PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 1 March 2012

(Extract from book 4)

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By authority of the Victorian Government Printer

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The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Cabinet Secretary	Mr D. J. Hodgett, MP

Legislative Council committees

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

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

Legislative Council standing committees

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

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

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

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

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

 # 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

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FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

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Deputy President: Mr M. VINEY

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Deputy Leader of the Government:
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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, 1 MARCH 2012

Thursday, 1 March 2012

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

RULINGS BY THE CHAIR

Members: unparliamentary expressions

The PRESIDENT — Order! Yesterday in the course of one of the debates Mr Finn made some remarks concerning Mr Madden, a former minister in this place, now the member for Essendon in another place. A point of order was called by Mr Leane drawing the attention of the Acting President, Mr O'Brien, to those remarks and suggesting they were inappropriate for the Parliament. I note from *Daily Hansard* that Mr O'Brien indicated he would refer the remarks to me for consideration of whether or not they were parliamentary. Having read the remarks, which refer to Mr Madden as being shonky, I note that in response to the point of order Mr Finn said he had perhaps not been making such an allegation but was thinking out loud. That is a dangerous thing for all of us.

It is my view that the word 'shonky', in the context in which it was used yesterday and in most of its use in this place, is unparliamentary. If there were concerns about any member's behaviour or propriety, then they ought to have been addressed by way of substantive motion, which was the proposition put by Mr Leane in the point of order. In the circumstances I call on Mr Finn to withdraw the reference that was made yesterday to Mr Madden when Mr Finn was thinking out loud.

Mr Finn — President, I withdraw. On a point of clarification, President, are you ruling that the word 'shonky' is unparliamentary and not for use? I am about to speak about Tim Flannery.

The PRESIDENT — Order! I am glad Mr Finn sought clarification before proceeding. According to the dictionary, which I know Mr Pakula is particularly familiar with, the word 'shonky' means of dubious integrity or honesty. In the case of Tim Flannery and other individuals I would think it a very dangerous proposition to use that word without significant substantiation.

In the case of members, as I said, if there is a concern as to the integrity or honesty of a member, then that ought to be explored by way of substantive motion rather than by oblique references in this place. I suggest to Mr Finn that that word might not appear in discussion of the subsequent matter he wishes to bring the attention of the house; he might find another more moderate word — and he has time to think on that.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 3

Mr O'DONOHUE (Eastern Victoria) presented *Alert Digest* No. 3 of 2012, including appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Australian Crime Commission —

Report under section 30L of the Surveillance Devices Act 1999, 2010–11.

Report under section 31 of the Crimes (Assumed Identities) Act 2004, 2010–11.

Ombudsman — Report on the Investigation into the storage and management of ward records by the Department of Human Services, March 2012.

Parliamentary Committees Act 2003 — Government Response to the Environment and Natural Resources Committee's Report on the Environment Effects Statement process in Victoria.

Public Administration Act 2004 — State Services Authority's Report on the Inquiry into the command, management and functions of the senior structure of Victoria Police and Government Response pursuant to section 55 of the act.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule No. 166/2011.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 13 March 2012.

Motion agreed to.

MEMBERS STATEMENTS

Noble Park Aquatic Centre: open day

Mr TARLAMIS (South Eastern Metropolitan) — I rise today to welcome the completion of the Noble Park Aquatic Centre. On Saturday, 11 February I was delighted to attend a community carnival open day at the Noble Park Aquatic Centre. I commend the City of Greater Dandenong and the centre on hosting this marvellous community event. Entry to the centre was free all day, and a broad range of activities, with free access to the pool, waterslide and aquatic play area, were on offer. Music, entertainment and a free sausage sizzle were available for visitors and various demonstrations were held by Life Saving Victoria, the City of Greater Dandenong and local health and fitness providers.

The new Noble Park Aquatic Centre is far more than just a pool. It is a state-of-the-art community facility that can be used by people of all ages, backgrounds and abilities. The new centre includes a new 50-metre heated pool complete with shade canopy and spectator seating, an indoor pool with beach entry, water play equipment for younger children, a refurbished waterslide — Melbourne biggest — a cafe and kiosk, multipurpose community spaces and barbeque and picnic areas.

The $20.8 million project was funded through a $12 million contribution from the City of Greater Dandenong, $7.3 million from the federal Labor government and $1.5 million from the former state Labor government. In addition to providing a community hub, the centre has boosted employment with an increase of 77 per cent represented by Pilates instructors, swimming instructors, customer services, lifeguards and cafe attendants.

This is yet another example of a successful investment in infrastructure that not only builds community spaces but invests in people by creating local jobs. The project provides a real boost to the local community, which will be added to as other projects like the new civic space in Douglas Street begin to take shape. The official opening of the centre will take place on 8 March.

Israel: product boycott

Mrs KRONBERG (Eastern Metropolitan) — Victorians are now alert to the appalling conduct we have witnessed on behalf of the Australian arm of activists associated with the boycott, divestment and sanctions (BDS) movement. These anti-Semites, currently wearing the mantle of more readily recognisable left-wing activists, are inspired by Greens Senator Lee Rhiannon, the unreconstructed Communist and muse of the KGB. They have been at the forefront of the leftist agenda to inflame anti-Semitism by attacking Israeli businesses here, whilst concealing this darkest of motives as concerns for the Palestinian people and their quest for a solution to their plight.

The advocates of the BDS movement ignore the simple fact that a two-state solution respects the human rights and security of Israelis and Palestinians alike. It is important to recognise that, with its objective to support the annihilation of Israel and the model democracy in the Middle East, the BDS movement is simultaneously impacting on Jewish nationality and the identity of Jewish people around the world and is therefore blatantly anti-Semite. Continuation of BDS campaigns can and will lead to the proliferation and promotion of politically driven anti-Semitism. The Greens party voted in December 2011 to support BDS as a 'legitimate political tactic'. Associate Professor Philip Mendes of Monash University has said:

> … they collectively target all Israeli Jews and all Jewish supporters of Israeli existence — irrespective of their varied political views, class background and level of ethnic or religious identification — as the enemy.

Additionally and from a local perspective, my electorate — —

The PRESIDENT — Order! Time.

National Year of Reading

Mr EIDEH (Western Metropolitan) — It is my pleasure this week to thank and congratulate the councils within my electorate who have invited their local residents to celebrate the National Year of Reading. Councils around the Western Metropolitan Region have hosted special events to mark this very important part of every child's learning and development. Reading provides an opportunity for not only children but people of all ages to seek inspiration and share stories with each other, which is both socially and culturally beneficial.

I would like thank Mr Archie Fusillo for sharing with the children of Melton his insights on and wisdom about why reading is so important. His books, such as *The Dons*, incorporate humour with strong messages of the importance of family and loyalty, which so many of us on this side of the house believe in strongly, as it is with the support of our family and loyal supporters that we can so proudly represent our constituents and give them the voices they so rightly deserve. I also thank

Mr John Marsden, who is not only a very successful Victorian writer but also a very passionate teacher and who attended the Brimbank City Council's national reading week launch.

Once again I congratulate all councils and my constituents who celebrated this very special week. I look forward to continuing to hear positive reports about the changes in attitudes towards reading until October, when the events will draw to a close.

Climate Commission: chief commissioner

Mr FINN (Western Metropolitan) — Is there a greater scandal in this country than the six-figure sum paid to Australia's climate guru who works part time? The man who told us it would never rain again is being paid $180 000 of taxpayers money every year — and for what? Tim Flannery got it totally, completely and comprehensively wrong, yet the federal Gillard-Brown government still has him tethered to the public trough.

'Raindrops Flannery' told us it would never rain again. Despite his huge pay packet, we do not hear much from him these days. The tragedy is that state Labor governments have listened to him for too long.

We now have white elephants such as the one under construction in Gippsland. That desalination plant is way behind schedule mainly as a result of floods, but it is not the only place that has been hit by the curse of Flannery. Queensland and New South Wales are currently facing floods, as they have periodically since Raindrops made that ill-fated prediction.

The man would be long gone in the private sector. I can think of so many more worthwhile things to do with $180 000 a year than fund somebody who has proved he is either a fool or shyster.

The PRESIDENT — Order! I ask for the withdrawal of the last word of Mr Finn's contribution.

Mr FINN — I am happy to oblige, but I would be interested to know under what standing orders the President's direction has been made.

The PRESIDENT — Order! I consider the term unparliamentary, and I do not think the word was substantiated. Notwithstanding Mr Finn's quite aggressive remarks in the rest of his 90-second statement, I do not think they substantiated the use of that term.

Mr FINN — I am happy to withdraw; I withdraw. But I am also happy to substantiate it if I am given further time. I am happy to substantiate for some hours on the subject of the fact that Mr Flannery is indeed as I have described him.

The PRESIDENT — Order! When I ask for a withdrawal, I will not entertain a debate. I thank Mr Finn for the withdrawal.

Trams: safety

Mr BARBER (Northern Metropolitan) — The latest official statistics indicate an alarming rise in the number of accidents onboard trams involving passengers tripping and falling. I note there has been a reduction in the number of collisions involving trams and persons, so perhaps the rhinos on skateboards campaign has been working. Typically trips and falls on trams have been reported in the official statistics at 10 a year. This year that increased to 17 trips and falls, with 11 months of data. A previous study of tram accidents indicate that about 10 times as many injuries occur than those caught by the official definition that is required for reporting.

Bringing back tram conductors, I believe, would make an improvement to this. A very large, busy tram with hundreds of people standing, and people constantly boarding and alighting is really a two-person operation. Of course the government is way behind in its requirements for low-floor boarding stops, which would reduce these accidents.

Finally, if trams had their own lanes and better priority on the roads, there would be an avoidance of crashes and near misses involving cars, and thereby there would be no need for tram drivers to slam on the brakes to avoid a collision with a car, which can often send dozens of people on the trams spilling.

Victorian Commission for Gambling and Liquor Regulation: independence

Hon. M. P. PAKULA (Western Metropolitan) — Last week I raised the matter of the independent gaming regulator, the VCGLR (Victorian Commission for Gambling and Liquor Regulation), not being able to meet with me without the approval of the minister. I have actually received a rather prompt response from the minister to that adjournment matter, and it says in part that the government will extend the same courtesy to the opposition that was extended to the Liberal-Nationals coalition by the Labor government. Except that Mr O'Brien, the Minister for Gaming, when he was shadow minister, met on a semi-regular basis with the chair of the then Victorian Commission for Gambling Regulation, Mr Ian Dunn, and with Mr Peter Cohen. He did not seek approval from either

Minister Andrews, the current Leader of the Opposition, or Minister Robinson, the former member for Mitcham.

The same arrangement applied for Mr Smith, the member for Bass and Speaker of the Legislative Assembly, when he was shadow Minister for Gaming, and Mr Pandazopoulos, the member for Dandenong, when he was the Minister for Gaming. It was an arrangement initiated by Mr Dunn as the chair of an independent statutory agency, and it was an arrangement accepted by the previous government.

Now instead, not only must the VCGLR have the minister's approval to meet with the opposition, but the meeting cannot proceed unless a representative of the minister's office is present. The arrangement impinges on the independence of the gaming regulator, which should be able to say, 'Minister, your requirement is not appropriate, and we will not apply it', but it cannot. If the minister cares at all about the way his independent gaming regulator is perceived and if he truly wants to extend the same courtesy to the Opposition — —

Mr Finn — On a point of order, President, clearly Mr Pakula is making certain allegations about the propriety or otherwise of the minister. He should do that by way of a substantive motion, as you have already pointed out today, and I ask you to draw him to order.

Hon. M. P. PAKULA — On the point of order, President, I do not know what Mr Finn is referring to. I have made absolutely no allegation about the propriety of the minister whatsoever.

The PRESIDENT — Order! I concur with Mr Pakula on the point of order. I do not believe there is a point of order. I do not think Mr Pakula has cast any aspersions on the minister himself. I think what Mr Pakula has been talking about is a practice he wishes to see revised. I think that is perfectly appropriate, and I do not think it requires a substantive motion.

Hon. M. P. PAKULA — To conclude, if the minister truly wants to extend the same courtesy to the opposition as was extended to him, he will make it clear to the staff of the VCGLR that who they meet with and when they hold meetings is a matter for them alone.

Opposition members: performance

Mr RAMSAY (Western Victoria) — It was interesting that yesterday the only issue the opposition wanted to put on the table was what kind of sandwiches the Minister for Employment and Industrial Relations, Mr Dalla-Riva, ate and how he paid for them. Wednesday is the only day that the opposition can discuss serious policy issues, but opposition members chose to talk about Mr Dalla-Riva's eating habits. I was embarrassed by the level of debate, and I question the relevance of the contributions of those sitting in opposition.

Yesterday the opposition made no mention of the impact of floods over the last 24 hours in communities like Ballarat and Bendigo and what the government was doing to help or of how we are to help land-holders like Anne and Gus Gardner, and the sample of communities I visited last Friday in Hawkesdale, which have been impacted by the amalgamation of wind farms that has a combined footprint of 200 square kilometres and is comprised of over 550 turbines. This development has kindly been subsidised by the Australian taxpayer to the amount of $1 million dollars per turbine, and there will be more funding for such developments with the introduction of the carbon tax.

Yesterday afternoon I was branded by Mr Viney, Mr Tee and Mr Barber, who, incidentally, all live in the suburbs of Melbourne and have suddenly become judgemental towards those who are trying to minimise the risks of wind farm developments in country areas. I do not apologise for one second for defending my rights as a land-holder, and I do not apologise for people like Anne and Gus Gardner, who are branded as a bunch of psychotic, ill-informed and self-interested whingers for having the courage to voice their concerns about the impacts of wind farms — the dust, noise, infrasound impacts and road damage. These concerns have been dismissed as having no credibility.

I can assure the opposition that I will continue to make sure that enforcement and compliance is adhered to to protect these communities who have no voice and to provide a balance of regional investment and respect for those who live in rural areas.

Peter McPhee

Ms DARVENIZA (Northern Victoria) — I take this opportunity to congratulate Mr Peter McPhee, the president of the Shepparton RSL Sub-Branch, on being awarded a life membership of the RSL of Australia. On the night of Friday, 24 February, as part of his presidential duties, Mr McPhee was presenting certificates to RSL volunteers. He was completely surprised that night when the life membership was bestowed on him. Mr McPhee, who has been a member of the RSL for over 55 years, became active in the organisation only in the early 1990s when he started organising a reunion for his former 59th Battalion.

Mr McPhee took on the president's role for six months to fill a gap until the next general meeting, but he has remained president until this day.

Highlights of Mr McPhee's tenure as president include the new war memorial in Shepparton, greater links with the community, the expanded and modernised RSL facilities and the maintenance of the superb welfare arm of the organisation. His focus will always remain on the people who promote the RSL cause and form part of that close-knit organisation. I congratulate Mr McPhee.

Corridor Thirteen: art exhibition

Mrs PETROVICH (Northern Victoria) — It was with great pleasure that I opened an art exhibition of the group known as Corridor Thirteen in Queen's Hall last Tuesday night.

An honourable member interjected.

Mrs PETROVICH — It is a very good group. It is always a privilege to speak about people doing things well, and the wonderful group of artists who brought this exhibition together is exceptional. The opening was well attended by a number of my parliamentary colleagues, and I thank them for attending. The aim of the exhibition is simple: to showcase the artwork of friends from the northern region and bring country to the city. Following the Black Saturday bushfires in northern Victoria I was inspired by the work done by these people, who organised projects and found ways to inspire others to work with them through the medium of art.

On one occasion I met Maria Dee, a local artist from Kilmore, and I was amazed at her capacity to lift people's spirits while getting them involved in art. What I discovered was a woman who had provided an enormous amount of support for the community over many years and who gives others inspirational strength. Maria has supported many through trying times and has been the glue that has held this group together. Her passion for art extends to teaching, and she inspires different things in every pupil. Every student has their strength, and she allows them to explore that. She teaches students of all ages and backgrounds, but she is particularly sensitive to nurturing the needs of younger students, and many derive therapeutic benefit from her mentoring and her art lessons. Her students feel safe to express themselves and become more confident in their abilities. Her studio in Kilmore is called Ucandoo and has often been likened to a community hub. She fosters people in their artistic pursuits as they find various means of expression.

The combined effort from all has created a first-class exhibition, and I would encourage all members to enjoy it over the remaining time of this Parliament.

Rail: North Shore station

Ms TIERNEY (Western Victoria) — On 17 February this year the *Geelong Advertiser* revealed that the Baillieu government has scrapped the money set aside by the previous Labor government to upgrade North Shore station, Geelong's only interstate railway station, which services the *Overland*. North Shore station was one of three Victorian stations the previous Labor state government chose to redevelop into community hubs. A task force was set up and included representatives from the Department of Transport, the City of Greater Geelong and most importantly local residents. However, the Baillieu government has turned its back on the task force and the Geelong community with its decision to scrap the much-needed upgrade of this facility.

The Minister for Public Transport, Terry Mulder, was quoted in the *Geelong Advertiser* as having said that further spending on the station was not justified when it only served three trains a week in each direction. I have the timetable for the Geelong–Melbourne train services, and I can inform the minister that 108 train services stop at North Shore station per week. Most people in Geelong would know this, but clearly the minister does not. It is particularly concerning that the minister has absolutely no idea how many trains stop at the station yet believes he is in a position to scrap funding that was put aside by the previous government and to ignore the work already done by the task force. All cities want to put their best foot forward, particularly at their entry points, so why is Minister Mulder so determined to have this station remain a shoddy, unwelcoming and unsafe entry point into our great city of Geelong?

Floods: Congupna and Tallygaroopna

Mr DRUM (Northern Victoria) — My members statement has to do with the floods that have recently inundated many homes and areas north of Shepparton such as Tallygaroopna and Congupna. This area of farming land is very flat, and any floodwaters in it take a long time to arrive and to dissipate. Some areas are bound by check banks, irrigation channels and railway lines, and all the related embankments tend to cause the directional flows to go the way they do.

I want to take this opportunity to thank the SES (State Emergency Service); I know its members have been working tirelessly with the communities of Tallygaroopna and Congupna. I know other areas around the state, such as those around Ballarat and Castlemaine, have been flooded, but I know this

particular area well. I have family in the area and know that all the people around there have been very appreciative of the work done by the SES. I just hope that inundation can be minimised. I know that sandbagging is going on as we speak. We must all be hopeful that the rains forecast for today do not eventuate; however, if they do, we hope that any risk to life and any material losses can be kept to a minimum.

Clayton Street Festival

Mrs PEULICH (South Eastern Metropolitan) — I congratulate the organisers of the Clayton Street Festival, which was held last Sunday, 26 February. It was a successful day, in particular because of the many school and community organisations that got behind the effort. It was a very hot, windy, gusty day, no doubt in part a consequence of Labor's political cyclone in Canberra. While perhaps Canberra's leadership result was not such a wonderful one, the Clayton festival was certainly successful.

International Women's Day

Mrs PEULICH — I also take the opportunity to congratulate all Victorian women, especially those in South Eastern Metropolitan Region, and wish them the very best for 8 March, which is International Women's Day. All the daughters, mothers and grandmothers deserve our respect and gratitude for the work they do in raising our families and the future generations and for doing a lot of tireless work as quiet achievers and the backbone of our community.

Schools: funding review

Mrs PEULICH — Lastly, I wish to make mention of the Gonski report released last week. The review was headed by Sydney businessman David Gonski, who concluded that $5 billion was needed to fix the education system. It is disappointing that the state ministers for education did not have an earlier briefing of the report, given that 70 per cent of the funding is derived from the states. The really important thing to remember as people dip into the Gonski report is that not all of the answers reside with funding — it is what is done with it.

STATUTE LAW REVISION BILL 2012

Introduction and first reading

Hon. D. M. DAVIS (Minister for Health) introduced a bill for an act to revise the statute law of Victoria.

Read first time; by leave, ordered to be read second time later this day.

EMERGENCY SERVICES LEGISLATION AMENDMENT BILL 2011

Second reading

Debate resumed from 9 February; motion of Hon. D. M. DAVIS (Minister for Health).

Ms TIERNEY (Western Victoria) — It is a pleasure to rise this morning and speak on the Emergency Services Legislation Amendment Bill 2011, which amends several acts, including the Country Fire Authority Act 1958, the Metropolitan Fire Brigades Act 1958, the Victoria State Emergency Service Act 2005, the Emergency Management Act 1986, the Emergency Services Telecommunications Authority Act 2004, the Forests Act 1958 and the Summary Offences Act 1966. It will become clear why so many acts are being amended, because this an attempt to get a whole-of-government approach to what is a whole-of-government necessity: dealing with the emergencies our state is constantly being afflicted by.

After some of the most horrific and damaging natural disasters in recent history, including Black Saturday just over three years ago as well as storm and flooding events in the last two years, Victorians are well aware of the perils of living in the many areas of Victoria that are susceptible to natural disasters. As I stand here this morning to speak on this bill, we are also well aware that there are a number of communities and individuals being affected by floods. Driving into Parliament this morning most of the radio stations I listened to were interviewing various people who were preparing for evacuations and were describing what events were taking place and the prospect of leaving their places of residence and having to go to the emergency relief centres that are being set up — I know one has been set up in Shepparton — or being able to go and stay with family and friends in other towns. It is quite apt that this piece of legislation is before us this morning.

In my electorate of Western Victoria Region we have also experienced the devastating impact of natural disasters. They have taken lives, and they have also destroyed many properties. The Ash Wednesday fires in western Victoria were not all that long ago. Some 47 people perished in that dreadful incident. In 1967 there were also bushfires around Lara in which 17 people were killed; a lot of them were trying to escape along the Princes Highway. We had fires in Linton, which is 33 kilometres west of Ballarat, where five men, all volunteers from the Geelong West CFA (Country Fire Authority), died. There is a memorial for those five brave men in West Park in Geelong West as a constant reminder for people in the region. It was only

last year that Horsham, Dimboola and the surrounding regions were hit by floods that also affected significant parts of the north-west.

The point I make is that Victoria is very susceptible, and increasingly so, to natural disasters, particularly floods and bushfires. It is no surprise that governments have an absolute and unqualified responsibility to bring together legislation that makes the work of our emergency service providers more efficient, whether it be in the areas of equipment, powers or processes, to keep Victoria and Victorians safe in the event of emergencies. Before going to the details of the bill, reiterate the point that it is the absolute responsibility of a government to protect its citizens from natural disasters, particularly, in many areas of the state, bushfires.

We are taking a positive step today in ensuring the speedy passage of the bill through the house, but it is just one step in the process. There are many practical and on-ground actions and initiatives that this government is simply not putting in place because it is obsessed with costcutting. Unfortunately there are significant areas of inaction. I will point to a couple. Firstly, when this government was in opposition it criticised the previous Labor government for dragging its heels in establishing bushfire refuges, yet in the lead-up to this year's fire season not one fire refuge had been built by this coalition. Of the 52 high-risk bushfire zones, only 26 had neighbourhood safer places. As I understand it, the Baillieu government was telling local councils that it wanted more neighbourhood safer places, but it was prepared to pay for only one-third of the costs when rural and regional councils were already struggling with the cost-shifting that had been placed on them.

Then there was the report released on 24 January that revealed that fire authorities were struggling to meet the prescribed burning targets which had been set to prepare Victoria against bushfires. The Baillieu government also postponed Fire Action Week, which was quite distressing. We needed that fire awareness week much earlier than when it was held, because early preparation is absolutely critical walking into the bushfire season. Then there was the refusal to fund a third Elvis aircrane, which was a specific request by the fire authorities.

The government did all that as well as failing to fund the much-needed CFA fire station upgrades all around the state. It is my understanding that the current government promised to upgrade 250 CFA stations. However, the reality is that only 60 have been funded. While I stand to speak on this bill, which the opposition will not oppose, there are many practical initiatives like those I have just mentioned that I believe the Baillieu government has simply failed at, and it needs to pick up its game.

I turn now to the specifics of the bill. Its purposes are fairly straightforward. It supports an all-hazards, all-agencies approach to emergency responses; it increases penalties and creates offences for actions that prevent fire services from promptly responding to emergencies; it extends immunity provisions in fire services legislation to interstate and international firefighters; it creates further appropriate powers for the CFA chief officer, the metropolitan fire and emergency service chief officer and senior sergeants; it removes the distinction between urban and rural brigades; it extends the injury compensation scheme to members of the forest industry brigades; it clarifies that the Victoria State Emergency Service may engage in fundraising activities; and it protects the Department of Sustainability and Environment's networked emergency organisation from liability when carrying out fire management activities under the Forestry Act 1958.

As I said, this bill legislates for an-all hazards, all-agencies approach to the delivery of emergency services to protect and support the people of Victoria in times of emergency. It is essential that emergency services agencies are given the best opportunity to deal with the emergency situations that confront us. The bill increases the powers of the CFA chief officer, the metropolitan fire and emergency service chief officer and senior sergeants to respond more appropriately to emergency situations. For example, the CFA chief officer will have the power to close roads where smoke is impairing visibility for drivers. As I said, the bill extends the injury compensation scheme to members of the forest industry brigades, it gives the metropolitan fire and emergency service chief officer the ability to delegate the power to issue prevention notices and it also gives senior sergeants the power to declare emergency areas on their own authority.

As I mentioned in relation to the purposes of the bill, there is also the ability to increase penalties, and this is something the opposition fully supports. It is essential that emergency service teams are given every opportunity to respond to emergency situations, including with the use of fire indicator panels.

As members of the house would be aware, it is often the case that our emergency service teams call on interstate and sometimes international emergency service personnel to help fight bushfires in Victoria, just as our members go interstate or overseas to assist other

jurisdictions — for example, they have answered calls from New South Wales and Queensland. The bill addresses the immunity provisions so that those firefighters who come from overseas and interstate are covered in Victoria.

In conclusion, whilst the opposition supports this bill, it notes that this is just one step in arming our emergency services teams with the weaponry needed to combat the effects of natural disasters and respond to emergency situations to protect all Victorians. It is disappointing to see that the government has failed to deliver many of the aspects that are required to meet this task. Whilst it has been doing some work, we believe that substantially more funding needs to be allocated and efforts need to be made to ensure that Victorians are protected a lot more quickly.

I also need to touch on the issue of Friskville, which is in my electorate. I note that the government has indicated that this is a serious issue that does need addressing. But, as far as I am aware, whilst the government has said the right words, nothing at all has been done to address this important issue. That is an indication of what else is happening in this area in terms of the government's attitude and its response.

Since this government has been elected, it has had two fire seasons under its belt. It must have learnt quite a bit during those two periods. I take this opportunity to stress to the government that it needs to step up to the mark much more quickly and put resources into those agencies, services and stations that are now wanting.

Ms HARTLAND (Western Metropolitan) — I thank Ms Tierney for going through the details of the bill. The Greens will be supporting the bill for many of the reasons Ms Tierney has just outlined. I would like to make a couple of personal comments about the issue of emergency readiness and preparedness. While my electorate covers an urban rather than a rural area, I have had a number of experiences with emergency evacuation.

The example I give is a report about a chemical fire in Tottenham that I presented to this Parliament in my first year here. At that time the standard practice for residents when there was a chemical fire was to shelter in place. The only problem was that this was a chlorine fire and it had actually invaded people's homes. When residents rang 000 there was no mechanism for 000 to pass that information on to the fire brigade. It is a problem that has been rectified since, but it illustrates the importance of this bill's multidisciplinary approach to all kinds of emergencies so that all agencies are speaking to each other and using the same equipment and it is easy for these things to be understood.

We also need to think about the fact that emergencies do not happen just in rural settings; often they happen in urban settings, especially chemical fires and accidents in the tunnel. Those kinds of things can happen very quickly and often there is very little lead time. Legislation like this is important to make sure that all agencies are working well together and that they understand each other's roles. For that reason, the Greens will be supporting this bill.

Mr DRUM (Northern Victoria) — I am pleased to hear that both the Labor Party and the Greens are going to support this bill. It is a great opportunity to further enhance the work that we have been doing to bring departments and agencies together. The purpose of this bill is to reflect current organisational arrangements to enhance the operational efficiency of the various firefighting and flood-response agencies. It is going to modernise the outdated provisions which are currently in the legislation. It is also going to increase penalties and create offences that can sometimes mitigate the risks that undermine effective emergency responses.

This bill creates a legislative framework that is going to better reflect a modern approach to disaster response. In effect it is another step forward. Ms Tierney wants to support the bill but just cannot bring herself to acknowledge that what the government is doing is positive. I suppose it is simply her problem, but ultimately this is another step towards that all-hazards, all-agencies response approach.

We need to look at some of these issues in detail, but we will not be spending too long on this bill because we have a heavy workload.

Mr Lenders interjected.

The PRESIDENT — Order!

Mr DRUM — A large proportion of the 2010–11 floods were simply too great for any one agency to handle, and we have discussed this in the chamber many times. The ability to delegate powers across agencies simply did not exist then. State Emergency Service (SES) agencies in small towns in the eye of the flood were unable to cope with the disaster. Local governments struggled to act as lead agencies in the aftermath of the disaster. Various other government departments worked around the edges, trying to assist where they could. In some instances we had citizens effectively acting outside the law, bringing in earthmoving equipment and saving towns.

We are moving towards a way of coordinating all of those responses through the delegation of powers. With this bill we will also be able to call on international support. We will now be able to bring in overseas and interstate firefighters as well as crews from other interstate SES groups, and they will have insurance protection for any damage they cause. Damage can be caused by back-burning, and in trying to save one house from the floods, 10 others could be flooded unwittingly. Nobody in this house should be fooled into thinking this does not happen with floodwaters. At this very moment there will be people sandbagging their houses. That water has to go somewhere else. There is every chance that it will be go into a neighbour's house or a house somewhere else that would otherwise not have been flooded. These are some of the issues that go on in day-to-day life in these inundated communities.

The government has responded to the need to bring these groups together with major reforms. Victoria has a green paper entitled *Towards a More Resistant and Safer Victoria*. In that green paper we have sought feedback and ideas on ways to improve Victoria's emergency response. This bill will implement the commitments the government makes in the green paper by requiring the Metropolitan Fire Brigade, the Country Fire Authority (CFA) and the SES to assist in the response to any major emergency occurring in Victoria. This is the first step in that all-hazards, all-agencies approach.

The Victorian government's commitment to our fire and emergency services is without question. Ms Tierney has raised questions about how committed we are. We committed to the rollout of fire stations. When we came to government we promised we would build 250 fire stations in our first term, and we are going to build 250 in this term. We said we would build 60 in the first year, and we built 60 in the first year. I am not sure where Ms Tierney gets her figures from, where she gets her gripes from or why she does not understand how committed the government is to our emergency services.

We are the government that put in place the volunteers charter, which ensures that every decision made by the CFA that has any impact on volunteers cannot be made without consulting with them and obtaining their full consent. That is something that has struck an enormous chord right throughout the volunteer CFA sector, which is 60 000 strong across the state. Those volunteers now know they have a government in Victoria that is going to make sure they are consulted on any issue that will impact on them and the way they go about supporting the fire services in this state.

Apart from the support we have given the CFA and its volunteers, we have provided unprecedented resources and funding to the Victoria State Emergency Service to ensure that it can continue to do the type of work we are asking it to do today and for the last couple of days in northern Victoria. We have provided not just words but unprecedented funding so that the SES can do its work, buy the equipment it needs and have the communication systems and meeting and training facilities it needs to ensure that it has the best opportunity to provide its service across Victoria when incidents and disasters arise.

