular date, the registrar will not register the new body until that date and will do so on that date. That makes the process for associations seeking to amalgamate clearer, it makes the act more accessible to those associations and it makes it clear to associations that they can set the date for their amalgamation and be assured that the new body will be effectively registered from that date. That is the purpose behind amendment 6, and I commend it to the committee.

**Ms PENNICUIK** (Southern Metropolitan) — The Greens will support this amendment because it makes it clear that it is up to the members of the amalgamated association to decide on what day they want their amalgamation to take effect, and it is not the day that the registrar registers them.

**Hon. M. J. GUY** (Minister for Planning) — The date on which the registrar enters the new amalgamated incorporated association into the register of incorporated associations can be dealt with administratively by the registrar without changes to legislation. It is intended that the regulations which will be made to support the operation of a new act will require that particulars of the date on which the special resolution to amalgamate is to take effect be provided to the registrar as part of the application to amalgamate. I am informed that there may be circumstances where the registrar may have concerns with the proposed date and may wish to discuss these with the incorporated associations — for example, where this may have an adverse effect on the interests of members or creditors.

**Hon. M. P. PAKULA** (Western Metropolitan) — I thank the minister for his response. Just prior to committing the amendment to the vote, I listened intently to his comments and I would bring the committee's attention back to the email that was received from Mr Nankivell, which was sent to all parties, including the minister. The import of Mr Nankivell's email was that in the view of the bar council, dealing with what it sees as shortcomings in the bill by regulation, by practice note, by memorandum et cetera is an unacceptable way of dealing with these matters — certainly a less than optimal way of dealing with these matters. The point the bar has made in that respect is that those regulations, those practice notes and those explanatory memorandums can only operate in conjunction with the law of the day, the statute as it stands, and if the statute is incorrect, to then rely on regulations to rectify it is an undesirable way of proceeding.

**Hon. M. J. GUY** (Minister for Planning) — I am advised that an application for amalgamation must be accompanied by a notice of the special resolution to amalgamate that includes the prescribed particulars. That is in clause 18(3)(a) of the bill, which specifically authorises resolutions to be made.

**Amendment negatived; clause agreed to.**

**Clause 20**

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

7. Clause 20, after line 20 insert —

"(4) The certificate of registration must state the names of the incorporated associations that have amalgamated.".

I do not intend to spend a lot of time dealing with this amendment. The rationale for the opposition moving amendment 7 to clause 20 is fundamentally the same rationale as we used for the moving of amendment 4 in relation to clause 14. It is again the view of the opposition that the certificate of registration should be required to state the names of the incorporated associations that have amalgamated. As the committee would recall, we divided on that question. We consider it to be a matter of some fundamental importance that there is clarity about which organisations preceded the organisation that exists post-amalgamation. On that basis, I commend amendment 7 to the house.

**Ms PENNICUIK** (Southern Metropolitan) — The Greens will also support this amendment for the reasons outlined for supporting the previous amendment, which was very similar.

Also, in response to the minister's answer that members of associations, members of the public or anyone can go looking for things and get hold of documents that are housed elsewhere to find out the previous history of incorporated associations, the purpose of this bill is to make these sorts of things simpler. The simplest way to do this is to make sure that history is on the certificate of registration.

**Hon. M. J. GUY** (Minister for Planning) — As Mr Pakula said, this is very similar to the amendment to clause 14 that he moved earlier. The government will not support this amendment, principally because, as I said earlier, information about an incorporated association's former status is publicly available from the register of incorporated associations. As stated before, interested persons can inspect or obtain relevant documents should they wish to, and the register will include the former status of each incorporated association where associations have amalgamated. As such, we will not be supporting the amendment.

**Committee divided on amendment:**

*Ayes, 19*

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

*Noes, 21*

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

**Amendment negatived.**

**Clause agreed to; clauses 21 to 47 agreed to.**

**Clause 48**

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

8. Clause 48, lines 8 and 9, omit all words and expressions on these lines and insert —

"approved without modification as the rules of the incorporated association —

(i) its registered name; and

(ii) the purposes stated in its application for incorporation; and

(iii) the model rules.".

Many incorporated associations currently adopt the model rules, but some do it with minor additions and other variations. Opposition members are seeking to amend clause 48 to make it clear that, as at present, an association can adopt the model rules with changes. That is the purpose of the amendment, and we commend it to the house.

**Ms PENNICUIK** (Southern Metropolitan) — That is one of the issues raised by the bar council in its memorandum regarding the ability of associations to adopt rules with changes, so we will support the amendment that would be inserted into clause 48 of the bill.

**Hon. M. J. GUY** (Minister for Planning) — I understand Mr Pakula's rationale for his amendment. I say that there is not a problem with the acceptance of model rule applications under the provisions of the bill. Accordingly the amendment is not required. The simple, common-sense interpretation of the provisions of the bill enables model applications to be made with applicant groups identifying the proposed name, purposes and financial year of the association. The model rules must leave the name, purposes and financial year sections blank, as these will be specific to each association. The application form for incorporation choosing model rules asks each association to specify its name, purposes and financial

year. After having done so, their rules will have addressed all the required items in schedule 1. The same situation exists under the Associations Incorporation Act 1981, and, as I said earlier, no issue has been raised about that by the law institute or the bar.

**Amendment negatived; clause agreed to; clauses 49 to 54 agreed to.**

**Clause 55**

**Hon. M. P. PAKULA** (Western Metropolitan) — I do not seek to amend clause 55, but I seek some information from the minister. Under clause 54 a member who is subject to a disciplinary action is prohibited from invoking the association's grievance procedure under clause 55. The bar council's view — and it is one shared by the opposition — is that the clause ought to be amended. At this point the opposition would content itself with asking the government why it would argue that the clause should not be amended to similarly prohibit the association from taking disciplinary action against a member while that grievance procedure is afoot. It would appear that is a reasonable question to ask. If a member cannot invoke the grievance procedure while subject to disciplinary action, why would the converse not also apply — that is, while the grievance procedure is afoot disciplinary action cannot be undertaken. I seek the minister's guidance in that regard.

**Hon. M. J. GUY** (Minister for Planning) — I am informed that last Wednesday the bar was told that this matter would be referred to the RRRG (regulatory reform reference group) for consultation and input from not-for-profit sector stakeholders and the issue would be addressed in guidance material and in the model rules without need for further amendment of the bill.

**Hon. M. P. PAKULA** (Western Metropolitan) — I thank the minister for that answer. I suppose once again it is incumbent upon me to make clear to the committee that the bar has expressed to the government and the opposition its strong view that it is far more appropriate — let us be generous — to get the statute right rather than rely on guidance material. It goes back to the point raised by the opposition and the Greens during both the second-reading debate and the debate on the referral motion. This is a bill for which there is no urgency. It would have been not just appropriate but very simple for the government to support the reference to the Legal and Social Issues Legislation Committee to allow all these matters to be properly ventilated not just by the bar council but by other stakeholders and to bring back a bill amended as it was amended before it was voted on by the Legislative Assembly so that these matters could be dealt with by statute rather than by guidance material.

**Ms PENNICUIK** (Southern Metropolitan) — As Mr Pakula said, this is one matter which would have benefited from a bit more of an airing in a forum such as the Legal and Social Issues Legislation Committee. I have not had the opportunity, as I said before, to sit down, refer to the bill and go through the process of drawing up amendments. This is one bill which probably does need amending. The minister has suggested this could be covered by guidance notes or some other non-legislative measure; however, clause 54(4) prohibits a member, subject to disciplinary action, from invoking the grievance procedure under clause 55, which is the following clause. But in the act there is no similar prohibition on the association from taking disciplinary action against the member. It seems to me that this makes the act a bit unbalanced in that there is a prohibition on the member from taking disciplinary action but no prohibition on the association from taking disciplinary action against the member. That is something that needs to be clarified. If the act is conferring a prohibition on one party and not on the other, I do not think that can be fixed by regulation or a practice note.

**Hon. M. J. GUY** (Minister for Planning) — The government recognises the issue Ms Pennicuik is raising, but none of the not-for-profit representatives on RRRG has raised this as an issue. As such, we do not believe it needs a legislative response until those groups have been consulted, which is what we will be doing and what we have stated as the reason it will be referred to RRRG for further consultation.

**Ms PENNICUIK** (Southern Metropolitan) — I will just say that groups have raised it, because this particular memorandum raises it and says clause 55 should be amended to put in a similar prohibition so that the prohibition goes both ways. I do not think it is correct to say that they are not saying that it should not be amended. I believe it should be amended. The minister is taking it back to RRRG, and I presume that is the advice he will get from it. But it seems to me that to have a prohibition on one party, nominally the party with the least power, and no such prohibition on the association, which notionally would have the higher power, is a bit of an imbalance in the legislation that cannot be fixed by subordinate measures.

**Hon. M. J. GUY** (Minister for Planning) — Just to clarify that again for Ms Pennicuik's benefit, I did say no not-for-profit sector had raised it.

**Ms PENNICUIK** (Southern Metropolitan) — I hear the minister. But I am raising it as an issue.

**Clause agreed to; clause 56 agreed to.**

**Clause 57**

**Hon. M. P. PAKULA** (Western Metropolitan) — In regard to the rules and minutes, could the minister explain why the government would not contain within clause 57 a provision to give members an explicit right to be given a copy of the register of members rather than simply having a right to inspect it?

**Hon. M. J. GUY** (Minister for Planning) — It is a similar situation to that of previous questions where not including an express right to obtain a copy of the register of members does not prohibit associations from providing copies of the register to members. They may address this in their rules. I would say that clause 57 does make it clear, and again no not-for-profit sector representatives have raised it as an issue. But it is one being referred to RRRG for consultation.

**Hon. M. P. PAKULA** (Western Metropolitan) — I want to put on record again my previous comments about the views of the bar council and other stakeholders about matters being dealt with in subsequent consultations rather than getting the bill right the first time.

**Clause agreed to; clause 58 agreed to.**

**Clause 59**

**Hon. M. P. PAKULA** (Western Metropolitan) — I have a couple of questions on clause 59. There is reference to the secretary in that clause; however, the scheme of the act is that the management of any given association is the responsibility of the committee. The secretary in fact has no executive powers under the act. My question is: why is the reference in clause 59 to the secretary rather than to the committee?

**Hon. M. J. GUY** (Minister for Planning) — It is possible that a member will wish to restrict access to their personal information to members of the committee. While the office of secretary does not have executive power under the act, it is a commonly recognised office and role. The rules of an incorporated association must provide for a secretary and they would be the officer responsible for the register. The reason for enabling a person to request that that information be restricted is that the information is their personal information. It makes no sense to adopt the standard definition of 'personal information' contained in the Information Privacy Act 2000 rather than use or develop an alternative formula to it.

