PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 12 December 2013

(Extract from book 17)

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By authority of the Victorian Government Printer

The Governor

The Honourable ALEX CHERNOV, AC, QC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

The ministry

(from 22 April 2013)

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

Legislative Council committees

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

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

Legislative Council standing committees

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

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

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

Environment and Planning References Committee — Mr Dalla-Riva, Mr Elsbury, #Mr Finn, #Ms Hartland, Mrs Kronberg, #Mr Leane, Mr Ondarchie, Ms Pennicuik, #Mrs Peulich, Mr Scheffer, #Mr Tarlamis, Mr Tee and Ms Tierney.

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

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

 # Participating member

Joint committees

Accountability and Oversight Committee — (*Council*): Mr P. Davis, Mr O'Brien. (*Assembly*): Ms Kanis, Mr McIntosh and Ms Neville.

Dispute Resolution Committee — (*Council*): Mr D. Davis, Mr Hall, Mr Lenders, Ms Lovell and Ms Pennicuik. (*Assembly*): Ms Allan, Ms Asher, Mr Clark, Ms Hennessy, Mr Merlino, Mr O'Brien and Mr Walsh.

Economic Development, Infrastructure and Outer Suburban/Interface Services Committee — (*Council*): Mr Eideh and Mrs Peulich. (*Assembly*): Mr Burgess, Mrs Fyffe, Mr McGuire and Mr Shaw.

Education and Training Committee — (*Council*): Mr Elasmar, Mrs Kronberg and Mrs Millar. (*Assembly*): Mr Brooks and Mr Crisp.

Electoral Matters Committee — (*Council*): Mr Finn, Mrs Peulich, Mr Somyurek and Mr Tarlamis. (*Assembly*): Mr Northe.

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, Ms Crozier and Mr O'Brien. (*Assembly*): 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 Thomson, Mr Wakeling and Mr Weller.

Independent Broad-based Anti-corruption Commission Committee — (*Council*): Mr Viney. (*Assembly*): Ms Hennessy, Mr McIntosh, Mr Newton-Brown and Mr Weller.

Law Reform, Drugs and Crime Prevention Committee — (*Council*): Mr Ramsay and Mr Scheffer. (*Assembly*): Mr Carroll, Mr McCurdy and Mr Southwick.

Public Accounts and Estimates Committee — (*Council*): Mr O'Brien and Mr Ondarchie. (*Assembly*): Mr Angus, Ms Hennessey, Mr Morris, Mr Pakula 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 Dalla-Riva. (*Assembly*): Ms Barker, Ms Campbell, Mr Gidley, Mr Nardella, Dr Sykes and Mr Watt.

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

President: The Hon. B. N. ATKINSON

Deputy President: Mr M. VINEY

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

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

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

Leader of the Opposition:
Mr J. LENDERS

Deputy Leader of the Opposition:
Mr G. JENNINGS

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

Deputy Leader of The Nationals:
Mr D. DRUM

Member	Region	Party	Member	Region	Party
Atkinson, Hon. Bruce Norman	Eastern Metropolitan	LP	Lenders, Mr John	Southern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Lovell, Hon. Wendy Ann	Northern Victoria	LP
Broad, Ms Candy Celeste	Northern Victoria	ALP	Melhem, Mr Cesar [2]	Western Metropolitan	LP
Coote, Mrs Andrea	Southern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Millar, Mrs Amanda Louise [4]	Northern Victoria	LP
Dalla-Riva, Hon. Richard Alex Gordon	Eastern Metropolitan	LP	O'Brien, Mr David Roland Joseph	Western Victoria	Nats
Darveniza, Ms Kaye Mary	Northern Victoria	ALP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Davis, Hon. David McLean	Southern Metropolitan	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Davis, Mr Philip Rivers	Eastern Victoria	LP	Pakula, Hon. Martin Philip [1]	Western Metropolitan	ALP
Drum, Mr Damian Kevin	Northern Victoria	Nats	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Petrovich, Mrs Donna-Lee [3]	Northern Victoria	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Elsbury, Mr Andrew Warren	Western Metropolitan	LP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Ramsay, Mr Simon	Western Victoria	LP
Guy, Hon. Matthew Jason	Northern Metropolitan	LP	Rich-Phillips, Hon. Gordon Kenneth	South Eastern Metropolitan	LP
Hall, Hon. Peter Ronald	Eastern Victoria	Nats	Scheffer, Mr Johan Emiel	Eastern Victoria	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tarlamis, Mr Lee Reginald	South Eastern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP

[1] Resigned 26 March 2013
[2] Appointed 8 May 2013
[3] Resigned 1 July 2013
[4] Appointed 21 August 2013

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THURSDAY, 12 DECEMBER 2013

Thursday, 12 December 2013

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

PAPERS

Laid on table by Clerk:

Auditor-General's Reports on —

Tourism Strategies, December 2013.