In addition to improving infrastructure and resources, it is vital to ensure that these fire and emergency services are able to act within a legislative framework. That is what we are doing here today. We are making sure that they can operate efficiently and effectively. We understand that we live in an ever-changing environment. While the green paper is likely to involve a wholesale review, this bill will simply modernise some of the outdated provisions, reflect current arrangements and make technical and consequential amendments.

This bill also amends the Emergency Services Telecommunications Authority Act 2004 to allow the commissioner to determine generic as well as agency-specific standards for the services provided by the Emergency Services Telecommunications Authority. We understand that ESTA comes under extreme pressure and scrutiny to make sure it does the job it is expected to do right in the heart of emergencies. We were vocal in opposition because we felt that at times ESTA was not performing to the level we expected. You only get one chance to respond to an emergency, and we need to make sure emergencies are responded to in the most professional way possible.

This bill will also amend the Forests Act 1958 to protect Department of Sustainability and Environment (DSE) firefighters and network emergency organisations and their partners, which are the interstate and international firefighters, from personal liability. Activities under the Forests Act 1958, such as planned back-burning, are currently not protected, so individuals involved are not indemnified. People who may be victims of burns that escape are not covered. In emergencies power is sometimes delegated to interstate and overseas teams, and as a result of this legislation the members of those teams will be treated as Victorian emergency firefighters or SES workers.

Recommendation 66 in the final report of the Review of the 2010–11 Flood Warnings and Response suggested that:

> … the state undertake major reform of Victoria's emergency management arrangements to bring about an effective 'all-hazards, all-agencies' approach …

The introduction of this legislation is one of the first steps that we are taking to achieve that. As Ms Tierney indicated, we have introduced a few additional offences because some actions are proving to be more and more dangerous in outcome. Some of those offences will relate to the resetting, without consent, of a fire services fire indicator panel. In an urban situation — for example, in a high-rise apartment — if a fire alarm goes off, people will evacuate. If someone simply goes in and resets the fire indicator panel without waiting for the fire brigade to thoroughly check the building, the opportunity to find the initial fault may be lost. If there is a short in a wire, damp in a roof or in a fitting or any substantial issue that has set off the alarm in the first place, tampering with the fire indicator panel before the experts get there may result in the problem persisting. To tamper with those indicator panels will be an offence under this legislation.

It will also be an offence to knowingly give a false report of a fire. There are ridiculous pranks that take place on days of extreme fire danger that will send one, two or three units out to respond to a fire that does not exist, thereby taking those response teams away from command where they would be able to respond in the event of an actual fire. That was an issue for the people of Bendigo and Redesdale on Black Saturday. An enormous number of the region's units were called to respond to the Redesdale fire, 40 minutes away, which was a grassfire and which took a few houses and sheds.

Through no-one's fault, coincidentally on the same day as the fires hit Bendigo many of our resources were 40 minutes away fighting the fires at Redesdale, and they had to be retained there. You only have to extrapolate from that experience to understand how critically dangerous a situation could become should someone elect to make false claims about a fire.

I have already spoken about how the bill will clarify that officers and members of interstate and international fire brigades are covered along with the CFA brigades. The bill will also remove the distinction between urban and rural brigades to reflect the CFA's current approach to brigade administration.

The bill will allow the CFA and the DSE to jointly determine sole responsibility for fire prevention as well as fire suppression. For as long as members from regional Victoria have been attending incident control centres whilst fires have been going on, there has always been a little bit of backchat going on between CFA volunteers, CFA command and DSE workers as to who is really calling the shots — for example, are they listening to the local knowledge and do they understand what happens if the wind changes and how dangerous the situation is? There has always been a little bit of back play going on. Sometimes it is light-hearted; at other times it is critically important. With this proposed legislation, the CFA and the DSE will sit down together and jointly determine sole responsibility for fire prevention as well as fire suppression in areas that lie outside the metropolitan district.

A small but important provision in the bill is that the CFA chief officer, who has always had the ability to tell people to put a fire out because it may be dangerous or the weather may have turned all of a sudden, will now also have the ability to instruct them not to light a fire in the first place. People may have booked in to have a burn or the CFA may have been going to have a burn on a given day. Those directions can now be overridden if the weather turns to the extent that it could put people or materials at risk. The resetting of fire indicators will be outlawed. Giving a false report will be an offence. Silencing an audible alarm will now be an offence. As crazy as it might seem, some people do it. If these alarms have been going off on a regular basis — maybe there is a fault in the alarm — some people simply get up and silence the alarm. That will be an offence under the proposed legislation.

I want to reinforce the commitment from the Minister for Police and Emergency Services, Mr Ryan, and the government to supporting the CFA and the communities that have been affected by fire and flood. The ongoing work of the government is to try to ensure that our firefighting and SES agencies are adequately resourced so that they can do their work properly. The government is trying to cut down some of these barriers built up over time between government departments — mainly between the DSE and the CFA. We are making sure that the barrier that may have existed between CFA paid firefighters and volunteers is broken down.

We have put in place a framework for an independent investigation into problems that have been happening in Fiskville over many years. There will be no interference from the hierarchy of the CFA or from the government. Quite simply, we have put in place a framework to ensure that there will be an independent investigation into what happened at Fiskville over the preceding 15 years. If there has been any wrongdoing or negligence, then that will come to the fore. For Ms Tierney to cast aspersions that we have not done anything about that or that we are going to interfere in that process is totally incorrect. As I said, this bill is a small bill. It is effectively taking another step towards

the approach we all want — that is, an all-hazards, all-agencies response — to ensure that the cohesive network of all of our response teams works hand in glove with the volunteers and the people who are in need of assistance, as a large number in Victoria are right now.

Ms BROAD (Northern Victoria) — I rise to make some brief remarks on the Emergency Services Legislation Amendment Bill 2011. At the outset I would like to acknowledge that right now there are some 11 warnings out in north-eastern Victoria, the part of Victoria which I represent along with other members who represent Northern Victoria Region in this place. Those warnings range from community flood updates, flood watch, minor flood warnings right the way through to an evacuation notice for the Tallygaroopna township area. As we sit here comfortably warm, dry and safe, emergency services volunteers and people from all the agencies that are the subject of this bill before the house are out knocking on doors, helping people to evacuate and doing their level best to keep people safe and make sure they do not come to grief in the floods affecting north-eastern Victoria.

I am sure all members of the house would wish to express their thanks to all the people involved in those activities, as well as to the council workers who are also very actively engaged in making sure that people are kept up to date and supported in those activities. That is particularly so in the Greater Shepparton City Council, which has been very helpful in keeping MPs updated as well. I certainly add my thanks to all those people. I wish people who are currently having to evacuate their homes a safe evacuation, and I hope they will be able to get back to their homes as soon as practical.

The leader speaker for the opposition, Ms Tierney, has already indicated to the house that the opposition does not oppose this bill. She has covered the main features of the bill, and I do not propose to take up the time of the house by going over those matters again. As I said, the opposition is not opposing this bill. That is because Labor supports an all-hazards, all-agencies approach to the delivery of emergency services to support our communities in times of increasing climate and emergency events, which we seem to be seeing with great frequency, particularly in northern Victoria. It has had more than its fair share of emergencies, ranging from droughts to bushfires and currently floods. That cycle is one that we see repeated over and over again, and I am sure we will see it again in the future.

Debate interrupted.

DISTINGUISHED VISITORS

The ACTING PRESIDENT (**Mr Tarlamis**) — Order! I take this opportunity to acknowledge and welcome Dr Khaled Zahraman, a member of Parliament from Lebanon who is visiting us and is in the gallery today. I express our best wishes to him and hope he enjoys his stay.

EMERGENCY SERVICES LEGISLATION AMENDMENT BILL 2011

Second reading

Debate resumed.

Ms BROAD (Northern Victoria) — To continue, my colleague Ms Tierney also made some remarks which went to the matter of resourcing our response to emergencies and preparing our emergency services to assist communities to deal with emergencies. There seemed to be some sensitivity to those remarks from the lead speaker for the government, Mr Drum. I want to reiterate that certainly in the case of northern Victoria, the region that I represent, it is all very well for Mr Drum to talk about the fact that the government has delivered some 60 Country Fire Authority stations and that it is the intention of the government to deliver more, because a great many more than that are certainly needed — and that is acknowledged by the government. The fact of the matter is that it is not possible to go to the government's budget and identify where that commitment is actually backed up with a commitment to resources.

The opposition will continue to raise that matter and other matters in relation to the resourcing of the commitments that have been expressed by members of the government and the Liberal and Nationals parties when they were in opposition. After all, we have seen a very high-profile example of the cut to the resources allocated to aircrane helitankers. Very recently in the area where I live in country Victoria we saw grassfires take off very quickly. There was a dramatic demonstration of the effectiveness of aircrane helitankers in saving people's homes. Water was able to be deployed and dropped in very short response times to save homes that simply would not have been able to be defended without those resources.

The view that I am putting forward on behalf of the Labor opposition is that the government needs to make sure that it backs up the actions that are being taken through the bill before the house with the resources that are required to make sure that all our emergency service

agencies can do the job they have a responsibility to undertake. The government needs to make sure also that, in addition to the coordination which is provided for in this bill, it puts in place in a timely way the measures which it has a responsibility for putting in place.

This fire season we saw a two-month delay in Fire Action Week. At the time of Fire Action Week more than a quarter of the state had been declared to be in the fire danger period. I think most members of the affected communities around Victoria would consider this is simply not an adequate performance on the part of the government. The next time the fire season comes around they would expect to see a better performance on the part of the government in making sure that Fire Action Week happens before fire danger periods are declared, which is too late, as I think everyone would understand just from the point of view of common sense.

I will conclude my remarks by coming back to the matter I spoke about at the outset — that is, floods. Despite the fact that we are seeing floods right now, I think that most Victorians, particularly those who live in regional Victoria, understand that in the future we will again see a cycle during which we will need more than simply rain-fed water supplies to meet the needs of Victorian communities, despite the climate deniers on the other side of the chamber, whose views were very strongly expressed earlier today by Mr Finn. He seems to think that because it is now raining and we have flooding in Victoria we do not need to consider the absence of rain and drought ever again. I think most Victorians understand that that is a nonsense and that in the future we will see droughts and bushfires. That means that we need to make sure that we have in place infrastructure, including pipelines and other sources of water which are not entirely dependent on rainfall, and that we support our emergency services to deal with those emergencies with which unfortunately we will continue to be afflicted.

Mr ONDARCHIE (Northern Metropolitan) — I rise this morning to speak on the Emergency Services Legislation Amendment Bill 2011. It is a bill which implements a commitment made by the Baillieu coalition government in the green paper called *Towards a More Disaster Resilient and Safer Victoria* by requiring the Metropolitan Fire and Emergency Services Board, the Country Fire Authority (CFA) and the State Emergency Service to assist in the response to any major emergency occurring in Victoria outside Melbourne.

This is the very first step towards achieving a genuine all-hazards, all-agencies approach to emergency response, particularly for large-scale emergencies. The green paper that was initiated was a response to the need to reform Victoria's arrangements for mitigating, responding to and recovering from large-scale emergencies. We saw that in 2009 with the horrific Black Saturday bushfires and of course the 2010 floods shortly after we came to government. The green paper sought ideas and feedback to improve the way we respond to those sorts of emergencies.

Since coming to office more than a year ago, the Victorian government has acted to deliver on its commitment to support Victoria's fire and emergency services so that they are able to continue to protect the people of Victoria — and they do a really good job. In my electorate I have visited CFA brigades at Whittlesea, Doreen, Yarrambat, South Morang, Plenty, Epping and other places. I have to say those brigades have been delighted by this government's support package for CFA firefighters, which includes better training, better opportunities and improved facilities around the state.

Those brigades work hard, particularly during the Black Saturday bushfires. The Black Saturday bushfires were a tragedy that actively remains in the communities in my electorate. Whilst physical rebuilding occurs, the emotional rebuilding has a long way to go. Members need to be reminded at this time that we need to continue to support not only those directly affected by the Black Saturday bushfires in my electorate and beyond but also those who tended to them — emergency services personnel, the health services professionals and community services workers. Many of them went through trauma associated with the horror that was Black Saturday, and they continue to deal with those issues as well. Members should be reminded of that.

The Emergency Services Legislation Amendment Bill 2011 is a good bill. In addition to providing appropriate infrastructure and resources, it is vital that our emergency and fire services are able to act within a legislative framework that allows them time to effectively operate and be efficient in that ever-changing risk environment.

While the green paper process will most likely involve a wholesale review of emergency management legislative framework, this bill will amend the emergency services legislation to modernise some outdated provisions, reflect current arrangements, make technical and consequential amendments and increase certain penalty provisions. What do I mean by that? I mean the bill will increase penalties in the Country Fire

Authority Act 1958 and the Metropolitan Fire Brigades Act 1958 so they are consistent with the Sentencing Act 1991 and serve as a more effective deterrent to committing relevant offences.

The bill also creates several offences for actions that prevent fire services from responding promptly to emergencies and therefore increase the risk to the public and public safety. These offences involve damaging, interfering with or resetting fire indicator panels or knowingly making a false report of a fire. It is those reports of fires that may risk the safety of persons and property actually threatened by fire. Fire trucks unnecessarily engaged in responding to false alarms are prevented from responding to genuine needs. We have seen a bit of that. This bill is about efficiency, effectiveness and an all-agencies approach.

There are also an increasing number of incidents where owners and occupiers deliberately and repeatedly reset fire indicator panels on fire alarms. An audible alarm can be silenced in many systems simply by opening the indicator door. Resetting fire indicator panels on the fire alarms removes information about the source of the fire or the fault in the fire detection system analysis which thereby delays and holds up fire services. That is a waste of proper resources. This bill deals with that as well.

The bill extends the existing immunity provisions in fire services legislation to protect interstate and international firefighters from personal liability as appropriate. During the Black Saturday bushfires and the very volatile 2009 fire season approximately 3400 interstate and international firefighters — these are our interstate friends and international personnel, including many firefighters from New Zealand, Canada and the United States of America — turned up in the state of Victoria to support us, help our local firefighters, help Victorians and give us a hand. This bill protects those firefighters as well.

The bill also extends the provision regarding damage to property by the CFA or the Metropolitan Fire Brigade being considered as damage by fire, for insurance purposes, to damage caused by members of interstate and international firefighters who exercised duties when supporting the CFA and MFB. This is a good bill; it goes some way.

I want to touch on something Ms Broad said about pipelines. When she spoke about pipelines I was reminded of the north–south pipeline. It is probably one of the great white elephants of the Brumby Labor government. There was the overrun in expense, and the pipeline was not needed. It was about protecting Victorians in times of drought. I walked into Parliament House this morning, and guess what? It was raining; it has been raining. One could think that we are building something in Wonthaggi that is probably three times the size it needs to be. I am reminded every day that the desalination plant is costing Victorians $2 million in interest charges, and it will tie us up for the next 30 years — —

Ms Crozier — For the next three decades.

Mr ONDARCHIE — It is going to tie us up for the next three decades, as Ms Crozier puts it. What an abject waste of government resources and taxpayer funds.

This bill goes a long way to making our emergency services much more efficient. It ties in an all-agencies approach that deals with all hazards in relation to emergency responses. It provides greater security for Victorians when living their daily lives. I commend this bill to the house.

Ms DARVENIZA (Northern Victoria) — I am pleased to rise and make some comments on the Emergency Services Legislation Amendment Bill 2011. As has been pointed out by previous opposition speakers, we will not be opposing this bill. The opposition supports an all-agencies approach to emergency responses, and this bill certainly goes to that issue by amending the Country Fire Authority Act 1958, the Metropolitan Fire Brigades Act 1958, the Victoria State Emergency Services Act 2005, the Emergency Management Act 1986, the Emergency Services Telecommunications Authority Act 2004, the Forests Act 1958 and the Summary Offences Act 1966.

Ms Tierney, who was the lead opposition speaker on this bill, has gone through it in some detail, as have members of the government, so I will not repeat that. I will repeat some of the comments that have been made by Ms Broad, who is my parliamentary colleague and also represents Northern Victoria Region. Northern Victoria has experienced more than its fair share of what Dorothea Mackellar described as 'drought and flooding rains'. I do not know whether she mentioned bushfires in her poem *My Country* — I cannot remember the whole poem — but we have had our fair share of those as well.

In fact we are currently experiencing 11 warnings in northern Victoria in Tallygaroopna and Congupna just north of Shepparton, where I live. There are a range of warnings that go from quite extreme to just beyond 'look out and be watchful and alert'. People are being evacuated. The City of Greater Shepparton has set up an emergency relief centre at the senior citizens centre in Welsford Street, Shepparton, to accommodate people

who either want to or who have to evacuate. Emergency services have been working very hard through the night in that area supporting families, supporting property and keeping residents safe. I know all members of this chamber join with me in thanking all those emergency services workers for their excellent work.

It is not just this episode. We can all cast our minds back to the huge floods in 2010, which resulted in devastating inundation and destruction of personal property, livestock, fences and farms. We saw families devastated as well as damage to community infrastructure — to roads and bridges, hospitals and businesses.

Community meetings were set up in the aftermath of the Comrie inquiry. I think it was in Swan Hill that I attended one of those community meetings. One of the things that came out of the Comrie report, and it certainly came out as a result of speaking to people in the community, was that there was a need to have an all-agency response. Who is in control of the whole emergency? Who is coordinating it? Where does all the knowledge lie for dealing with an emergency during a flood, which is something we had not seen for many years? Northern Victoria had been experiencing one of the longest droughts in living memory, and we were then hit with a flood. We were not flood-plan ready, and those communities and councils that were affected in northern Victoria were the first to put up their hands and say that it was the last thing they were really anticipating.

There was the issue of who was responsible, who was coordinating the response and who was in charge. This legislation, as I said, has that all-agency approach to an emergency response, which I know the community wants to see and I know my constituents in northern Victoria want to see. It is one that I think will work well, not only at times of floods but also for bushfires. My electorate of Northern Victoria Region has been hit very hard by severe bushfires that have taken lives and destroyed property, and it will take a long time for people to recover from those fires. In times of such devastation it is the emergency services that we look to, call upon and rely on. They all do a fantastic job. As a Parliament we want to give them the legislation, the measures and the framework so they can do that even better in the future.

I have to take up a few comments that were made by Mr Drum in his contribution. He talked about the government's commitment to dealing with emergencies. He held his hands up in some sort of shock and horror at the thought that the opposition should be critical of the government and the government's response to any emergency. I think we do have reason to be concerned, particularly with responses to recent fires. It is hard to think about fires on a rainy day like today, particularly when Melbourne has had pouring rain for the last couple of days. But there was a grassfire recently in Strathewen, which was an area affected by the Black Saturday bushfires, which showed that the emergency alert system was not working as it should have been.

I do not think members of the government, including Mr Drum, should throw up their hands in horror when the opposition brings issues of concern to the Parliament and to the debate. What happened there was that people were informed very late. They were left uninformed and had to make their own decisions about an evacuation. For survivors of the Black Saturday bushfires this was a serious bungle, because those people were fearful and uncertain about whether the same conditions were going to occur again. They were not confident that the emergency services system was working as it should have been. There is work that still needs to be done. There needs to be funding to support that work and to make sure that those systems are working.

The government also needs to provide the necessary resources in terms of funding for fire stations and infrastructure for other emergency services. We need to see where that funding is coming from. It is not enough for Mr Drum to come in here and stand up and say, 'The opposition has been critical of us because we say we are going to build all these fire stations and we have built only 60 so far, but rest assured we are going to build everything that we promised'. We are unable to see where that money is coming from. Mr Drum is unable to identify how that funding is going to be delivered, when that funding is going to be delivered and where that funding is going to be delivered. We have concerns about whether the government will stump up and provide us with the funding and the information about where that funding is coming from.

We have a right to be a bit concerned and a little bit sceptical about it, because in the past the government has praised particular pieces of infrastructure and emergency services equipment, which it has said have been fantastic and absolutely vital for firefighting efforts, only to see that equipment not being provided or funded. I refer to an article in the *Herald Sun* of 16 November 2011 headed 'Slash and burn'. The article states:

> Almost three years after Black Saturday, the state government axes firefighting weapons.

It is not just that they were axing the firefighting weapons. The Minister for Police and Emergency Services, Peter Ryan, is reported as saying that he:

> … hailed the Convair planes as 'one of the biggest weapons in the fight against bushfires'.

Yet at the same time this government and this minister have axed those Convair planes. Also the government ditched one of the three giant aircrane helicopters that were capable of dropping very large amounts of water in a short space of time anywhere in the state.

The government comes in and says, 'We're concerned. Don't worry; we're going to fund all the things we say we're going to fund'. But we have seen them hail the purchase of equipment like this, stress how important it is and then axe it. We have also seen the government pulling back — and I am concerned about this in northern Victoria — on funding to repair key flood-affected roads. We have seen it fail to rebuild the Charlton hospital. I have raised in this chamber on a number of occasions the need for this vital health service in Charlton. Funding has not been made available to repair roads, and this causes concern within the community about how committed the government is to providing the funds to repair the aftermath of these devastating events.

The opposition does not oppose the bill. We support the all-agencies approach, but the government needs to back up the bill by providing the funding that is necessary for our emergency services to carry out the work that is so vital when these major weather events occur. It needs to make that funding available so that the emergency services can do their job, have the equipment and be trained in how to use it. The systems need to be in place, and that takes more than words and making a commitment; you have to put the funds behind that commitment. I urge the government to do that.

Mr EIDEH (Western Metropolitan) — I rise to make a small contribution to the Emergency Services Legislation Amendment Bill 2011. In raising any issue, report or bill regarding our amazing emergency services personnel it is incumbent on all of us to remember the sacrifice that some have made, the dedication of all of them and the enormous debt we owe them, which we can never adequately repay. I must acknowledge those members who have given of themselves to such a great purpose, serving with emergency organisations to save the lives and communities in which they live.

We are here today to consider the Emergency Services Legislation Amendment Bill 2011. As we all know this bill amends several acts, and the opposition does not oppose it. I will not remind the house of the tragedies that occurred through both fire and flood and the devastation caused to the community and the state, but I will remind members that those horrible disasters at least occurred during the time of a real leader in former Premier John Brumby and a government that went out to the community, day after day, giving support, offering help and providing the leadership that such calamities require if recovery and survival are to occur. That is why we opposition members support our emergency services officers and why we will do what we can to support the amazing work they perform, whether it be paid or voluntary. They risk their lives and are often in the thick of whatever disaster befalls a community long before any semblance of help can arrive from distant cities and towns.

The bill increases penalties for those who make false reports, whose actions delay emergency services personnel in reaching their places of duty. But I worry that some of the interference is actually being caused by this government. I was advised by Danielle Green, the member for Yan Yean in the other place, that she was witness to an event at the Austin Hospital that led to the fire brigade being called out. The appropriate and qualified staff who could have resolved the problem before the Metropolitan Fire Brigade was called out had been dismissed under costcutting measures by the Liberal Baillieu government.

A pleasing aspect of this bill is the extension of immunity protection to interstate and overseas firefighters. As a Victorian I was proud when our people went to the USA to fight fires in California and some went to New York after September 11, but I also felt honoured when US firefighters came here during the worst fires in our state's history. Emergency services personnel help each other, and we must ensure that those who come here are never in any unnecessary jeopardy.

There are various other changes which add to the powers of the Country Fire Authority's chief officer to ensure greater safety in areas where fires are raging, and again they are appropriate in every sense. Injury and accident compensation criteria have also been improved in this bill so as to apply to all personnel, including volunteers such as those in the State Emergency Service, involved in fighting any emergency situation. But aside from looking at the positives in the bill, I am deeply concerned, as are other members of the opposition, about the leadership and professional competence of the Minister for Police and Emergency Services in that role. We are lucky that there were no major bushfires this summer, because under his watch our state was not adequately prepared

for disaster. Why was Fire Action Week delayed by two months? Was it because it was a Labor initiative? Why did the minister refuse to hire three heavy lift helitankers when the experts wanted them? I say again that the experts, the agencies who fight such emergencies, requested them.

In addition, where is the funding for the 250 fire stations that were promised by the minister but for which there is no evidence of their inclusion in the budget? What about the funding for controlled burning? We see only 16 per cent of the Baillieu government target having been reached. We have survived summer without a major disaster, other than the floods of a couple of months ago, due to luck rather than any preparedness by the minister. This is poor leadership by the Premier, but that is what we have in this government, and I sincerely hope it does not lead to loss of life.

This bill is a positive step forward, but the Baillieu government owes the people of Victoria much more. I support the bill.

Mr ELASMAR (Northern Metropolitan) — I rise to speak on the Emergency Services Legislation Amendment Bill 2011. Following on from the disastrous Victorian bushfires of 2009 and then the devastating floods of 2010, a royal commission and then a review of Victoria's organisation of emergency services were conducted. Both reports highlighted the lack of a combined and consistent approach to emergency services management by all of the relevant authorities.

In the main, most of the amendments to this bill are punitive in nature — for example, there is the provision of increased penalties for breaches of the Country Fire Authorities Act 1958 and the Metropolitan Fire Brigades Act 1958, which will be a more effective tool against relevant offences. Unfortunately the big stick approach seems to be the most effective when initiating change, as monetary penalties speak volumes. People who are turning off fire alarms — presumably because they are an annoyance — need to understand that this is very dangerous behaviour that threatens not only their own family's lives but the lives of others in the immediate area.

The two inquiries demonstrated the need to reform Victoria's arrangement for minimising damage and responding to statewide emergencies, with the primary and overall objective being to limit injury and loss of life during state emergencies and minimise damage to property in Victoria. However, the government must ensure ongoing and realistic funding for modern and up-to-date communication systems, particularly for people who are trapped in remote areas without an escape plan. It must also endeavour to provide appropriate infrastructure and resources so that the brave men and women of our emergency services agencies are able to act in the sure knowledge that their machinery is up to date and that the response is as effective as it should be. For that reason, I support my colleagues in not opposing the bill.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank you for the opportunity, Acting President, to deliver a few words in reply. I want to thank all members, eight of whom have spoken in the debate this morning. I think all members acknowledge that it was appropriate we talk about the emergency services today, given that the rain currently falling across Victoria is causing some concern, particularly in northern Victoria, where there have been some flood warnings and, I understand, one evacuation warning. I add my appreciation for those who are today out assisting families being affected by rain events throughout the state to the comments expressing appreciation already made by members in this debate. We also wish those whose properties may be affected by the rainfall well. It is appropriate that we pay our respects to the many both paid and volunteer emergency service members who will be on duty today.

As I said, I thank members for their support of the bill, particularly Ms Tierney and her opposition colleagues Ms Broad, Ms Darveniza, Mr Eideh and Mr Elasmar, who encouraged the government to make sure it commits the resources necessary for our emergency services to function as they should. We thank the opposition for that encouragement, and I can assure opposition members we are committed to that. I also want to thank Ms Hartland, from the Greens, for her support for the bill and also for the point she made when she remarked that we should not be talking just about emergencies that occur in rural Victoria. Such emergencies — fire, flood and drought — are what we most often think of when we talk about these bills, but Ms Hartland rightly pointed out that emergency situations do occur in metropolitan areas, and our emergency services are our front-line response to those metropolitan emergencies also. I think that was an important point to add.

Finally, I want to say that I thought Mr Eideh's criticism of our emergency services minister was very harsh and totally unfair. If we had more time, the challenge to debate some of those assertions may well have been taken up by the government, but that will perhaps be for another day. Nevertheless I again repeat my appreciation and that of the government for all

members who have stood up today and supported this legislation.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

EVIDENCE (MISCELLANEOUS PROVISIONS) AMENDMENT (AFFIDAVITS) BILL 2012

Second reading

Debate resumed from 28 February; motion of Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations).

Hon. M. P. PAKULA (Western Metropolitan) — It gives me pleasure to rise to speak on the Evidence (Miscellaneous Provisions) Amendment (Affidavits) Bill 2012 and to indicate to the house that the opposition will neither be seeking to amend the bill nor opposing it. I want, however, to draw the attention of the house to the very first paragraph of the Scrutiny of Acts and Regulations Committee report, which says:

> The committee provides this *Alert Digest* as immediate advice and material for members' information and may report further on a later occasion pursuant to section 17 of the Parliamentary Committees Act 2003.

That paragraph is testimony to the incredibly rushed nature of this legislation. The Scrutiny of Acts and Regulations Committee believes it may be necessary to look further at this bill, because the only opportunity it has had to do so was at 7.30 this morning, two days after the bill was voted on and passed by the Legislative Assembly. As members of the Council we should be at least grateful that we got the SARC report; members in the other place did not have the benefit of it. In fact opposition members in the other place were asked to consider, debate and vote on this legislation all in the space of a few hours. The first time Ms Hennessy, who led this debate for the opposition in the other place, or I saw the bill was at quarter to 10 on Tuesday morning, and it was debated sometime after lunch on Tuesday. That is a wholly unsatisfactory process that should not be replicated.

This is the third time since this government came to office that bills of an urgent nature have been produced and the government has expected the bill to be debated and passed through both houses of Parliament in the week in which the opposition saw the bill for the first time. There was the dangerous dogs bill. There was the travellers bill — the very urgent travellers bill, even though so far as I am aware not a single fine or prosecution has ensued as a result. I am happy to be proven wrong on that, but that is my understanding. That is how urgent the travellers bill was.

Mr Drum — You would have done dangerous dogs differently, would you?

Hon. M. P. PAKULA — I beg your pardon?

Mr Drum — Would you have done dangerous dogs differently? Would you have done this one differently?

Hon. M. P. PAKULA — The point I am making is that we could certainly have done this bill differently.

Mr Drum — How?

Hon. M. P. PAKULA — Mr Drum asks how. It was first apparent that this issue was a problem on 25 October last year when a piece of evidence — an affidavit — was thrown out by a judge in the Victorian court system. There were conversations between opposition members and government members then, and I can tell members I made it clear to the government — to the Attorney-General's office — that if the government wanted assistance from the opposition in facilitating the passage of legislation to remedy this problem, it would be provided. The attitude of government members at the time was that they did not believe it was a problem of sufficient import to require legislation. Obviously, events subsequently have changed the government's mind.

Mr Drum interjected.

Hon. M. P. PAKULA — The government says, Mr Drum, that it has only very recently received information from Victoria Police about how widespread the problem was amongst police officers, and that is what has necessitated the bill being introduced as an urgent bill this week.

I would suggest — and Ms Hennessy, the member for Altona in the other place, put on record very eloquently — that there was a huge amount of evidence back in October that this problem was widespread. Nobody reading the media reports, nobody listening to talkback and nobody who heard the comments of senior police or members of the legal fraternity could have

been under any illusion that this was a problem confined to one police officer or even a handful of police officers. In fact it was conceded at the time that it was probably more likely than not that a huge number of police officers had been improperly swearing affidavits for a long period of time. Legislation could have been introduced in October, November or December or in the first sitting week of this year, and it could then have had proper scrutiny, but that scrutiny has been denied by the fact that the bill is being introduced in this rushed way.