**Hon. M. P. PAKULA** (Western Metropolitan) — I thank the minister for that extraordinarily illuminating answer. Sometimes you can get too much information.

I have another question about clause 59. There is reference in clause 59(4) to special circumstances which would justify a request to restrict access to information in the register of members, but those special circumstances are not specified. Could the minister advise the committee why clause 59, particularly clause 59(4), does not spell out what would constitute special circumstances?

**Hon. M. J. GUY** (Minister for Planning) — Stand by for another illuminating answer! I am informed that the term special circumstances is not defined to enable flexibility to address a wide range of potential circumstances. The government does not want to list those circumstances because a lay member of an association may misunderstand and think that such a list is exhaustive. The second-reading speech for this bill provides examples of special circumstances, and secretaries can also seek legal advice or contact Consumer Affairs Victoria. The register of members provisions will be referred to the reference group for consultation and input from the not-for-profit sector stakeholders. I trust that answers the member's question.

**Hon. M. P. PAKULA** (Western Metropolitan) — One more question: if this matter is going to be referred, can the minister indicate whether it will be made clear whether special circumstances could apply to all members of the association, effectively circumventing the rights of access and use of the register under clauses 57 and 58?

**Hon. M. J. GUY** (Minister for Planning) — I will take further advice and refer back to this clause at the end of the committee stage.

**Clause postponed.**

**Clause 60**

**The DEPUTY PRESIDENT** — Order! Mr Pakula has two amendments, 9 and 10, to clause 60. For the information of the committee we will deal with debate and discussion on Mr Pakula's amendments together, but we will put each amendment to the vote separately.

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

9. Clause 60, line 8, after "meeting" insert "(and, if the meeting is to be held using technology, a description of the technology)".

10. Clause 60, lines 10 to 13, omit all words and expressions on these lines and insert —

"(b) if the rules of the association permit voting by proxy —

(i) has been given notice of how the member may appoint a proxy; and

(ii) has been given a copy of any form required by the rules of the association for appointing a proxy with the notice.".

Amendment 9 is relatively simple. It makes the point that if a meeting is going to be held using technology, then the notice should be required to state that, to make it clear, and it is my understanding that that is a requirement under the federal Corporations Act 2001. It is a requirement under the Corporations Act for good reason, so that individuals who wish to participate in that meeting understand whether or not it can be done remotely. We think the notice should be required to make that very clear. That is the substance of amendment 9.

The substance of amendment 10 goes to the question of voting by proxy. Again we would suggest, and this is the view of the Victorian Bar Council as well, that in regard to notice of general meetings, if there is a right to vote by proxy, then that should be stated in the notice, in the same way that it is a requirement for companies under the Corporations Act.

**Ms PENNICUIK** (Southern Metropolitan) — The Greens support the amendment in the spirit of the intention of this bill, which is to make everything simpler for members of incorporated associations, particularly voluntary ones, and to enable them to know what the rules are and to know what their duties and rights are, and this will assist ordinary members to have that knowledge, even though they may not necessarily check the legislation on the CAV website every other week and may only turn their attention to that sort of thing when they have meetings. It makes their participation simpler.

**The DEPUTY PRESIDENT** — Order! To clarify: Ms Pennicuik said the Greens are supporting the amendment. Mr Pakula has moved both his amendments 9 and 10; we are debating both amendments before I put the questions separately.

**Ms PENNICUIK** — I meant both amendments because both amendments make it easier for the ordinary member to know what is going on.

**Hon. M. J. GUY** (Minister for Planning) — On the first point, in relation to technology, the requirement in clause 60(a) that the notice of the meeting include the place of the meeting covers the use of technology where that will be an option for participation. Explanatory and guidance materials will make it clear that technology is an option if the rules so provide. On the second point, in relation to proxies, clause 60(b) requires that if the rules of incorporated associations allow voting by proxy, a copy of the proxy form must be included with the notice of the general meeting, thus alerting members to the right to participate via a proxy vote. The amendment seeks that that notice should include notice about proxy rights. For associations using model rules, voting by proxy would be permitted. The rules of other associations will need to address whether voting by proxy is permitted, and therefore members will have ample ability to understand the proxy voting rights of their association, and they will know the rules and their rights.

**Amendment 9 negatived.**

**Committee divided on amendment 10:**

*Ayes, 19*

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

*Noes, 21*

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

**Amendment 10 negatived.**

**Clause agreed to; clauses 61 to 64 agreed to.**

**Clause 65**

**Hon. M. P. PAKULA** (Western Metropolitan) — I have a question for the minister on the effect of clause 65, which enables a vote to be taken on the voices, even if that is contrary to the rules of the association. It also has the effect of enabling any member present, even if they are a non-voting member, to demand a count, despite any provision for a poll in the rules of the association. Why have these changes been made? Why is it not that the model rules make provision for acquiring and conducting a poll? This is a specific query that has been raised by the Victorian Bar Council. I think it is a very important question about what is the total import of clause 65, and it is certainly the view of the Victorian Bar Council that the entire clause is problematic.

**Hon. M. J. GUY** (Minister for Planning) — I would just say that it is not clear why the clause should be removed in its entirety. To do so would remove the ability of the chairperson to provide certainty at the passage of a special resolution. The provision also enables a declaration to be made at a general meeting conducted at more than one location via technology. The provision allows members present at the meeting to call for votes to be counted, so the government believes that the repeal of the clause would have unintended consequences that would need to be considered prior to accepting the amendment.

**Ms PENNICUIK** (Southern Metropolitan) — I have two queries, the same as Mr Pakula, for which the minister has provided the government's view. This particular division is headed 'General meetings', but clause 63 refers to the annual general meeting and then clause 65 refers to passing of a resolution. I am just checking that clause 65 would apply to a general meeting and the annual general meeting.

**Hon. M. J. GUY** (Minister for Planning) — I was getting a little enthusiastic in my response to Mr Pakula — very unlike me, Deputy President. Of course it is not an amendment that Mr Pakula was referring to. I would respond to Ms Pennicuik by saying that an annual general meeting is the same as a general meeting. An annual general meeting is obviously the meeting where the office-bearers and others would be elected, but it is in this way the same as a general meeting.

**Ms PENNICUIK** (Southern Metropolitan) — That is for the purposes of clause 65. The other question was that the minister said there would need to be consideration — I cannot remember the word he used — of whether this is an issue that is going to be referred back to the RRRG.

**Hon. M. J. GUY** (Minister for Planning) — At this stage it is not planned that it would be.

**Ms PENNICUIK** (Southern Metropolitan) — On that general issue, with your indulgence, Deputy President, it is not planned to be, but if it was raised with the minister at a meeting of the RRRG, would it still be able to be considered?

**Hon. M. J. GUY** (Minister for Planning) — I would not want to comment on a hypothetical. I will wait for that to occur, and the minister will then make an appropriate assessment.

**Clause agreed to; clauses 66 to 75 agreed to.**

**Clause 76**

**Ms PENNICUIK** (Southern Metropolitan) — The issue that seems to be raised in the memorandum regarding clause 76 is basically that the clause as it reads provides that the secretary of an incorporated association may, unless the rules of the association provide otherwise, hold any other office in the association rather than expressing it as the clause needs to be amended to provide that the secretary may only hold another office of the association if the rules so provide. It is a semantic type of issue, but one way of expressing it does have a slightly nuanced and different meaning from the other way, as it is expressed in the bill.

**Hon. M. J. GUY** (Minister for Planning) — The current drafting of clause 76 allows for flexibility, particularly for small associations where other office-holders resign and cannot be replaced expeditiously, so in very small associations this would certainly apply.

**Clause agreed to; clauses 77 to 79 agreed to.**

**Clause 80**

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

11. Clause 80, line 16, after "next" insert "annual".

The amendment seeks to insert the word 'annual'. I note that the minister's answer in regard to clause 65 was that an annual general meeting and a general meeting are the same thing, but that is not always the case. There are occasions where there are special general meetings called, and it would be the opposition's view that clause 82 is endeavouring to

refer to the annual general meeting. Certainly section 29B(1)(b) of the act as it currently stands requires the committee members' interests to be disclosed at the next annual general meeting, but the new act will refer only to the next general meeting, and, as I have said, there could be a special general meeting which has been convened for a particular purpose that does not normally deal with annual reporting, so for the sake of clarity, the amendment proposed would insert the word 'annual'.

**Hon. M. J. GUY** (Minister for Planning) — An annual general meeting or a special general meeting are both, as the name suggests, general meetings, so the government believes — the amendment is an amendment this time? I am just checking.

**Hon. M. P. Pakula** — Yes, it is.

**Hon. M. J. GUY** — The government believes that the proposal would reduce the committee's timely accountability to association members, so if the next annual general meeting is not due to be held, say, for 11 months after the conflict became apparent, it may be more useful for members and indeed more feasible to provide notice at an earlier general meeting should one be called, so no change is proposed. The provision means that where the next annual general meeting is not due to be held for some time after a conflict of interest becomes apparent, a member concerned could provide notice to other members at an earlier general meeting, for example, if one were held. We believe it would be more practical and useful for all members to keep the term as drafted in the bill.

**Hon. M. P. PAKULA** (Western Metropolitan) — I am satisfied with the minister's explanation, and I withdraw the amendment.

**Amendment withdrawn by leave.**

**Clause agreed to; clauses 81 to 145 agreed to.**

**Clause 146**

**Hon. M. P. PAKULA** (Western Metropolitan) — I just say for the record that there have been a range of queries raised with all parties by the bar in regard to a number of the clauses we have just voted to include in the bill. Going to the point made by the opposition and the Greens previously, it is simply not possible for us to deal with each and every one of those concerns in this committee stage. We reiterate the point that this would have been done better via a reference to the appropriate legislation committee.

In regard to clause 146, the bar council has indicated to all parties — and this is a concern shared by the opposition — that with regard to civil penalties, the bill incorporates by reference the civil penalty provisions applying to the directors of companies under the Corporations Act. The issue is the accessibility of that for most committee members of incorporated associations, bearing in mind that at least one of the stated purposes of this bill is to make the legislation more accessible and more easily comprehended by committee members of incorporated associations. The view which has been put strongly and which I would seek some comment from the minister on is why the penalties that might apply under the bill cannot be contained in the bill itself for the sake of clarity.