Water Entities: Results of the 2012–13 Audits, December 2013.

Ombudsman — Report on investigation into children transferred from the youth justice system to the adult prison system, December 2013.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule No. 155.

Victorian Inspectorate — Report, 2012–13.

MEMBERS STATEMENTS

Christmas felicitations

Mr LEANE (Eastern Metropolitan) — It being the last sitting day of the year, I am sure we all wish everyone who works in this chamber a great break and a great time with their families. I am also sure that we have a special thought for Matt Viney and his family over the Christmas break. As we know, Matt has been missing for the last few sitting weeks, and we all have to agree it has been a little bit too quiet in here for our liking. If Matt Viney were an Australian cricketer, he would definitely be a fast bowler. Nearly all his deliveries in this chamber have come from the long run-up, and his first ball is usually a bouncer. I am sure we would all agree that we very much look forward to Mr Viney coming back to this chamber next year well and fit, getting back to the top of his run-up and sending down his renowned stock delivery.

Bendigo Airport

Hon. W. A. LOVELL (Minister for Housing) — I was pleased to recently join with my colleague the Minister responsible for the Aviation Industry, Gordon Rich-Phillips, when he announced $300 000 in funding for stage 1 of the Bendigo Airport redevelopment. This funding is part of a total of $5 million from the Regional Aviation Fund to upgrade this vital facility. Stage 1 will improve facilities and enhance operational capabilities. Bendigo Airport is a regional hub for commercial, emergency and general aviation services. It is also a nominated base for the Department of Environment and Primary Industries and the Country Fire Authority's aerial fire suppression operations. These upgrades will future-proof Bendigo Airport, enhancing livability and business options in the region.

Bendigo Hospital

Hon. W. A. LOVELL — It was wonderful to recently attend the next step in the Bendigo Hospital redevelopment, with the concrete foundations being poured. My colleagues the Minister for Health, David Davis, and members for Northern Victoria Region Amanda Millar and Damian Drum and I joined with workers to mark the occasion. These concrete footings will provide the foundation for the $630 million state-of-the-art hospital. The hospital, with the range of services it will deliver, is on track to be completed in late 2016.

Australian Dancesport Championship

Hon. W. A. LOVELL — I also congratulate all athletes who competed in the Australian Dancesport Championship held in Melbourne from 6 to 8 December. I congratulate the outgoing CEO, Margaret Lonsdale, on her success in the sport, and I also congratulate my two nephews, Rodney and Sam, who won Australian championship events on the weekend.

The PRESIDENT — Order! I was there. It was a fine event, one of those underrated events that Melbourne does so well.

Holden job losses

Ms TIERNEY (Western Victoria) — The federal Treasurer, Joe Hockey, said his government has business credentials and operates in that way. I can tell the house that if his government was a publicly listed business, he would be charged by the Australian Securities and Investments Commission and called to account for his reckless abandonment by his shareholders and constituents over the mismanagement of the Holden affair. I, along with vehicle workers in this state, charge the Liberal Party and its governments in Canberra and Victoria with gross negligence in respect of the vehicle industry in this country. The charges relate to doing nothing to ensure that Holden remains in this country. The charges relate to simply not wanting a car industry in this country.

Honourable members interjecting.

The PRESIDENT — Order! I ask the member to stop her contribution. This is a particularly sensitive issue. We are all very upset about the decision that has

been made. I understand why people are concerned, and I certainly recognise that Ms Tierney has taken a very provocative line in her 90-second statement, but nonetheless I have the view that in their 90-second statements members ought to have the opportunity to be heard.