Fundamentally we do not accept that the extent of the problem has only become apparent to the government in the last week. A common-sense reading of all of the commentary that was around late last year and early this year shows the problem was widespread. To back up that assertion you only need to look at the fact that the bill is not confined to police. It covers all affidavits sworn by anyone — by lawyers, by public servants or by justices of the peace (JPs). All affidavits are captured by this bill. If the government was solely relying on the report from the Chief Commissioner of Police, why introduce legislation that captures affidavits sworn by a whole range of other people? Clearly the government already had information that it was a problem amongst lawyers, JPs and all sorts of people. Clearly it has been a systemic issue whether or not you call it systemic sloppiness or a lack of care or, frankly, people simply not understanding what they were required to do in terms of properly swearing an affidavit. Last year the Law Institute of Victoria and the bar council were saying very clearly that it was completely unacceptable if lawyers were swearing affidavits incorrectly.

We simply do not accept the assertion that the scope or the scale of the problem has only been known to the government for the last few days. We think it has been pretty apparent from the time this matter was first thrown out of court on 25 October that legislation would more than likely be required. Had it been introduced late last year or in the first sitting week of this year we could have gone through a proper process of scrutiny in the Parliament. We say that that proper process of scrutiny is not just some esoteric matter. It is not about scrutiny for its own sake. It is about allowing, for example, a proper SARC (Scrutiny of Acts and Regulations Committee) process that might pick up mistakes or unintended consequences.

As I said the other day, when you rush things, you tend to make blues. I fervently hope there are no mistakes, no unintended consequences and no loopholes that some smart lawyer will manage to drive a truck through, but nobody can deny that when you introduce a piece of legislation on the same day the Attorney-General's office sees the final draft and the same day the opposition sees it for the first time and expect it to be passed that way, you increase the possibility of mistakes being made.

I would just like to draw the house's attention to two or three matters that raised some concern in the minds of the opposition members. First of all, look at the effective operative date of retrospectivity. That date is 12 November 2011. The SARC report says at page 2:

> The explanatory memorandum also states that 'from 12 November 2011, Victoria Police members should have been aware of the requirements for the making of an affidavit on oath or by affirmation and the bill will not remedy any defects in affidavits signed on or after 12 November 2011 …

We would say that date should probably be 25 October 2011, because that was the date on which the affidavit in question was thrown out of court. Frankly any police officer, any lawyer or anybody at all who improperly swore an affidavit after 25 October would need to have had rocks in their head or not have read the papers. It was patently obvious the problem was coming from 25 October 2011, because that was the day this first came to public attention. We say the date is probably overly generous by about two and a half weeks.

The second issue we would draw attention to is the fact that, as I indicated earlier, this applies to all affidavits whether there were sworn by police officers or lawyers or any other appropriate persons. I do not think it is an unfair observation to make that if a lawyer has sworn an affidavit in an incorrect fashion, there is probably less excuse for that than there would be for serving police officers. Lawyers have it drilled into them, and I am sure Mr O'Brien will concede this in his contribution. The way to properly swear an affidavit is absolutely drilled into every young lawyer from the day they leave law school. Your partners show you, and associates in any firm you work in show you. It is Law 101 because the consequences of improperly swearing an affidavit can be so serious. We question whether this retrospective exemption should necessarily be provided to all and sundry.

The other matter in terms of the breadth of the retrospective exemption is that it is not just for the preceding few years; it is forever. It is back from 12 November 2011 and goes right back in time. In its report SARC draws to the attention of the Parliament that perhaps one of the consequences — and I would say unintended consequences — of that is that, as the committee notes on page 6:

> The committee observes that these provisions change the legal requirement for all affidavits except for those signed

> since 12 November 2011. In consequence, they may also affect the validity of any legal processes relying on otherwise invalid affidavits. In turn, they may affect the legality of any actions relying on otherwise invalid legal processes and the admissibility of any evidence obtained in consequence of otherwise unlawful actions.

That is a long-winded way of saying that there might be some stale old case sitting in someone's file from years ago where there was a decision not to proceed because a lawyer made a decision that an affidavit that had been sworn was no good. It may be an unintended consequence of not just matters before the court now — the 6000 or so that have been referred to — but there may be matters stretching back years which are dug up and dusted off because an affidavit which was otherwise bad has now been made good. Again, had the thinking that was brought to bear by SARC been made available prior to this bill being voted on in the Legislative Assembly, it might have caused some small revision or amendment in the legislation. That is the problem when you rush things.

I should also say, and I would hope all members would agree, that as a general principle retrospective legislation is not desirable. People are entitled to take their actions and go on with their lives in accordance with the law of the day. The committee makes the point on page 4 that:

> The question whether the retrospective validation of such procedural defects is justifiable and appropriate in all the circumstances is a matter for Parliament to determine.

The opposition absolutely agrees that in this circumstance retrospectivity is justified. We have a situation where, and SARC points this out, if legislation is not enacted, there would potentially be an immense toll on victims of crime, on community safety and on the court system. It is not appropriate for thousands of cases to be thrown out of court on what is fundamentally a technicality, even though it is a very serious technicality and one where a whole lot of people ought to have known better. A whole lot of people ought to have sworn affidavits the right way. I certainly expect that this is not a problem that will emerge again. The legislation makes it clear that if it does emerge again, there will be no mercy.

Whilst we generally have a serious opposition to the notion of retrospective legislation, we recognise, as does the Scrutiny of Acts and Regulations Committee, that there are circumstances in which it is appropriate. In this situation it is a matter for the Parliament to determine whether it is appropriate, and in passing this legislation that is the determination the Parliament is making.

Let me say again that it is a very bad precedent for legislation to be introduced when the Legislative Assembly is expected to vote on it on the same day that its members see it for the very first time and when members of the Legislative Council are expected to vote on it two days after they see it for the first time. There are situations in which that kind of urgency is necessary. It is only necessary in this situation because legislation was not introduced when it could have been, some weeks or months ago. Had the government acted when the offer of cooperation was first made, we could have had a proper process of scrutiny, a proper passage through the Parliament and an opportunity to find any errors or unintended consequences. That is the opportunity that was denied to the Parliament on this occasion, and we certainly hope that does not happen again. With those few words, I commend the bill to the house.

Ms PENNICUIK (Southern Metropolitan) — With regard to the Evidence (Miscellaneous Provisions) Amendment (Affidavits) Bill 2012 that we have before us today, the Parliament — and me, standing here representing the Greens — finds itself between a rock and a hard place. We are faced with a choice between two unhappy options. The first unhappy option is to not do anything about the situation that faces the Victorian legal community, with a large number, probably an unknown number, of affidavits having not been made according to the rules set under the Evidence (Miscellaneous Provisions) Act 1958, which have always been there. The other unhappy option is to do something about it through the legislation we have before us now, which is retrospective and will apply to events prior to 12 November 2011 and going back in time in an unlimited way. I find that to be an unhappy option as well. We are faced with two choices, and neither of them is great.

The bill before us is a fairly simple bill. In a nutshell it says at clause 5 that affidavits that were presented to the courts prior to 12 November 2011 will not be invalid, notwithstanding their not having fulfilled the requirements under section 123C of the Evidence (Miscellaneous Provisions) Act 1958. If the person signing the affidavit was not properly witnessed doing so by an authorised person, if an oath or affirmation was not taken at the time, or if the jurat at the foot of the affidavit outlining that those things occurred and when they occurred is improper, notwithstanding the fact that the affidavit has not complied with those legal requirements under the act, as long as the affidavit was made before 12 November, it will not be invalid. The affidavit will still be able to be used in support of search warrants, evidence, summonses, other warrants and other processes before the courts.

In my view it is very regrettable that we have to insert such a provision into the Evidence (Miscellaneous Provisions) Act 1958. I do not find it a happy thing to have to support. But given that we now know that the police during their amnesty discovered that this situation applies to at least 9000 serving police officers up to the highest rank excepting the Chief Commissioner of Police, who as far as I know has not admitted that.

Mr O'Brien — I think that is a maybe.

Ms PENNICUIK — Up to — okay. Mr O'Brien is qualifying what I say, but in a way we are talking about an unknown unknown. We do not really know, but we do know it goes up to the highest ranks. As Mr Pakula has said, it is unbelievable that people who should have known better, sworn members of the police, have put the Parliament and the community of Victoria in this situation.

I am also a bit nonplussed that it seems to have gone on for at least a decade. The Police Association secretary said, 'Somehow or other we stopped doing it'. It seems to me quite amazing that no-one said, 'Actually, why are we not swearing our affidavits anymore? Was some law passed in the Victorian Parliament that means that is not required?'. No, there was not. The Evidence (Miscellaneous Provisions) Act 1958 has always required it. We have been put in this situation by, mainly, serving police. The legislation is before us now because we know some 6000 cases in the Magistrates Court and hundreds of cases in the higher courts might be affected by this oversight — to put it mildly — by members of the Victoria Police.

I am also concerned about the issue raised by Mr Pakula regarding the breadth of clause 5 of the bill, which will apply to any affidavit sworn by any person prior to 12 November and in fact any document purporting to be an affidavit. I have had a conversation with the Attorney-General about what that is, but it is not defined in the bill. The government speaker needs to define what a document purporting to be an affidavit is, because I do not know that every member of the Victorian community actually knows what that means. That needs to be clearly spelled out by the government speaker, and I will certainly talk about it in the committee stage.

One thing I will say is that the second-reading speech of the Attorney-General says and the explanatory memorandum in the bill tells us:

> This bill amends the Evidence … Act … to respond to issues identified in County Court proceedings regarding the failure of members of Victoria Police to properly swear or affirm affidavits in support of search warrants.

That is the purpose of the bill. The purpose of the bill is to rectify that problem — the failure of Victoria Police to properly swear or affirm affidavits in support of search warrants. But the bill in front of us does not apply only to affidavits sworn by Victoria Police in support of search warrants, or indeed any other warrants, or summonses or other processes in order to gain evidence to put before a court. The bill could apply to any affidavit that was sworn before 12 November. That is very broad, and as I stand here now I am not sure that I know what the full implications of that will be. That goes to the issue raised by Mr Pakula, and this is the first chance the Greens have had to raise this issue.

We did not oppose the introduction of the bill because, as I mentioned earlier, we understand the extent and gravity of the problem. But I agree with Mr Pakula that the extent and gravity of the problem has been known for at least five months, so a bill such as this should have been introduced into the Parliament last year. This should not be rushed through, and it is highly regrettable that it is being rushed through now. The lower house passed this bill without a report by the Scrutiny of Acts and Regulations Committee, despite the fact that the committee itself and anybody, even without seeing the SARC report, would know that this bill raises human rights issues and clearly engages part 2, section 7 of the Charter of Human Rights and Responsibilities Act 2006 with regard to the limits that can demonstrably and justifiably be applied to the rights of citizens of Victoria.

I have said before that I do not think any house of Parliament should be passing a bill, particularly one that so obviously engages human rights, without at the very least a report from the Scrutiny of Acts and Regulations Committee. I was very kindly presented with that report by Mr O'Donohue the moment it was tabled, but that was only just over 2 hours ago. I have read the report, and it raises a lot of issues. It is regrettable that we have this bill before us and that we have not had the time that is justified to go through it. Having looked at the wording of the bill I am concerned that there may be mistakes in it and that it may go too far in some respects.

Given that the government is introducing this legislation, it would be good if it reported in some way back to Parliament within the year. Perhaps November would be a good time, as that would be a year since the County Court threw out one of the affidavits that was not lawfully made. It would be good if the government

actually came back to the Parliament with a report on how the provisions inserted by the bill into the Evidence (Miscellaneous Provisions) Act 1958 are actually operating. That would be valuable. Given the gravity of what we are doing and what the Parliament is required to do due to the situation facing it, the Parliament and the people of Victoria deserve to have that reported back to them at some time. I will follow up with the Attorney-General in that regard.

There is one issue that I have not had time to totally clarify in my mind, and I have forwarded it as a query to government members. That is that the bill purports to not interfere with a court's ability to establish whether an affidavit is a false affidavit — that is, false information is in the affidavit — or it has been lawfully made in terms of it being signed in the correct way and affirmed in the correct way, and to establish whether there is false or misleading information or whether there is perjury. I draw the attention of members to a media release they may have seen from the Law Institute of Victoria dated Tuesday, 28 February, which raises that particular issue. Having looked at the bill, I am not quite sure how a court is able to differentiate between the two. Will these provisions impact on the court's ability to follow through those issues? That is an important issue in terms of justice being done and being able to be done in the courts.

I also note that the statement of compatibility — and I presume that the committee report refers mainly to the statement of compatibility — did not mention the new offence under clause 4. Clause 4 makes it an offence for any person to unlawfully make an affidavit — that is, to not comply with the legal requirements under section 138 of the Evidence Act 2008 and the steps that need to be followed to make sure an affidavit is lawful. Clause 4 of the bill introduces that new offence with a penalty of 10 penalty units, yet that is not mentioned in the statement of compatibility. When a new offence is being created it is quite unusual for the statement of compatibility put forward by the minister to not actually mention the new offence. The SARC report does not look at how that offence may engage human rights, including the point that it is not restricted to affidavits sworn by police in support of search warrants or other warrants et cetera.

I would like the government in its response to this debate to let us know what exactly is happening in terms of retraining of police. Mr Pakula talked about how lawyers, once they have finished their law training and are out in the world, have it drummed into them how to lawfully make an affidavit. As Mr Pakula said, I am sure Mr O'Brien knows about this intimately. But what are the police doing? What procedures and measures have they put in place to make sure that all police officers also have that drilled into them to make sure this never happens again?

I note that the bill does state that after 12 November 2011 an affidavit made by any police officer or any person who has not followed the lawful steps under the evidence act will not be valid. However, if an affidavit has not been fully lawfully made — that is, if the two people were not present when it was signed — and the court is aware of that, the court may still, as it can now under the evidence act, use its discretion to admit or not admit the evidence if it wants to and if the evidence satisfies the factors outlined in section 138, whereby a court can use its discretion to admit the evidence if it is in the interests of justice to do so.

We have before us an important and far-reaching bill. As I mentioned, it is unfortunate that we have to insert these provisions into the evidence act in Victoria, but we have two unhappy options before us. The Greens will not oppose the bill. We are not happy, but we understand the problem is not of the government's making. The fact that we have to rush it through the Parliament in this particular sitting week is of the government's making and it should not have happened. I feel I have not had the chance to really go through the bill and consult on it. I was toying with the idea of putting up an amendment to restrict its operation to affidavits sworn by police in support of search warrants or other warrants before the court. But, having discussed it with the Attorney-General, I have reluctantly accepted that it is government policy that the legislation should capture any other warrants. However, I still have doubts about that, and I want to put that on the record. I still doubt that this is the way to go. Given that that is the only problem we are supposed to be addressing, it is a concern that clause 5 is much broader than that.

Those are my remarks by way of the second-reading debate on this bill. I will have quite a few questions in the committee stage, which I have already forwarded to the government to assist it in providing the answers for the Parliament and the people of Victoria.

Mr O'BRIEN (Western Victoria) — It is with great pleasure that I rise to speak on the Evidence (Miscellaneous Provisions) Amendment (Affidavits) Bill 2012. It is an honour to make a contribution on this very important bill. I have listened carefully to the debate in this chamber, to the contributions of Mr Pakula and Ms Pennicuik, and I have also read *Hansard* in relation to the debate in the other place. I am a member of the Scrutiny of Acts and Regulations Committee, and I have considered that aspect as well.

I will endeavour to complete my contribution after lunch. I should say from the outset that the purposes of this bill, clearly stated in clause 1, consist of two very important parts that should be emphasised. The purpose of the bill is to amend the Evidence (Miscellaneous Provisions) Act 1958 to, firstly, address procedural defects in relation to certain affidavits and, secondly, to create an offence of making a false and misleading statement in relation to the swearing or affirming of affidavits or documents purporting to be affidavits. The bill will have retrospective operation from 12 November 2011.

It is very rare — some have described it as exceptional — that the government, or indeed the Parliament, resorts to retrospective legislation. But in this case it is warranted because of the scale and seriousness of the problem. With potentially 9000 affected police and some 3000 cases in the Supreme and County courts and 300 Magistrates Court cases, it is important that this Parliament exercise its sovereign power to carefully consider and enact retrospective legislation to deal with this problem. At the same time it must ensure that the independence of the courts is preserved in dealing with issues relating to the veracity of any evidence admitted under affidavits both prior to and after this provision's application. Issues of veracity remain a matter for the courts. However, the retrospective application of the questions of admissibility and therefore the impact on validity is the clear intent of this government in introducing this legislation.

I will respond to the individual contributions after lunch, but I will correct the assertion by speakers that the bill is being given a rushed passage. It is not; it is being given an expeditious and speedy passage, which is at times necessary to legislate in a way that best balances interests that have been carefully considered by the government and that I note have been accepted by the opposition and the Greens, as indicated by their support for the bill. I note that the bill has also been considered by the Scrutiny of Acts and Regulations Committee, which has now tabled its report.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

WorkSafe Victoria: premiums

Mr LENDERS (Southern Metropolitan) — My question is for the Minister for Employment and Industrial Relations. The Treasurer has announced a $471.5 million withdrawal from the Victorian WorkCover Authority, hence reducing the authority's ability to cut premiums. Given the minister's strong views on productivity and employment, what impact will these foregone cuts have on employment and productivity in Victoria?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank the member for his question. As opposed to yesterday, when Mr Lenders was wondering whether I had brought a cut lunch to work, today we are on the real issue of government accountability and responsibility. In terms of the specific question about WorkCover, that falls within the responsibility of the Assistant Treasurer, Mr Rich-Phillips. I note the member's reference to the impact on employment. However, I remind those opposite that the most recent Australian Bureau of Statistics labour force data indicates that Victoria has the second lowest unemployment of any state in Australia. Obviously Western Australia has the lowest.

For this state to remain globally competitive, we need to ensure that we develop policies and practices that will make us more, dare I say the word, productive and make our workplaces more flexible. That is the important point about employment in this state. You create an environment that allows for companies to become productive and you allow companies to be flexible in their workplace employment practices. That challenge is, and will remain, this government's focus. We have said before that we have challenges, which include the high Australian dollar, our relatively high domestic interest rates, the intense global competition and, needless to say, Labor's carbon tax. We know Labor is persisting with this carbon tax at a time when it is going to cost jobs in Victoria. That is not the only job killer that Labor is interested in.

Mr Lenders — On a point of order, President, my question was a specific one about state administration and the cutting of WorkCover premiums. The minister is now making a commentary on national government legislation. I ask you to bring him back to state administration, which the question raised.

Mr Drum — That is not a point of order.

The PRESIDENT — Order! It can be a point of order, Mr Drum, in terms of relevance. I ask the minister to return to state administration and to address the actual question. I can accept that a minister might want to put an answer into context, and I take it that the remarks Mr Dalla-Riva has made to the point are contextual. I think it is an appropriate time for him to return to addressing the actual question.

Hon. R. A. DALLA-RIVA — I remind members again that in the context of this government's position in terms of employment policies, which was the issue that was raised, it is focused on ensuring a productive environment that delivers flexibility to the workplace, that encourages investment in this state and the generation of jobs and that allows for the continuation of the great work the Baillieu government has been doing over the last 14 months.

Supplementary question

Mr LENDERS (Southern Metropolitan) — During the last 12 years 75 per cent of the profit — if that is the correct word — out of WorkCover has been returned in premium cuts and 25 per cent has been returned in benefit improvements. On that ratio, a withdrawal of $471.5 million from the authority will mean extra business costs of the order of $300 million. I repeat my substantive question to the minister: what will be the effect on productivity and employment of this Baillieu government decision to inflict a financial penalty or cost on Victorian businesses?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I find it staggering that the Labor Party would come in here and ask a question about imposts on businesses. This is from the party that is imposing the most draconian tax Australians have seen for a long time. The carbon tax in this state, in this country, will have a significant impact on the opportunities for Victorian businesses. The Greens-Labor alliance is more interested in imposing on businesses tax burdens that have never been seen before. I think the question itself demonstrates a lack of understanding of the effect the tax will have on Victorian businesses.

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

Nurses: enterprise bargaining

Mrs KRONBERG (Eastern Metropolitan) — My question is directed to the Minister for Health, who is also the Minister for Ageing, the Honourable David Davis. I ask: can the minister inform the house of any further developments relating to the enterprise bargaining agreement negotiations with the Australian Nursing Federation (ANF) union?

Hon. D. M. DAVIS (Minister for Health) — I am pleased to make a comment on this matter in the house today, and I thank the member for her question. The precise details of negotiations are matters for the groups involved, but let me be clear: the government has a high regard for nurses and is determined to reach a good conclusion to this enterprise bargaining agreement phase.

The 86 health services across Victoria want a strong union workforce, a union workforce that is well paid and able to provide the best care to patients. What the government and the 86 Victorian health services do not want is a group of union officials moving around the state defying the orders of the Federal Court of Australia and the orders of Fair Work Australia to stop their particular bans. It is important to note that today the bans have increased the impact on patients. There have been a further 30 cancellations, I am informed today, of elective surgeries, including another category 1 case. I should add that this brings to 230 the number of cancellations ordered by the ANF union, and 31 category 1 patients have been involved. I think it is important to put on record — —

Honourable members interjecting.

Mr P. Davis — On a point of order, President, the opposition has finally stopped talking over the minister. I cannot actually hear the minister's response to the question, so I would ask you to direct the members of the opposition to show a little bit more respect for the minister.

The PRESIDENT — Order! In regard to the point of order, I think Mr Davis is right. I do have concern about the level of volume of interjections from Mr Pakula in particular. It is repetitive interjecting as well, so I am not sure that it is helpful to the house or that it in any way advances the information provided by the minister. I ask members to my left to show a little bit more restraint.

Hon. D. M. DAVIS — The opposition may regard this as a matter of mirth in some way. I do not. Let me be quite clear: the consequences of these bans and cancellations are very severe and impact quite severely on individuals. I want to give an example to the chamber. The example I want to give concerns Ballarat today, where the ANF union members in the operating theatre suite indicated that they do not regard children as being exempt from the industrial action that is being undertaken at the moment. They deferred the list until 11 o'clock this morning. This is a group of union officials deciding which children will get their surgery today and which children will not.

Given the reduction in the length of the operating session, it is likely that three children will have their surgery cancelled at Ballarat this morning. The children

are aged three and four. They have been in preparation for the surgery overnight. I think these are quite serious matters: young children having their surgery cancelled by the action of the ANF union; the decision of union officials to intervene in clinical decisions, deciding which surgeries will go ahead and which surgeries will not; union officials who may or may not have the capacity to make those decisions — —

Hon. M. P. Pakula — They're not making them; the nurses are.

Hon. D. M. DAVIS — I have to say ANF officials, who may be specialists in certain areas or may not, are making decisions, hospital by hospital.

At another regional hospital an ANF official walked in to see a senior official yesterday and said, 'We're in control now'. I have to say that this is a very serious matter where individual union officials are controlling surgery for vulnerable patients. The government remains committed to finding a resolution, but it is very hard where there is defiance of orders of the Federal Court and Fair Work Australia.

Questions interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! It is my pleasure to inform the house that we have in the gallery visitors from the Philippines. It is the sixth delegation to Australia from the Philippines, on this occasion led by the Honourable Alfredo Garbin, Jr. The delegates are members of the Philippine Centre of Young Leaders in Governance. We welcome them to Australia, Melbourne and our Parliament.

QUESTIONS WITHOUT NOTICE

Questions resumed.

Vocational education and training: providers

Ms PENNICUIK (Southern Metropolitan) — My question is to the Minister for Higher Education and Skills. The ABC *7.30* program that aired on 20 January outlined some disturbing trends emerging within the provision of vocational education and training (VET) in Victoria. These include the provision of certificates and diplomas in extremely short periods of time as well as the offering of inducements to potential students in order to attract taxpayer funding. Similar practices have been reported to the Essential Services Commission and elsewhere. I have also had anecdotes relayed to me about people who have enrolled with private providers in certificate II and certificate III-level courses finding that the qualification requirements have not been fully met through their courses and having to go back to TAFE, which has to reteach those students, even though they may have been enrolled in certificate IV and diploma courses. Is the minister aware of these problems, and what is he doing about them?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Ms Pennicuik for raising this matter. It gives me an opportunity to further elaborate on some matters that I have already raised in the house in respect of improving the quality of programs being delivered in VET across Victoria. The issues she raises — that is, reports of courses being delivered in what is seen as an extraordinarily short time and financial inducements being offered to individuals or clubs to which those individuals belong — have been a matter of serious concern which we have responded very promptly to from a departmental level.

With regard to short cuts in quality, I have said quite a number of times now that it remains a no. 1 priority of mine to address those issues and ensure that anybody engaged in less than appropriate practices is dealt with severely. To that effect the department has increased the standards which providers need to meet before they will be offered a contract to deliver in 2012. Already there are between 40 and 50 providers who were contracted to deliver in the previous year but have not meet the new standards and will not be delivering any subsidised programs this year. They now do not have a contract with Skills Victoria.

Moreover, I have indicated too that the practices of some organisations are now under active investigation. I think I mentioned two weeks ago that one provider — a very significant private provider — has been deregistered by the VRQA (Victorian Registration and Qualifications Authority) because of practices which were totally undesirable in terms of quality and the way it practised. Another nine remain under investigation at this point in time, and in some cases payments for 2011 have been suspended while the matter is further investigated.

Within the budget period coming up I expect I will be in a position to announce some further measures which will go directly to the issue of ensuring that we have quality control over what is delivered here in Victoria. I might add that this has been a challenge, because the system I inherited was a market-driven system which did not have some of the quality control architecture over the top of it. Consequently, with the full introduction of the training guarantee in January

2011 — one month after I assumed this position — there simply were not appropriate levels of control overarching the system.

I can assure the member, through you, President, that every effort is being made to ensure that inappropriate practices by providers, both private and public, are being addressed. The issue of quality remains the no. 1 priority for this government to ensure that every dollar of government money spent on training is used effectively to achieve a good outcome and that the not inconsiderable personal component of investment in training is therefore also put to good use. Quality is the no. 1 priority.

Supplementary question

Ms PENNICUIK (Southern Metropolitan) — The minister mentioned the reforms put in last year and the bills that went through the Parliament. I raised the issue then of the ability to monitor private providers. The minister mentioned the Victorian Registration and Qualifications Authority and the department, so who is actually doing the monitoring and what resourcing has been put in place, rather than people having to complain? As I mentioned in my first question, the other issue is that there are students who have gone through their training and used their TAFE subsidy but who have a worthless certificate. What happens to help them get the proper training they need when they have already gone through a course that the minister has said has not been good enough?

Hon. P. R. HALL (Minister for Higher Education and Skills) — There a number of questions there, and I will try to recall each of those points to respond to in turn. One of those questions was who does the proactive monitoring. In terms of the VRQA and the registration process, there is a cycle of audits every five years, but where the VRQA detects that there needs to be more regular monitoring, it has the ability to step in earlier and undertake regular audits if it has any evidence to suggest that that should be required — and it does that. Skills Victoria is not just waiting on a complaint which may arise. If we see some aberrant behaviour in terms of monthly claims submitted by providers, then we proactively follow them up as well. I personally follow up comments from people. I rang a lady who wrote a letter to the *Herald Sun* last Saturday in which an instance of inappropriate behaviour was raised. Again, we are taking every measure to address this issue.

India: trade delegation

Mr O'DONOHUE (Eastern Victoria) — My question without notice is to the Minister for Technology, Minister Rich-Phillips, and I ask: can the minister inform the house of outcomes arising from the India super trade mission?

Hon. G. K. RICH-PHILLIPS (Minister for Technology) — I thank Mr O'Donohue for his question and for his interest in last week's super trade mission to India. The Victorian government is very committed to opening new market opportunities for Victorian companies. I was therefore very pleased to participate with the Premier, the Minister for Innovation, Services and Small Business, and the Minister for Manufacturing, Exports and Trade in the super trade mission to India, which I understand was the largest trade mission to ever leave Australia and the second largest trade mission ever into India. Over the course of the mission 220, or thereabouts, Victorian companies were represented, with around 280 delegates attending. For many of the delegates in those companies it was the first opportunity they had had to go to India to explore business opportunities, and the opportunity would not necessarily have come about without the prospect of the trade mission.

Over the course of the mission we had an opportunity to consolidate existing relationships, and I was very pleased to meet with representatives from Australian companies who have expanded into India, such as Attra — and I know that ministers in the previous government had the opportunity to visit Attra as well. Likewise, there are Indian companies which have expanded into Australia, such as Infosys. For members of the delegation who visited the Infosys campus in Bangalore, it was just extraordinary to see the sort of work they are doing.

It was also an opportunity to formalise new relationships. I was very pleased to participate with RMIT and ABB India in the signing of a new joint venture for the Australia-Indian Research Centre for Automation Software Engineering. This is a very important initiative between ABB and RMIT, which will lead to the creation of 300 new jobs here in Victoria. We also had a great signing between HCL Technologies and La Trobe University, a collaborative undertaking for research, development and commercialisation which will also create a pathway for graduates from La Trobe to work with HCL.

In the aerospace area I was very pleased to participate in the sod turning for the establishment of a new maintenance, repair and overhaul centre by Vyoneesh

Rosebank Technologies. This is a partnership with Rosebank Australia, which is a major operator in the aerospace sector in Victoria. That facility will undertake maintenance repair and overhaul on rotable assemblies for the Indian aviation industry and will draw on the expertise which has been developed here in Victoria.

The third element of the mission was to create new opportunities for the companies that were on the mission. I was very pleased to work with around 50 technology companies on the mission and a further 20 aviation-aerospace companies on the mission in terms of creating opportunities through business matching, creating opportunities for expanding into the Indian market, as well as opportunities for investment which those companies would not otherwise necessarily have had without participating in a mission with the critical mass we had on the super trade mission. The mission has been a great success for Victoria, and it reinforces the Baillieu government's commitment to creating new opportunities for Victorian businesses.

Employment: labour force data

Hon. M. P. PAKULA (Western Metropolitan) — My question is to the Minister for Employment and Industrial Relations. In his answer to the first question he was asked today he referred to the most recent labour force data. In that labour force data did the number of full-time jobs in Victoria go up or down?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — As I indicated before, we are very pleased as a government to see that the unemployment rate in this state is the second lowest of any state in Australia. Unfortunately what we find is an opposition whose members are more interested in talking down the economy than they are in talking it up. Our focus is on driving up investment and generating jobs; their focus is on talking down the economy and bringing in a carbon tax.

Supplementary question

Hon. M. P. PAKULA (Western Metropolitan) — I fail to see how a request for information from the minister about labour force data can be construed as talking the economy up, down or sideways. We simply ask the minister that he tell us whether the number of full-time jobs in Victoria has gone up or down. If he cannot tell us that, perhaps he could tell us how the Victorian full-time job figures compare with the national figures. Given that our understanding is that the number of full-time jobs in Victoria fell by some 15 000, can he tell us how that compares with the national figures for full-time jobs?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — All we find out is that question time for the Labor opposition is to drill through every document and say, 'Minister, do you know that specific question?'. I will say that at the broader level in Victoria the unemployment rate is second only to that of Western Australia. That is what we should be proud of. That is what we are proud of: that we are talking about delivering a strong economy here in Victoria and delivering strong opportunities for jobs and employment. What we find opposite is an opposition more interested in looking after its own jobs than it is in the jobs of Victorians. Our view is that we are on track to deliver the outcomes that we are seeing right now.