**Hon. M. J. GUY** (Minister for Planning) — I will make some comments if I can, and in doing so I note that the provision was initially included in the Associations Incorporation Amendment Act 2010. While it is being raised again now, it was obviously first raised back in 2010. The law institute and the bar request insertion of duty provisions for office-holders of incorporated associations modelled on equivalent duty provisions for directors in the Corporations Act. The Corporations Act duty provisions attract both criminal and civil penalty provisions. The civil penalties have been introduced by way of application of the relevant Corporations Act provisions, as a civil penalty regime has yet to be developed and introduced for Victoria. If the government did not include the option of civil penalties, the office-holders of incorporated associations would be liable to criminal conviction and penalty for breach of a duty of an office-holder even where the breach was due to negligence rather than a deliberate or reckless act.

Defences and provisions providing for the relief of consequences for contravening a civil penalty provision have also been applied and are available to incorporated associations, so if the court finds that an office-holder has negligently breached a civil penalty provision, it has a discretion to impose no penalty at all.

**Ms PENNICUIK** (Southern Metropolitan) — This is an issue we went into in some depth in the briefing with the minister's advisers and department. I have used the example of small voluntary associations. We understand that the intent relates to the situation where if there is no civil penalty regime attached to the bill, office-holders in such organisations would be subject to criminal penalties when in fact they may have only inadvertently breached the act — or even negligently, but keep in mind we are talking about the friends of something creek incorporated association — and have not actually committed a criminal act or wilful offence.

We understand the intent behind this, but the minister has to admit that clause 146 is pretty well impenetrable to most people. Because it covers the issue of the introduction of civil penalties into the regime, the point is that this particular clause needs to be better explained — the rationale and everything — to the associated incorporations that would come under it. That would be my comment.

**Hon. M. J. GUY** (Minister for Planning) — Just in response to Ms Pennicuik's comment, the government will be producing explanatory material specifically on this point for associations so that they are aware of this legislation should it pass.

**Ms PENNICUIK** (Southern Metropolitan) — I just have one more issue that was raised, and I am not quite sure if I had it clarified in the briefing. The bar council raises in the last sentence of paragraph 30 of its response:

> If, contrary to our submissions, civil penalties are introduced, it is essential that the same defences are available as under the Corporations Act and included in the bill.

I am just making sure that that is the case.

**Hon. M. J. GUY** (Minister for Planning) — Yes, I am sure that is the case.

**Clause agreed to; clauses 147 to 155 agreed to.**

**Clause 156**

**Hon. M. P. PAKULA** (Western Metropolitan) — I have asked that clause 156 be effectively pulled out because it is the first clause in part 12 of the bill. Part 12 incorporates clauses 156 through to 186. It is about powers of entry and inspection. I just thought it was necessary to bring to the attention of the committee and the minister the view of the bar council in regard to part 12 in its entirety. The bar council says:

> Part 12 of the bill runs to 20 pages, almost all of which will be completely irrelevant to most associations registered under the act. It is contrary to the stated intention of the bill to include provisions that are unnecessary and complex, and which considerably increase the length of the legislation. Part 12 needs to be completely recast and removed to a separate administration act.

Given the fairly striking and negative comments which have been provided by the bar council to all parties about that entire part, I was wondering whether the minister would like to make a comment.

**The DEPUTY PRESIDENT** — Order! It appears he does.

**Hon. M. J. GUY** (Minister for Planning) — You have not known me to go quiet, have you, Deputy President?

Part 12 of the bill sets out the powers of entry and inspection, as Mr Pakula stated, for the register and inspectors. It is an important aspect of the administration of the incorporated associations legislative scheme. Part 12 of the bill is modelled upon the revised powers of entry and inspection contained in the Australian Consumer Law and Fair Trading Bill 2011. It has been structured so that the provisions most relevant to the association members appear early in the legislation and, as these provisions are administrative in their nature, consistent with the stated purpose and intent of the bill, they have been located in the later portions of the legislation.

**Clause agreed to; clauses 157 to 218 agreed to.**

**Clause 219**

**Hon. M. P. PAKULA** (Western Metropolitan) — I have asked to deal with this clause separately because of the considered view of the legal profession in regard to clause 219. We need to bear in mind that this is a consolidation, for want of a better term, that is supposedly designed to make the associations incorporation regime more easily understood and accessible for members of incorporated associations. Yet in regard to clause 219 we have the finest legal minds in this state, the executive of the Victorian Bar, saying:

> We find the provisions of clause 219 incomprehensible. They will certainly be completely inaccessible to the lay reader. This is again contrary to the stated intention of the bill.

I find it disturbing that a piece of legislation designed to make things easier to understand for the 37 000 incorporated associations across Victoria should be deemed by the Victorian Bar to be incomprehensible. Again I invite the minister to comment.

**Ms PENNICUIK** (Southern Metropolitan) — I read what the Victorian Bar wrote, so I turned my attention to the clause. You could not but agree that it is incomprehensible; it is very difficult for anyone to know what that clause means. Basically, it has a legal meaning in connection with provisions that apply to the Fair Trading Act 1999 — this happens in reference to that section of that act — but anybody reading it would not know what it means. It could have been cast in a way that explains what it means, even if it is referring to another act, but that is not what this clause does.

**Hon. M. J. GUY** (Minister for Planning) — I had better respond to those charitable comments about the government's bill. Clause 219 is substantially identical to section 50(c) of the current act. It includes a note to clarify the meaning of the clause. No issue has been raised about that either by the Law Institute of Victoria or by the Victorian Bar. Application provisions are common throughout consumer legislation and are inherently technical and dry. As I stated before, I think the note to clarify the meaning of the clause and others should deal with the issue of understanding its interpretation that Ms Pennicuik and Mr Pakula have raised.

**Ms PENNICUIK** (Southern Metropolitan) — The purpose of the bill is to make things clear, fair and simple for the incorporated associations. The purposes clause of the bill does not say that technical aspects of it will be dry and technical or replicate what is in the original act, which is incomprehensible. My point still stands. I urge the government to have a look at the clause in terms of the way it is expressed and at whether it could be recast to make its meaning more accessible.

**Clause agreed to; clauses 220 to 221 agreed to.**

**Clause 222**

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

12. Clause 222, page 175, line 9, after "matter" insert "other than the name, the purposes and the financial year of the association".

This amendment is about making clause 222 consistent with clause 49(2). It is an amendment about consistency.

I would also like to take this opportunity to indicate to the committee that the member for Mill Park in the other place, Ms D'Ambrosio, indicated that the opposition would not oppose the bill, and I gave a similar indication during the second-reading debate. However, the following is now clear to the opposition: first of all, the legal fraternity, via the Victorian Bar and the Law Institute of Victoria, but primarily through the Victorian Bar, has significant ongoing concerns about many elements of the bill. This is supposed to be a bill that is about making life easier for 37 000 incorporated associations.

Secondly, the amendments that have been moved by the opposition and supported by the Greens, and which were designed to ameliorate those concerns, have all been opposed and defeated in the house. Thirdly, the attempt by the Greens, which was supported by the opposition, to have this matter dealt with via a reference to the Legal and Social Issues Legislation Committee was likewise defeated by the government. Therefore, the opportunity for the Victorian Bar and other groups to put their concerns to the government in greater detail has been denied, and that has been done in an environment where the bill is by no means urgent and there would have been no prejudice to the government or to any other party in supporting that reference.

Fourthly, the Minister for Planning, who is at the table, has on numerous occasions indicated that the government might rectify certain concerns that have been raised by way of post-legislative regulation, practice notes, memorandums and the like. The Victorian Bar has made it clear, from its perspective at least, that it is an unacceptable way of dealing with these concerns, given that they will be regulations and practice notes which are nevertheless subject to the law as it will be once this legislation has passed.

Given all those factors — that is, the failure of all the amendments, the refusal to refer the matter to the relevant legislation committee, the government's insistence on dealing with some of these problems by regulation and the fact that the legal fraternity has significant ongoing concerns with this bill in the form in which it will finally be put to the chamber on the third reading — the opposition has reconsidered its position and will not be supporting the bill on the third reading.

**Ms PENNICUIK** (Southern Metropolitan) — The Greens will support Mr Pakula's amendment, which is in keeping with earlier amendments moved by Mr Pakula. I take this opportunity to say that the Greens also will not support the bill on its third reading. We did not support the bill on the second reading either because, as I outlined at the time, there were so many ongoing concerns with it that we could not be satisfied that we would have been doing the right thing by the people of Victoria and by the 37 000 incorporated associations, and we did not have the time required to fully and thoughtfully consider and further consult on the plethora of issues — 13 pages of amendments and 7 pages of a memorandum — that were raised with us at the very last minute.

I put to the government that we could get over this problem by referring the bill to the Standing Committee on Legal and Social Issues to allow those very important stakeholders, who I must say have spent a lot of their time going through the bill in great detail and presenting us with pages of concerns and proposed amendments. I put it to the government that the bar

council and the law institute would not be wasting their valuable time doing that sort of thing if they did not think there was a reason to do it and if they did not think it was important. If you read their memorandum, you see they have serious concerns.

Also I raise concerns that PilchConnect raised with us regarding the provisions of the bill — and we have discussed some of them at the committee stage — that are not comprehensible, simple or easy, which is supposed to be the overriding purpose of the rewrite of the act. As Mr Pakula said, and for our own reasons, we could not support it at the second-reading stage, but the government had the chance to refer it to the Standing Committee on Legal and Social Issues, to hold the bill up while all the concerns were dealt with over a period of five weeks. It could have been brought back to the house, and we could then have been satisfied. If we had been satisfied and had been able to consult with all the stakeholders who have come out quite publicly and urgently with their concerns, we could then have come back here and been able to support the bill. But the government has not allowed that to proceed; it has not accepted any of the amendments.

It is unfortunate that a bill such as this, which is regulating incorporated associations in the state, cannot have tripartisan support, but given the concerns that have been raised I do not find myself in a position on behalf of the Greens to assure constituents and members of the community that this bill is as good as it should be.

**Hon. M. J. GUY** (Minister for Planning) — Let us get a few things accurate here, because I am not sure if the Labor Party and the Greens are being deliberately disingenuous or they have been misinformed. This bill has been out to the bar and the law institute for six months. For four months we have been in consultation with them on the structure of this bill. For these two parties — the Labor Party and the Greens — to run into this chamber and say we have not consulted enough, again I say, is either deliberately disingenuous or is misinformation.

The key points again: in October last year the government sought consultation from the law institute and the bar council — in October last year; it is now April 2012. The bar council and the law institute did not reply in time, yet the government gave them an extension. The government also went through the points that were raised one by one. The government also moved house amendments in the Legislative Assembly which have been adopted and form part of this bill we are debating today. To say there has been no consultation and that there have not been any comments taken on board is ridiculous, because part of this bill was formed from house amendments that were moved in the Legislative Assembly and taken on board from the government's six-months-long consultation with the law institute and the bar council.