Ms TIERNEY — The charges relate to undermining the Victorian economy. The charges relate to the government publicly goading Holden into making a decision about its future in advance of the timetable it even set itself through the Productivity Commission. The charges relate to crucifying thousands of workers and their families in the industry. The charges relate to killing off blue-collar jobs for manufacturing workers. The charges relate to assassinating 800 engineering jobs, leaving the workers nowhere to go. The charges relate to not having a jobs plan. The charges relate to adopting a policy approach that, put simply, now places other jobs in other companies in severe jeopardy. The charges relate to ensuring that vehicle workers and their families in Victoria and South Australia will not have a stress-free Christmas. This amounts to nothing short of criminal neglect. These charges will be addressed, and the government will be sentenced in November next year.

Adult Parole Board of Victoria restructure

Hon. E. J. O'DONOHUE (Minister for Corrections) — On the final sitting day of 2013 I wish to talk about the incredibly challenging period that Victoria's justice system and indeed the Victorian community has faced this year. I need not detail the horrific circumstances surrounding a number of heinous crimes. Every member of this house, indeed every member of the Victorian community, is painfully aware of these matters. As Minister for Corrections, I want to recognise the hard work of Department of Justice and Corrections Victoria staff in addressing these challenges.

I also want to pay tribute to a group of people who have come under greater scrutiny this year than ever before. The members and staff of the Adult Parole Board of Victoria are a group of people dedicated to public service in this state and to the vital work they do. The administration of justice or the business of crime and punishment is never easy. It is neither simple nor black and white. That is the case in Victoria as it is in every democratic jurisdiction that values the rule of law. Victoria's adult parole board carries out some of the most practical and sober work that occurs in our justice system. There is nothing esoteric about its task. It must consider the lives of criminals in the context of the lives of those they have wronged. The community has every right to question the way such institutions go about their business. The legislative and regulatory framework guiding the work of Victoria's adult parole board had to change. It has changed and it will change further when we return to this place next year as we continue to implement the Callinan recommendations. However, the intent and dedication of the individuals carrying out this responsibility should not be questioned. Each and every one of them has come to that task wanting only the best for the community they serve.

I thank the members of the board for their work, including those who have left, those who will be leaving soon and those who will continue to serve. In particular I thank the outgoing chair of the board, Justice Curtain of the Supreme Court, the first female board chair, for her dedication through such a challenging period. While I will not pre-empt announcements that will be made in the near future, I look forward to welcoming new members to the board in the new year.

White Ribbon Day

Mr ELASMAR (Northern Metropolitan) — On Monday, 25 November, I attended a White Ribbon event organised and hosted by the Hume City Council. I was proud to sign a brick which will be part of a White Ribbon path to commemorate and promote the Say No to Violence Against Women campaign. We were also given a white lily to plant in our own garden, which I did the same day. I strongly support this vitally important community issue.

Christmas felicitations

Mr ELASMAR — On another matter, as this is our last parliamentary sitting day for the year I would like to take this opportunity to thank all the staff at Parliament for their invaluable assistance throughout the year. President, I wish you, your family and everyone in this house a safe and festive season with their families and friends. I look forward to seeing you all in 2014.

Philip Davis

Mrs COOTE (Southern Metropolitan) — This week marks the end of a 21-year era. Today a member for Eastern Victoria Region, Philip Rivers Davis, retires from this place. In his inaugural speech to this place as a member for Gippsland Province on 28 October 1992, Philip Davis spoke of his predecessor, Dick Long, as being a 'quiet achiever, always unassuming but

opinionated'. No-one can say the same about Mr Philip Davis. He is certainly not a silent achiever.

He is very forthright and has been a vocal advocate not only for Gippsland but for parliamentary process, good governance, sustainable government, the environment — believe it or not, especially in the high plains of his electorate — fairness and decency.

Philip Davis is certainly not unassuming. He is always ready to champion a cause he is passionate about. He is vocal, outspoken and exceedingly persuasive. Is he opinionated? Only on the issue of what is right and what is wrong. Philip will be sorely missed from this chamber. In his time here and especially during his time as Leader of the Opposition in the Legislative Council from 2002 to 2008 he raised the calibre of parliamentary process and parliamentary debate to a level not enjoyed since. He brought a sense of dignity to this place, backed by a keen intellect and a forensic and detailed knowledge of the workings of a house of review in a bicameral system. His contribution to the 2004 constitutional debate was masterful.