Housing: Avondale Heights

Mr ELSBURY (Western Metropolitan) — My question is to the Minister for Housing, the Honourable Wendy Lovell. I ask: can the minister outline to the house any initiatives to support the accommodation needs of older Victorians in Avondale Heights?

Hon. W. A. LOVELL (Minister for Housing) — I thank the member for his question and his ongoing interest in vulnerable older people in Melbourne's west. Last Thursday I had the pleasure of opening the new Wintringham Jack Gash units in Avondale Heights. There are 18 self-contained units for low-income aged persons who are at risk of homelessness or have been homeless. The units have been built on the site of the existing Ron Conn Nursing Home, and a fantastic synergy has been created between the units for the aged people and the nursing home that also provides support and care for older vulnerable Victorians. It is also fantastic to see the two facilities located together, because Jack Gash and Ron Conn were actually mates. They were both former residents of Gordon House. It is fantastic that these facilities have been named after them and that they are side by side as a symbol of the great mateship shared by those two Victorians.

The government allocated $2.2 million in funding towards this. There were contributions from Wintringham and also a generous contribution of $270 000 from the Peter and Lyndy White Foundation. It is fantastic to see philanthropic donations going to providing accommodation for older, vulnerable Victorians. I would like to congratulate Allen Kong Architect and Keith Miller and Sons Builders on the

facility out there. It is a wonderful environment for these vulnerable Victorians to live in.

We also met some of the tenants. June Barry is a new tenant, who was located at Laverton before. She told me she had lived in a caravan park in Seymour for some time and had moved on to Laverton. But now she is in Avondale Heights. She also told us that while the units were being built, she would travel from Laverton to Avondale Heights to see the unit being constructed. We met also with Glenn Currey. Glenn is a former resident of Gordon House. Through this initiative he has been able to gain stable accommodation after many years in transient accommodation, and this has improved his health.

Bryan Lipmann and his team at Wintringham do a fantastic job; they support truly vulnerable aged Victorians. I congratulate them on this initiative and all their developments around Victoria.

Employment: penalty rates

Hon. M. P. PAKULA (Western Metropolitan) — My question is to the Minister for Employment and Industrial Relations. I refer the minister to the comments of former Premier Kennett quoted in the *Herald Sun*, saying that one way of saving jobs during the current jobs crisis is to slash penalty rates, and I ask: are Mr Kennett's comments consistent with the policies of the government?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — At the end of the day, it just shows you the hatred there is for Mr Kennett. What it demonstrates is that the Labor Party seems to have a very big focus on jobs today. Yesterday it was about my lunch money and how much I am allowed to bring to Parliament for lunch. Today those opposite are wanting to know about jobs. I have said this before: our commitment to jobs and the generation of jobs is paramount. That is the key driver of this government. That is why, for example, we went to India to look at opportunities for manufacturers.

The Minister for Technology, Mr Rich-Phillips, raised that point just before. We in Victoria are focused on strengthening the economy and strengthening employment. That is our focus — not the diatribe that comes from those opposite.

Supplementary question

Hon. M. P. PAKULA (Western Metropolitan) — I note that the minister assiduously avoided answering the question, which was whether or not Mr Kennett's comments were consistent with the government's policy. So I will ask it even more directly: will the minister rule out the Victorian government supporting any moves to remove penalty rates from Victorian workers as part of its so-called plan for jobs?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Again, I thank the member for his question because, as we know, we have been seeking to have a more flexible and productive workforce. In fact I am very pleased to say that the government is focused on looking at the Fair Work Act 2009. This government put a submission to the federal government about delivering flexibility and more productivity within the fair work act. We made applications to the Australian building and construction commissioner review. We as a state supported the retention of the commissioner.

Those opposite, the Labor Party, with the Greens, want to in effect abolish it — to make it a toothless tiger. We have the SDA (Shop Distributive and Allied Employees Association), and Mr Somyurek fails to get a question asked about the National Retail Association — —

The PRESIDENT — Time!

Planning: Victorian Civil and Administrative Tribunal hearings

Mr FINN (Western Metropolitan) — My question without notice is to the Minister for Planning, and I ask: can the minister inform the house about what action the Baillieu government has taken to decrease delays at VCAT (the Victorian Civil and Administrative Tribunal)?

Honourable members interjecting.

Hon. M. P. Pakula — On a point of order, President, did I hear Mr Finn right? Was his question: what is the government doing to increase delays at VCAT?

The PRESIDENT — Order! I understand it was 'decrease'.

Mr Finn — Decrease, yes.

Hon. M. J. GUY (Minister for Planning) — You can tell it is Thursday afternoon. There are sandwiches one day and the Labor Party's hearing the next! I thank Mr Finn for his question about the government's plan to decrease delays in the VCAT system. As you, President, and members of this chamber would know, the Baillieu government has moved swiftly to confront the very large backlog at VCAT that it inherited. We have put $1 million forward to the VCAT planning list

to ensure that those planning delays can be cut by finalising some 800 of the 1800 cases in the backlog over the next six months. This is exceedingly important in bringing certainty to councils, to communities and to those who have cases pending.

Mr Tee interjected.

Hon. M. J. GUY — I take up the interjection of Mr Tee, who seeks to rubbish this announcement and rubbish the initiative of the government. He seeks to rubbish the government's $1 million one-off investment in VCAT to at least have those cases heard. I would like to quote from a government press release:

> 'Extra funding will give VCAT the resources it needs to hear applications for review and make decisions within a reasonable time frame.
>
> …
>
> 'New funding for VCAT shows we are dedicated to properly resourcing our courts and tribunals to provide efficient and timely access to justice …

That quote is from a government press release dated Monday, 23 September 2002, when the then Labor government — and Labor members are now rubbishing this announcement — put $1 million, quite rightly, in to help with VCAT delays. The last 30 seconds of interjections have rubbished what this government has done. I have quoted the former Labor government — and I think Mr Tee might have been an adviser to the then minister under that government — which members opposite have rubbished. It actually did that. I support the Labor government of that time for making that move. What the Baillieu government has done is very similar, but it has gone further.

I have established a working group to look at the way VCAT can, with the planning list, obtain additional funding, so I do not have to do what Mr Hulls, the then Attorney-General, and Ms Delahunty, the then Minister for Planning, did in 2002, and what I and Robert Clark, the Attorney-General, have done in 2012 — that is, put a million dollars into the planning list. We are putting together a working group over the next 12 months to provide advice to the government, including the Attorney-General and me, to ensure that we can avoid the necessity of doing this in the future. That will ensure that we get a funding model that works for the future, so that when the VCAT system is faced with delays to the extent that we have inherited, we do not have to have this one-off injection. The funding system will work over a period of time. That has been addressed by Mr Clark and me in 2012, and Mr Hulls and Ms Delahunty addressed it in 2002, but the current opposition does not support it, because it supports long delays at VCAT.

Public sector: job losses

Hon. M. P. PAKULA (Western Metropolitan) — My question is to the Minister for Employment and Industrial Relations. On Tuesday in the other place, Ms Asher, who is the minister who coordinates the Department of Business and Innovation, suggested that DBI would face perhaps disproportionate staff cuts as a result of the so-called sustainable government initiative because of the large number of administrative and back-office positions in DBI. How many DBI officers work in the minister's portfolios, and what percentage of those would the minister describe as administrative or back office?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I am sorry, President; I was just reading one of the spin documents they were sending out to residents when Martin Pakula was the Minister for Public Transport.

An honourable member — That was in the AG's report.

Hon. R. A. DALLA-RIVA — That was in the Auditor-General's report; sorry, I digress. I say to the future leader of the Labor Party opposite, under Labor — —

Hon. M. P. Pakula — He bags and praises me in the one sentence.

Hon. R. A. DALLA-RIVA — Sorry, I will wait for Mr Pakula to stop. Can I go now?

Mr Somyurek — You're the speaker. Hurry up.

Hon. R. A. DALLA-RIVA — No, that is all right. The future Labor leader was speaking. Under Labor the size of the Victorian government grew from 12.5 per cent of the economy in 1999–2000 to almost 15 per cent in 2009–10.

Mr Lenders — On a point of order, President, Mr Pakula asked a specific question on government administration post the mini-budget in December. The minister is now going into a history lesson of comparing and contrasting governments. I ask you, President, to bring him back to the specific question from Mr Pakula on government administration post-December 2011.

Hon. D. M. Davis — On the point of order, President, the budget update which the Leader of the

Opposition referred to makes a number of those very same points the minister was making.

The PRESIDENT — Order! I am not sure about the documents, so I cannot make a judgement on that. I simply say that I am perturbed that when a number of questions have been put to the minister today there has been, in my view, no attempt to answer any of them. There has been a much higher order of evasion in terms of addressing those questions than I have observed in a long time. That concerns me, because it brings into question the whole premise of question time and the credibility of questions and answers on issues that I think are relevant. In a couple of cases I thought the answers would have been relatively straightforward. I accept that the document the minister is now reading from may well address the question that has been put. I certainly hope so.

Hon. R. A. DALLA-RIVA — As I have said before, what this government is doing is bringing back the Victorian public service staff (VPS) numbers to the 2007 size. What I was trying to explain — if I were allowed — was that the previous government was actually expanding the public service. What we are doing, as a government, is applying the 3600 job cuts that are being announced to VPS non-service delivery and back-office roles. The sustainable government initiative does not apply to front-line service delivery roles. Exemptions will also apply to specialist support staff to ensure that skills critical to operational needs are maintained and service delivery is not impacted. In terms of my particular area, this will unfold over two years.

I am always pleased to talk about our strategy, because the strategy includes a business engagement model which is about delivering businesspeople from the back office, where they were stacked by the previous government, to the front line where they are now engaged with business. Business engagement is a very important model for this government.

What I am saying in terms of our position and our department is that we are very focused on business engagement, and that one-to-one engagement is very important. This government is very focused on supporting businesses through its strategy and on ensuring that its policy directions are understood. I am very pleased that the Department of Business and Innovation is working with industry to deliver our outcomes.

Supplementary question

Hon. M. P. PAKULA (Western Metropolitan) — I take up the minister's comment about his business engagement strategy. Is he telling the house that those Department of Business and Innovation staff who are involved in what he describes as his new business engagement strategy are all considered front line and are therefore immune from the cuts, or does he agree with Ms Asher, the Minister for Innovation, Services and Small Business, that in fact DBI staff have predominantly back-office and administrative functions and therefore will have a disproportionate number of cuts under the sustainable government initiative?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Our focus is on supporting business and, through this strategy, ensuring that we deliver real one-to-one engagement. That is the focus of our policy, and we will ensure that we deliver that outcome.

Northern Melbourne Institute of TAFE: facilities

Mr ONDARCHIE (Northern Metropolitan) — My question is for the Minister for Higher Education and Skills, who is also the Minister responsible for the Teaching Profession, the Honourable Peter Hall. I ask: can the minister advise the house on recent initiatives that improve vocational education opportunities for students attending the Northern Melbourne Institute of TAFE (NMIT)?

Hon. P. R. HALL (Minister for Higher Education and Skills) — Mr Ondarchie is a very strong advocate for not only NMIT but also other educational institutions in his electorate. He is forever insisting that I get out there and visit La Trobe University, NMIT and some of the schools in his electorate.

I was delighted to be able to respond to the constant advocacy of Mr Ondarchie and went to visit the Epping campus of NMIT two weeks ago yesterday. I was particularly pleased to be there on two accounts. First of all, it was the opening of a new student centre at the Epping campus, which is a $10.5 million project that delivers some wonderful amenities for students at that campus. The second reason I was delighted to be there was that this year is the — —

Ms Mikakos interjected.

The PRESIDENT — Order! The minister has not been saying anything particularly provocative or controversial. The house should listen to his answer in silence.

Hon. P. R. HALL — There are some mutterings on the opposition benches. On the occasion I was out there I welcomed the presence of both the member for Thomastown and the member for Mill Park in the Assembly. I acknowledged their presence there and the fact that the master planning for the Epping campus started well before my time as minister. Ms Mikakos would know, if she had been to any event at which I have spoken, that I duly recognise those who have a hand in any work leading up to it, as I did during the time of the previous government. I reject any thought or criticism that such things are not recognised. I always do that.

On this occasion I was also pleased to visit NMIT because it is the occasion of its centenary year, it having started in 1912 as the Collingwood Technical School. NMIT is 100 years old this year and has a special website that looks back at its history and achievements over that period of time. Anybody who represents that area or is interested in the fortunes of NMIT should have a look at the website.

For 24 of those 100 years the CEO of NMIT has been Mr Brian MacDonald. This is Mr MacDonald's last week in that position. He is taking a well-deserved retirement after long and distinguished service to NMIT. Mr MacDonald is a straight-shooting man, who leaves no question in regard to his views on subjects. I respect that and think he has been a great advocate for not only this institution but also the vocational education and training (VET) sector in Victoria. I am sure others will join me in wishing him well with whatever his future may hold beyond NMIT.

The new student centre at the Epping campus is a wonderful facility. It contains a state-of-the-art library that is going to cater to and look after the needs of the 3700 VET and higher education students who attend programs at the Epping campus. It has some wonderful computer facilities and a state-of-the-art gymnasium for students, which is expected to be open to the public shortly. It also has a front reception facility for the whole of the Epping campus. It is a wonderful addition to the Epping campus, a campus that serves a growth area of Melbourne extremely well.

I wish all at Epping well. I particularly thank Mr MacDonald for his wonderful service to VET and NMIT in the 24 years he has served as CEO.

QUESTIONS ON NOTICE

Answers

Hon. D. M. DAVIS (Minister for Health) — I have an answer to the following question on notice: 108.

QUESTIONS WITHOUT NOTICE

Answers

Mr TEE (Eastern Metropolitan) — On Tuesday the Minister for Planning took on notice my question about whether or not he had spoken to the Premier about Ventnor. I wonder if today he is able to answer the question about whether or not he has spoken to the Premier.

Hon. M. J. GUY (Minister for Planning) — I think there is an outstanding answer I have in writing to Mr Pakula, and there is also one for Mr Tee, which I will endeavour to get to him as soon as possible.

RULINGS BY THE CHAIR

Members: unparliamentary expressions

The PRESIDENT — Order! Earlier today during a 90-second statement by a member for Western Metropolitan Region, Mr Finn, I sought a withdrawal of a particular term he used in that statement. I understand that Mr Finn felt some consternation about that decision, but I want to make some points in this regard. I draw in part on previous rulings of the Chair, and in particular a ruling by Mr Hall in this place in his capacity at that time as Deputy President. In April 1998 his ruling was:

> It was important that, when members referred to a member of the public, they did so in relation to the individual's actions and did not directly criticise the individual him/herself.

In 2004 President Gould made this ruling:

> When a member of the public is being referred to, all members should be cognisant of the fact that those individuals do not have an opportunity to defend themselves, and members should be very careful with what they say.

That is my concern this morning. I make this point for clarification. I understand that members do not want unnecessary constraint imposed on robust debate and their opportunity to make contributions in this place. In taking up Mr Hall's ruling in particular, I have the view that a criticism can be conveyed in a term or a description. This morning Mr Finn referred to Mr Flannery — who I might add was in 2007 named

Australian of the Year by a fairly conservative prime minister, John Howard — as a shyster.

Mr Finn interjected.

The PRESIDENT — Order! That was the word that was used. It was 'shyster'.

Mr Finn interjected.

The PRESIDENT — Order! I do not want to be pedantic about this, Mr Finn, because it is a serious matter. Mr Finn referred to Mr Flannery as a shyster, and from my point of view that implies that Mr Flannery is a person who engages in sharp practices. That is a dictionary meaning of the word — the dictionary has had a bit of a workout this week! In my view using that term with respect to Mr Flannery on this occasion was not in keeping with parliamentary standards. This is in the context of my belief that remarks should not be made to denigrate or ridicule individuals who are outside this place simply because we disagree with their views.

There is no doubt that Mr Flannery has provocative views that are contested by many people. Notwithstanding that, that does not make him a person who in any way could be described as engaging in sharp practices. In no way should he be denigrated for those views. I think it is the responsibility of every member to exercise parliamentary privilege judiciously in their remarks and their descriptions of people who are outside this place and who do not have an opportunity to defend themselves from those remarks.

It occurs to me that were the term that was used applied to Mr Flannery outside this place, it could well be subject to a defamation action. In that context I do not believe it was an appropriate comment to make or in keeping with parliamentary standards. That is the explanation of my comments earlier today.

Mr Finn — On a point of order, President, I hear what you say, and I hear your defence of Mr Flannery, but I would like to know if the rulings made by Mr Hall and President Gould were made prior to the introduction of the ability of an aggrieved member of the public to make a statement in this house in their own defence.

The PRESIDENT — Order! No, the right of reply existed before each of those rulings, in my understanding. It is a fairly long-established practice available to people.

EVIDENCE (MISCELLANEOUS PROVISIONS) AMENDMENT (AFFIDAVITS) BILL 2012

Second reading

Debate resumed.

Mr O'BRIEN (Western Victoria) — Again I wish to confirm that the government considers this a serious bill, and I wish to thank members for their contributions. I note the comments of Ms Pennicuik from the Greens to the effect that the issues that have resulted in the consideration of the bill are not of the government's making. For my part I wish to say we do not seek to cast any aspersions on the former government or any other party in relation to the making of these issues. Indeed the member for Altona in the lower house, citing Victoria Police Association secretary Mr Greg Davies, described the practice as an effectively cultural practice that arose in the police force. Unfortunate and regrettable as it was, it is not something we wish to make any political point about. It is important, however, that this Parliament considers these issues as expeditiously as it is doing.

I reiterate that the government's intention in relation to the retrospectivity was clearly stated in the second-reading speech, the debates in the other place, the explanatory memorandum and the statement of compatibility. In addition, we have had the consideration of the Scrutiny of Acts and Regulations Committee; SARC reported today. Shortly we will potentially be having a committee stage in this house to consider any further issues. This is the house of review, and at times it needs to act not in a rush but in an expeditious manner.

As outlined in the contribution of the Deputy Premier, who is also the Minister for Police and Emergency Services, had the bill been brought into the house in a way that allowed the extensive public debate that might be appropriate in other cases, with adjournments and carryover, and had debate in this house, in the other place or in a committee been extended beyond this week, then the potential — and I say potential — consequences could have been far worse than the situation the government finds itself in.

The government is here not through its own fault, nor through the fault of the opposition, but to deal with a problem that has arisen and been identified by the court system in relation to the unfortunate practice of affidavits not being properly sworn and witnessed. The government is dealing with that problem in a carefully considered manner. On the question of how the

government has responded, which is in a sense the only criticism — it is not a criticism of the legislation but perhaps of the decisions of the government in responding to the issue — the position has also been outlined by the Deputy Premier. The position is that the government had to consider the impacts of this issue instead of bringing rushed or ill-considered retrospective legislation into Parliament.

Retrospective legislation is a rare creature. It is a sovereign right of the Parliament to impose it, but that is rarely done because of its potential impact upon rights such as human rights, legal rights, vested rights and so on. As the government sees it, it is also a right — and duty — of the Parliament to respond to issues that occur and in rare circumstances to use retrospective legislation. However, the manner of such a response needs to be carefully assessed, considering the extent of the problem and potential consequences.

That brings me to what this bill does. The bill is relatively short in the sense of the number of provisions contained within it. There is a concise explanation in the second-reading speech and the explanatory memorandum. There is a very important clarification of the government's intention, which is to retrospectively correct the problem of the admissibility of these affidavits and therefore confirm the validity of the actions that have been taken upon them whilst nevertheless — and this is the other part of the purposes that have been identified in the various documents I have referred to — confirming that the issues relating to veracity of evidence, truthfulness or otherwise of what deponents have said in affidavits will remain an issue for the courts to determine in their usual manner in the instances of any cases before the courts, save for the very specific exemptions provided in the bill.

It is probably timely to refer to those exemptions. Clause 5 inserts new section 165 into the principal act, the Evidence (Miscellaneous Provisions) Act 1958. New section 165 sets out the circumstances in which this legislation will operate in relation to the admissibility of evidence under new section 165(1)(a)(i) through to subsection (1)(a)(v) and subsection (1)(b). The consequences are set out in new subsections (1), (2) and (3). Subsections (4) and (5) are respectively the exemption and savings provisions in relation to retrospectivity. Time permitting, I will return to that after the luncheon break.

It is also important to recognise the other new principal provision which is inserted by clause 4 of the bill, new division 12 in part IV, which sets out the new offence of a false and misleading statement and the penalty units attached to that. That is designed to reaffirm the importance of swearing an affidavit properly.

Sitting suspended 12.59 p.m. until 2.03 p.m.

Mr O'BRIEN — The provisions of the bill are outlined in the second-reading speech and the explanatory memorandum, and I will not be going through it clause by clause. As I said, I will endeavour to respond to some of the questions raised in the contributions by opposition members and the Greens. In doing so I wish to confirm that the SARC report has now been tabled. That the bill had not been to SARC before it was debated in the other place was really the main issue debated in the Assembly. The bill has now been to SARC, the report has been tabled and it has been considered by members. The reasons for the retrospectivity and the issues that arise from it are considered and stated in the very clear explanatory memorandum, the statement of compatibility, the second-reading speech and the text of the bill itself.

In relation to the question raised by Mr Pakula about the note at the top of the SARC report, I first wish to correct him on a minor factual matter. He indicated that only two bills had been dealt with by speedy passage in this Parliament. He omitted to mention another bill, the Aboriginal Heritage Amendment Bill 2011, which was introduced and given speedy passage. In fact SARC reported, as it is entitled to do under section 17(c) of the Parliamentary Committees Act 2003, after the passage of that bill.

Section 17 of the Parliamentary Committees Act 2003 sets out the role of SARC and its powers, obligations and instructions to consider matters for the advice and consideration of members of this Parliament, including its reporting requirements. This bill is no different to any other bill in the fact that it has now been to SARC, a report has been tabled and members have considered that report in preparing their contributions in this place, which is the house of review. There has been some legislation in previous parliaments where SARC has reported after the legislation has been passed, including the Crimes Legislation Amendment Act 2010 and the Transport Legislation Amendment (Driver and Industry Standards) Act 2008.

The next matter I wish to respond to is a question raised by the Greens speaker, Ms Pennicuik. In relation to the Greens amendments — —

Mr Barber — We don't have any amendments.

Mr O'BRIEN — The contribution of the Greens, rather. I note that the Greens do not have any amendments; I thank Mr Barber for that.

I note that the Greens will not be opposing the bill. I understand the regret Ms Pennicuik has expressed. It is a regret that all speakers have expressed. It is a regretful situation to which the government has responded and which the Parliament has dealt with in an expeditious way.

In relation to the human rights issues, I again refer Ms Pennicuik to the statement of compatibility and the second-reading speech. These issues have been dealt with and were additionally considered in the SARC report.

There was one matter that needed to be clarified. Ms Pennicuik said in her view the statement of compatibility did not refer to the new offence. I wish to correct that because the statement of compatibility does refer to the new offence. At the start of the last paragraph before the heading 'Conclusion' the statement of compatibility says, on page 24 of Tuesday's *Daily Hansard* for the Legislative Assembly:

> It should also be emphasised that such validation is suitably confined to apply only to affidavits made before 12 November 2011. Further, a new offence will attach to the making of a false or misleading statement made after the commencement of the bill, which will apply even if the statement concerns an affidavit purportedly made before commencement of the bill. This is to ensure that deponents adhere to procedural requirements in the future.

In that regard I also note that another important matter in relation to human rights issues is that the new offence will apply prospectively and does not engage charter rights in the manner that is done in retrospective legislation, such as the Aboriginal Heritage Amendment Act 2011 or this bill. It is the practice of the Scrutiny of Acts and Regulations Committee to report on human rights issues that it considers have been engaged, and it has done so in its report.

That is the situation. A new offence will apply when a person swearing, affirming or witnessing an affidavit makes a false or misleading statement about the circumstances in which it was made. It will only apply to statements made after the bill becomes law. Deponents who make false or misleading statements in their affidavits will continue to be charged with perjury.

There is another matter I wish to correct. Before lunch I mentioned the figure of 3000 pending criminal cases. I wish to confirm these numbers. I referred to the number that had been referred to by the member for Altona in the Assembly, Ms Hennessy, as reported on page 26 of Tuesday's *Daily Hansard* for the Legislative Assembly. However, I am advised that the correct numbers are as follows. In the period of amnesty the police effectively disclosed approximately 9000 potential police personnel might be affected. In her speech Ms Hennessy referred to 3000 pending criminal cases in the Magistrates Court and another 300 in the Supreme and County courts. The most recent advice from Victoria Police is that approximately 6000 matters in the Magistrates Court and more than 300 matters in the higher courts have been exposed to the improperly sworn affidavits.

The bill will apply to affidavits signed before 12 November 2011 and will capture matters where a court has not yet ruled on the admissibility of the evidence. As I understand it, there were 9000 police members who disclosed during the amnesty that potential problems might exist. If I said something differently before, the correct number there is 9000, which is what Ms Hennessy is reported as saying on page 26 of *Daily Hansard*.

In relation to Ms Pennicuik's further concern about the issue of the false affidavits, the bill is quite clear and explicit about the extent of confined operation in relation to the admissibility of the evidence. I refer to clause 5 of the bill, which inserts new section 165 into the Evidence (Miscellaneous Provisions) Act 1958, subsection (4) of which states:

> Subject to subsection (3), this section does not limit a discretion of a court —
>
> (a) to exclude evidence in a criminal proceeding; or
>
> (b) to stay a criminal proceeding in the interests of justice.

In further response I refer to the savings provisions in new subsection (5), which states:

> This section does not affect the rights of the parties in —

and lists various proceedings. That is how that saving provision is expressed to operate.

I wish to make clear that nothing in the contributions to the debate by any person, particularly myself, is intended to be a comment on any case pending or potentially pending before the courts. In the application of this legislation to the facts by the judiciary every case will of course depend on its own facts. That is the appropriate way in which this law should be applied.

In conclusion, I commend the government for bringing on this bill. I note that the bill will not be opposed. I confirm that its speedy passage is an important matter, having regard to its rare circumstances of retrospectivity, which have been outlined in the various contributions made.

Mr ELSBURY (Western Metropolitan) — I rise today to speak in favour of the Evidence (Miscellaneous Provisions) Amendment (Affidavits) Bill 2012. As has been lamented by Ms Pennicuik, you do not want to have to bring in legislation which is retrospective. In fact having to introduce legislation which is retrospective is undesirable, but in this case it is necessary to ensure that a greater undesirability does not occur. The need to ensure that criminals do not use a legal loophole in an effort to escape the gravity of their offences impacting upon them is paramount. Therefore we need to ensure that the evidence presented in court is legitimately given the weight it deserves, especially when that genuine evidence is presented by sworn members of Victoria Police. We must also ensure that the validity of such genuine evidence is not able to be placed under question in the future.

Affidavits remain an important part of gathering evidence for a criminal case. Sworn statements of police officers can assist the case for the prosecution or defence, depending upon the information these documents contain. The affidavit itself becomes evidence admissible to a court, allowing for an at-the-moment or shortly thereafter account of an event to be recorded.

Given the importance of these documents, the need for the information they contain to be correct is critical. That is why a procedure of making an oath or affirmation and countersigning documents has been the established practice. Unfortunately, through the proceedings of the County Court, it has been revealed that some police officers have failed to undertake the procedure of affirming an affidavit in some way or form.

As an action of cutting corners the evidence presented as part of some affidavits has been able to have the quality of the information it contains tainted. The content of the affidavit is not in question — I wish to make that very clear. The content remains intact, as any variance from the truth would introduce issues of perjury. The issue is the method by which these documents have been developed from being a report of an incident or event into an affidavit.

The Evidence (Miscellaneous Provisions) Amendment (Affidavits) Bill 2012 seeks to repair this. The bill will amend the Evidence (Miscellaneous Provisions) Act 1958 to ensure that the affidavits made before 12 November 2011 which do not meet the normal test and subsequent actions which rely on those affidavits are made valid. Mr Pakula took exception to the date of 12 November, saying it should be 23 October 2011, the date the County Court made its findings. However, it makes more sense to use 12 November as the date, as this is the day after the Court of Appeal made its decision in relation to defective affidavits.

Police serve the community under oath, and we expect them to carry out some of the most difficult tasks our society can present. Investigating crimes is without doubt exhausting, both physically and mentally. Our police officers are trusted with sensitive information which, at times, reaches into the very darkest parts of humanity. Our police deserve our support when they do their work keeping order on our streets and in society. Victims of crime also need to know they are being protected and that those who have inflicted harm and grievance will be punished. For these reasons it is necessary for this bill to pass. Our police are trusted people, and a short cut taken in haste should not mean that criminals can get out of being punished for their crimes and cause victims to live in fear.

Affidavits made before 12 November 2011 which fail to comply with legislation due to the failure of an oral oath or affirmation, a failure to complete the jurat in accordance with section 126 of the Evidence (Miscellaneous Provisions) Act 1958, a failure to properly witness the signing of an affidavit, or any other failures of compliance will be restored by this bill. The bill also reaffirms the significance of an affidavit and restores faith in the seriousness with which an affidavit should be treated.

The bill creates an offence of making a false or misleading statement about the circumstances in which an affidavit is sworn or affirmed. Penalties for breaching such requirements will apply. The measures contained in this bill, one, ensure that those affidavits which were previously flawed in the way they were affirmed are rectified from this defect and, two, introduce penalties for making false or misleading statements in relation to the swearing or affirming of affidavits by making it an offence. This bill is a measure to maintain the rule of law in this state by not allowing criminals to get off scot-free. It reaffirms the trust we have in our police force and restores the affidavit as a document of high repute. I commend this bill to the house.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

The DEPUTY PRESIDENT — Order! This is a bill for an act to amend the Evidence (Miscellaneous Provisions) Act 1958 and for other purposes. My understanding is there are just questions; there are no amendments.

Ms PENNICUIK (Southern Metropolitan) — What I am concerned about with regard to clause 1 — and I may refer to this more in relation to clause 5, which is the substantive clause regarding this issue — is that it says the purpose of the bill is:

> … to address procedural defects in relation to certain affidavits …

but the explanatory memorandum tells us that the bill amends the Evidence (Miscellaneous Provisions) Act 1958:

> … to respond to issues identified in County Court proceedings regarding the failure of members of Victoria Police to properly swear or affirm affidavits in support of search warrants.

I am concerned that the explanatory memorandum, which explains the bill, and the minister's second-reading speech refer only to affidavits sworn by police in support of search warrants, and yet the bill will apply to all affidavits sworn before 12 November 2011. In terms of the parliamentary record, I think it is very important that there is not a mismatch between the explanatory memorandum, the second-reading speech and the actual bill. The provisions in the bill are not what the explanatory memorandum and the second-reading speech say they are, and that needs to be clarified for the record. It has not been so far.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The affidavits are used by a number of different agencies to provide evidence to courts, as well as by individuals. Some people will have made their affidavits at police stations, potentially exposing them to the same problem; other classes of persons qualified to take affidavits may also have failed to follow the correct procedures. The legislation is designed to remedy all affidavits where the formalities attached to swearing or affirming are not correctly observed.