Further, the regulatory reform reference group is, as stated previously, ongoing. To say there has been no consultation and that no issues can be raised at a future date is just not true. No doubt the Labor opposition and the Greens will get up and state to the contrary or whatever they like, but the reality is that for organisations to have known about this bill for half a year is a long period of time. Four months in consultation is a long period of time. For the government to accept house amendments, go through them with those two bodies one by one and, further, as I said, to accept house amendments and bring them to this chamber to have them form part of this bill — not having accepted all of them; forgive the government, but it has accepted a number of them — I again say the comments made by Mr Pakula and Ms Pennicuik are disingenuous in the extreme.

**Hon. M. P. PAKULA** (Western Metropolitan) — I do not know why the minister is getting so excited.

**Hon. M. J. Guy** — Because you are wrong!

**The DEPUTY PRESIDENT** — Order! The minister was heard without interruption.

**Hon. M. P. PAKULA** — The minister ought to calm down. He was engaging in the practice of knocking down a straw man, because he was contesting contentions I did not make.

**Hon. M. J. Guy** — You have been telling me you are voting against the bill because I have not consulted. What have we done? Six months of it; we have consulted.

**The DEPUTY PRESIDENT** — Order! Mr Guy!

**Hon. M. P. PAKULA** — Mr Guy sits there and says that I said we were voting against the bill because the government had not consulted. I did not say anything of the sort. I will repeat for the record why we have indicated we are voting against the bill: firstly, the government refused the reference to the Standing Committee on Legal and Social Issues — —

**Hon. M. J. Guy** — But you knew that when you voted in the Assembly.

**Hon. M. P. PAKULA** — Mr Guy says we knew that when we voted in the Assembly. The vote to refer

this matter to the Standing Committee on Legal and Social Issues happened today.

**Hon. M. J. Guy** — But you had had conversations with the minister's office beforehand. So do not mislead; that is not correct.

**Hon. M. P. PAKULA** — No, Mr Guy — —

**The DEPUTY PRESIDENT** — Order! We were going great. It is 4 o'clock on a Thursday, and I understand that everyone is tested at the end of a parliamentary week. I suggest we conduct this as a debate rather than as a loud conversation across the chamber.

**Hon. M. P. PAKULA** — Deputy President, I take up your comment that Mr Guy's response to Ms Pennicuik and me was heard in silence, but I suppose he can handle it as he wishes.

Mr Guy now says we had conversations with the minister's office about the referral to the Standing Committee on Legal and Social Issues. I am unaware of that. In fact as far as I was aware, the matter of this being referred was only raised and devised by Ms Pennicuik yesterday. I do not know where Mr Guy gets his information from in regard to that referral being known about or discussed previously.

The second point I made was that all the amendments had been voted down. Again, it was not a reference to a failure of consultation. The third point I made was that the bar council and the law institute had significant ongoing concerns. At no stage did I use an absence of consultation as the justification for our decision to vote against the bill on the third reading.

At the start of the day it was quite feasible that some of these amendments might be accepted, and it was quite feasible that the bill would be referred to the Legal and Social Issues Legislation Committee. If either of those things had happened, then the ongoing concerns of the bar council and the law institute would have been capable of being significantly ameliorated. Although consultation is an issue, the decision was not about consultation. I will deal with the matter of consultation, but I should first of all pick up on the point made by Mrs Peulich in an interjection. She said our decision now to oppose the third reading is somehow evidence of not having done our homework. Let me just indicate again that the detailed memoranda, detailed amendments and detailed concerns that were provided to the opposition, the Greens and the government by the bar council were received by all of us on 17 April. Today is 19 April, and I think this matter was debated in the Legislative Assembly last year.

Just in regard to the matter of consultation — and I do not want to get into a tit-for-tat with Mr Guy about the nature of the consultation — I can simply repeat what I have been told by the bar council. What the bar council indicated to me and what I referenced during the second-reading debate was that the reference group was given the 200-page draft on the Monday before Melbourne Cup Day — that is when the bar council says the group was given it — and was given one week to respond to it. While the reference group was seeking an extension and working on its comments, the bill was introduced. That is what the bar council indicates the process was. What Mr Guy says is true — that some 28 house amendments were then introduced by the government in the Legislative Assembly — but it is equally true to say that the legal profession made clear to the government at that point that it did not believe these amendments to be sufficient to allow it to support the bill. The profession also indicated — as I have indicated on numerous occasions today — that it does not believe dealing with ongoing concerns via regulation, practice notes or memoranda is appropriate.

For all of those reasons the opposition has indicated it will not support the bill on the third reading, and if Mr Guy wants to take issue with our position, he should at least take issue with our position as we put it and not the position as he believes it to be.

**The DEPUTY PRESIDENT** — Order! I am going to call Ms Pennicuik in relation to this matter, but I have allowed a fair bit of leeway. We are in fact debating a clause and a very specific amendment proposed by Mr Pakula to that clause. Mr Pakula indicated to me that he wanted to make some general comments about the position in relation to the third reading now rather than in the third-reading stage, and I thought that was reasonable. I have allowed the minister to respond to those comments. I will allow Ms Pennicuik to make some general comments, but I need to make sure that we stick to the question before the Chair, which is Mr Pakula's amendment to this clause. I will allow this to continue, but we are not now debating clause 1; we are debating a very specific clause and a very precise amendment about specific words in that clause. In fairness I will allow the contributions to be completed, but if we keep them concise, it will allow us to complete the consideration of that clause.

**Ms PENNICUIK** (Southern Metropolitan) — I would like to respond to the issue that Minister Guy raised about consultation. So as not to take up the time of the committee, Mr Pakula outlined the information that was given to us by the legal associations regarding what they told us about the consultation. I have nothing

more to say about that, except that is what they told us. I did not say in my contribution that was the reason. I did say that one of the reasons — and I do not want to repeat the reasons, as I have already said them — was that we did not then have time to consult on the documents that were presented to us less than 48 hours ago. I was in here all day Tuesday until nearly 11.00 p.m. debating in the committee stage of the Victorian Inspectorate Bill 2011 and carrying out many other duties in the Parliament. I have not had time to sit down and go through 7 pages of a memorandum, 13 pages of amendments et cetera. That is why I put the very reasonable proposition that the bill go to the Standing Committee on Legal and Social Issues Legislation Committee.

The government has not availed itself of that, so I am not in a position to consult on those pieces of information with the people who have sent them to me and with others as to the fairness or otherwise of them, so I am not in a position to know whether this bill is as good as it should be. That is what I said.

**The DEPUTY PRESIDENT** — Order! On this question, which is diverging into the question of the third-reading stage, which we are not yet at, I will allow the minister to make some general comments and then any further comments about the actual amendment before the Chair.

**Hon. M. J. GUY** (Minister for Planning) — I am not going to go on. Obviously I take issue with the grossly subjective comments that have been made, which I responded to and about which, despite claiming it did not want to get into a tit-for-tat, the opposition promptly got into a tit-for-tat. The reasons stated are disingenuous, given the acceptance of house amendments by the government and the long period of consultation. Irrespective of the opposition being informed of the points of view of others, the government has had a long period of discussion to arrive at the bill that is now before the chamber. I simply say I do not accept the criticisms of the government about the lead-up to this process. I think it has been exceedingly well managed, and there has been a fair degree of discussion. The government does not accept Mr Pakula's amendment in relation to clause 222.

**The DEPUTY PRESIDENT** — Order! By way of clarification, can I confirm that when the minister referred to house amendments in the other place it was in relation to government amendments from the minister?

**Hon. M. J. GUY** — Yes; correct.

**Amendment negatived; clause agreed to; clauses 223 to 228 agreed to.**

**Postponed clause 17 agreed to.**

**Postponed clause 59**

**Hon. M. J. GUY** (Minister for Planning) — The question that was put before me, I understand, was: could every member claim special circumstances impairing the operation of an association? I am advised that each member would need to apply individually. The secretary would have to determine each application on a case-by-case basis. It is unlikely but theoretically possible that the secretary would approve an application from every member. The secretary could not do so without applications from each member. Where this did occur, the secretary would be required to handle communications for the association under clause 59(9).

**Clause agreed to.**

**The DEPUTY PRESIDENT** — Order! There are a number of schedules. I believe Mr Pakula's proposed amendments to schedule 1 have been tested by previous amendments.

**Schedules 1 to 5 agreed to.**

**The DEPUTY PRESIDENT** — Order! Before concluding I advise the committee that it might be of assistance in future committee stages, particularly with bills as long and as complex as this, for the running sheet of proceedings that I am given to be provided to the minister and to the relevant spokespersons from each of the opposition parties. I have asked the clerks to do that in future. However, even though we have this running sheet, members will appreciate that as the committee considers the various stages of a bill, that running sheet sometimes gets amended. I will endeavour to ensure that, particularly for complex bills where there are a number of amendments or clauses, we try to do that.

**Reported to house without amendment.**

**Report adopted.**

*Third reading*

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

That the bill be now read a third time and that the bill do pass.

**House divided on question:**

*Ayes, 20*

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

*Noes, 18*

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

*Pairs*

| | |
|---|---|
| Hall, Mr | Mikakos, Ms |

**Question agreed to.**

**Read third time.**

## HEALTH PROFESSIONS REGISTRATION (REPEAL) BILL 2012

*Introduction and first reading*

**Received from Assembly.**

**Read first time for Hon. D. M. DAVIS (Minister for Health) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.**

*Statement of compatibility*

**For Hon. D. M. DAVIS (Minister for Health), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:**

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Health Professions Registration (Repeal) Bill 2012.

In my opinion, the Health Professions Registration (Repeal) Bill 2012, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

**Overview of bill**

The purpose of the bill is to repeal the Health Professions Registration Act 2005 that until 1 July 2010 regulated Victorian health professionals. As of that date, the majority of health practitioners were transferred to a national registration and accreditation scheme by the passing of the Health Practitioner Regulation National Law (Victoria) Act 2009. Chinese medicine practitioners and medical radiation practitioners remain regulated by the Health Professions Registration Act 2005 until 1 July 2012, at which date they too will transfer to the national scheme. There is no continuing role for the Health Professions Registration Act 2005 or the boards operating under that legislation after 1 July 2012 and the act should be repealed. The bill also makes necessary consequential amendments to Victorian legislation.

**Human rights issues**

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

The bill does not engage any human rights protected by the charter act.

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

As the bill does not engage any of the human rights protected by the charter act it is unnecessary to consider the application of section 7(2) of the charter.