Ms PENNICUIK (Southern Metropolitan) — It is important to outline that for the community because that reason for the bill is not recorded anywhere. The explanatory memorandum says that 'certain affidavits' are affidavits sworn by police in support of search warrants. It is important that the government explain its reasons for encompassing every single affidavit that may have a cloud over it in terms of its lawfulness or whether correct procedures were followed prior to November 2011.

We know that 9000 police have 'fessed up' that they have probably not been following the correct procedure, and that this could relate to 6000 cases in the Magistrates Court and 300 in the higher courts. Do the government or the police have any way of tracing which particular police affidavits this could relate to?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Obviously it would be inappropriate for me to comment on any particular case. The most recent advice I have received from Victoria Police and the Office of Public Prosecutions is that approximately 6000 matters in the Magistrates Court and more than 300 matters in the higher courts are exposed to improperly sworn affidavits. Therefore the bill will apply to affidavits signed before 12 November 2011 and will capture matters where the court has not yet ruled on the admissibility of the evidence.

Ms PENNICUIK (Southern Metropolitan) — Another issue worth exploring in this committee stage is the issue of the date. The government has chosen the date 12 November 2011 and everything before that, which would go back as far as 1958, when the evidence act came into being. Did the government consider doing this the other way around — that is, to try to discover when this culture of not signing and swearing affidavits correctly became apparent or could reasonably be assumed to have started to happen? Was that 10 years ago, 15 years ago? The government could, to ensure it covered everything, go back 20 years. Why was that approach not taken — for example, to go back to 1982 and include everything since then, rather than this approach, which includes any affidavit which has ever been signed?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The purpose of the bill is to promote certainty. In October 2011 the trial judge in County Court proceedings ruled that a warrant was unlawful due to defects in the supporting affidavit. The trial judge ruled that the evidence obtained under the warrant was inadmissible. On 11 November 2011 the Court of Appeal dismissed an interlocutory appeal by the Director of Public Prosecutions and upheld the trial judge's ruling to exclude the evidence obtained under warrant supported by defective affidavits. Therefore the date of the Court of Appeal decision is the date that the question of

admissibility of the evidence was finally determined and the potential impact of the procedural defects of affidavits on evidence in criminal proceedings became clear. From that date Victoria Police should have been aware of the requirements for making an affidavit on oath or by affirmation and should have been following correct processes.

New section 165(1) is restricted to affidavits signed before 12 November 2011. It is not necessary to repeat this in every subsection. The words 'was not at any time' are used to ensure that actions taken in the past in reliance on these affidavits are not invalidated for any of the reasons set out in new section 165(1)(a)(i) through to (v). The words 'taken always to have been' are used for the same purpose.

Ms PENNICUIK (Southern Metropolitan) — I guess that is a no; I will take it as a no. I will follow up on what the minister has said in his answer. My next point is about words that are used in clause 5, so I am happy to hold this over until we consider that clause. I want to pick up on the words 'was not at any time' with the minister, but I am happy to hold that over until we deal with clause 5 and proceed now with my supplementary question, which is about the police. Can the minister advise whether the government is satisfied that the police have this issue in hand in terms of training and making sure that police do not do this again?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — In terms of the specific question asked by Ms Pennicuik the advice I have is that Victoria Police has taken specific steps to ensure that the procedural requirements for making affidavits are followed by Victoria Police members. Victoria Police has initiated an internal audit process to ensure that any deficient practices are identified and steps are taken to remedy any issues associated with these affidavits. In the event that a Victoria Police member has engaged in misconduct in the making of an affidavit they will be subject to the usual disciplinary processes. It was also drawn to my attention that any affidavits sworn after 12 November 2011 are not covered by this legislation. It is anticipated that Victoria Police will take the appropriate and specific steps to ensure that the procedural requirements for making affidavits are followed by Victoria Police members.

Ms PENNICUIK (Southern Metropolitan) — Let us hope that is effective. The Law Institute of Victoria (LIV) — and I am sure members have received the institute's media release — raises a question that needs to be dealt with. The media release quotes LIV president Michael Holcroft as having said:

> 'The government has dealt with the second limb of what the Supreme Court addressed, not the first'. Our concern is that the evidence act and the laws of perjury have not been addressed. Anyone who failed to swear an incorrect affidavit will not be held responsible and cannot be prosecuted for perjury, whereas they could have been so prosecuted if the affidavit been properly sworn. This leaves an accountability issue unresolved' …

I make the qualification that the Law Institute of Victoria issued that statement before it had seen every detail of the bill, and I am not wanting to put words in its mouth that it may not agree with now. However, an issue has been raised which I think needs to be clarified by the minister.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — In terms of Ms Pennicuik's specific question, the procedural deficiencies relate only to the formal swearing or affirming of an affidavit, and they are spelt out clearly in the bill. The bill has no effect on the content of an affidavit other than to validate the document as an affidavit and therefore sworn evidence. A person who has made statements in an affidavit knowing them to be false will be liable to the penalties that apply to perjury. The bill, by validating these affidavits, ensures that a person who does this is liable for the penalties of perjury.

Ms PENNICUIK (Southern Metropolitan) — I thank the minister. It was valuable to have that clarified. I have one more question on clause 1. The second part of clause 1 refers to affidavits or documents purporting to be affidavits — that is, documents masquerading as affidavits. For the record it needs to be clarified what documents purporting to be affidavits which are not defined as such are.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — If the formalities for swearing or affirming an affidavit were not properly observed, the document may not actually be an affidavit. It might, however, purport to be one; hence the phrase 'purporting to be an affidavit' is an accurate way to describe these documents.

Clause agreed to; clauses 2 and 3 agreed to.

Clause 4

Ms PENNICUIK (Southern Metropolitan) — My question on clause 4 relates to the fact that it introduces a new offence for making a false or misleading statement as to swearing an affidavit. I understand that to mean it is only about the swearing or the signing of the affidavit, not the content. Ten penalty units will apply to that offence. I query whether this might be a

more serious offence in some cases than in others — for example, when applying for a warrant. I wonder whether the government has thought about that and come to a view that the same penalty should apply to everyone.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Deputy President, thank you for allowing me the indulgence of that time to get clarity. In regard to the substantive issue of perjury, the advice I have is that if the content of the affidavit is false or misleading, then that becomes perjury. If the issue relates to someone being asked if they swore or affirmed the affidavit and that was incorrect, that is where this section applies. It is about the position when the person was swearing the affidavit, not the content of the affidavit, and therefore the offence specified in clause 4 falls around that.

Ms PENNICUIK (Southern Metropolitan) — I do not want to labour the point, but I suppose what I am getting at is that the offence that would be committed by not making the affidavit in the correct, lawful way — from 12 November on — in some cases could have much more serious ramifications than in other cases but the penalty is the same. For example, the ramifications of a police officer doing that in support of a search warrant could perhaps be much more serious than in the case of another affidavit — that is all I am saying. Perhaps it would be picked up by disciplinary procedures in the police. Does the minister see what I am getting at?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I will try to make it a bit clearer: the new offence will apply when a person swearing, affirming or witnessing an affidavit makes a false or misleading statement about the circumstances in which it was made. It will only apply to affidavits made after the bill becomes law. False or misleading statements made by a deponent in an affidavit will continue to be charged as perjury.

Clause agreed to.

Clause 5

Ms PENNICUIK (Southern Metropolitan) — I want to query the terminology that I referred to earlier, which I said I would hold over, in new section 165(1)(a), which is to be inserted into the principal act by clause 5 of the bill, where it says 'it is not, and was not at any time'. I am concerned about those words, and I note that the Scrutiny of Acts and Regulations Committee also raised concerns about that wording and the wording in new section 165(1)(b) which says 'and are taken always to have been'. The Scrutiny of Acts and Regulations Committee actually underlined those words for our attention. My concern with them is that they really are a bit of rewriting of history.

I am wondering if perhaps there could be some better wording which did not suggest that there was never a time before 12 November that affidavits had to be filled out lawfully, because that is not the case. But this wording says it was the case when it states 'it is not, and was not at any time'. In new section 165(1)(b) it says 'and are taken always to have been effective', when that is not the case. I wonder what the effect would be of not having those words there and using other wording such as 'for the purposes of the validity, if prior to 12 November 2011 the steps under section 138 had not been fully followed, the affidavit would still be capable of being admissible in a court', which is not rewriting history. That is my biggest concern with the wording of this bill; it says something which is in fact not the case.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I think we need to just go back. The bill has retrospective application to minimise the disruption caused by the failure of members of Victoria Police to properly swear or affirm affidavits by promoting certainty in relation to past convictions and current and future proceedings. This will also protect the courts, community and victims of crime from the potential harm that may flow from the defective affidavits.

In 1989 legislation was passed to enable Victoria Police to provide evidence by way of affidavit rather than by sworn testimony in court. From this time, courts and judicial officers have relied on affidavit evidence in support of applications for warrants, summons, orders and process and have acted in reliance on this evidence when issuing warrants, summons, order and process. Evidence obtained under such warrants, orders or process has been considered in proceedings since that time. The effect of the retrospective application of the bill is to ensure that these warrants, summonses, orders and processes are not invalid due to procedural defects in affidavits. Similarly the bill will ensure that the admissibility of any evidence obtained under such warrants, orders or other process is not compromised. In addition, this is to ensure that the bill does not interfere with any decision of a court made on such matters prior to the bill.

In conclusion, new section 165(1) is restricted to affidavits signed before 12 November 2011. As I said, it is not necessary to repeat this in every subsection.

The words 'was not at any time' are used to ensure that actions taken in the past in reliance on these affidavits are not invalidated for any of the reasons in new section 165(1)(a)(i) through to (v). They are outlined on pages 3 and 4 of the bill. The words 'taken always to have been' are used for the same purpose.

Ms PENNICUIK (Southern Metropolitan) — What has come to light in that answer is something that I raise because of the time frame and trying to research the bill in between speaking on other items in the chamber et cetera. In his answer the minister mentioned that the swearing of affidavits instead of having to provide sworn testimony in court came in in 1989. That goes to my earlier point about clause 1, as to why this bill is going back forever, until time immemorial, when it could possibly have been better worded as 'between 1989 and 12 November 2011'. I am concerned about the breadth and the going back in time.

The minister might want to get some advice on whether that 1989 amending legislation would have covered it. I understand the purpose of the bill. I am concerned about those words being inserted into an act of this Parliament that indicate this was not the case at any time, when that is not truly so. All I am positing is whether the government has considered any other words such that it would not be making a definitive statement which is clearly not correct in the historical context. If the minister could clarify that 1989 date for me, that would be helpful.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Again I reflect back on what was said. The purpose of this bill is to promote certainty in terms of the particular issues that have been raised. Whilst 1989 is taken as the point when the enabling legislation was passed, we are not to know whether affidavits or otherwise made prior to that time — for example, in 1987 — could be relied on at some later point. I take Ms Pennicuik's point about a certain point in time. The government's position is that the legislation as drafted would give certainty in respect of the particular issues that have been raised in the courts.

Ms PENNICUIK (Southern Metropolitan) — I thank the minister. I think it is important to put these things on the record. I have only one more question, and that is in regard to the issue that was raised by the Scrutiny of Acts and Regulations Committee (SARC) in the second paragraph of the last page of its report:

> The committee also notes that a possible effect of new section 165 may be to remove potential obstacles to causes of action to the extent that those causes rely or relied on proof that an affidavit or consequent process was effective or valid. In the case of criminal offences that may depend on such proof (for example, perjury or resisting an arrest), new section 165's retrospective operation may allow someone to be convicted (or to remain convicted) of a criminal offence that could not (or ought not to have been) charged under the law applicable at the time the offence was committed. Such an effect may limit the charter's right against retrospective criminal liability.

I am sure that the minister would be able to get some advice on this, because I am sure that his advisers have read the SARC report, so I ask whether the minister could get some advice on that particular question.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have is that if the formalities for swearing or affirming an affidavit were not properly observed and the document may therefore not be an affidavit, then the legislation will purport that the affidavit is accurate, in terms of describing the document, but the intention of the government is clear in what is outlined there — that is, the government's position is to make it such that the retrospective operation will not impinge upon a person's conviction unless there is an element of perjury in the affidavit.

Clause agreed to; clause 6 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

PRODUCTION OF DOCUMENTS

The Deputy Clerk — The Clerk has received a letter from the Minister for Water.

Letter at page 71.

STATUTE LAW REVISION BILL 2012

Statement of compatibility

Hon. D. M. DAVIS (Minister for Health) 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 Statute Law Revision Bill 2012.

In my opinion, the Statute Law Revision 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 bill corrects a number of ambiguities, minor omissions and errors found in statutes to ensure the meaning of acts is clear and reflect the intention of Parliament.

Human rights issues

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

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

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

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

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities Act 2006 because it does not engage any human rights issues.

The Hon. David Davis, MLC
Minister for Health

Second reading

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

That the bill be now read a second time.

The bill before the house, the Statute Law Revision Bill 2012, is a regular mechanism for reviewing statute law in Victoria. The bill is important to the orderly management of the state's statutes so that the laws remain clear, relevant and accurate.

The bill corrects a number of ambiguities, minor omissions and errors found in statutes to ensure the meaning of acts is clear and reflects the intention of Parliament.

The bill corrects spelling and grammatical errors and makes any amendments that should have been made as consequential amendments when legislation was first passed.

The bill should be seen as part of the Victorian Parliament's regular housekeeping arrangements. The government has an obligation to bring forward, on a regular basis, legislation of this nature to ensure the law of Victoria is as current as possible.

The bill will make technical improvements to the state's statutes, rather than substantive amendments. The technical corrections effected by this bill will make it easier for the state's statutes to be administered, interpreted and applied.

I commend the bill to the house.

Debate adjourned for Mr LENDERS (Southern Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 15 March.

Referral to committee

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

That the proposals contained in the Statute Law Revision Bill 2012 be referred to the Scrutiny of Acts and Regulations Committee for inquiry, consideration and report.

Motion agreed to.

PARKS AND CROWN LAND LEGISLATION AMENDMENT BILL 2011

Second reading

Debate resumed from 9 February; motion of Hon. D. M. DAVIS (Minister for Health) .

Mr JENNINGS (South Eastern Metropolitan) — Thank you, Acting President, for the opportunity to speak on the Parks and Crown Land Legislation Amendment Bill 2011. From my vantage point, and in terms of my own personal political journey, I say to members of the chamber that I have had a high degree of personal identification with parks legislation over a very long period of time. From the time I joined the staff of the then Cain government in the 1980s until now, I have been acutely interested and very often engaged in the preparation and consideration of parks legislation. Without necessarily trying to make this a story about myself, there are a number of elements in this current piece of legislation that relate to some of the work that I might have undertaken, outcomes I have been committed to and that ultimately have been delivered by good government officers, because the government has adopted some of those actions, has acted in accordance with them and has delivered on those outcomes by putting forward this piece of legislation.

I wholeheartedly congratulate the government on this piece of legislation. What I would like to do, hopefully in a reasonably straightforward fashion, is identify the

elements of the bill that in my view are the most significant and then run through some elements that might be value neutral in terms of whether they are necessarily good or bad but might be administrative things that it would be wise to do. There are a number of tidying up elements to this bill. There are a number of elements that I might be concerned about — but not overly — that could ultimately prevent support for the legislation. There are some matters that may draw attention. The government should be aware of and respectful of these, and it will have the opportunity to respond to them when we move an amendment or two during the committee stage of the bill.

To run through those items, the most significant reform and the issue that I most wholeheartedly support in this legislation is the delivery of some degree of justice to the Aboriginal people of the state of Victoria, the delivery of some recognition and respect for the connection between Aboriginal communities in this state and the acknowledgement of the obligations of the Victorian government that were established under Victorian law during the Labor government's administration. I refer to agreements that were entered into by the Labor government in relation to land justice outcomes that are now delivered in statute by the Baillieu government. To that degree we congratulate the government for pursuing and seeing that issue through. The issue of Aboriginal connection to the land is the most important and the best element of this piece of legislation.

There are items that relate to what I describe as a number of sensible administrative licensing and leasing arrangements that have been bundled into the bill. They range from sensible decision-making processes in relation to fire management on public land and a sensible approach to leasing arrangements that are applied to private development on public land in Victoria. As is often the case, virtually every year there is some degree of administrative tidying up of the parcels of land that have come on and gone off the public estate. In this case there has been an accumulation of parcels of land that have been added to the parks system in Victoria, and there has been some reclassification of the conservation values of some of those parcels of land. I think from the perspective of the Victorian community they are timely, appropriate and welcome.

A basket of issues is dealt with in the legislation that relate to more active engagement with public land that may be subject to legislative provisions, approvals and protocols and procedures to deal with the actions that can appropriately take place on various parts of that land, including national parks in Victoria. These are the elements that in the main may have some degree of appropriateness to them but that leave us in opposition and those in the community — and I do not think we will be alone in that regard in this discussion today — with some concerns about the more intensive usage of public land. This piece of legislation covers a number of those elements, whether it be in regard to access to firewood in two national parks or activities that involve hunting and the control of weapons on public land, including national parks in Victoria.

The bill contains elements that relate to mining leases, exploration licences, opportunities for ongoing apiary licences on public land and the way they will be dealt with. With the exception of a concern we have about the management of firewood, we believe the measures in this piece of legislation are, by and large, reasonable. They are undertaken in various ways across the Victorian landscape each and every day, and they should be able to take place across the Victorian landscape in the previous and existing governments' policy settings. However, there are some cautionary tales, and some consideration should be given to the appropriate management of those matters now and into the future. They are the issues I draw attention to.

Running through some details about the categories I have created for my contribution to the debate, I would like to go back to the most important element of this piece of legislation, the element that I most wholeheartedly support, both as an individual within the state of Victoria and as a member of the Labor Party who entered into agreements with the Aboriginal communities in Victoria in the name of land justice, agreements which concluded with an agreement with the Gunai Kurnai people.

One of the last tangible, useful things I did as a minister in the state of Victoria was to create the circumstances in which the Aboriginal land justice bill passed. An agreement was entered into with the Gunai Kurnai people that committed the Victorian government to exchanging parcels of land with the Gunai Kurnai people to create circumstances where they would be involved in the co-management of important parcels of the public land estate in Gippsland generally, and this piece of legislation in part substantially delivers some of those obligations. As I have indicated, I congratulate the Gunai Kurnai people on that outcome, I congratulate the Victorian community, I congratulate the good people who work within government administration in Victoria for seeing this through and I congratulate the Baillieu government for delivering on that undertaking and bringing this bill before the house.

Creating the Lake Tyers State Park is the tangible demonstration of that achievement, where 8600 hectares of the public land estate will be made into a park that will be subject to co-management with the Gunai Kurnai people. Going way back to the days when there was a more bipartisan — let alone tripartisan — approach to environment matters in this state when the former Land Conservation Council did good establishment work on behalf of the people of Victoria and made recommendations that we are all the beneficiaries of in terms of the appropriate land use policies we have across Victoria, this legislation is consistent. In those days national parks bills did not usually divide people within the Parliament of Victoria. Those were the good old days, and the recommendations that are embedded in this bill in relation to public land values go as far back as then.

Those values were brought into sharp focus during the course of 2010, when the land justice agreement was concluded between the Gunai Kurnai people and the outgoing Labor government, of which I was a member. That agreement has now seen the establishment of the Lake Tyers State Park and the Gippsland Lakes Reserve of Raymond Island, which is 215 hectares of public land that has been designated as a reserve. It has gained recognition in the state of Victoria as a place of cultural significance to the Gunai Kurnai people. It has been incorporated into the parks regime and will hopefully be subject to ongoing work between the Gunai Kurnai people and Victorian agencies about the way in which that parcel of land should be appropriately managed into the future.

From my perspective those are the most significant elements of this bill by a country mile, but there are other elements in this bill worthy of recognition, including the renaming of the area previously known as the St Arnaud Range National Park in north central Victoria, which is now known as the Kara Kara National Park. I hope this demonstrates the increasing recognition of the role of cultural heritage and connection to country for Aboriginal people across the state and in this case the people in north central Victoria.

That recognition, I hope, will play some role in improving the connection to country and the recognition of Aboriginal land justice in Victoria and will continue to add to the ability of Aboriginal people to be involved in land management across Victoria. I encourage the Baillieu government to pick up on the work that sees the bill before the house, to build productive and constructive relationships with Aboriginal people right across Victoria and, if it can within its lifetime, establish further land justice agreements with Aboriginal communities. That would be a fantastic outcome for all Victorians into the future.

There are a number of items within the bill that deal with what I consider to be sensible administrative arrangements, and they are primarily in two areas. One relates to the administrative arrangements and requirements for consultation and consideration of the fire agencies, in particular decisions that may be made about appropriate fire management regimes that should be applied across the public land estate. Some relatively elegant administrative arrangements are embedded in this bill. They try to guarantee that timely and appropriate conversations and considerations will take place. What this means, in particular, is that if DSE (Department of Sustainability and Environment) or other fire agencies want to impact on public land that may be managed by Parks Victoria, there is a line of communication that guarantees that that takes place. That is one tick.

The next tick is in relation to streamlining the conversations that may occur internally within DSE to ensure that we do not go around and around in circles in responding to emergencies and that the lines of delegation, communication and accountability are clear so that decisive action may take place. Certainly that is something that we recognise as an important outcome, and we hope that that will assist in our fire mitigation effort.

The other issue to which I draw attention in the basket of administrative arrangements relates to what I consider to be a sensible agreement for the leasing arrangements at Arthurs Seat on the Mornington Peninsula, which is the location of the chairlift. Many members of the Victorian community will know that the previous chairlift fell into some degree of deterioration in terms of its occupational health and safety requirements. The level of investment that underpinned the chairlift, its financial viability and how it connected to the landscape deteriorated over time, and unfortunately the chairlift fell into decline, almost literally.

One of the issues tidied up in the last year of the administration in which I was minister was that we entered into a heads of agreement with an operator to deliver a rebuild and refit of the chairlift at Arthurs Seat. The objective we sought to achieve then was to ensure that the level of investment was commensurate with the standard and fittings and that ultimately an ongoing, viable, safe chairlift development would take place on that site into the future.

I was mindful at the time, on the basis of advice that had come to me from Parks Victoria and confirmed by DSE, that to financially secure such a level of private sector investment it may have been incumbent upon us to move beyond what was a 21-year leasing agreement for that chairlift. I was personally satisfied that that was a reasonable outcome, and I recommended to my cabinet colleagues at the time that we endorse such a policy. I believe we would have delivered a similar outcome to what has been delivered in the provisions of this bill, which will allow for a leasing arrangement in excess of 21 years if the minister is satisfied that it is appropriate in the circumstances of guaranteeing a desirable public policy outcome for the amenity and safety of Victorians and that the private sector investment that underpinned it would have a reasonable rate of return from such a leasing arrangement. Therefore the opposition supports such an approach, as it is consistent with what I believe would have been our approach had we stayed in office.

In relation to the parcels of land that add to the public estate — the next category of issues — I congratulate the Victorian government on adding further parcels of land to the public estate. Modest as they may be, they are nonetheless important incremental additions right around Victoria. We quite regularly have minor boundary adjustments adding to the public estate, and this bill continues with that theme.

In particular, as the government acknowledged in the second-reading speech, it is totally appropriate and incumbent on me to join the government in thanking the family and loved ones of Ms Karma Hastwell, who unfortunately died in the fires of 2009. As part of her estate the state of Victoria was the beneficiary of 27 hectares which has been added to the Kinglake National Park. We should, as a community, be very grateful for that generosity and recognise Ms Hastwell's connection to that country and the generosity of spirit in this bequest. I think the Victorian people are indebted into the future and should be mindful of the preciousness and precarious nature of that beautiful landscape. We should do our best to protect its environmental values and ensure that they are protected within the Kinglake National Park into the future.

The other issue relates to small parcels of land which can have a big impact on local communities. The Frankston reserve that had previously been a water treatment facility in Frankston had been subject to electoral undertakings by the Labor government when we came to office — a process by which the public land values were assessed and incorporated into the reserve system. Again, I do not necessarily want to talk about myself, but I was involved with establishing and embarking upon a community consultation about how this land should be used, which had some degree of limited success, but clearly the arguments about its relative conservation status that were put to me were not as compelling as those put to the current government because, based on the advice I received, the land's reservation status within this document may not have been justified. But clearly this government's conservation ethic has gone ahead of its advice and it has designated the reserve status in accordance with this piece of legislation.

The effect of this will be that those people who wanted to walk their dogs through the reserve will be disappointed. This government will not let that happen. It is very keen to ensure that that is the outcome because it is not consistent with the new land status that this reserve obviously now warrants. Congratulations to the government on identifying those environmental values that may not have been as apparent when I was minister as they are today.

Beyond that, a range of matters deserve some degree of scrutiny. The issue that is going to be most contentious between the government and the opposition is that of firewood and its availability within the Barmah and Gunbower national parks. I think the other matters — hunting, including opportunities for hunting within specified areas of the Alpine National Park; mining; opportunities for apiarists; and control of weapons in the newly established Lake Tyers State Park — are reasonably well contained and pretty consistent with the approach of the previous administration. My only question there is whether these things will grow in scope, in the sense of growing as a result of deregulation, and whether we will shift the way in which the public treats the public landscape, national parks in particular, and whether we will maintain the right balance between legislative provisions and what might be accepted understandings of the appropriateness of those activities across public land. We need to ensure that we do not allow these legislative measures or other measures to lead to relevant standards and protections sliding, creating a deteriorating situation across the landscape.

Those outcomes are not necessarily being driven by this piece of legislation, so I do not necessarily want to bell the cat, if that is an appropriate phrase in relation to this issue — although we do not want feral cats on public land either. That is not the issue here. The issue is what the take-home message is for the Victorian community about access to public land, in particular national parks, and whether a clear expectation and culture are set. They are in part set by other actions the government

may take — not necessarily legislative but running parallel with these issues.

No-one in this chamber or in the community would be surprised at my concern about the most symbolic of those actions — that is, the return of cattle grazing to the Alpine National Park. The government had that as part of its electoral mandate; I do not dispute and have never disputed that. It may not have been well understood or heard in the Victorian community, but it was there. I noticed it; I knew that it was there; I knew it was likely to happen. I lament that it happened. I lament the determination of the Victorian government to continue to allow it to occur.

A continuation of such measures will erode the confidence we as a community can have about the calibre of protections under Victorian law of the national park estate. It would give the Victorian community a perception totally counter to the spirit with which I entered into this discussion some 20 minutes ago when I congratulated the government on adding to the national park estate. It would be very disappointing if the most symbolic high-profile issue that occurred in the Victorian landscape in relation to national parks was one driven by the government and that diminished the standing of national parks and their environmental values. That is a significant issue the government should be aware of, particularly as today announcements were made that the removal of cattle from the Murray River national parks may have been slowed. That may be of concern, particularly if it adds to the deterioration of environmental values within those parks.

This is my way back to talking about the firewood situation. When those important parks were created undertakings were made by the Victorian government to limit the availability of firewood from those national parks. When they were established there was a two-year horizon for when firewood could be extracted from locations within the parks that had previously been subjected to sawlog and timber extraction activities. That two-year period is about to come to a close. The government would argue that the extension contained in this bill, which will add three years to that window of opportunity, has been driven in the first place by adverse weather conditions. In relation to those areas where firewood extraction is prevented the government is concerned about communities — along the Murray in this particular case but also beyond the Murray — having ongoing issues with the availability of firewood and cost of living issues. That is a legitimate issue and one I never lost sight off when I was a minister.

Mrs Peulich — This is your real passion, isn't it?

Mr JENNINGS — Pardon?

Mrs Peulich — The environment is your real passion.

Mr JENNINGS — I am sure you've never seen me talk passionately about health before!

The issue is how the government provides for sustainable access to firewood. This government and our government had very different views about how that is best handled. We are concerned that there is effectively open slather across the landscape in terms of provisions about the availability of firewood. The provision the government has put into this bill to extend the window of opportunity for firewood extraction for three years might have been reasonable were it not for the fact that no permits are required.

There is no confidence. Even though the government asserts that there is no change in the policy settings, it is in fact the policy setting that has been put in place right across Victoria, consistent with removing permit arrangements to create open slather for access to firewood right across the landscape, which means that these areas have in effect had those protections that are embedded in the Victorian legislation eroded to start with, and that is now compounded by this new window.

When we get to the committee stage of debate on this bill it is my intention to move an amendment to delete the clauses in this bill — clauses 12 and 13 — that relate to the designation of firewood extraction and the window that is available to the government and the community to extract that timber over the next three years. The net effect of the amendments I will be moving would simply to take us back to the existing provisions of the act and the existing undertakings to have it sunsetted by 30 June this year to prevent ongoing access to firewood in national parks.

I remind the government and the community that there was a strategy and a commitment in place to allow ongoing timber activity in Gunbower Forest and other parcels of public land to regulate the availability of firewood across Victoria, and that was an issue an ongoing Labor administration would have continued to focus on were we in office. That is not an issue that we would have ignored or run away from. Certainly our approach would not have been to continue to extract firewood from national parks. That is why we will oppose those two particular clauses, but those two clauses remaining in the bill will not be sufficient to prevent us supporting this piece of legislation, although I would urge government members to join us in the

committee stage and delete those clauses that have adverse impacts on those national parks. Then we can all wholeheartedly celebrate the positive elements of this piece of legislation, in particular those that recognise Aboriginal connections to the country in Victoria and satisfy the undertakings of the Victorian government to the Gunai Kurnai people in particular in this instance. For those issues alone, we should celebrate the key elements of this legislation and congratulate the government for it.

Mr BARBER (Northern Metropolitan) — I am very pleased to be voting for a bill designed to expand our national park estate. Victoria is the most ecological damaged state of Australia. We have one of the worst records for species extinctions, and many of our species and ecosystems are still in decline and barely hanging on.

It was not so long ago that the Liberal Party and The Nationals in opposition used to froth at the mouth at the very mention of national parks. What makes this bill quite odd is that at one point The Nationals' policy was that for every hectare of national park that was to be created they would remove a hectare of national park somewhere else. Generally speaking when The Nationals in opposition tried to woo the shooters and other lobbyists they talked about national parks as if national parks were part of a one-world government, global, homosexual conspiracy to depopulate the earth of humans. Now in government they find that national parks are a good news story, and when you are part of a government and need good headlines, you know that creating or expanding a national park or upgrading its protected status is a good way to create good news, because the vast majority of Victorians understand the role of national parks. They value them, they want to see them protected and they enjoy them. Even if they do not visit them, they still like to know that they are there.

We are adding a large number of small parcels, which nevertheless add up to a significant number of hectares, to the national park estate. We are upgrading certain other parks to nature conservation status, reflecting that the dominant purpose of these parks will be the protection of ecosystems and species and that other uses some might like to promote are secondary to nature conservation. Therefore decisions about the management of those parks must be made with nature conservation as the ultimate object.

We are making a small addition to the Alpine National Park. I recently noted that the government has determined to challenge in the Federal Court of Australia the decision of the federal Minister for Sustainability, Environment, Water, Population and Communities, Tony Burke, to ban cattle from the Alpine National Park using the provisions of the federal EPBC act (Environment Protection and Biodiversity Conservation Act 1999). The federal minister says the proposal is clearly unacceptable. There is a section in that act that allows the minister to reject a proposal where it is clearly unacceptable, even without running it through the usual assessment processes, and that is what he has determined cattle grazing in the Alpine National Park to be — unacceptable.

The government is very brave in going off to the Federal Court. It will not be the first time the EPBC act has been challenged in the Federal Court or that concerned citizens or environmental stakeholders have gone to the Federal Court to support the objectives of the EPBC act through the third-party rights that are quite correctly contained in the act. Even though environmental groups have had standing established by the courts for many years, it is quite right and proper that third parties can easily access a court proceeding in relation to the EPBC act. That is because the act is there to protect the environment, and the environment cannot speak for itself; it needs citizens and organised groups to do so.

I will be very interested to see the progress of the government's Federal Court case and whether the government — assuming it loses, which I assume it will — will seek to go on to the High Court of Australia and challenge the constitutional basis of the EPBC act. The EPBC act has not been to the High Court. It has not been examined by the High Court before this, and the High Court will no doubt affirm that the purpose served by the EPBC act is to protect the environment. The head of power for the EPBC act is Australia's signature on the biodiversity treaty, and the aims of that treaty are to protect the environment, not to allow for other aims that the government might like to achieve and not to balance up someone else's interests versus environmental protection.

Quite simply, protect means protect. Protect does not mean continue to allow to be endangered and allow to get more endangered until there is a crisis situation and then do something. In my view protect means protect, but it also means making our ecosystems less endangered and more resilient and ensuring that they are able to exist for millennia into the future and can follow their evolutionary paths. There are many small additions being proposed in this bill to national parks, which I think will help assist with that aim.

On the other side of the ledger, though, is biodiversity on private land. While many of our important public

land areas do have the right protected status, on private land it is another story. I am aware, because I have heard it spoken in this chamber, that there may be government MPs who want to further reduce the controls for the protection of biodiversity on private land. At the moment those controls do not achieve a net gain of native vegetation or ecosystem health. We are still in decline in the most ecologically damaged state. I do not know how the government thinks it can improve native vegetation controls without further threatening those ecosystems. We need stronger controls, not weaker ones.

As Mr Jennings quite eloquently stated, this legislation also brings into law some aspects agreed between government and the Gunai Kurnai traditional owner group to achieve the aims of shared management between Aboriginal people and the holder of some parts of our Crown land estate. It is very gratifying to reflect that the Greens joined together with the Labor Party to pass a piece of legislation in the very last days of the previous Parliament to allow for that particular native title agreement to be completed and covering those specific elements of Crown land. Without that legislation, what is being delivered here today would not have been possible.

It takes a bit of the gloss off the good news story for members of the government that in opposition they actually voted against the provisions that allowed the very thing we are delivering here today. But who knows what direction government members will take now that they are in government? They are no longer fringe dwellers in the environmental debate. The government is now by necessity looking to capture the mainstream on the environmental question in Victoria. Mr Jennings might agree it is just part of being in government that one automatically finds oneself trying to govern for all Victorians. In opposition one may take various positions seen to be strategic at the time, but this bill is proof that in government all parties have to moderate their demands and deal with what is practical.

However, there are some questions about the functioning of certain parts of the bill which I will seek answers to in committee. The questions are in relation to clause 5, which provides for guns to be carried in national parks and for the expansion of the area available for deerstalkers in the Alpine National Park. There is also the issue of the continual removal of firewood, on which the Labor Party has foreshadowed an amendment, and on clause 16 I have a couple of questions specific to the addition of land to the Otway Forest Park at Yeodene which I would like to explore with the minister.

It is very important that we give bills proper scrutiny, and ministers are always ably assisted by policy advisers in the advisers booth. I am not sure whether they are considered to be front-line or back-line staff, given the government's stated intention at the moment to cut 10 per cent of the public service, particularly back-line staff.

Mrs Petrovich — On a point of order, Acting President, I ask that the speaker come back to being relevant to the bill. He has wandered quite far and wide in the last few minutes.

The ACTING PRESIDENT (**Mr Ramsay**) — Order! I apologise to Mrs Petrovich, but I was not listening intently. I will take advice from the Clerk.

I do not uphold the point of order, but I ask Mr Barber to speak to the bill.

Mr BARBER — Absolutely. I will endeavour to be completely on point. That point is that it is not just me; it is in fact the Liberal Party and The Nationals that for a long, long time have said there is insufficient resourcing available for the management of our public lands, which we are adding to here today.

In years gone by the Liberal Party and The Nationals argued that as a reason not to create any new national parks. I of course argued the opposite. I notice, although I am still sifting through various unanswered questions on notice and matching them to information I am seeking, that there has not been a significant increase in moneys available to Parks Victoria in this budget. As I said, the coalition parties for 11 years dined out on the fact that parks were neglected and in their view overrun by weeds and feral animals. One would think as a first order of business government members would be rolling up their sleeves and providing significant funds to ensure all those matters were taken care of. They are matters that have been the subject of Auditor-General's reports. Some of them have scandalised all of us with an interest in nature conservation, including, notably, the inability to trace money that was provided to marine national parks. That is now the subject of another inquiry set off by this government, an inquiry which will no doubt present findings to Parliament in appropriate time.

Since the government has stated that it intends to cut 10 per cent of public sector service numbers, depending on which side of the semantic coin you are talking to Treasurer Kim Wells about that day, one has to ask the question, even as we debate this bill today, will there be sufficient staff retained in the Department of Sustainability and Environment and Parks Victoria to

properly manage these lands? That is what leads us to the front-line versus back-line question.

As you can see, Acting President, I am being 100 per cent relevant to the bill and right on point. I am pretty confident that a minister at the table will want to have his policy advisers accessible to him. While they may not be out there raking fire lines, from the minister's point of view they will be front-line staff. We will see as time goes on.

It is always going to be the case that we will give these bills good scrutiny during the committee stage, and I am looking forward to that in this particular case. In any case, I am proud to be supporting this piece of Liberal-Nationals legislation which is designed to expand the national park and protected areas of the state. There were times there when I did not know whether I would see the day, but I am gratified that it has come to pass. I am sure that there will be more like it as time goes on.

Mrs PETROVICH (Northern Victoria) — I will also try hard to stick to the point of where I am going. I welcome the opportunity to speak on the Parks and Crown Land Legislation Amendment Bill 2011 on behalf of the government. The bill includes an extension of several parks in my electorate of Northern Victoria Region, a very large and beautiful electorate which has suffered at the hands of a range of weather extremes over the past 10 years and as we speak is once again experiencing floods.

The bill reflects the government's support for protecting the state's natural assets and enhancing the state parks and reserves system to benefit the environment and the community. We are fortunate to have an extensive parks system across the state of Victoria in which the community can enjoy a range of activities. The coalition has a longstanding commitment to protecting the environment and to enhancing and protecting Victoria's natural assets for future generations to enjoy. It is important to note that the coalition's policy includes a policy of people being in parks. Parks are not to be locked up and ignored. Parks are to be enhanced and to be looked after, and people should have the opportunity to enjoy our natural assets.

This bill creates the Lake Tyers State Park and Gippsland Lakes Reserve (Raymond Island) covering an area of approximately 8600 hectares. The bill will also add 1300 hectares to 12 existing parks: the Alpine, Chiltern-Mount Pilot, French Island, Grampians, Kinglake, Lower Goulburn, Mitchell River, Mornington Peninsula and Warby-Ovens national parks, as well as Gippsland Lakes Coastal Park, Macedon Regional Park — one which is very dear to my heart — and Otway Forest Park. It also makes small additions to the Arthurs Seat State Park and changes to the lease arrangements to accommodate the future of the Arthurs Seat chairlift.

It was heartening to hear the comments from Mr Jennings, which included complimentary words such as 'sensible', 'acknowledgement' and 'congratulations'. That was a lovely bipartisan acknowledgement of the work that has gone into the provision of this bill. It is important to acknowledge the work that has gone on before as well as the work that continues to ensure the viability of these very special places.

Most of the additions were purchased as part of the conservation land purchase program to offset clearing associated with the construction of strategic fuel breaks on public land in other places. I would like to give special acknowledgement to the generous donation, as has been mentioned a couple of times previously, by the late Ms Karma Hastwell of a nearly 27-hectare addition to Kinglake National Park. Ms Hastwell had a long association with the park, but tragically, along with many others, she lost her life in the 2009 Black Saturday fires.

The bill renames St Arnaud Range National Park as Kara Kara National Park. It was also ably acknowledged by Mr Jennings that this has significance for the local indigenous community as well as for the broader community. This park was created in 2002 and, as I said, the name change reflects community sentiment and has evolved after extensive community consultation. 'Kara kara' means 'gold' in the native Dja Dja Wurrung language. The name change has the support of the local communities and the Shire of Northern Grampians as well as various local user groups and residents groups, and it has been endorsed by the Registrar of Geographic Names, which is significant.

Under the bill the period in which firewood can be collected from former logging coupes in the Barmah and Gunbower national parks will be extended to 30 June 2015. That is significant to note. We know — it is quite predictable — that the issue of firewood collection has prompted the usual exaggerated, alarmist and green-dyed language from opposition and Greens members alike. This is a little unfortunate, because this piece of work sets out to ensure that Victorians who have no other form of heating have a reliable source of firewood. When I was a child, a family activity — and I have done this with my own children — was to go out and collect firewood for the winter. That has not

happened so much in recent years. It is very important for people to have a reliable source of heating. I suspect this measure will not fulfil all the needs of those people who rely on wood-burning fires to keep warm, but it will go a long way towards cleaning up around those former logging coupes and some of the debris in the Barmah and other areas.

Interestingly the member for Macedon in the other place acknowledges that she burns wood, as I do. For me it is now occasionally and is not a main source of heating. I refer to her comments about firewood collection in former logging coupes:

> … it is a scary thing … you have people who would not know one end of a chainsaw from another getting in there and crawling over each other trying to get to this firewood.

I do not think that paints a very good picture of rural Victorians and how they operate. I do not think people who respect the bush have any intention of causing it damage. I know they do not. As a representative of and having been born and bred in country Victoria I get very sick of this sort of condescending and offensive description of my rural constituents. It conjures images of country people being unskilled and inept. The reality, of course, is not anything like that. They do not lack common sense, and they do take appropriate care. It is important to note that one of the reasons these people would be looking to collect firewood is that it is essential for keeping warm.

We will probably talk about this further in committee, because I know there are questions around that, so I will skim over the part around firewood collection. There has been an extension of dates and collection times. One of the reasons for that is we have had floods and much of the forests which are included in the parks have been inaccessible. It is pretty fair to say that in areas around the Barmah some of the water has not subsided until recently, and as we speak they may be having another incident. It makes things a little difficult to get in and out, and we certainly would not want people getting in there and getting bogged. Access to these areas has been considered, and great care has been taken to make sure that there is access in and out and there is minimisation of the impact on other vegetation and biodiversity.

Consistent with the firewood collection periods across the state, firewood collection will be permitted in designated areas from 1 March until 30 June and from 1 September until 30 November. These are the two seasons in which firewood may be collected so that people are not bogging up the park in winter or creating a fire risk in summer. Both those things are front of mind for all of us.

Parks Victoria will continue to police firewood collection in the Barmah and Gunbower national parks, as it has always done, and it will not be open slather, as was implied by one of the previous speakers and by speakers in the other house during debate on this bill. Firewood collection will be policed. People collecting firewood will be advised of the terms and conditions around the collection of firewood. Signs will be placed at firewood collection sites, and Parks Victoria staff will conduct regular patrols to ensure that members of the public are aware of the terms and conditions of collection. This is all about enhancing the usage of parks, about parks officers being out there interacting with the public and about debris that can be burnt being taken away and put to good use. It is really a very sustainable approach to — —

Mr Barber — Debris?

Mrs PETROVICH — Yes, from logging coupes.

It is a very sustainable approach to communities utilising what would, in many cases, just be an added fire risk, which is something none of us wants. When you look at some of the impacts of ladder fuel, you see that it particularly impacts on red gum forests. Red gum forests do not regenerate particularly well after they have burnt, so we must ensure that there is a much cleaner forest floor and that we do not have the sorts of impacts that we have seen in areas that have been logged previously. It is good to see that work happening.

Mr Barber — I agree. Logging does increase fire risk, yes.

Mrs PETROVICH — A lot of things increase fire risk, Mr Barber. In particular, locking up forests and leaving them increases fire risk. Parks should definitely be used, and they should definitely be looked after. There is a range of fire mitigation tools that can be used to protect our forests.

Mr Barber — All that regrowth around Kinglake, what happened to that when the fire came through? It went up like a torch.

Mrs PETROVICH — I do not want to enter into that, Mr Barber. The circumstances around Kinglake should be treated with some sensitivity. That community is in recovery mode now, and it is very good to see some great endomorphic growth — —

Mr Barber — I'm not allowed to debate your policies; is that what you're saying? Your policies are not open to debate anymore?

Mrs PETROVICH — I am sure Mr Barber will get his opportunity a little later in the committee stage to raise a variety of points.

An interesting point to raise is that the Forests Act 1958 contains another provision relating to fire prevention and fire suppression in state forest parks and, under the National Parks Act 1975, Crown land declared to be protected public land. The provision — and this is something that was raised with me by a number of people, ex-foresters and others, who have great credentials around the way forests should be protected and managed — requires the Secretary of the Department of Sustainability and Environment, who is responsible for ensuring appropriate measures are taken for fire prevention and suppression on Crown land, to obtain consent from public land managers prior to carrying out fire prevention and suppression works.

The bill will remove the requirement for prior consent with respect to emergency fire suppression works. This was just another layer of red tape that would increase time frames around reaction. With respect to planned fire prevention works, the bill will replace the consent requirement with a requirement for the secretary to consult with the land manager or body or other secretary. The bill will also repeal a related but redundant provision in the Crown Land (Reserves) Act 1978.

It also bears mentioning that there are 10 reservoir parks totalling nearly 500 hectares which are associated with water storage around Melbourne and the Tarago and Thomson dams. The Water Industry Act 1994 currently enables regulations to be made with respect to the care, protection and management of these parks but only if a lease is in place which is the same or similar to the one which previously existed between Melbourne Water and Parks Victoria. The lease referred to in this act has expired, and Melbourne Water has entered into a new lease with Parks Victoria. The bill will amend the act so that regulations can continue to be made in future leases with respect to the reservoir parks covered by the new lease.

There was also some discussion around firearms. I think it is good to note that clause 5(1) allows the Secretary of the Department of Sustainability and Environment to authorise the carriage or use of firearms in specified parks, subject to conditions. The camping areas at Pettmans Beach in the far south-east of Lake Tyers State Park is located very close to the Ewing Morass State Game Reserve and is used by recreational hunters during the duck, hog and deer hunting seasons. The amendment to section 37(2) of the National Parks Act 1975 will enable hunters to continue to have firearms in their possession in the camping area during the relevant hunting season.

One of the things we have seen is an explosion of the deer population and, in some areas, feral pigs. I think it is very important that, again, some of that red tape gets out of the way so we can actually assist those people to access those areas to — —

The ACTING PRESIDENT (**Mr Ramsay**) — Order! I am afraid Mrs Petrovich is out of time.

Mr SCHEFFER (Eastern Victoria) — In their contributions both the shadow Minister for the Environment and Climate Change, the member for Bellarine in the Legislative Assembly, and Mr Jennings in this chamber, set out the details of the opposition's view on the bill, so I will not take up the time of the house in going over the same material.

Mr Jennings has said that the opposition supports the bill, and indeed congratulates the government on most provisions in the bill, but it has some serious problems with clause 13, which relates to the collection of firewood in the Barmah and Gunbower state forests along the Murray. Mr Jennings also indicated in his contribution that he will be seeking to amend this provision during the committee stage.

I will confine my brief remarks to acknowledging that the bill provides for new park and reserve areas in eastern Victoria through the creation of the Lake Tyers State Park and the Gippsland Lakes Reserve. The second-reading speech acknowledges that these provisions implement longstanding recommendations that go back to the time of the Land Conservation Council. But, most importantly, the provisions in the bill that relate to Lake Tyers State Park and the Gippsland Lakes Reserve fulfil obligations following negotiations with the Gunai Kurnai people and also honours commitments made by the former Victorian Labor government.

Along with Mr Wynne, the member for Richmond in the Assembly, and Mr Jennings, in their previous roles as ministers in the state government, I was honoured to have been in attendance at the historic sitting of the Federal Court of Australia at Knob Reserve, near Stratford, in October 2010 which recognised the Gunai Kurnai people as traditional owners in Gippsland. The agreement area extends from Warragul in West Gippsland to the Great Dividing Range in the north and goes all the way down to the Snowy River in the east, so it is a considerable parcel of land. The state and the Gunai Kurnai people, through the Land and Waters

Aboriginal Corporation, will jointly manage the parks and reserves, and I of course wish them well.

I also note that the bill adds 1300 hectares to 12 existing parks, including Alpine National Park, French Island, Mitchell River and Mornington Peninsula, which are all of course in Eastern Victoria Region. Those additions are also to be commended. The bill allows for an increase in the maximum lease term for the Arthurs Seat chairlift from 20 years to 50 years, which Mr Jennings also touched upon. Everyone on the Mornington Peninsula and across the state, including people who have travelled there to use the chairlift in past years, are of course looking forward to the reopening of the new, improved chairlift in the not-too-distant future.

As Ms Neville, the member for Bellarine in the Assembly, and Mr Jennings both indicated in their respective contributions, the opposition does have a problem with clause 13 of the bill, and as I indicated there will be a move to amend that clause. I understand that under existing legislation the collection of firewood in the Barmah and Gunbower national parks was allowed until June last year. This bill extends the period to June 2015. The second-reading speech argues that these changes are minimal, that they overcome the fact that wet conditions in recent times have prevented firewood collection within that specified period and that quite a lot evidently still remains which could be made good use of by local communities. Our problem with this is that the government has not indicated how the collection of firewood over the extended period would be monitored, why the requirement for permits has been dropped, how people will know the conditions under which they are allowed to collect firewood or what role Parks Victoria rangers will have in managing and controlling the collection.

Finally, the bill touches on the Alpine National Park, and I would like again to place on record the serious concerns that we on this side of the house have in relation to the government's determination to reintroduce cattle grazing in this important part of Victoria. Thankfully, the federal Minister for Sustainability, Environment, Water, Population and Communities, Tony Burke, has disallowed the Victorian government's formal proposal because it would have an unacceptable impact on the environment.

It is disappointing to note that the Baillieu government has just yesterday, I think, or maybe the day before, announced that it will in fact mount a Federal Court challenge to the federal government's decision, so there will be another chapter in what is a very sad story. This can only be described as a quixotic tilting at both the science and the federal Labor government, and I do not believe that the course of action that the Victorian government is taking brings it any credit at all. The Minister for Environment and Climate Change, Mr Smith, really should accept the unanimous opinion of the experts and the Victorian public. He should back off and stop what really in the end is a shameful pandering to sectional interests.

Mrs KRONBERG (Eastern Metropolitan) — I am pleased to rise and speak about the Parks and Crown Land Legislation Amendment Bill 2011. In doing so, I commend the bill to the house. In a broad sense, what I would like to do is to commend the Minister for Environment and Climate Change, Mr Smith, for this bill before us today and also to commend the opening contribution to the debate by the Parliamentary Secretary for Sustainability and Environment, Mrs Petrovich. She has laid out some important principles that go to the heart of the elements of this amendment bill, which is based on adding areas to Victoria's state parks and reserves system.

It is important to stress that this is a result of the coalition government listening to community views. The bill will facilitate investment in key tourism infrastructure and hopefully in a general sense improve and make the workability of the legislation more effective and smoother. Three acts are affected by the amendment process. The first is the National Parks Act 1975, which requires amendment because in dealing with the Lake Tyers State Park it fulfils one of the state's obligations to the Gunai Kurnai people. This is not the only form of recognition of the indigenous people of Victoria, but I think that is an outstanding thing to have done and I am proud that the coalition government has initiated it. Other areas affected are the Kinglake, Lower Goulburn, Mitchell River, Mornington Peninsula and Warby-Ovens national parks and the Gippsland Lakes Coastal Park.

I need to underscore that I have a particular interest in running inquiries in Melbourne's interface council areas. I am particularly interested in the changes that are being made that affect tourism on the Mornington Peninsula because the lower reaches of Kinglake are embraced by the shire of Nillumbik, a good part of which is in my electorate. The St Arnaud Range National Park will now be known as the Kara Kara National Park, underpinning our commitment to the recognition of the indigenous people in the western part of the state.

There is also provision to extend the maximum lease for the Arthurs Seat chairlift from 20 to a realistic

50 years to encourage the right degree of investment in this important piece of tourism infrastructure that is one of the things interstate and international visitors come to experience when visiting the Mornington Peninsula. Riding the chairlift is a great — and hopefully one day very modern — means of being lifted up that escarpment to take in the panorama of Port Phillip Bay. These practical changes add several strata to the airspace above Arthurs Seat State Park and to the adjacent chairlift passage. Perhaps it might be an opportunity to review the mechanism by which people are lifted up Arthurs Seat. Currently it is via a chairlift that is exposed to the elements. Perhaps this could be an opportunity to consider a mixed form of lifting people, where they are enclosed but can take advantage of the panorama 365 days a year in an all-weather environment.

This bill extends the period in which domestic firewood can be collected from former sawlog harvesting areas in both the Barmah and Gunbower national parks. The end of the period has been extended from 30 June last year to 30 June 2015. Several years ago I had the opportunity to tour the Wombat State Forest, so I have seen the load after the harvesting of sawlogs. I have seen the build-up on the floor of forests, and I think it is profoundly important that we avoid future conflagration by giving people the opportunity to interact with these forests and have communion with the bounty of the earth. These are very important principles.

The bill will also amend the Crown Land (Reserves) Act 1978.

I need to make an important point that goes to the heart of why an addition has been made to Kinglake National Park. The additional land was bequeathed to the state by a lady called Karma Hastwell. Ms Hastwell was the owner of a 26-hectare Kinglake property and, at age 88, was the oldest victim of the Black Saturday bushfires. The people of Victoria will now benefit from the bequest, which merges land on Bald Spur Road with the adjoining Kinglake National Park. This was regarded as a fitting tribute to Ms Hastwell, who wanted it protected. In 1977 Ms Hastwell successfully urged the non-profit group Trust for Nature to buy 10 hectares next to her own 26 hectares from a private owner, which Ms Hastwell then lived on as caretaker. The Minister for Environment and Climate Change, the Honourable Ryan Smith, is to be commended for this sensitive addition to Kinglake National Park and for enabling the realisation of a dream for Ms Karma Hastwell, the oldest victim of the Black Saturday bushfires. I commend the bill to the house.

Mrs COOTE (Southern Metropolitan) — It gives me a great deal of pleasure to be able to speak on the Parks and Crown Land Legislation Amendment Bill 2011. This is an opportunity — albeit a brief one — to talk about and acknowledge the Baillieu government's approach to parks and the enrichment of parks in Victoria. Although this is a bill a number of other speakers have spoken about today, it is important to understand that each one of these areas that has been nominated and spoken about reflects community, usage and opportunity. It is really important to see this. We have been out there and listening to what people want to say.

At the outset I would like to talk about the contribution made by a former Minister for Aboriginal affairs, now opposition spokesperson on this bill, Gavin Jennings. Mr Jennings said at the outset that he does not really want to pat himself on the back but feels this bill reflects so much of what he has been passionate about for a significant time. I do not want to dispute the fact that he has been passionate. I would like to put on the record that I know very well how passionate Gavin Jennings was about a number of these issues, especially issues relating to Aboriginal affairs. I know the support he showed for this bill in his contribution was genuine and from his heart. We in the Baillieu government are very pleased to see it.

I happen to have been involved with the Arthurs Seat chairlift at the time it collapsed. I was a shadow minister at the time, and the collapse was very concerning for everyone involved. It was absolutely appalling to think that people would come to this lovely part of Victoria to enjoy a family experience only to find their lives in jeopardy.

It is important to understand that giving people an opportunity to have a 50-year lease will give the provider a sense of certainty, which hopefully will attract people who are going to be vigorously scrutinised to make certain they can put in and run the infrastructure in such a way that it is going to be safe into the future. We hope this will be something that will encourage people to come to the area. If you consider chairlifts all around the world, you realise that they are a highlight wherever they are placed. A chairlift will bring people to this fabulous part of Victoria, and from it they will be able to see the city and the You Yangs. It will be a fabulous experience for everybody.

It is interesting to note that Matthew Flinders was the first European to climb Arthurs Seat after his ship entered the heads while making its circumnavigation of Australia in 1802. It was declared a park in 1975. The bill is an important measure to maintain the tradition of

a chairlift that is accessible and safe for a lot of tourists, and it will provide certainty for those people who are involved in the park. It was good to see the Minister for Environment and Climate Change, Ryan Smith, acknowledge this point in his second-reading speech when he said a new chairlift and associated visitor facilities would be encouraged by providing for a 50-year maximum lease term instead of the current 20-year lease.

The other issue concerns parks and reserves. As other members have said, approximately 10 000 hectares will be added to our parks. This may not seem a lot, but it will tidy up a whole range of areas and will make things much more efficient and effective. As I said at the outset of my contribution, this bill improves issues for locals, because people who live near and around parks really enjoy their facilities. The bill creates the new Lake Tyers State Park of about 8600 hectares. It will include some fabulous sporting opportunities for families, couples and groups of friends to camp, bushwalk or picnic in, or to just go for a scenic drive. The government hopes people will come to this area for tourism reasons and add to the economy of rural and regional Victoria.

An extremely important provision in the bill concerns the change of name from the St Arnaud Range National Park to the Kara Kara National Park. Once again the minister has been listening to the local community, which wanted this renamed. The name change reflects its Aboriginal heritage; Kara Kara means gold in the local language and was previously used in the area for the former state park and also the former shire that existed.

The firewood collection provision is very interesting, and it is vital to understand it. I have lived through many debates and debated myself in many parliaments the issue of firewood collection in our national parks and other parks. It is so important to understand that here in the city where we have reticulated gas and fuel at the flick of a switch or a match — it is right there; we do not have to think about where it comes from — that there are still communities in Victoria who need to collect firewood in order to run their households. Frequently these people are from lower socioeconomic areas or are elderly. They have no alternatives. Bottled gas is seriously expensive, so the firewood collection provision is important. The provision also reflects the facts of what has been happening in and around these areas. Over the last few days we have seen more rain in some areas of Victoria which are going to be affected by this provision. We have to give people whose lives are affected by this situation every opportunity to collect firewood.

I could go on about parks; indeed I am a huge advocate for parks in this state. I congratulate Minister Ryan Smith on the excellent work he has already done as a minister. I look forward to the work he will do for parks in this state, and I commend this bill to the house.

Mr P. DAVIS (Eastern Victoria) — I am pleased to have the opportunity to speak on the Parks and Crown Land Legislation Amendment Bill 2011. I would like to make some relatively brief remarks. During the course of the debate I overheard some remarks about firewood. I heard the contributions from members on the other side of the house, both the opposition and the Greens, who obviously live in Brunswick and have a view that natural gas and electricity are the preferred sources of fuel for cooking and heating. When they are occasionally persuaded to put some fuel in their cars and go for a drive into the country it is a revelation to them that many people do not have that option because their primary source of fuel is firewood. I support any measures that make it easier for people for whom — for either economic or geographic reasons — access to more conventional contemporary sources of fuel is limited to have the option of being able to collect firewood. I endorse those aspects of the bill.

During the course of the debate I noted that Mr Scheffer used what I thought were some unfortunate expressions about the self-interest of a segment of our community, which I find disappointing given that he is a parliamentary representative of those people, being the mountain cattlemen. Whether Mr Scheffer likes it or not, he is obliged, as are we all, to represent our whole communities that elect us — —

Mr Jennings — After Mr Finn went on a tirade earlier today, Mr Davis is lecturing Mr Scheffer about the language that he used! Mr Scheffer is a man of moderation and respect, and Mr Davis is having a go at him!

Mr P. DAVIS — In my view Mr Scheffer used intemperate language in relation to describing his own constituents — —

Mr Jennings — Yes, it is the hallmark of his political career!

Mr P. DAVIS — Mr Jennings, it is inappropriate to denigrate a group of people, no matter how small that group is, no matter how few those people are. Those people have a legitimate policy interest in a matter of public land management. They are more affected than Mr Jennings or Mr Scheffer will ever be by the very nature of the environment in which they live — that is, the threat to their communities of bushfire.

The debate swirls around the issue of alpine grazing as a method. The government has fully supported a trial to either prove or disprove the arguments on both sides of the debate and it will persist in that position, as has been very well described by the Minister for Environment and Climate Change, Ryan Smith, who has done a great job in standing up to the attempts by Tony Burke, the federal Minister for Sustainability, Environment, Water, Population and Communities, to bully him into submission on the federal government's view on this issue, which is motivated, in my opinion, entirely by a political objective without regard to the consequential impact on good land management policy decisions.

That should be at the forefront of our thinking when we talk about bills relating to Crown land and national parks. In that context I want to pick up Mr Barber's earlier comments when he said that there has been a great deal of debate in this place about the resourcing of Parks Victoria.

Mr Barber interjected.

Mr P. DAVIS — Indeed. I have nowhere to go this evening, Mr Barber. I am quite happy to stand here and argue with you endlessly. I had a very good night's sleep last night, thank you, so I am recharged and refreshed. I love Mr Barber's interjections because he gives me — —

The ACTING PRESIDENT (**Mr Ramsay**) — Order! I am having trouble hearing the contribution by Mr Davis.

Mr P. DAVIS — I am surprised, Acting President. I can turn up the volume a little more, if you would prefer.

I want to very briefly pick up Mr Barber's comments and observe that it is true that in opposition members on this side made the point strongly, and I have continued to make it since we have been in government, that the management of our public land is, in simple terms, inadequate. We have seen over decades, in my view, a neglect of public land management, and we cannot turn that around quickly. Regrettably, after nearly 11 years of Mr Jennings's stewardship, public land management has gone backwards. I can testify to that. I can testify to the fact that, for example, the Australian Alps Walking Track is just about impassable in places now because of the neglect of the Alpine National Park as a result of Mr Jennings — —

Mr Jennings — Yes, it is all my fault, as you know.

Mr P. DAVIS — Indeed I do know. Mr Jennings, I am happy to accept your interjection. It is entirely your fault.

Mr Jennings interjected.

Mr P. DAVIS — What I am concerned about is that we have seen an increase in uncontrolled weed infestations in the Alpine National Park and we have seen the increasing difficulty in access and the right of access and passage by people who would otherwise enjoy the Alpine National Park. That is a result of insufficient resources, and I acknowledge that, Mr Barber.

Mr Barber interjected.

Mr P. DAVIS — It is not in terms of total investment. It is the way those funds have been invested. I congratulate the Minister for Environment and Climate Change, the Honourable Ryan Smith, on doing a great job in trying to turn that around. He is working with Parks Victoria to sharpen the focus of Parks Victoria to ensure that the resources that it is given to work with are in fact applied to the management of the landscape. I endorse his efforts in that respect and congratulate him on them.

Without further ado, I endorse the bill and I urge members to support it — —

Mr Jennings interjected.