**Conclusion**

I consider the bill is compatible with the Charter of Human Rights and Responsibilities because it does not raise any human rights issues.

Hon. David Davis, MP
Minister for Health

*Second reading*

**Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).**

**Hon. G. K. RICH-PHILLIPS** (Assistant Treasurer) — I move:

That the bill be now read a second time.

**Incorporated speech as follows:**

The Health Professions Registration (Repeal) Bill 2012 is straightforward legislation that will repeal the Health Professions Registration Act 2005 and make minor consequential amendments to other acts. This bill is to repeal the Health Professions Registration Act 2005 on the basis that its functions are to be assumed from 1 July 2012 by regulatory bodies established under the Health Practitioner Regulation National Law Act 2009 (the national law).

On 1 July 2010, the national registration and accreditation scheme for the health professions commenced operation. This national scheme was implemented in Victoria following signing by the Council of Australian Governments of an intergovernmental agreement in March 2008, and the

subsequent passage of two acts, the Health Practitioner Regulation National Law (Victoria) Act 2009 and the Statute Law Amendment (National Health Practitioner Regulation) Act 2010.

These acts removed the regulation of 10 health professions from the Health Professions Registration Act 2005, abolished 9 out of 12 Victorian registration boards operating under that act, and made necessary consequential amendments to other Victorian acts.

Ten national boards were established, one for each of the first 10 nationally registered professions. A national agency, the Australian Health Practitioner Regulation Agency, now provides administrative support to the national boards. Over 136 000 Victorian health practitioners are now registered and regulated under the national scheme.

The national law made provision for four additional professions to enter the national scheme from 1 July 2012. They are: Aboriginal and Torres Strait Islander health practice, Chinese medicine, medical radiation practice, and occupational therapy.

Only two of these professions are currently registered professions in Victoria — the professions of Chinese medicine and medical radiation practice.

Since July 2010, these two Victorian registered professions have continued to be regulated under the Health Professions Registration Act 2005. The arrangements for transition of these professions were enacted in part 12 of the national law.

From 1 July 2012, implementation of the national law will be completed with the transfer of responsibility for registration and regulation of these remaining two professions to the national boards established under the national law — the Chinese Medicine Board of Australia and the Medical Radiation Practice Board of Australia. As of this date, there is no further role for the registration scheme set out in the Health Professions Registration Act 2005. Consequently, this bill is to repeal the Health Professions Registration Act 2005 and make necessary consequential amendments to Victorian legislation.

The bill includes minor consequential amendments to other Victorian legislation that references the Health Professions Registration Act 2005 or the old registration boards, to reference instead the national law, the relevant national boards and practitioners registered under the national law. Some of the acts that will require consequential amendment in this way are:

Health Services (Conciliation and Review) Act 1987;

Drugs, Poisons and Controlled Substances Act 1981;

Transport Accident Act 1986;

Wrongs Act 1958.

I would like to take this opportunity to thank current and past board members, staff, hearing panel members, and others who have, over many years, contributed their time and energy with great commitment and skill to provide a highly effective Victorian regulatory regime for Chinese medicine and medical radiation practitioners. Your contributions have directly contributed to protecting the Victorian community and safeguarding the quality of health services.

The commencement date for the bill should be 1 July 2012.

I commend the bill to the house.

**Debate adjourned on motion of Mr JENNINGS (South Eastern Metropolitan).**

**Debate adjourned until Thursday, 26 April.**

## LAND (REVOCATION OF RESERVATIONS) BILL 2012

*Introduction and first reading*

**Received from Assembly.**

**Read first time for Hon. M. J. GUY (Minister for Planning) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.**

*Statement of compatibility*

**For Hon. M. J. GUY (Minister for Planning), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:**

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, I make this statement of compatibility with respect to the Land (Revocation of Reservations) Bill 2012.

In my opinion, the Land (Revocation of Reservations) Bill 2012, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

**Overview of bill**

The main purposes of the bill are —

to revoke the permanent reservation and related Crown grant of certain land occupied by the St Kilda town hall and to provide that that land is taken to be temporarily reserved for municipal purposes;

to revoke the permanent reservation of land at the former Fitzroy gasworks site;

to revoke the permanent reservation of part of the land occupied by the Toolangi potato research farm and to provide that that land is taken to be reserved forest;

to revoke the permanent reservation of certain land at Werribee;

to revoke the permanent reservation of certain land no longer required by the Inglewood hospital;

to revoke the permanent reservations of certain land at Barwon Heads;

to revoke the permanent reservation and related Crown grant of land occupied by the South Melbourne temperance hall.

**Human rights issues**

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

**Property rights**

Section 20 of the charter, which protects against deprivation of property other than according to law, is relevant to this bill.

Clauses 4, 8, 11, 14, 16, 18 and 20 of the bill provide that, on removal of reservations, land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests.

As a result, the bill could be interpreted as potentially limiting the property rights protected by section 20 of the charter.

However, the only proprietary interest in the affected land that is held by an individual is explicitly preserved in clause 9 of the bill until the land is sold. This interest comprises leases between the Department of Treasury and Finance and two individual occupiers which will expire on 30 September 2012.

As this bill will not deprive any person of property rights, I consider that it does not limit the right protected under section 20.

**Conclusion**

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because, although it engages section 20 property rights, those rights are not limited by the bill.

David Davis, MLC
Minister for Health
Minister for Ageing

*Second reading*

## Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

**Hon. G. K. RICH-PHILLIPS** (Assistant Treasurer) — I move:

That the bill be now read a second time.

## Incorporated speech as follows:

The purpose of this bill is to facilitate a range of changes to the status of land in the Crown land portfolio. The bill revokes a number of permanent reservations and Crown grants, which can only be removed by legislation.

The bill affects the following parcels of Crown land.

The City of Port Phillip, in partnership with the state and federal governments, is constructing a new $12 million integrated family and children's centre on Crown land at 171 Chapel Street, St Kilda, adjacent to the St Kilda town hall.

The centre, which will amalgamate the current St Kilda Children's Centre and the maternal and child health service, will provide 116 children's services places — an additional 63 new places. In addition, the centre will include maternal and child health services, playgroups, new parents groups and family services.

The site on which the centre is being constructed is currently permanently reserved under the Crown Land (Reserves) Act 1978 for the purposes of a town hall, courthouse and offices. This reservation does not reflect the proposed use of the site. The land is also subject to a Crown grant to the mayor, councillors and citizens of St Kilda for the purposes of the reserve.

By revoking the current permanent reservation and Crown grant over the land, it can be appropriately reserved and the City of Port Phillip appointed as the committee of management. This will facilitate development of the new integrated family and children's centre, and provide a centralised point for a range of important services to the community of St Kilda.

Part 2 of the bill provides for the revocation of the permanent reservation and related Crown grant over the site, for the land to be temporarily reserved for municipal purposes and for the City of Port Phillip to be the committee of management of the site.

The Collingwood, Fitzroy and District Gas and Coke Company, or 'Fitzroy gasworks', was first established at 433 Smith Street, Fitzroy, in the mid-1800s on land that was permanently reserved and granted to the company in 1862. This company became part of the Metropolitan Gas Company in 1878, who also owned adjoining land that together comprised the Fitzroy gasworks.

The gasworks played an integral part in the supply of gas to Melbourne until its closure in 1927, following which it was used for welding, construction and gas storage. The site was transferred from the former Gas and Fuel Corporation of Victoria to the state in 1999 and now houses offices and warehouses used for commercial and industrial purposes. The government has identified the site as appropriate for possible urban redevelopment and wishes to make the land available for sale.

Whilst the original Crown grant has been removed, part of the former gasworks remains permanently reserved for use by the Collingwood, Fitzroy and District Gas and Coke Company, which is no longer in existence. By removing the outdated permanent reservation, this bill will enable the site to be sold and the land to undergo appropriate urban redevelopment.

Part 3 of the bill provides for the revocation of the permanent reservation of the site for the redundant gasworks purposes and continues any existing leases or licences over the site despite the revocation until the land is sold. All such occupancies are expected to expire by the end of 2013.

The Toolangi potato research farm is situated on Crown land south of Toolangi, adjoining the Yarra State Forest. The land is permanently reserved for agricultural research purposes under the Crown Land (Reserves) Act 1978.

Although parts of the land within the research farm were cleared and used for agricultural research, sections of land remain forested and are considered to have high ecological value. The research farm was closed in 2008. It is proposed to

incorporate two parcels of forested land back into the adjoining Yarra State Forest. The remainder of the land within the research farm will be retained for continued use by local farmers and for research by some peak agricultural bodies and will not be affected by the changes arising from the bill.

Part 4 of the bill revokes the permanent reservations of the two separate parcels of uncleared land within the site, comprising approximately 43.8 hectares in total, and incorporates these areas into the adjoining Yarra State Forest, by reserving these parcels as reserved forest under the Forests Act 1958. These parcels will then be managed by the Department of Sustainability and Environment.

The Werribee State Research Farm was established to investigate ways of improving agricultural production in Victoria. The farm sits on Crown land permanently reserved in 1927 for the State Research Farm (agriculture purposes) under the Crown Land (Reserves) Act 1978. Sneydes Road, which forms the main transport link between Point Cook and Werribee, runs through the middle of the farm.

A section of Sneydes Road between the Princes Highway and Hoppers Lane is incorrectly reserved as part of the research farm. Although this land is used as a road and is managed as a road by the Wyndham City Council, the underlying reservation is not consistent with the actual use.

Part 5 of the bill will revoke the permanent reservation over this section of Sneydes Road. Following the revocation, the Wyndham City Council will formally take over management responsibility for the road.

Inglewood and Districts Health Service at 5 Hospital Street, Inglewood, provides a diverse range of services to the communities of South Loddon, including accident and emergency services, hospital and residential aged care, community and district nursing, counselling and health education. The service is located on Crown land permanently reserved for hospital services under the Crown Land (Reserves) Act 1978.

The property includes a building which was formerly the residence of the general practitioner. A new residence has since been constructed by the service elsewhere and the site of the former residence is surplus to government requirements. It is proposed that the surplus building site will be sold. Legislation is required to remove the permanent reservation over the site to enable the sale to proceed.

Part 6 of the bill provides for the revocation of the permanent reservation of this site.

At Barwon Heads, recent road realignments undertaken by VicRoads have encroached onto a small area of Crown land permanently reserved for public park on the Barwon Heads side of the Barwon River. As the purpose of the Crown land reservation is inconsistent with the required use by VicRoads for transport purposes, the permanent reservation must be revoked to the extent of the area required by VicRoads.

Part 7 of the bill will remove the permanent reservation over the subject area, which will enable management of the land to be formally transferred to VicRoads and ensure the accuracy of the Crown land portfolio. Barwon Coast Committee of Management as manager of the area will be compensated by VicRoads for loss of the land.

The loss of land is very minor in comparison to the balance of the Barwon Heads public park and there will be no impact on public access.

This bill will facilitate the preservation of the South Melbourne temperance hall, which has local heritage values. The hall is used by a local not-for-profit arts and cultural group who provide valuable assistance to independent performing artists in the community.

The hall is situated on Crown land at 199–201 Napier Street, South Melbourne. This land was reserved as a site for a temperance hall in 1860 and granted to trustees in 1861. All the trustees are now deceased and the hall is no longer used for the purposes for which it is reserved. The government wishes to appoint an appropriate land manager who can oversee management of the site and undertake much-needed restoration works.

Part 8 of the bill will ensure the continued use of the hall by removing the outdated reservation purpose and Crown grant over the site, enabling it to be reserved for public purposes and a suitable land manager to be appointed.

In conclusion, the amendments made by this bill will facilitate the sale of government land, enable the progress of government-supported projects and improve the management of numerous Crown land sites.

I commend the bill to the house.

**Debate adjourned on motion of Mr JENNINGS (South Eastern Metropolitan).**

**Debate adjourned until Thursday, 26 April.**

## ROYAL WOMEN'S HOSPITAL LAND BILL 2012

*Introduction and first reading*

**Received from Assembly.**

**Read first time for Hon. M. J. GUY (Minister for Planning) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.**

*Statement of compatibility*

**For Hon. M. J. GUY (Minister for Planning), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:**

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, I make this statement of compatibility with respect to the Royal Women's Hospital Land Bill 2012.

In my opinion, the Royal Women's Hospital Land Bill 2012, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

**Overview of bill**

The purpose of the bill is to revoke an existing permanent reservation for a lying-in hospital over land in Carlton that in part was the former Royal Women's Hospital (RWH) site and in part is currently the Royal Dental Hospital (RDH) site. The bill will also revoke, to the extent of any continuing operation, a Crown grant as it relates to the former RWH site.

The revocation of the permanent reservation over the land which forms part of the former RWH site is required to enable the sale of part of that land. The revocation of the same permanent reservation over the land which currently is part of the RDH site is required to address an inconsistency in land use, as the RDH site is currently used for a dental hospital, not a lying-in hospital. The RDH site is not part of the sale.

**Human rights issues**

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

**Property rights**

Section 20 of the charter act protects against deprivation of property other than according to law.

There are two proprietary interests on the affected land, both held by body corporate entities that are not afforded human rights protection under the charter act. No individuals have any proprietary interest in the affected land. Accordingly, I consider that this bill does not engage or limit section 20.

**Conclusion**

I consider that this bill is compatible with the Charter of Human Rights and Responsibilities.

David Davis, MLC
Minister for Health
Minister for Ageing

*Second reading*

**Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).**

**Hon. G. K. RICH-PHILLIPS** (Assistant Treasurer) — I move:

That the bill be now read a second time.

**Incorporated speech as follows:**

The purpose of this bill is to revoke the permanent reservation over two Crown land sites in Carlton, formerly occupied by the Royal Women's Hospital, and partly occupied by the Royal Dental Hospital.

The existing reservations were gazetted in 1886 and included a restricted Crown grant that provided that the sites would be used for the purpose of a 'lying-in hospital'. These restrictions do not reflect current or potential use of the sites. The bill will remove these restrictions, opening up the land to potential use and ensuring that the land is no longer subject to outdated reservations.

As the former site of the Royal Women's Hospital, this land has a long history of serving the Victorian community. The Royal Women's Hospital occupied this site for over 120 years, culminating in the completion of the Royal Women's Hospital redevelopment project in 2008 and the relocation of the hospital to Parkville.

The redevelopment of the Royal Women's Hospital provides an opportunity to make use of this site for other purposes that will benefit the people of Victoria. The bill will enable the sale of the land formerly occupied by the Royal Women's Hospital, and the proceeds of the sale will be allocated to consolidated revenue to offset the cost of the Royal Women's Hospital redevelopment project.

In relation to the land occupied by the Royal Dental Hospital, the bill will remove the current permanent reservation which does not reflect the use of the land. The revocation of the reserve will not impact the operation of the dental hospital or the Crown lease held by Dental Health Services Victoria, and the land currently occupied under that lease will not be sold.

The government anticipates innovative and exciting opportunities for the former Royal Women's Hospital site. This bill represents the first step to realise the potential of this site, and provides an opportunity to use the land in new ways to benefit the people of Victoria.

I commend the bill to the house.

**Debate adjourned on motion of Mr JENNINGS (South Eastern Metropolitan).**

**Debate adjourned until Thursday, 26 April.**

## DISABILITY AMENDMENT BILL 2012

*Second reading*

**Debate resumed from 29 March; motion of Hon. P. R. HALL (Minister for Higher Education and Skills).**

**Mr DRUM** (Northern Victoria) — I am delighted to rise to contribute to the debate on the Disability Amendment Bill 2012. I say from the outset that this bill has come from the lower house with broad support across the parties.

The bill is going to pick up a lot of the technical and administrative issues that have become apparent since the introduction of the original Disability Act 2006. When the bill for that act went through the Parliament, it went through with a great deal of interest and concern. I think it was the first bill the previous government referred to the Legislation Committee, which was chaired by Mr Viney, and the bill was the centre of wide-ranging discussion. A very large bill, the Disability Bill 2006 was seen to be strong in giving rights to people suffering from disabilities. The bill was largely about giving people in Victoria who suffer from

disabilities the rights they need to conduct their own affairs, particularly those people who have the cognitive ability to make decisions for themselves. That bill was seen to put the onus of decision making on to people with disabilities to empower them to take more control of their own affairs than had previously been the case. We were all very strong supporters of that move and very supportive of the context of the act.

One concern opposition members had at that time — and we were able to express our concerns — was that we thought there was a pronounced lack of respect for the families of people with disabilities. There was a deafening omission of the word 'families' from the entire bill. From our own experiences of people with disabilities, we all know that families play a pivotal role in the care, concern for and support of people with disabilities in this state and every other state, and we were mindful of that at the time. We raised the issue and the government of the day took our concerns on board, and families were given more recognition in subsequent amendments to the Disability Act. Only this year the present government introduced the Carers Recognition Bill 2012, which has meant that carers and families are being given more recognition than was previously the case.

It seems that we now have an act which is positioning this state as a leader in the disability field. It is certainly positioning this state well when it comes to being a leader as we all prepare in coming years for the introduction of a national disability insurance scheme (NDIS). Mary Wooldridge, the Minister for Community Services, is a firm advocate of the NDIS, as is Premier Ted Baillieu. Those two individuals are leading the charge across the nation when it comes to preparing Australia for a national disability insurance scheme.

This bill is largely about further strengthening the rights of people with disabilities, and at the same time as strengthening those rights it is about cutting red tape, getting rid of part of the burden of bureaucracy and reporting procedures and giving people who are either living with a disability or caring for those with disability the ability to get better services without being weighed down by administration and technical issues.

As I said, it was never the intention of the principal act that all of these issues be weighed down with overly onerous reporting procedures. The legislation before us will realign the act with the original intention of the legislation and its policy framework. In that regard it is worth going back through some key areas of this bill and determining which other bills will need to be addressed in order to get this bill through the house.

The Disability Amendment Bill 2012 will amend the Disability Act 2006. It will also make some minor amendments to the Human Services (Complex Needs) Act 2009. As we understand it, the complex needs act deals with a small cohort of people with complex needs who place an enormous impost on the state in the amount of resources that are required to look after them.

The Disability Act commenced operation on 1 July 2007, and since its commencement a range of technical and administrative issues have arisen that need to be addressed by amendments to the act. These amendments will not change the policy or intent of the legislation but will simply protect the rights of Victorians with a disability and reduce the administrative burden. The providers of disability services are the ones who will benefit from this legislation. We are delighted to be able to do this in a way that has the full support of the sector.

The amendments in the bill will make technical and administrative changes which will assist with the operation of the act to ensure that the rights of people with disabilities are continually strengthened and protected, as well as reducing the burden on providers. It is really about cutting red tape. All the organisations intended to be covered by specific areas of the act are now included, whereas previously some were left out. This bill does that by clarifying the definition of residential service and the jurisdiction of the disability services commissioner, which were previously unclear. These amendments will also make a number of changes to improve processes, particularly in relation to reviews at VCAT (Victorian Civil and Administrative Tribunal).

In relation to protecting people's rights, which is a large part of this bill, we need to look at some areas where people's rights have been strengthened. We will now have a situation where disability service providers will be required to take reasonable steps to ensure that all people, rather than only a person with a disability, are not adversely affected as a result of making a complaint. That amendment was brought to us by people involved in the sector.

The bill will clarify the use of restrictive interventions, such as restraint and exclusion, and make sure that those interventions will cease as soon as they are no longer required. Again these amendments affect areas where we have been informed about how we need to protect people's rights.

A new provision will stipulate that a supervised treatment order must be returned to VCAT prior to its

expiry date. This mechanism will be used to determine whether an application for a new supervised treatment order is required or whether it is simply appropriate for the order to lapse. This will ensure that detention of a person does not continue without an order being in place and will again further strengthen people's rights. We are introducing a new requirement that an authorised program officer must, in the first instance, notify the person who is the subject of an application for a supervised treatment order about that application.

The Disability Act 2006 permits senior practitioners to make an assessment order for the purpose of enabling a treatment plan to be prepared for a person. An assessment order allows a person to be detained for up to 28 days for that assessment to occur. The public advocate has previously said to us that this process is not compatible with the Charter of Human Rights and Responsibilities as it permits the senior practitioner — a senior public servant — to authorise the detention of a person without the person having the opportunity to obtain a review of the decision. The bill addresses this issue by amending the Disability Act to enable an application to be made to the Victorian Civil and Administrative Tribunal for the review of a decision by a senior practitioner to make an assessment order. The bill will also specify that a person must be advised of their right to apply to VCAT for a review. The amendment increases the accountability and transparency of procedures relating to assessment orders.

In relation to cutting red tape, a strong part of the bill, we are introducing amendments which will reduce the administrative burden by removing the requirement for respite houses to provide residential statements. The residential statement duplicates the information that has already been provided to respite users through the respite agreement. Respite providers will still be required to inform respite users of their rights, how to make a complaint and how to see a community visitor.