Mr P. DAVIS — I urge you to now. If you want me to say it more expressly: I urge you to support the Parks and Crown Land Legislation Amendment Bill 2011. I am sure that it will have a speedy passage, albeit that I understand there will be a committee stage.

Mrs PEULICH (South Eastern Metropolitan) — I also wish to make a few remarks on the Parks and Crown Land Legislation Amendment Bill 2011. First and foremost, I welcome any legislation which will see improved management of our Crown land and our parks. I endorse some of the comments that have been made by my colleagues, especially Mrs Donna Petrovich, the Parliamentary Secretary for Sustainability and Environment, and Mr Philip Davis.

Mrs Coote — And me.

Mrs PEULICH — Absolutely, but there were two points. Mrs Coote is of course a very well-informed member, having served on the Parks Victoria board, and she is very knowledgeable in this particular area.

Mr Leane — What about Mr Jennings?

Mrs PEULICH — Mr Jennings was a very able minister with a genuine passion for the environment, I think. There are nuances and differences in policy.

Having been born on a farm and as a lover of the natural environment with a practical perspective, I share the view that nature is not something that should be protected, locked up and kept away from enjoyment by human beings. In particular, in a current inquiry — and this is not revealing or disclosing anything about the committee process because it is evidence on the public record — all the evidence presented to the Environment and Planning References Committee, which is currently looking into the built environment in particular, shows that land that is unattractive and unusable does not add substantially to the health benefits of our community.

I come from that perspective, and I have shared a lot of concerns about the neglect of some of our Crown lands and parks and the need to invest resources to encourage people to use them. Sure, there are different classifications of land and some land will be protected to a higher level, but nonetheless it cannot be locked up forever.

I would like to comment specifically on the provisions that relate to the reclassification of the Frankston Natural Features Reserve as a natural conservation reserve area and the streamlining of the approvals process for fire prevention works on certain areas of Crown land.

I will deal with the second point first. I have long had a concern that the various agencies responsible for certain land do not take sufficient preventive measures to mitigate against fire. I have raised this matter before in the house. Even one of my local parks, Braeside Park, was very neglected and posed a significant threat because right across the road from it is a very urbanised area in Dingley Village. Let me say that I have a conflict of interest: I live in Dingley Village — as do 7500 other people, so I am not asking for any special measures to be taken. We cannot take our eyes off the ball when it comes to the safety of the community.

The Frankston Natural Features Reserve began its life as the Frankston Reservoir. After the decommissioning of the reservoir in 2006, the Bracks and Brumby governments dithered over its future and caused considerable community concern. Indeed the former member for Frankston in the Assembly, Alistair Harkness, sat on a committee for five years but no progress was made. The reserve had long been promoted as an area of great importance to the community. It is surrounded by urbanised features. In 2006 the Liberal Party announced that we would spend $500 000 to clean up the reserve, followed by $100 000 a year for the next five years for maintenance and improvements. We gave the community hope that it would be opened up, not kept locked up, made available to the public and that none of the land would be sold off. We have delivered that in spades.

I undertook a very comprehensive survey to find out what the issues were. Hopefully that has been fed into a realisation of a dream that has been shared by in excess of 90 per cent of respondents who made their views known through a consultation process that was set up by the government. The Labor Party had no vision in relation to it, but there was a groundswell of support for the reservoir. I think it has paid off.

The ownership of the land was transferred from Melbourne Water to the state, and it is reserved under the Crown Land (Reserves) Act 1978 so that the Frankston Natural Features Reserve plan could begin to take shape. The member for Frankston in the Assembly, Geoff Shaw, advocated for this reserve — even when he was a candidate for Parliament — for some time, along with other Liberals and me. I was able to identify a range of concerns which have hopefully resonated and been taken up, including the importance of protecting native wildlife and education and the necessity for a fire management plan given the reserve's proximity to local residences. Respondents highlighted a range of other issues, including safety, security, loss of amenity, ingress to and egress from the reserve and the need for better fire management. These are matters that are very important and part of a draft plan which has been on display in exhibitions since late 2011.

Mr Jennings inferred it was regrettable that people could not walk their dogs in the park. That would be a shift in the use of the park. What Mr Jennings may not know is that there are 35 places in the city of Frankston where dogs can be walked, but there has not been a single nature reserve until now. We have delivered that to the community. The Labor Party failed to make any progress about the future of the plan, because there was no resolution of the differences of opinion on the future of the plan. We have made progress; we have delivered this natural reserve. Hopefully extensive community consultation will mean that it will be used for a range of activities.

I pay tribute to the Friends of Frankston Reservoir Inc., the Frankston Environmental Friends Network, the Department of Sustainability and Environment and Parks Victoria for all their work to ensure that this decommissioned reservoir of 2004 has now become a

new, exciting asset which the Frankston community and the Liberal Party are proud of. I commend the bill to the house.

Motion agreed to.

Read second time.

Ordered to be committed later this day.

BUILDING AMENDMENT 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 (charter act), I make this statement of compatibility with respect to the Building Amendment Bill 2012.

In my opinion, the Building Amendment 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 bill will amend the Building Act 1993 to provide that the Building Practitioners Board (BPB) has jurisdiction to deal with registered building practitioners whose registration has become suspended provided that the BPB inquiry commences no more than three years after the date of the suspension.

Human rights issues

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

The bill does not raise any human rights issues.

Conclusion

I consider that the Building Amendment Bill 2012 is compatible with the Charter of Human Rights and Responsibilities Act 2006 because it does not raise any human rights issues.

Mathew Guy, MLC
Minister for Planning

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The bill sets out amendments to be made to the Building Act 1993 ('the act') which will ensure that:

the Building Practitioners Board (BPB) has jurisdiction to deal with registered building practitioners whose registration has become suspended provided that the BPB inquiry commences no more than three years after the date of the suspension;

it is clear that a disciplinary inquiry commences from the date when the BPB serves on the practitioner a written notice of an inquiry under section 178(2) of the act.

Prior to 2001, doubt existed as to whether the BPB had power to hold an inquiry where a registered building practitioner ceased to be registered and, as a result, ceased to be a 'registered building practitioner'.

There was concern that a building practitioner could avoid the consequences of inquiry by voluntarily allowing their registration to fall into suspension, most easily by failing to renew their annual registration.

In 2001 the act was amended and the current section 179A of the act was added in order to address this concern.

The second-reading speech for the 2001 amendment indicated that the purpose of that amendment was to enable the BPB 'to conduct inquiries into the conduct of registered building practitioners whose registration has been suspended'. The explanatory memorandum stated that the 2001 amendment was to enable the BPB 'to hold an inquiry into the conduct of a building practitioner who was registered at the time the conduct occurred but whose registration has since been suspended by the board'.

However the actual wording of the 2001 amendment provided that the conduct that could be inquired into, in relation to a person whose registration had been suspended, was 'limited to conduct that occurred during the three-year period that immediately preceded the suspension'.

After the 2001 amendment, the BPB view was that, provided a building practitioner was registered at the time an inquiry commenced, the inquiry could proceed to conclusion if the practitioner's registration was suspended during the course of the inquiry.

However in 2010, in *Ariss v. Building Practitioners Board*, His Honour Bell J., of the Supreme Court, held that, notwithstanding that Mr Ariss was registered as at the date of the commencement of the inquiry, the 2001 amendment operated to prevent the BPB from commencing, or continuing, an inquiry into the conduct of a practitioner

whose registration is suspended where the relevant conduct occurred more than three years prior to the suspension.

His Honour commented that:

> Whilst the present terms of the legislation demand this conclusion, I have noted the concerns of the board about the consequences. The purposes of the statutory scheme are to ensure the proper standards of building and construction, to protect the public from delinquent and unscrupulous building practices and to maintain the standing of the building industry. The purposes are weakened when some builders are able, and seen to be able, to avoid regulatory scrutiny of their practices by delaying inquiries and 'orchestrating' their own suspension.

Accordingly the amendment, as provided in this bill, is required in order to protect the purposes of the statutory scheme as referred to above.

The amendment is required because if a building practitioner engineers his or her own suspension so as to avoid the disciplinary jurisdiction of the BPB, usually by failing to pay the annual renewal fee, that practitioner may subsequently seek re-registration.

Legal or administrative difficulties may then arise if re-registration were to be refused, or if there were attempts made to recommence a BPB inquiry that was previously abandoned due to the suspension or loss of jurisdiction.

In terms of transitional provisions, the old s 179A will continue to apply where a building practitioner has been suspended (and the suspension has taken effect) before the commencement date of the amendments. The new law will apply if the builder is suspended (and the suspension has taken effect) after the commencement date.

I commend the bill to the house.

Debate adjourned for Mr TEE (Eastern Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 8 March.

CARERS RECOGNITION BILL 2012

Introduction and first reading

Received from Assembly.

Read first time for Hon. W. A. LOVELL (Minister for Children and Early Childhood Development), on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. W. A. LOVELL (Minister for Children and Early Childhood Development), 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 Carers Recognition Bill 2012.

In my opinion, the Carers Recognition 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 recognise, promote and value the role of carers and care relationships. The bill contains 11 principles addressing carers and people being cared for in a care relationship. The principles recognise and value carers and guide the community's understanding of the significance of care relationships. Organisations are required to consider the care relationship principles when developing policies and providing services. The bill also provides reporting and compliance obligations for all organisations and associated providers covered by the bill.

Human rights issues

The bill promotes and strengthens rights in the charter act, while one clause engages but does not limit rights in the charter act.

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

The bill positively engages and promotes the right to recognition and equality before the law. The bill will provide legislative recognition of the important contribution that carers make to society. The bill provides guidance for people and organisations that engage with carers about how they should be treated and how carers can be involved in the assessment, planning, delivery and review of services that impact on them and the care relationship.

The bill positively engages and promotes a person's right to enjoy their cultural identity. The principles recognise that the cultural identity of both the carer and the person being cared for are to be taken account of in all matters relating to the care relationship.

2. Human rights protected by the charter act that are engaged but not limited by the bill.

The purpose of the care relationship principles is to guide organisations' understanding of the significance of care relationships. Organisations are required to consider the care relationship principles when developing policies and providing services. The care relationship principles provided for in the bill could potentially engage the right of the person being cared for, not to have their privacy unlawfully or arbitrarily interfered with under section 13 of the charter act. This could occur by requiring organisations to include carers in the decisions made about the person being cared for and sharing personal information with the carer.

However, clause 6 states that in the event of any inconsistency between the Carers Recognition Bill and any other act, which includes the Information Privacy Act 2000 or the Health Records Act 2001 the provisions of the other act will prevail. Therefore, a person's right to privacy would continue to be protected through the safeguards set out in

these acts and the information privacy principles and the health privacy principles.

Conclusion

I consider that the Carers Recognition Bill as introduced to the Legislative Assembly is compatible with the Charter of Human Rights and Responsibilities Act 2006.

Hon. David Davis, MLC
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 Baillieu government is committed to recognising, promoting and valuing the role of Victorian carers. The Carers Recognition Bill 2012 will raise the profile of people in care relationships in the community and ensure that carers can be appropriately involved in the treatment of and planning for, the people for whom they care.

Victoria's 700 000 unpaid carers give selflessly of themselves and make a huge contribution to the community. Carers often take on the role because they have a personal relationship with the person for whom they care or because they want to make a contribution to the community. While incredibly rewarding, for many of these Victorians, caring can be a full-time role. It is also a role that can have significant impacts on a carer's life.

Despite these challenges, through their continued effort and dedication carers make a valuable social and economic contribution to the whole community. They deserve our support, our respect and recognition for what they do.

The Baillieu government made an election commitment to introduce legislation to recognise, promote and value the role of carers. This bill honours that commitment by formally recognising the valuable contribution of carers and the cornerstone that care relationships are for many Victorian families.

The purpose of the bill is to formally acknowledge the contribution that carers, and people in care relationships, make to the social and economic fabric of the Victorian community. The bill will align Victoria with other states and territories that already have recognition legislation for carers.

The focus of the bill is on supporting care relationships. This is a step forward from the recognition acts in other states which generally focus exclusively on the carer. Victoria's bill acknowledges that carers are in a shared arrangement involving the person providing care and the family member or friend for whom they care. Each person in a care relationship should be respected, recognised and supported as an individual, including when the care relationship changes.

There are three core elements to the bill. First, the bill defines carers and care relationships broadly enough to encompass the diversity of care arrangements. The definition includes young carers, kinship and foster carers, and people providing support and assistance for someone with a mental or chronic illness as well as those supporting ageing parents, the frail aged or a person with a disability.

A carer is defined as a person who provides ongoing support, assistance or personal care to another person in a care relationship. The care arrangement may be subject to change and may include one or more people providing care or being cared for.

This bill is not intended to recognise care relationships where a person is paid to care for others, or where a person cares for others on a voluntary basis through community organisations or as part of education and training.

The bill contains 11 principles addressing carers, people being cared for and care relationships. Their purpose is to recognise and value carers and to guide the community's understanding of the significance of care relationships.

The principles acknowledge carers for their contribution and recognise the unique knowledge they hold of the person in their care. This includes the principle that where appropriate, carers should be included in the assessment, planning, delivery and review of services that impact on them and the care relationship.

The principles state that people in care relationships should be respected and recognised as individuals. For example, carer participation in employment and education should be considered when decisions are made that impact on them and the care relationship.

Victoria already has a statement of principles in the Victorian charter supporting people in care relationships. This bill is consistent with the charter in recognition of the work by stakeholders who invested in and contributed to its development. The charter will be updated to reflect the new legislation and will support implementation of the bill.

Organisations bound by the bill will be required to consider the principles and take action to reflect them when developing and implementing support for people in care relationships.

State government departments, entities established by statute, and local councils as well as service organisations (and their subcontractors) funded by government to provide programs and services to people in care relationships must comply with the bill.

The bill will not apply to schools and early childhood services. They are already required to recognise, promote and value the role of parents or guardians as carers of their children.

Organisations that are required to comply with the bill will need to ensure that their staff have an understanding of the principles and how they apply to their working environment. They must also take all practicable measures to ensure that people in care relationships receiving services from them are aware of the care relationship principles.

Organisations will be required to report publicly, in their annual reports, on their compliance with the principles in the bill. However, in line with the government's commitment to

cut red tape the reporting or compliance burden on organisations will not be onerous.

The bill will not give individuals the right to institute legal proceedings or to challenge the validity of decisions made. Nor will organisations be required to provide funding, employment, education or training services to people in care relationships.

Ensuring the bill works optimally over time is important. Consequently, in a reasonable time frame, the government will undertake a review of the operation and effectiveness of this bill to ensure it continues to respond to the needs of carers and people in care relationships.

The bill will guide policy development and delivery of services by government agencies and organisations that engage with carers. But legislation on its own is not enough. That is why the government is also developing a carer action agenda that will establish a long-term plan to recognise carers and reform the support and services available to people in care relationships.

This bill marks an important step in the government's carer action agenda and supports measures that the government has already undertaken to improve services for carers.

Importantly, the government has publicly supported efforts to establish the national disability insurance scheme. Victoria has offered to host the first stage of implementation of the scheme in Victoria. This reform has the potential to transform the lives of eligible people with a disability and their carers.

We have also undertaken to reform respite services so that families and carers receive efficient, simple and timely support. This included a funding commitment through the 2011–12 state budget for the development and implementation of new and innovative respite options.

Now for the first time, Victoria will have legislation that sets out clear expectations for people and organisations that engage with carers about how they should be treated. And it delivers on our commitment to recognise carers and people in care relationships in law, and to value the great contribution that they make to our community.

The Baillieu government is committed to ensuring Victorian carers receive the recognition they deserve.

I commend the bill to the house.

Debate adjourned for Ms MIKAKOS (Northern Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 8 March.

CITY OF MELBOURNE AMENDMENT (ENVIRONMENTAL UPGRADE AGREEMENTS) 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 (the charter act), I make this statement of compatibility with respect to the City of Melbourne Amendment (Environmental Upgrade Agreements) Bill 2012 ('the bill').

In my opinion, the bill as introduced to the Legislative Council is compatible with the human rights protected by the charter act. I base my opinions on the reasons outlined in this statement.

Overview of the bill

The purpose of the bill is to amend the City of Melbourne Act 2001 to improve the procedures relating to environmental upgrade agreements under part 4B of that act. The bill specifically amends provisions to ensure existing mortgage holders are not disadvantaged by the levying of a council charge on the land.

An environmental upgrade agreement is a tripartite agreement between the Melbourne City Council, a building owner and a lending body. Under an agreement, the lending body advances funds to the building owner to undertake approved environmental upgrades and the council levies an 'environmental upgrade charge' on the land to recover the funds which are passed on to the lending body. This provides a level of security for the lending body that allows funds to be made available at lower costs for the building owner.

Human rights issues

Section 20 of the charter act protects property rights. It states that 'A person must not be deprived of his or her property other than in accordance with law'.

Clause 4 of the bill engages section 20 of the charter act because it addresses procedures to protect the rights of a person who holds an existing mortgage over land that is proposed to be subject to an environmental upgrade charge. As the bill provides increased protection for these rights, it is not a limitation on the rights protected by the charter act.

The bill requires the owner of the building to provide the council with details of all mortgage and statutory debts outstanding on the property and to give the council a signed statutory declaration attesting to the accuracy of the information provided. The statutory declaration must also verify that all existing mortgagees have been notified of the proposed charge.

In addition, the provisions in the bill will prohibit the council from entering into an environmental upgrade agreement if it has not received the signed statutory declaration or if the total statutory and mortgage debts on the land, including the

proposed environmental upgrade charge, will exceed the value of the land before the upgrades are made.

Matthew Guy, MLC
Minister for Planning

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The City of Melbourne Amendment (Environmental Upgrade Agreements) Bill 2012 will amend the City of Melbourne Act 2001 to improve the processes that the Melbourne City Council follows when entering into environmental upgrade agreements.

The bill also amends section 5 of the City of Melbourne Act 2001 to remove a conflict with section 6C, which was inserted by the City of Melbourne Amendment Act 2011.

An environmental upgrade agreement is a tripartite agreement between the council, a building owner and a lending body. The purpose of these agreements is to help fund environmental upgrades of commercial buildings in the city of Melbourne.

Under an environmental upgrade agreement, the lending body provides funds to the building owner to pay for approved environmental works. The council then levies an 'environmental upgrade charge' on the property to recover the funds, from which it repays the lending body.

The council utilises these agreements, as part of its 1200 buildings program, to encourage and support building owners to undertake upgrades that improve energy and water efficiency or that otherwise enhance environmental sustainability.

The council has identified obstacles to the effective implementation of environmental upgrade agreements and has specifically requested the amendments in this bill to assist it to continue to develop and expand its program.

The bill will improve processes for entering into environmental upgrade agreements in two ways. It will help secure rights of existing mortgage holders and facilitate extending the option of agreements to property trusts that own multiple properties.

The rights of existing mortgage holders will be enhanced by requiring the council to ensure that all existing mortgage holders are informed in advance of the proposed agreement and to ensure that the total statutory and mortgage debts on the property do not exceed the value of the property before any enhancements. This is achieved by preventing the council from entering into the agreement until it has obtained the relevant information and a signed statutory declaration from the property owner.

The ability for property trusts to enter into environmental upgrade agreements with the council will be improved by making specific provision to deal with mortgages that are held over multiple properties.

I commend the bill to the house.

Debate adjourned for Mr TEE (Eastern Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 8 March.

CONTROL OF WEAPONS AND FIREARMS ACTS AMENDMENT BILL 2011

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Control of Weapons and Firearms Acts Amendment Bill 2011.

In my opinion, the Control of Weapons and Firearms Acts Amendment Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the bill is to amend:

1. section 5 and 11A of the Control of Weapons Act 1990 to subject prohibited persons to an indictable offence for possessing, carrying or using an imitation firearm;

2. section 10D(6) of the Control of Weapons Act 1990 to remove the requirement that seven days must elapse from the publication in the *Government Gazette* of notice of a planned declaration of a designated area for random weapons searches before the search may occur;

3. section 3 of the Firearms Act 1996 to extend the definition of a firearm to include blank firing pistols that are capable of being modified to fire a live round;

4. section 5 and 7C(3) of the Firearms Act 1996 to remove the distinction between a registered or unregistered

firearm when in possession, carried or used by a prohibited person;

5. section 16(8)(b), 16(12), 16(13), 16(14), 16(15), 16(16), 123C(1)(c)(v) and 3(1) of the Firearms Act 1996 to allow international shooting events to be recognised for the purposes of the handgun participation rules;

6. section 16(3), 16(4), 16(5) and 16(6) of the Firearms Act 1996 to reduce the minimum number of shooting events that a licensed handgun owner with more than one class of handgun must participate in each calendar year; and

7. schedule 3 of the Firearms Act 1996 to exempt members of Victoria's firefighting and emergency services who use a category E firearm for the purposes of backburning and planned burning.

Human rights issues

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

Clause 5 of the bill makes a minor amendment to the controlled weapons search regime and in my opinion has no impact on rights protected under the charter act.

The clause removes the requirement for a seven-day notice period between publication of a notice in the *Government Gazette* declaring an area to be a designated area and the commencement of random weapon searches under the planned designation provisions. However, the requirement to advertise planned designations in both the gazette and a daily newspaper is retained.

In my opinion, no other provisions in the bill engage rights protected by the charter act.

Conclusion

For the reasons given in this statement, I consider that the bill is compatible with the Charter of Human Rights and Responsibilities Act 2006.

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

Second reading

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I advise the house that amendments were made in the Legislative Assembly. The house amendments will ensure that the applicable provisions are clear and that regardless of the number of classes of handgun a person is licensed to possess, use or carry, each licensee must undertake their participation on at least 10 separate days. This will ensure that the status quo with regard to the number of separate days licensees are required to attend to complete their handgun participation requirements is maintained. I move:

That the second-reading speech be incorporated into *Hansard*.

Motion agreed to.

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

That the bill be now read a second time.

Incorporated speech as follows:

The bill makes a range of amendments to the Control of Weapons Act 1990 (Control of Weapons Act) and the Firearms Act 1996 (Firearms Act) to improve the operation and effectiveness of the regulatory regimes under those acts.

The bill amends the Control of Weapons Act to make it an indictable offence for prohibited persons to possess, carry or use imitation firearms. Formerly, prohibited persons were subject to an indictable offence under the Firearms Act for this conduct, but the regulation of imitation firearms passed on 1 July 2011 to the Control of Weapons Act. The applicable offence in that act is a summary offence that carries a maximum penalty of 240 penalty units or two years imprisonment.

To provide a stronger degree of deterrence, the bill creates a new indictable offence prohibiting prohibited persons from possessing, carrying or using imitation firearms. The maximum penalty for this offence will be 1200 penalty units or 10 years imprisonment.

Victoria Police has been enforcing imitation firearm legislation for many years. The changes in the bill will not, in any way, alter the approach adopted by police to toy guns, which are playthings that fall outside of the definition of both firearm and imitation firearm under the legislative scheme. Victoria Police members have been exercising their powers in relation to imitation firearms appropriately for many years and I expect that they will continue to exercise their powers in a manner that ensures appropriate enforcement.

The government's election commitment to reduce knife crimes included a commitment to remove the seven-day notice period for random weapons searches. In fulfilment of this commitment, the bill amends the Control of Weapons Act to remove the requirement to publish notice of a declaration of a planned designation of a search area at least seven days prior to the declaration coming into effect. Publication of the notice in the *Government Gazette* and a newspaper will still be required, but will be able to occur at any time rather than seven days prior.

Planned designations of search areas may be made where an event is to be held in the area and incidents of violence or disorder involving the use of weapons have occurred on previous occasions, and there is a likelihood that the violence or disorder will recur. The distinction between planned area designations, which require pre-notice, and unplanned area designations, which do not require pre-notice, will be maintained. The only change will be that Victoria Police will be able to select the timing most appropriate to the circumstances in relation to publication of notices for planned area designations.

The bill makes a number of amendments to the Firearms Act. The definition of a firearm will be extended to include blank-firing firearms that resemble operable firearms and are capable of being modified to fire a live round. Starter pistols that do not resemble firearms, of the type commonly used at

sporting events, are not regulated and this will not change. The amendment will ensure that only blank-firing devices that look like firearms, and are capable of being modified to fire a bullet with possibly little time or effort, are treated as firearms.

The bill also amends the Firearms Act in relation to prosecutions where prohibited persons possess, carry or use a firearm. Currently, there are two relevant offences in section 5 of the Firearms Act, which make a distinction between a registered and unregistered firearm. The Victorian County Court recently ruled that in order to bring a successful prosecution against a prohibited person for possessing, carrying or using an unregistered firearm, it would have to be demonstrated that the accused had knowledge of the status of the firearm. This is very difficult to prove. The offences are intended to prevent prohibited persons from possessing, using or carrying any firearm, regardless of whether it is registered or unregistered. Therefore, this amendment will combine the two offences so that it is an offence for a prohibited person to possess, carry or use a firearm irrespective of its status.

One of the requirements for holding a handgun licence in Victoria is that the licensee must be able to demonstrate the ongoing validity for that licence by participating in a number of shooting events each year. This bill will amend the minimum number of shoots a licensee with multiple classes of handguns must undertake and where those shoots can take place. Shooting events undertaken overseas as well as interstate will be recognised for the purposes of the handgun participation rules. These rules are a requirement of the national handgun agreement, supported by COAG. The amendments will bring Victoria's rules more into line with other states and territories.

Finally, the bill amends the Firearms Act to allow members of the Victorian firefighting and emergency services community to use certain devices that are designed for the sole purpose of being used in backburning and planned burning operations without the need for a firearm licence. The devices discharge small incendiary pods that ignite on contact with the bush. The pods are propelled using compressed carbon dioxide and fall within the definition of a category E firearm.

These operations are a key part of combating bushfires in Victoria. The devices will allow greater accessibility, speed and improved safety of those involved in backburning and planned burning operations. The amendment will ensure that backburning and planned burning can take place as efficiently as possible.

I commend the bill to the house.

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

Debate adjourned until Thursday, 8 March.

PARKS AND CROWN LAND LEGISLATION AMENDMENT BILL 2011

Committee

Committed.

Clauses 1 to 4 agreed to.

Clause 5

Hon. D. M. DAVIS (Minister for Health) — I seek leave for Mrs Petrovich to join me at the table.

Leave granted.

Mr BARBER (Northern Metropolitan) — Clause 5 relates to the accessibility of certain parts of certain national parks for hunting and/or the carriage of firearms. First of all, I would like to explore how this will operate in relation to Lake Tyers State Park. I was particularly keen for Mr Jennings to hear this question-and-answer session, because depending on the answer I might actually be voting against this clause, and I would like all parties represented in the chamber to understand what it is that we are voting on.

The explanatory memorandum states that the legislation will include a reference to Lake Tyers State Park as a park where the secretary may authorise the carriage or use of firearms and other weapons. The provision is intended to be used to allow recreational hunters to have firearms in their possession in a camping area in the park adjacent to Ewing Morass State Game Reserve at certain times of the year. Could the minister expand a little on that intention, and how the government intends to bring it into place?

Hon. D. M. DAVIS (Minister for Health) — The National Parks Act 1975 will be amended to enable the Secretary of the Department of Sustainability and Environment to authorise recreational hunters to carry firearms, as Mr Barber has pointed out, in Lake Tyers State Park, subject to conditions. The provision is intended to apply, as he points out, to a camping area at Pettmans Beach in the far south-east of the park, which is used by recreational hunters visiting the immediately adjacent Ewing Morass State Game Reserve during the duck and hog deer hunting seasons. The amendment will enable recreational hunters to continue to use the camping area and its facilities during the hunting season.

Mr BARBER (Northern Metropolitan) — When the minister says it will enable hunters to continue to do that, I presume that they currently are able to because of the status of the land, but given that the status of Lake Tyers is changing, they would otherwise not be able to continue doing that unless we made this change. Is that correct?

Hon. D. M. DAVIS (Minister for Health) — I am informed that Mr Barber is correct. This is just a practical step to enable those hunters who would be

hunting in the neighbouring area to camp and have their equipment.

Mr BARBER (Northern Metropolitan) — The reason I have laboured the point is that in the way the act is framed, and we are amending this section, it says that it allows the Secretary of the Department of Sustainability and Environment to give permission to carry or use firearms, so if we vote for this clause, then the secretary, without further reference to Parliament, could not only authorise the carrying of firearms into that camping area but could allow the use of firearms across any part of Lake Tyers park. Since I only get one shot when I vote, I want to be very clear that the government does not have any policy intention of, and would not countenance, allowing not just the carrying but the use of firearms across the broad area of Lake Tyers park, with this one exception.

Hon. D. M. DAVIS (Minister for Health) — Absolutely. The member has summarised it perfectly. As I say, it is just a practical matter. It is not designed to allow some broader application.

Clause agreed to; clauses 6 to 11 agreed to.

Clause 12

The DEPUTY PRESIDENT — Order! I think Mr Jennings is proposing an amendment to omit this clause.

Mr JENNINGS (South Eastern Metropolitan) — It is my intention in a few minutes to invite members to vote against clause 12, which is the first of two clauses — 12 and 13 — dealing with provisions relating to the extraction of firewood from the river red gum parks established in the last two years. There was an allowance enabling the collection of firewood in both the Barmah and Gunbower national parks, and the sunset period established under the law introduced to deliver those parks allowed for firewood extraction until 30 June last year. The bill we are debating in the Parliament today extends the period in which firewood can be extracted until 2015.

Before I move my amendment, which I will be moving for reasons I identified in my contribution to the second-reading debate, I invite the minister to reiterate for the committee the prime objectives the government is seeking to achieve here, whether the government has any information about the amount of firewood that has been extracted from the relevant forests since the national parks were established and what volume of firewood the government believe exists in those parcels of those national parks. I add at this point that it may well be that the minister does not necessarily want me to ask a whole range of questions at once; I can come back and ask them individually if he prefers. Otherwise I can mention a range of matters.

There is also the way in which the government can protect ongoing environmental values through regulation or monitoring of the extraction of firewood into the future and how, in the absence of permit arrangements, the government can provide the Parliament with confidence that we would not see the wholesale removal of timber from these national parks were the government's legislation to proceed as it currently stands.

The DEPUTY PRESIDENT — Order! Did Mr Jennings actually move his amendment 1?

Mr JENNINGS — I did not move it. I invited the minister to outline what he knows about the situation and the way in which there can be protection.

Hon. D. M. DAVIS (Minister for Health) — I will make the following points for the member, and if he wants further follow-up, I will undertake to get that. I will also try to get a figure for him on the volume of firewood. I do not have that to hand, but I will make some other points in the first instance.

The legislation Mr Jennings has pointed to which created the parks in 2010 enabled the cutting and taking away — until 30 June 2011 and for use as firewood for domestic or camping purposes outside the park — of sawlog harvesting residue remaining on the ground as a result of harvesting operations that occurred prior to 1 July 2009 in designated areas of two parks. The designated areas are former sawlog harvesting areas defined on plans specified in the National Parks Act 1975. The bill will extend to 30 June 2015 the date until which wood as described may be cut and taken away from the designated areas of the two parks to be used as firewood for domestic and camping purposes outside the park.

In line with current government policy, the bill will also remove the need to obtain a firewood collection permit. Instead a person will be able to cut and take away firewood from the designated areas in accordance with conditions and at times as determined by the secretary. The bill does not alter the designated areas from which firewood may be collected, the nature of the wood that may be cut and taken away or the purposes for which the wood may be taken. If the member will just give me a moment, I will see what I can find on the volumes.