Another aspect of the way we are cutting red tape is by specifying that an independent person must be available for a review of a behaviour support plan. At the moment these reviews are done on a quarterly basis, which we believe has been an onerous reporting procedure, but the bill provides for these reviews to be conducted on an annual basis. We believe this is consistent with the policy intent of the principal act. The bill also clarifies that a behaviour support plan is not required when a person has a treatment plan. This amendment is proposed because the treatment plan incorporates the information contained in a behaviour support plan.

**Debate adjourned on motion of Mr DRUM (Northern Victoria).**

**Debate adjourned until Thursday, 26 April.**

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

**Quorum formed.**

## ADJOURNMENT

**Hon. G. K. RICH-PHILLIPS** (Assistant Treasurer) — I move:

That the house do now adjourn.

### Environment: Communities for Nature grants

**Mrs COOTE** (Southern Metropolitan) — My adjournment matter this evening is directed to the Minister for Environment and Climate Change, Ryan Smith. I want to put on record my thanks to the minister for the $10 000 grant he has given to a project in the vicinity of South Melbourne in Southern Metropolitan Region in the first round of the $20 million Communities for Nature grants program. The minister will gradually release lists of recipients, and this is going to be very exciting for Victoria and for Southern Metropolitan Region.

The minister has approved a number of grants. The one I would like to speak about tonight, which is very exciting, is in Port Melbourne, and it is to restore native vegetation at Westgate Park to improve biodiversity using community volunteers. Community volunteers are a vital part of how our city works in and around the city of Port Philip and the Yarra River, and it is really important that we improve the biodiversity in the area. The site of the project is under the West Gate Bridge, and there will be a lot of tension around trying to keep ships and a whole range of industry in that area while keeping the biodiversity rich and healthy. To have community volunteers involved in the project is going to be very important.

As I said, the project will improve the biodiversity in this area of the lower Yarra River. It will revegetate an area which is currently infested with weeds with indigenous plant species; control weeds by removal of *Juncus acutus* and *Allocasuarina glauca*; and clean up and improve the Westgate Park freshwater lake. I encourage everybody who drives over the West Gate Bridge to watch this project as it progresses, because it is going to be absolutely terrific.

The action I seek from the minister is for him to build on the success of this project in Westgate Park. I ask him to think about the Assembly electorate of Bentleigh, which is also in need of grants, and consider whether that electorate can be the recipient of one of these wonderful, very innovative grants.

## Carbon tax: local government

**Mr FINN** (Western Metropolitan) — I wish to raise a matter this evening for the Minister for Local Government. I think it would be fair to say, and I say this without fear of contradiction from anybody in this house, that councils from one end of the state to the other are not flush with funds. Nary a week goes by without me being approached by a local council in the western suburbs for some sort of grant to provide a service or a program that a council is very keen to provide for its residents. Councils provide a wide range of very important services for residents right across the board.

The reason for my raising this matter this evening is my very grave concern about the impact the federal government's carbon tax will have on local government. I have been approached by local councillors from across the western suburbs. It has to be said that many of these councillors do not wish to be named publicly lest their chances for preselection be jeopardised. But they have approached me expressing their very grave concerns about what the federal government's carbon tax is going to do to the budgets of their councils and what it will do to their councils' ability to provide the services that many people so desperately need.

I have heard estimates ranging from the high hundreds of thousands of dollars to $3 million or $4 million being added to the bottom line of councils — extra money that they will have to find to pay this carbon tax. Quite frankly, they do not know how they are going to do it. As they see it at the moment, the only way they can do it is to either raise rates, which they are loath to do, or cut services, which they are equally keen not to do.

I ask the minister to sit down with councils in the western suburbs to begin with — but this is a matter that would concern councils right across Victoria and Australia — to devise a strategy to approach the federal government with a view to asking for compensation for local councils across Victoria. The carbon tax has the potential to cripple local government across this state, and I ask the minister to use the authority vested in her as minister to provide leadership for local government in fighting against this insidious and unnecessary tax from the federal government.

## Sunshine Hospital: intensive care unit

**Mr ELSBURY** (Western Metropolitan) — The matter I raise is for the attention of the Minister for Health and relates to Sunshine Hospital, the great health provider for Melbourne's west. I have had reason to use Sunshine Hospital in the past for family members, and what a fantastic job it does for everyone across Melbourne's west, especially children. My matter relates to the intensive care unit (ICU) capacity of Sunshine Hospital as it currently stands. I highlight to the house that in plans for the Sunshine Hospital renovations that were undertaken by the Kennett government in 1999 an area was developed for an ICU to be provided for the use of the people in the west. This would have alleviated the current situation of having to transport people from Sunshine Hospital to Footscray hospital to receive intensive care. Unfortunately, for whatever reason, the Bracks and Brumby governments chose not to provide any funding to activate that ICU, even after a review was conducted in 2001 by the Bracks government on the services provided at Sunshine Hospital.

I acknowledge that there have been other services added to this hospital which have been of great benefit to the people of the western suburbs, that a major development has just been completed and that new medical teaching facilities have also been provided. However, the ICU remains unused except for — hold on to your hats — TV shows and movies as a stage or prop, under the previous government; it was not utilised in its health capacity.

The action I seek from the minister is that he guarantee that shows like the former *Stingers* and others in the future do not use the ICU in such a trivial way and that consideration be given to the provision of an ICU service at the hospital so that it can be utilised to its full potential and people from the western suburbs can get the health care they so desperately need, which was not delivered by the previous Labor government.

## Wind farms: road damage

**Mr RAMSAY** (Western Victoria) — My matter is for the attention of the Minister for Roads. I refer to the green triangle action plan produced by the previous Labor government, with a nice shiny picture of the then minister for roads, Tim Pallas. As I read the document, given that the greater green triangle is an important identified area in the south-west and has a board providing strategic planning for roads and infrastructure, I stopped at page 32 and noted the former minister's comments in section 6.7.4:

> While these projects will create construction-related transport activities, none is considered likely to require specific road upgrade projects, other than works associated with site access.

While Labor was issuing approval for wind farm projects like confetti, the presumption was that no acknowledgement or provision was needed for the maintenance of roads impacted on by the increased road traffic caused by these projects.

Moyne Shire Council indicated to me that it has 19 live wind farm projects, and with the Macarthur industrial park causing considerable road damage it expects that with the other projects online significant investment in road maintenance amounting to millions of dollars will be required. While the drought has masked the impact on the road network of heavy construction areas in the south-west, with the return of a normal season and flooding over the last year the real impact is becoming obvious.

I ask the minister if he could provide an update on what action the government is taking in relation to discussions with wind farm generators with permits, now and in the future, to overcome the deterioration of the road network and address Labor's total mismanagement, or, worse, ignorance, in not making provision for the reality of this problem as it was giving out permits with a scattergun approach.

**Debate interrupted.**

## DISTINGUISHED VISITORS

**The PRESIDENT** — Order! It gives me great pleasure to interrupt the adjournment debate to extend a very warm welcome to His Excellency General Michel Sleiman, President of the Republic of Lebanon, and the very distinguished delegation he brings with him to the Victorian Parliament. We welcome His Excellency to the Legislative Council. It is a great pleasure to have him and his distinguished delegation visiting our state, and we regard it as a privilege and an honour that he has come to our Parliament.

Unfortunately this is a very brief visit. I have met some of the President's colleagues previously, and in fact at one stage I promised to go to Lebanon. That is a promise I will keep. I have been rebuked for not having made that visit yet, but we will go there, will we not, Mr Elasmar?

**Mr Elasmar** — Yes, we will.

## ADJOURNMENT

**Debate resumed.**

### Sandringham College: funding

**Mr LENDERS** (Southern Metropolitan) — The matter I raise is for the attention of the Minister for Education, and it relates to Sandringham College in my electorate. For the benefit of the house, Sandringham College has three campuses. At Sandringham there is the year 7–12 campus, and the year 7–10 feeder campuses are at Beaumaris and Highett.

Mrs Coote represents the same electorate, and I acknowledge that. As Mrs Coote will know, Sandringham College is in the process of an internal review of what its future will be. The college has three campuses, and the Beaumaris campus is one where enrolments are lagging. In fact the concern was such that a meeting was held at which more than 700 people turned up. That is a lot of people at a meeting. The community has a great interest in this issue. I have had the privilege of meeting with a number of the parents from the Beaumaris campus of Sandringham College.

**Mrs Peulich** interjected.

**Mr LENDERS** — If Mrs Peulich, the Parliamentary Secretary for Education, wishes to mock the numbers and say there were only 400 people in attendance, not 700, I expect that would not be welcomed by the school. I do know that the Minister for Higher Education and Skills, Mr Hall, has actually visited the school to apprise himself of some of the issues there.

The action I seek from the Minister for Education is twofold. The first part is to honour the government's election commitment of $6 million towards the school. The previous government commenced master planning for the school. I ask that the minister determine what that $6 million is spent on in conjunction with the school community. By 'community' I mean the three components of Sandringham College.

In Beaumaris, where the enrolments are lagging, the community is keen to have a local secondary school — a community school — offering state education. There are a number of debates going on there at the moment. They include whether it is appropriate to have a year 7–12 co-ed school and whether it is appropriate to have a year 7–12 boys school. The local community is looking at a range of options it is keen to have considered. That is a good process. The community is very energised. For 700 people to attend a public meeting is quite an

extraordinary figure and a sign of the community interest in ongoing issues in state education.

What I seek to do on behalf of the community is, firstly, to get a commitment from the minister that he will not unilaterally decide where that $6 million is going and, secondly, to look at a portion of that funding going to the Beaumaris campus to provide options going forward there. I would also urge the minister to apprise himself of the issues at the school, as his colleague Mr Hall has done. I congratulate Mr Hall on having visited; he is a good and interested minister. Most importantly, I urge the Minister for Education to deliver good state education in Beaumaris in consultation with the families of the Beaumaris component of Sandringham College.

## Wimmera: federal flood assistance

**Mr O'BRIEN** (Western Victoria) — My adjournment matter is for the Deputy Premier, who is also the Minister for Regional and Rural Development and Minister for Police and Emergency Services. The action I seek is for the minister, in his capacity as Minister for Police Emergency Services, to investigate assistance available through the commonwealth government's Natural Disaster Relief and Recovery Arrangements (NDRRA) for farmers and businesses in the Upper Wimmera catchment area affected by the extreme flooding event on 18 December 2011.

I know of this event because on 19 December my parliamentary colleague Damian Drum and I attended a Municipal Emergency Coordination Centre and received an initial briefing from the Northern Grampians Shire Council and emergency services personnel as to the extent of the damage. The council update report published on 12 April states:

> There are three major townships, Stawell, Halls Gap and Great Western, that were affected by the storm and flood event on 18 December.

Also affected was 1000 square kilometres of the rural area around the communities of Shays Flat, Landsborough West, Joel Joel, Greens Creek, Concongella and Glynwylln.

The report continues:

> The storm and floods that swept through the Upper Wimmera catchment areas of the Northern Grampians shire and Pyrenees shire in December 2011 will have a lasting impact on these communities. For farming communities in this area the devastation was significantly worse than the floods of September, December 2010 and January 2011. The cumulative impact of each of these events on the welfare, resilience and livelihood of these communities cannot be ignored.

Regrettably this flooding has resulted in significant losses for landowners, and they are still dealing with them today. Many farmers were hit by the January 2011 floods. The rain event wiped out hundreds of kilometres of fencing and destroyed many stock on 108 farms.

According to the Northern Grampians Shire Council impact assessment, approximately 202 private assets, including at least 99 farms, 64 homes, 19 non-farm businesses and 16 community assets, were affected by the storms and heavy rainfall. This resulted in approximately $3.7 million worth of direct property damage, let alone the indirect damage in that shire.

I commend the Northern Grampians shire and the Pyrenees shire, particularly the mayor of the Northern Grampians shire, Dorothy Patton, CEO Justine Linley, Cr Kevin Erwin, Greg Little and Ewan Letts for the compassion and assistance they have shown to those affected by the events. I know many volunteers have been working hard for their local areas. I also acknowledge the work of councillors Cooper and Marrow and former mayor Ray Hewitt in supporting their community and advocating for the receipt of some of the assistance provided by state and federal governments. I further acknowledge individual farmers affected, including Phil and Colin Hall, who have worked tirelessly to support that community.

I believe as a state government we have responded in a timely way to the floods of 2010. I appreciate that under the present NDRRA scheme administered by the federal government there are issues around the triggering events that require urgent resolution so that greater consistency can be applied across communities affected by natural disasters. We have entered a wetter stage of the climatic cycle which, regrettably, means we are statistically likely to see severe flooding events in the months ahead.

Compassion needs to be shown to the residents of the Upper Wimmera catchment area, Joel Joel in particular, and I urge the Deputy Premier to give his prompt attention to this very important matter for my constituents.

## Shire of Melton: early childhood infrastructure

**Ms TIERNEY** (Western Victoria) — My adjournment matter this evening is for the Minister for Children and Early Childhood Development and is in relation to early learning infrastructure in the shire of Melton, which is at the eastern end of the electorate of Western Victoria Region. I have been made aware of recent applications that the shire has made for funding

in relation to the early years infrastructure that is needed in the shire. The applications are seeking funding through the capital children's grants, and they include $1.5 million for construction of a new community hub, including the early years groups, at the Botanica Springs Estate, Melton South; $300 000 for alterations and refurbishments to the Kororoit Creek early learning centre in Burnside Heights; and renovations and additions to the Parkwood Green community centre in Hillside for a further $300 000.

As members may be aware, the proportion of families with young children in the shire of Melton is growing, with the number of zero to four-year-old children living in the shire second only to the number of 25 to 34-year-olds living in the area. The proportion of affordable housing with access to greater Melbourne for employment is particularly attractive to young couples wishing to purchase a home and start a family.

To understand the population growth and the subsequent need for early childhood infrastructure one only needs to visit the shire and see the enormous amount of development that has been occurring. The shire is predicting that the number of zero to four–year-olds living in the shire will make that the highest age group category by 2021.

The projects I have mentioned have been identified by the shire as significant infrastructure projects needed to provide for this growth and best serve those young families who live in the area, including a number of my family members, as it so happens. It is extremely important for the government to provide the necessary support for local councils experiencing such growth so that they can accommodate that growth, particularly growth for this young age group.

With this in mind, I strongly urge the minister to take action in support of these three important infrastructure projects at the Botanica Springs Estate, Kororoit Creek early learning centre and Parkwood Green community centre.

## Wandin East: weather station

**Mr O'DONOHUE** (Eastern Victoria) — I raise a matter this evening for the attention of the Minister for Agriculture and Food Security, Mr Walsh, concerning the future of the Wandin East weather station. The Wandin East weather station has been in existence for a number of years, but regrettably farmers and other locals have been unable to access the information from that weather station.

As we all know, the Wandin East area is a very productive part of the Yarra Valley and is part of the food-growing area of Victoria. Cherries and strawberries and a range of other produce are grown, and they are very weather dependent. A hailstorm or other significant event at short notice can wipe out a crop or have a significant impact on a crop, particularly if it is mature and close to harvest.

There are other weather stations in the broader proximity at Mount Dandenong and Coldstream, but they are at different elevations. Weather events can be incredibly localised, so it is important for local farmers to have proper access to information so they can make informed decisions about what action they take with regard to their properties and their crops. It has been very frustrating for local farmers that over a number of years they have been unable to properly access this data in a timely fashion, or indeed at all. Prior to the last election the Liberal candidate for the seat of Monbulk in the Assembly, Matt Mills, made a pledge that, if elected to government, the coalition would investigate this issue and do all it could to provide proper information and get the weather station operating as it should.

I know the minister and his office have had discussions with various local stakeholders about how to make the data that this station collects available in a timely and proper fashion to local farmers and others who wish to use it. Of course there are maintenance issues and ongoing responsibility issues for the weather station. The action I am seeking from the minister is that he provide me with an update and details as to the progress of these discussions so that this information can be made available to those local farmers and others who need it so that the weather station can be used in the way it should be.

## Blackburn North parkland: future

**Mr LEANE** (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Environment and Climate Change, Ryan Smith. It concerns a reserve in Nunawading — the Junction Road reserve, sometimes called the Junction Road parklands. Before the 2010 election, Mary Wooldridge, the member for Doncaster in the other place, in her role as shadow Minister for Environment and Climate Change, and Dee Ryall, who is now the member for Mitcham in the other place, made a commitment that they would bring the Junction Road Reserve back to its former glory.

During this week the member for Mitcham sent out a media release saying that this particular land has been

transferred from VicRoads to the Department of Sustainability and Environment, so that is a good step. I concede it is a good step for this commitment to happen, but it is inconsistent for the member to say that this fulfils an election commitment because this particular reserve needs quite a bit of work to be done before the expectations of the residents are fulfilled. It is a large bit of land, and it will need major work to get it up to its former glory.

There is a great opportunity for more recreational use of the land because of its size, but there is a real issue with access to the land. There is hardly any road access. There is no car parking. There are no amenities. There needs to be extensive landscaping and also pedestrian access.

The action I seek from the minister is for him to fulfil his government's election commitment to bring this land back to its former glory. The government needs to invest funds and get the work done to bring this reserve up to the standard that the residents thought had been committed to.

## Anzac Day: Mount Macedon horse ride

**Mrs PETROVICH** (Northern Victoria) — My matter on the adjournment today is for the Minister for Environment and Climate Change, Ryan Smith, and it concerns a group of veterans and friends who participate in an annual horse ride and camp at Mount Macedon before attending the dawn service on Anzac Day. Just imagine the beautiful scene that I have witnessed as I have driven up the mountain on Anzac Day pre-dawn. The beauty of the horses and riders awakening in picturesque surroundings and then riding up the mountain is such a wonderful traditional thing to do, and there is a third generation of very cute and capable riders now participating. As an equestrienne, I have enjoyed many similar rides and camps in the bush. It is hard to imagine the camaraderie unless you have been out on such a trip.

According to the *Weekly Times* of 10 April, the group was requested to pay a permit and comply with the usual requirements, including having insurance, as would anybody or any group using the facility. Obviously regulations are required to protect parks and their biodiversity. I understand that Parks Victoria has this matter in hand for this group and their camp for this year. Parks Victoria has been working with this group on the requirements to have insurance and a permit to allow them to camp in the future.

I ask the minister to confirm that the Anzac Day riders will be able to continue their tradition and that a process to ensure that this issue is progressed for next year is under way for these park users, who add value to the celebration of Anzac Day.

## Responses

**Hon. G. K. RICH-PHILLIPS** (Assistant Treasurer) — Ten members raised matters on the adjournment tonight. Mrs Coote raised a matter for the Minister for Environment and Climate Change with respect to Communities for Nature grants.

Mr Finn raised a matter for the Minister for Local Government with respect to the impact of Labor's carbon tax on local government.

Mr Elsbury raised a matter for the attention of the Minister for Health with respect to intensive care unit capacity at Sunshine Hospital.

Mr Ramsay raised a matter for the Minister for Roads with respect to the impact of wind farm developments on local roads in his electorate and the damage associated with some of that development activity.

Mr Lenders raised a matter for the attention of the Minister for Education regarding Sandringham College.

Mr O'Brien raised a matter for the Minister for Police and Emergency Services regarding natural disaster relief and recovery arrangements in western Victoria following recent flood events.

Ms Tierney raised a matter for the Minister for Children and Early Childhood Development with respect to early learning infrastructure in the shire of Melton.

Mr O'Donohue raised a matter for the Minister for Agriculture and Food Security regarding the Wandin East weather station.

Mr Leane raised a matter for the Minister for Environment and Climate Change with respect to the Junction Road parklands in Nunawading.

Mrs Petrovich raised a matter, also for the Minister for Environment and Climate Change, with respect to the permit and insurance arrangements for a group of veterans and friends who ride up Mount Macedon each Anzac Day.

I will pass those 10 matters on to the respective ministers, and I have one written response, to a matter raised by Mr Ondarchie on 14 March.

**The ACTING PRESIDENT** (**Mr Ramsay**) — Order! The house now stands adjourned.

**House adjourned 5.12 p.m. until Tuesday, 1 May.**

**Minister for Public Transport**
**Minister for Roads**

PO Box 2797
Melbourne
Victoria 3001
Telephone: (03) 9095 4330
Facsimile: (03) 9095 4483
www.vic.gov.au
DX 210410

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

Dear Mr Tunnecliffe

**ORDER FOR DOCUMENTS – NETWORK REVENUE PROTECTION PLAN 2012**

I refer to the Legislative Council's resolution of 28 March 2012 seeking the production of:

> *"a copy of the Network Revenue Protection Plan for the 2012 calendar year, prepared under section 10.1 of the Metlink Services Agreement."*

The Government is in the process of responding to this resolution. As part of this process, the Government is liaising with affected third parties, including Public Transport Victoria, Metlink, Bus Association Victoria and public transport operators. This process has not yet been finalised.

Regrettably, the Government is not able to respond to the Council's resolution within the time period requested by the Council. The Government will respond as soon as possible.

Yours sincerely

**Hon Terry Mulder MP**
Minister for Public Transport

17 / 4 / 2012