I do not have a figure in the first instance — certainly not at hand — for the amount that has been taken to date. I am happy to take that on notice and to try to find

that for Mr Jennings. In terms of Barmah, I am informed that an estimated 12 000 cubic metres remains. I am informed there are around 5000 cubic metres remaining at Gunbower. The likely course, as I understand it, is that the majority at Barmah would be available for mainly domestic purposes outside the park, although some would remain for camping purposes inside the park. I am told that in the case of the 5000 cubic metres at Gunbower the overwhelming majority would be for use outside the park.

Mr JENNINGS (South Eastern Metropolitan) — I thank the minister for identifying those volumes for me. Can the minister take advice on and then subsequently share with me information about the nature of cutting timber? Can the minister confirm that, when we are talking about firewood extraction allowed by this legislation and the current bill before the Parliament, we are only talking about timber that has been previously felled and not new trees that will be felled? Are we talking exclusively about trees that have been felled prior to 2009?

Hon. D. M. DAVIS (Minister for Health) — Prior to responding to that, I need to make a correction to a figure I gave a moment ago. It is 500, not 5000. I just want to be clear on that. Secondly, I can confirm that this is existing felled material. It is residue. That is the intention.

Mr JENNINGS (South Eastern Metropolitan) — I thank the minister. I am reassured that we are very clear about it being timber that has been felled previously. That is a positive reaffirmation of this. I am also pleasantly surprised to know we are down to as low as 500 cubic metres in Gunbower. Has the government given any thought to the way that firewood may be bundled and located in a fashion that would prevent open access to Gunbower Forest, as otherwise firewood would be allowed to be extracted randomly given that no permits will be required? Effectively, could you stockpile that volume of timber — which is not a very large volume of timber — to enable it to be collected in a more orderly fashion and then not require the three-year window this bill is seeking to grant for open access to that volume of timber, which, again, is not a very large volume of timber?

Hon. D. M. DAVIS (Minister for Health) — I understand there will be a time period put on this, and there may be other conditions imposed for environmental reasons or to ensure equitable access for communities. These could include a maximum volume of wood which can be collected and a requirement to collect firewood only for personal use and not allow, for example, the use of heavy machinery such as log splitters, saw benches, tractors or vehicles, including trailers, with a carrying capacity of over 2 tonnes.

Mr JENNINGS (South Eastern Metropolitan) — That is additional information I am grateful for, but it was not necessarily an answer to the question I asked. The minister has pre-empted a question I would have asked him about what the conditions are in terms of the way individuals can collect small volumes of firewood at any one time. I think it is appropriate that they do so and that it is not a commercial, large-scale firewood collection system. I appreciate that.

My prior question was: given that we are now talking about 500 cubic metres in Gunbower, is there any opportunity to stockpile that and locate it at an access point so that open-ended access to Gunbower Forest over the next three years could be reduced? If you see this as a land management practice, you could try to corral the exposure of the forest to individualised, fragmented collection.

Hon. D. M. DAVIS (Minister for Health) — The answer is that there is an intention that individuals would be able to go in; a formal stockpiling situation, as it were, is not intended.

Mr JENNINGS (South Eastern Metropolitan) — If that is the case and if that continues to be the government's intention, if there is no permanent arrangement, then how is a member of the community going to know the way in which those conditions are going to be enforced and complied with? I am not forgetting that only a few minutes ago the minister told me what those conditions of access may be in terms of scale of equipment and so on; I have not forgotten those things, so the minister does not need to remind me of those — and they in themselves are reasonable. How will the secretary or the responsible land manager convey to the community those conditions, that scale and that degree of engagement, and how will the land manager guarantee that this fragmented access to this firewood collection will not have unintended and adverse environmental effects — that is, given there is no permit arrangement? I am questioning how well known, recognised and complied with these conditions will be.

Hon. D. M. DAVIS (Minister for Health) — As I understand it, there will be designated times in the first instance. They will be available in the normal way on websites and suchlike arrangements. Any conditions or specific sites can also be put on the relevant websites or advertised in the usual sorts of ways.

Mr JENNINGS (South Eastern Metropolitan) — I appreciate the answers and the efforts to which the minister has gone. I do not find the mechanisms in place sufficiently compelling to prevent me from moving the amendment. Unless the minister has any further overwhelming structure and can add to my confidence about the way in which adverse long-term unintended environmental damage may occur through open access to this material, then I will proceed to move the amendment; but I will provide the minister with an opportunity if he wants to take it.

Hon. D. M. DAVIS (Minister for Health) — I can perhaps assist the member further. As I have said, Parks Victoria will continue to police the firewood collection in the Barmah and Gunbower national parks. People collecting firewood will be advised of the terms and conditions for the collection of the firewood. Signs will be placed at firewood collection sites. Parks Victoria staff can conduct regular patrols to ensure that members of the public are aware of the terms and conditions of collection, and existing offence provisions will be used where an offence is committed.

It is also worth saying that firewood collection is allowed in designated firewood collection areas. These areas will be marked by official signs and tape. Designated collection areas are located, where possible, to avoid sites of environmental and cultural significance and to make use of the by-products of activities such as commercial timber harvesting and road construction. As I say, firewood collection will be allowed in designated time periods; they will be consistent across the state, as I understand it, pretty much with the aim of minimising risks to people, environment and infrastructure. I think that probably gives the member a much better understanding.

Mr JENNINGS (South Eastern Metropolitan) — From me, for the last time, thanks to the minister for adding to those. I encourage the government and its agencies to undertake those activities if my amendment is unsuccessful and to exercise their minds as to ways in which they can provide confidence that that activity will not be undertaken in a fragmented, unregulated fashion and lead to adverse environmental impacts. I encourage the government to do that if I am unsuccessful, but I feel compelled to put my amendment. I invite members to vote against this clause.

This is a precursor to having clause 13 omitted as well.

Mr BARBER (Northern Metropolitan) — The Greens will support the omission of this clause. The reasons for this are as follows. Firstly, Mr Jennings's amendment preserves the original situation in the legislation. The Greens previously supported and voted for that legislation. Secondly, I do not know if Mr Jennings is suggesting that the situation with this harvesting will be somewhere between ad hoc and open slather or simply an additional difficult management task for Parks Victoria rangers who are already very busy with a range of management activities, not to mention assisting people at times of high visitation to these parks. All that is for what in some instances has been described as a fairly small amount of timber, but it is part of a broader bargain that seems to have been worked out that protects certain areas for nature conservation benefits and makes other areas, such as the remainder of Gunbower National Park, available for ongoing harvesting of this sort.

On the other side of the ledger, what exactly is the rationale for allowing this continued activity? We have not had here today a very sophisticated debate about the nature of coarse woody debris — in simple terms, branches and logs — in the ecosystem. There is a suggestion that people want and need the timber, and therefore they should be allowed to go get it, presumably for free if we are not talking about a permit system. For my part, not only are there significant areas where that is allowed but I also look forward to the continued development of a firewood industry through the planting of suitable species on formerly degraded land which could then become a source of income for land-holders.

When we are talking about fire hazard and fire behaviour we are particularly talking about fine fuel. That is the stuff on the forest floor that is smaller than your finger. That is what leads to the rapid propagation and energy behind a fire, and that is the stuff that dries out very quickly in drought conditions. By contrast, coarse woody debris does not contribute in that way to fire behaviour but serves a very important ecological role, one that has been diminished over many years of extensive firewood collection.

If the minister who proposed this bill in the other house read his department's own publications, he would find a complete ecological review of the impacts and potential ecological impacts of firewood collection in a literature review published in 2009 with the assistance of the University of Melbourne. That review details the many hundreds of species that live in a range of different ecosystems, including red gum and the associated grassy ecosystems in this same area. Lizards, birds, invertebrates and mammals are all dependent on logs and branches as part of their habitat needs. A significant amount of carbon is stored in that part of the biosystem. It rots and degrades over long periods, and as it does so

it provides more types of habitat for more types of organisms, including fungi and so forth. It is entirely possible for us to change the nature of these ecosystems simply through the pressure of firewood collection.

I say that because it is not something that has been mentioned in the debate so far. What has been said is that people need firewood, that this stuff is lying around and that we should clean it up. Ecosystems are messy in the sense that they are complex. Maybe to certain eyes they need a good clean-up, but it is not like asking a kid to clean up their bedroom; the so-called mess or debris is in fact integral to the ecosystem.

On the website of the Department of Sustainability and Environment there are 136 pages of material that explain that issue in considerable detail. Not all members of this house have the time to go through all of that, but for those who want to participate in the debate it is worth reading up. I am sure these authors would agree that there is probably more we do not know about the role of coarse woody debris in the ecosystem than what we do know, and that has been summarised in these 136 pages. That is the reason the Greens will support this amendment to maintain the status quo in the legislation we originally voted for some time ago.

Hon. D. M. DAVIS (Minister for Health) — I am thankful for the contributions of both members on this clause. The government will not support this amendment on this occasion. I understand the arguments that were advanced by Mr Jennings and the more prosaic, if I can say that, arguments that were advanced by Mr Barber, with which I am familiar, but on this occasion the government will persist with the clause.

Committee divided on clause:

Ayes, 20

Atkinson, Mr	Hall, Mr
Coote, Mrs	Koch, Mr
Crozier, Ms	Kronberg, Mrs
Dalla-Riva, Mr (*Teller*)	O'Brien, Mr (*Teller*)
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

Noes, 18

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

Pair

Lovell, Ms	Darveniza, Ms

Clause agreed to.

Clause 13

Mr JENNINGS (South Eastern Metropolitan) — I invite members to vote against this clause. In many ways it has already been tested by the previous one, but as you have not indicated to the committee that you assume it has been, Deputy President, I will formally invite members to vote. I will not argue for it because my arguments have already been put in the second-reading debate and in earlier contributions to the committee.

Hon. D. M. DAVIS (Minister for Health) — The government will not support Mr Jennings's approach.

Clause agreed to; clauses 14 and 15 agreed to.

Clause 16

Mr BARBER (Northern Metropolitan) — This contribution will just be in the nature of questions. This clauses includes, as I understand it, a small parcel of land at Yeodene in the Otways that has been purchased from the private domain for the purposes of addition to the Otway Forest Park. Can the minister tell me what the values are of this piece of land that make it worthy of purchase?

Hon. D. M. DAVIS (Minister for Health) — I am thankful to the member for this question on clause 16. It relates to a small parcel of land, as he says, adjacent to the current park. I am thankful to him for the very helpful and colourful map — —

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! Could members' conversations be dropped down a notch? It is hard to hear the minister.

Hon. D. M. DAVIS — I was just saying that I am thankful to the member for the colourful map that he presented, which makes clear the relevant parcel. As I am informed, the addition to the Otway park will be zoned as a special protection zone. It has values very similar to the land that is adjacent to it.

Mr BARBER (Northern Metropolitan) — That was my second question coming down the line. We are purchasing this land because it has high ecological

value; that is why it is being added in there. However, the zoning system in the Otway Forest Park relates to the areas that have been there for some time. It includes a multiple-use zone and a special protection zone. The difference between the two zones in terms of a whole range of different uses is that in a special protection zone the collection of fallen wood for campfires is not permitted and the collection of firewood and minor forest produce is not permitted. That is why I am interested to know in regard to this piece of land, which the minister has said has been purchased because of its high ecological value, which zone it will end up being in when the government amends its management plan. Is there anything the minister can tell me about what policy intention the government has formed?

Hon. D. M. DAVIS (Minister for Health) — Again I thank the member. As I understand it, given the values of the area and the fact that it adjoins part of the park already zoned as a special protection zone, it is anticipated that the park addition will also be included in that zone.

Clause agreed to; clauses 17 to 28 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

That the bill be now read a third time.

I thank members for their contributions to the bill. I think the committee process was productive.

Motion agreed to.

Read third time.

ADJOURNMENT

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

That the house do now adjourn.

Iluka Resources: Douglas mine

Mr LENDERS (Southern Metropolitan) — The matter I raise tonight is for the attention of the Minister for Energy and Resources. It is in regard to the Douglas mine in the Wimmera, which is run by Iluka Resources. The first thing I would like to say about this is that the Labor Party has always been very supportive of the Iluka mine because we think it is good for Victorian exports and it certainly generates a lot of economic activity, particularly jobs, in the Wimmera. The matter I am raising for the minister tonight is not a criticism of anything the government has done but, on the contrary, is a request for him to act in this area.

To cut to the chase, what we have is a mine, and we have permits and arrangements in place for disposing of waste. Some of these were signed during the time of the Labor government, and some are issues for the current coalition government. I will be at the Douglas mine next week, but the information I have now is that there is a fair amount of concern in the area over some of the tailings that are being dumped. Some of the residents in the area are particularly concerned because they are of the view that some of these tailings are radioactive. I think most of this can be resolved with information, but the action I am seeking from the Minister for Energy and Resources, Michael O'Brien, is that he speak to the residents and engage in consultation.

I am saying this because I was told by ABC radio this morning that it had on four occasions tried to get the minister or a representative of the Department of Primary Industries on the phone to explain, but he was too busy — and people are busy when Parliament sits; I accept that. The ABC was also trying to get consultation and information about some of the tailings that are being dumped. The action I am seeking from the minister is that he either go to the Douglas mine or fairly promptly make the situation clear to people either on the website of his department, through information in local papers or by radio interview.

I will be more informed next week on what is happening, but there are a number of farmers in the area who are genuinely concerned that some of these dumpings are radioactive. I think the Department of Primary Industries would not have signed off on this; it would not have recommended that the government do this. But if those concerns are not addressed, these sorts of things take on a life of their own.

A lot of residents are concerned over these dumpings. The action I seek from the minister, in a bipartisan spirit, is that he get on the phone to local radio and say what is going on or get on his department website, but not to hope it will go away, because the concerns are growing and we do not want to endanger jobs in the Wimmera. This is a problem that I think can be fixed if the minister starts explaining things properly. I think that would be in everybody's interests. That is the action I seek from him.

Employment: government performance

Mr EIDEH (Western Metropolitan) — My adjournment matter is for the Minister for Employment and Industrial Relations and Minister for Manufacturing, Exports and Trade, Mr Dalla-Riva. I am deeply worried about the current state of Victoria. It was once the proudest and most prosperous state in the nation, but since a certain event a year and a half ago it is now heading very fast in the opposite direction.

Under Premier John Brumby we led the nation in virtually every area of growth, success and prosperity. Under Premier Brumby the people had jobs and the economy was sound, and even Premier Baillieu said so on radio after he took office. However, in just over a year under this Liberal-Nationals coalition 33 000 full-time jobs have disappeared, and the government has no jobs plan. Decisions take forever to be made, and that includes those on FOI requests such that the Ombudsman is now investigating. Victoria failed to send any application for funding to Infrastructure Australia in the first year of this government. That has never happened before, but then this government has no plans for any major projects of its own.

We need a government which has a vision and which can take our state forward. I ask the minister to end the blame game and come up with a jobs plan for Victoria in the near future.

Heinz Australia: Girgarre factory closure

Mr SOMYUREK (South Eastern Metropolitan) — I raise a matter for the Minister for Manufacturing, Exports and Trade, Mr Richard Dalla-Riva, and I refer the minister to page 21 of the coalition's 2010 election policy document, *The Victorian Liberal Nationals Coalition Plan for Stronger Industry and More Jobs*. This policy states that a Liberal-Nationals coalition government will 'actively encourage young working men and women to pursue a future in food production'.

The minister should be aware that men and women in Girgarre have been pursuing such careers in food production in a Heinz factory that is the only site for making tomato sauce in Australia. The recent news of the factory's closure came as a devastating blow to the community and also to those of us who support Victorian food manufacturing. However, the bad news was tempered by the announcement that the workers intended to purchase the factory and operate it as a cooperative under the banner of the Goulburn Valley Food Action Committee. The Baillieu government has now reneged on its commitment to support the food manufacturing industry of Victoria by refusing to assist locals in their bid to save the factory and keep their jobs.

In its 2010 election policy the then coalition opposition committed to establish support for the promotion of local food products through the VicMade and VicGrown labels. These are yet to materialise. Instead what we have is a government standing back and witnessing the closure of the state's sole factory making tomato sauce.

In its election policy the government stated that we have a proud history in agriculture and manufacturing here in Victoria. Indeed food manufacturing is the largest manufacturing employer in the region. Can the minister then explain the government's refusal to assist these regional workers and its lack of support for the cooperative plan which would have saved the factory from closure and prevented workers from losing their jobs?

Southern Peninsula Aquatic Centre: ministerial approval

Mr SCHEFFER (Eastern Victoria) — I have previously raised the matter of the Minister for Environment and Climate Change's handling of his approval of the Southern Peninsula Aquatic Centre under the requirements of the Coastal Management Act 1995. I have indicated my concern that the minister has said publicly that he would be guided in this matter by the member for Nepean in the other place, Martin Dixon.

The Minister for Environment and Climate Change, Ryan Smith, has now consented to siting the aquatic centre on the Rosebud foreshore, and the mayor of the Mornington Peninsula Shire Council has said that the minister's advice completes the coastal consent process. I am surprised the minister has given his consent on this matter, and I ask him to clarify some concerns that I and members of the Rosebud community in particular have about the proposal and the processes the minister has followed.

In his advice to the Mornington Peninsula shire Minister Smith relied on sections 38 and 40 of the Coastal Management Act 1995. My question to the minister is this: how did the minister determine the threshold question of whether the aquatic centre is coastal related, as the act requires it to be? Will the minister make public the advice he has relied on in agreeing to give his consent?

No-one disputes the need for an aquatic centre in the Rosebud locality, and the shire has done a lot of work to provide such a facility. The key issue is whether the Rosebud foreshore is the right location in light of the principles contained in the Victorian coastal strategy. Section 40 of the Coastal Management Act 1995 requires the minister to have regard to the Victorian coastal strategy in deciding whether or not to consent to a use or development application. Developments on Crown land should be coastal dependent, and the Victorian coastal strategy sets out the conditions that the minister must satisfy in making his decision to give his consent.

The strategy says that coastal-dependent use and development includes boat ramps, surf clubs, yachting, boating or angling clubs and infrastructure to support beach-related activity, such as change rooms or toilets. In summary the Victorian coastal strategy requires that the need for such a development to be sited on the coast must be demonstrated and it must also require a coastal location to function. The test here is that the minister must be satisfied that the Rosebud aquatic centre could not function unless it were built on the foreshore. This is what the act requires, and I ask the minister to provide me with all the details of how he came to the view that the aquatic centre needed to be sited on the foreshore to function and that he would give his consent to the application.

The Victorian coastal strategy also states that the development should fulfil an identifiable need or demand that cannot be met elsewhere. The aquatic centre location for which the minister has given consent does not satisfy this criterion. The minister will know that the shire considered a number of sites for the aquatic centre and that one of them was the civic precinct, which has ample shire-owned land and is near schools and public transport.

It is puzzling that the minister has given his consent to a site that puts pressure on what the coastal strategy describes as land resources that should be used sparingly and for which special approval needs to be obtained.

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

Kew Residential Services: site development

Ms PENNICUIK (Southern Metropolitan) — My adjournment matter is for the Minister for Major Projects. People may be aware that it is the 125th anniversary of the establishment in 1887 of Kew Cottages as the first government facility for intellectually disabled children in Australia. On 16 February I attended a meeting of the Kew Cottages Coalition, and also present were the Minister for Health, the Honourable David Davis; the Minister for Corrections, Mr McIntosh; Mrs Coote; and the mayor of the City of Boroondara, Heinz Kreutz.

It is fair enough to say that it was a heated meeting. All the aforementioned people spoke at the meeting, including me. Mrs Coote spoke genuinely and with feeling and passion about the disabled community at Kew Cottages, former residents of the Kew Residential Services (KRS) and what she was going to be doing to help them. I think that was appreciated by those at the meeting.

I will be writing to the Premier about the government's promises to put the remaining public land on the Victorian register of significant public land and also about the government's promise to implement the findings of the Select Committee on Public Land Development and the Ombudsman's report into Kew Cottages. Suffice to say the people at the meeting included Kew Cottages Coalition members who have been advocating on this issue for a long time, owners of the new residential properties that are being built as stage 1 of the development, representatives from the council and also representatives of current and former disabled residents of Kew Residential Services.

It was a fiery meeting, and it has been reported publicly as such. It is fair to say that there were a lot of unhappy people at the meeting from all directions and points of view. I said at the meeting that with respect to that site we are now in a mess — not necessarily a mess made by the council, but it is a mess. It is not too late to fix this problem.

My request to the minister is that he stop any further private residential development on the site and urgently convene discussions with various stakeholders, including the property owners, Kew Cottages Coalition, representatives of the former and current KRS residents and the Boroondara City Council, with a view to negotiating a new vision or plan for the site that so far as is practicable meets the needs and concerns of all stakeholders and the community and transfers planning control of the site to the Boroondara council, which has always been the wish of the council. If the issue is approached in that way, we might finally come to a better outcome for that site.

Planning: Port Melbourne development

Mrs COOTE (Southern Metropolitan) — My adjournment matter this evening is for the Minister for

Planning, Mr Guy. It is to do with the City of Port Phillip and Waterfront Place, which is between Bay Street and Sandridge Beach in Port Melbourne.

Mr Ondarchie — It is just near your electorate office.

Mrs COOTE — It is just around the corner from my electorate office in Bay Street, that is true, Mr Ondarchie. The interesting part about this is that the City of Port Phillip has called for an urban design framework consultation process. It has asked the people of the city of Port Phillip if they would like to have input into this area. That is out there at the moment, and we are pleased to see it.

I highlight the fact that there has been a lot of discussion about a sheikh who is going to put up two very high towers there. We are not terribly certain how large they are planned to be, but I think it is in the vicinity of 32 storeys. My understanding is that the former Minister for Planning, Mr Madden, the member for Essendon in the Assembly, apparently said to the public relations people that are involved with the sheikh's development that if he was the minister following the last election he would take off the height limit. That is even more terrifying.

In any case, as an election promise the Liberal Party said that it would hand the planning of this whole precinct over to the City of Port Phillip, and I am very pleased to see that Mr Guy has done exactly as he promised. Hence we have the urban design framework happening at the moment.

There is quite a lot of tension in this area. The grey nomads all park their campervans and vans there during the day, ready to get onto the *Spirit of Tasmania*, and the congestion is absolutely extraordinary. There is room for some development, and I know that the locals are not against development per se and that they understand the tension of living in such an attractive area. However, the building of inappropriate towers is appalling. I am pleased to see that Minister Guy has given this decision-making process back to Port Phillip City Council.

The action I seek is that Mr Guy give an update to the people of Port Phillip about what the ALP had in mind for this area and who was responsible for any decisions that were going to be made on this.

The PRESIDENT — Order! I do not know that the ALP as an entity would have actually formed any particular view. Perhaps 'the former minister' would be acceptable.

Mrs COOTE — Thank you. I will correct that and refer to the former Minister for Planning under the previous government.

Crime: Western Victoria Region

Ms PULFORD (Western Victoria) — My adjournment matter is for the Deputy Premier and Minister for Police and Emergency Services. Crime statistics released last month and made publicly available on the Victoria Police website show a huge jump in crime across my electorate of Western Victoria Region. The statistics show the crime rates from 2010 compared with 2011, and in particular I would like to draw the attention of the Deputy Premier to the rates in Hamilton.

Hamilton sits in the southern Grampians police service area in the western Victoria police region. I know the Deputy Premier will be familiar with every detail of these statistics; however, I would like to specifically point out the following in the Hamilton area: a 10.8 per cent increase in crimes against the person; a 25.4 per cent increase in assault; a staggering 26.9 per cent increase in car theft; an 11.3 per cent increase in property damage; and overall a total increase in crime of 4.8 per cent, which is 109 additional crimes. The residents of Hamilton have a right to feel safe, and indeed the Baillieu-Ryan government was elected on the back of a law and order campaign.

I ask the Deputy Premier and Minister for Police and Emergency Services to take action to bring down crime across the state and in particular to focus on the western Victoria police region. My request in this adjournment debate is that the Deputy Premier articulate how he intends to do this, and I ask him to include what the government's time frame is for reducing crime in Hamilton. I ask the Deputy Premier to deliver the extra police he promised during the election, including police not just for Melbourne but also for regional and rural communities.

Children's services committee: membership

Ms MIKAKOS (Northern Metropolitan) — My matter is for the Premier. I am seeking clarification from the Premier in relation to his government's response to the Protecting Victoria's Vulnerable Children Inquiry report. This is a significant report, and I acknowledge the work of the Honourable Philip Cummins, Professor Dorothy Scott and Mr Bill Scales. I share the Premier's view that Victoria's children should be this government's top priority.

In recommendation 80 of the report the inquiry suggests that the government should establish a children's services committee of cabinet comprising the ministers responsible for community services, children, education, health, community development and justice to oversee a number of things, including the development and implementation of a whole-of-government vulnerable children and families strategy. The implementation of these recommendations should be a top priority for the Minister for Children and Early Childhood Development. I assume that that minister will be a member of this cabinet committee, yet Minister Lovell's lack of response during upper house question time yesterday indicates otherwise. Minister Lovell indicated that she would not be taking wide-ranging questions on the report because it is the responsibility of the Minister for Community Services.

This is extremely concerning, because there are a number of recommendations within that report that relate directly to Minister Lovell's portfolio responsibilities, in particular recommendation 7, which calls for an increase in appropriate infrastructure and universal services, including maternal and child health services, kindergartens and community playgroups, for communities that have the highest concentrations of vulnerable children and families. I look forward to that recommendation being implemented, because I think it is a very important recommendation.

Minister Lovell's response to my question seemed to suggest that she will play no role in this cabinet committee, which would be extraordinary. If she is going to be a member of that committee, then she should be prepared to respond to questions about it in the Parliament.

The Youth Affairs Council of Victoria issued a media release today expressing disappointment that the inquiry did not recommend that the Minister for Youth Affairs be on that committee. I share these concerns in that the report quite clearly discusses and makes recommendations around young people up to the age of 25 years, which is Minister Smith's area of responsibility.

Under the Brumby Labor government the youth affairs minister, James Merlino, the member for Monbulk in the Assembly, was heavily involved in Victoria's vulnerable children and young people framework, amongst other things, including the Connecting at Risk Young People initiative in 2008 and the Positive Pathways for Victoria's Vulnerable Young People policy framework to support vulnerable youth in September 2010. I believe there is a clear role for both the minister for children and the minister for youth to be members of this cabinet committee to oversee the implementation of these recommendations, so I ask the Premier to advise me of the membership of this committee and in particular whether the Minister for Children and Early Childhood Development and the Minister for Youth Affairs will both be members of the children's services committee of cabinet.

Respite care: Western Victoria Region

Mr O'BRIEN (Western Victoria) — My adjournment matter is for the Minister for Community Services, and the action I seek is that the minister advise as to whether funding will be available in the near future to expand respite for carers in Western Victoria Region. Carers in the regions can face obstacles as their access to respite can be restricted compared to the access that carers in metropolitan regions have to such services.

Carers for people with a disability do a fantastic and frequently unrecognised job in catering for the needs of others. Being a carer can be an unrelenting job because, if the person being cared for has a high level of needs, they are a 24-hour responsibility. The job also demands a high level of selflessness, because it is largely unpaid. It is estimated that there are approximately 700 000 unpaid carers in the state of Victoria. As the minister stated in the other place, they deserve our support, respect and recognition.

Respite for a carer can take the form of a break overnight or for 24 or 48 hours or longer. It can provide the opportunity for the carer to take a much-needed holiday, which is something members of the general population often take for granted. If the person being cared for is a student, respite can be provided in the school holiday period when the demands on the carer are at their highest.

Respite ensures that carers can look after their own physical and mental wellbeing and continue with their work, which deserves to be highly valued and supported within our communities. It is important that respite care be both flexible and affordable, and the minister is taking steps to ensure this. I note that in its last budget our government provided a $41 million commitment to supported accommodation as well as respite. In 2008 the Auditor-General identified a number of deficiencies in the area of respite provision, and the minister is working diligently to correct those deficiencies.

In asking the minister to take this action I commend her for her strong support of carers in this state and

especially for her primary role in respect of the Carers Recognition Bill 2012, a landmark piece of legislation recently introduced by the coalition government.

Responses

Hon. P. R. HALL (Minister for Higher Education and Skills) — I do not have any written answers or responses to adjournment items tonight, but I can respond in part to the nine matters raised with me. The first of those was raised by Mr Lenders, who sought assistance from the Minister for Energy and Resources. He asked whether the minister could be active in resolving some of the issues surrounding the Douglas mine operated by the company Iluka in western Victoria. I will pass on that request.

Mr Eideh raised a matter for the Minister for Employment and Industrial Relations and called for the development of a jobs plan for Victoria. That request will be passed on to the minister.

Mr Somyurek raised a matter for the Minister for Manufacturing, Exports and Trade about job losses as a result of the closure of food processing operations in northern Victoria. During the course of Mr Somyurek's contribution he was talking about tomato sauce production, and I was reminded that my mum made some lovely tomato sauce this week. You cannot get better than homemade tomato sauce. I will pass that request on to the minister.

Mr Scheffer raised a matter for the Minister for Environment and Climate Change seeking information on decisions surrounding the aquatic centre at Rosebud. I will pass that request on to the Minister for Environment and Climate Change.

Ms Pennicuik raised a matter for the Minister for Major Projects regarding the Kew Cottages site. She asked that the minister prevent any further private sector development on that site and put in place alternative planning mechanisms. I will pass that request from Ms Pennicuik on to the minister.

Mrs Coote raised a matter for the Minister for Planning regarding matters related to the planning around Waterfront Place in the city of Port Phillip. In particular she asked whether the current minister could explain publicly the intended actions of the previous minister. I will pass that request on to Mr Guy.

Ms Pulford raised a matter for the Minister for Police and Emergency Services. She asked a question about how he intended to reduce crime in her electorate of Western Victoria Region. I will pass that request for information on to the Deputy Premier.

Ms Mikakos raised a matter for the Premier. She sought clarity on matters relating to the government response to *Report of the Protecting Victoria's Vulnerable Children Inquiry* and particularly sought clarification on the membership of the cabinet committee formed to respond to that report. I will pass on that request.

Finally, Mr O'Brien raised a matter for the Minister for Community Services. He is seeking some information, in particular whether there is any funding available to improve respite care in his electorate of Western Victoria Region. I will pass on that request.

The PRESIDENT — Order! The house now stands adjourned.

House adjourned 6.01 p.m. until Tuesday, 13 March.

Minister for Water

Ref: MBR020084

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

PRODUCTION OF DOCUMENTS - NVIRP

I refer to the Legislative Council's resolutions of 8 February 2012 seeking the production of:

1. a copy of the March 2010 business case,

2. the July 2010 update, and

3. the due diligence assessment report as described on page 2 of the Northern Victoria Irrigation Renewal Project Stage 2 agreement between the State of Victoria and the Commonwealth.

The government is in the process of responding to this resolution.

Regrettably, the government is not able to respond to the council's resolution within the time period requested by the council. The government will endeavour to respond as soon as possible.

Yours sincerely

PETER WALSH MLA
Minister for Water