Philip Davis has been a key mentor to the coalition parliamentary intakes of the past decade, and his wise counsel will be sorely missed. Philip's role in the power play of the parliamentary Liberal Party will just have to wait until he releases his eagerly anticipated memoirs. I hope I will be well represented in the index! Philip, thank you on behalf of your Eastern Victoria Region constituents, the government, the Parliament, but most of all, thank you from me. I will miss you enormously.

Holiday felicitations

Mr BARBER (Northern Metropolitan) — On behalf of my Green colleagues in this Parliament I would like to wish all members an enjoyable summer break. By the time we get back here a number of religious observances will have taken place in multicultural Victoria. They will include Hanukkah and the Greek Orthodox Christmas Day in January, as well as the Prophet's birthday and Chinese New Year, which is celebrated by a number of groups. Aside from the spiritual component, these holidays and observances allow us to come together, to reflect, to be with people we love and to reconnect with our communities. That will stand us in good stead when we return here in February and get back to governing in the best interests of Victoria as a whole.

In addition I would like to thank all of the many parliamentary staff members who have assisted us in our roles as MPs in order that we might do that aforementioned job.

Holden plant closure

Mr MELHEM (Western Metropolitan) — I think Mr Barber left one celebration out; I did not hear Christmas. We Catholics would like that to be mentioned, so I wish everyone a merry Christmas and a happy New Year.

I rise to speak on the Holden announcement to cease manufacturing in Australia. It was one of the darkest days in our country's history when Holden made that announcement. I am somewhat disappointed by the lack of action by the federal government. The workers of Holden have done their bit; they froze their wage increases for the next few years and were happy to alter a lot of their employment conditions to give Holden a fair go. Unfortunately the same cannot be said about the federal government or, to a lesser extent, the state government.

Government representatives might have gotten on a plane to Detroit and sat down with the executives of Holden or General Motors to try to persuade them to reverse the decision or to offer them the assistance they need, but they failed to do so. I make the point that I took that type of action when Alcoa made the decision to review its operation. The first thing I did was lead a delegation to Pittsburgh to speak with the company executive. I also went to Canberra. The federal government made similar representations. We managed to keep Alcoa in Geelong.

Unfortunately the only thing the federal government is interested in is politics. It is not interested in supporting the industry. It is an indictment of the federal government, and will be for years to come, that it has closed down the automotive industry. I am sure the voters will remember that.

Philip Davis

Mr O'BRIEN (Western Victoria) — I would like to follow Mrs Coote in congratulating Mr Philip Davis and acknowledging his long service to this chamber, his electorate in Gippsland and the people of Victoria. On a personal note I would also like to acknowledge his mentorship of junior members on all sides of Parliament. I have served with Mr Davis on two parliamentary committees — the Public Accounts and Estimates Committee and the Accountability and Oversight Committee — and in the difficult role of chair he has guided all of us in the important role of being a parliamentarian on these important joint house multiparty committees.

It was in his maiden speech that he harked back to his ancestors, who have also contributed significant parliamentary service. He also referenced Franklin Roosevelt with the words 'there is no finer calling than public service'. I think Philip Davis well demonstrates that. His maiden speech focused on two other issues that are important to him: financial accountability and not spending money you cannot afford, and the primary production sector. In his conclusion he acknowledged:

> … I am no Martin Luther King; I offer them just what I offer you.
>
> I offer them the resurgence of an old dream, the dream of the pioneers who developed Gippsland and made it a great region, the dream that if they were self-sufficient, tried hard, obeyed the law and worked hard they and their families would be rewarded for their efforts. Gippsland has been ignored by governments for too long. I promise that all of my efforts, industry and best judgement will go into ensuring that Gippsland will not be ignored by the coalition government.

I think we can all say that he has fulfilled that promise in excess.

His Excellency Nelson Mandela, OM, AC, CC, OJ, GCStJ, QC, GCH, BR, RSO, NPK

Mr TARLAMIS (South Eastern Metropolitan) — I rise to pay tribute to a great human being whose legacy will live forever, the former President of South Africa, Nelson Mandela, who passed away last week at 95 years of age. From a young age Nelson Mandela was known for his activism, which stemmed from what he called a 'stubborn sense of fairness'. One of his first ventures as an activist in his early 20s was to march in support of boycotting the bus networks in Johannesburg to reverse the rise in fares. His involvement in the African National Congress and his activism in promoting racial equality made him a target for the authorities, which branded him a terrorist. In August 1962 Mandela was put on trial and found guilty of sabotage and conspiracy in a trial that generated a near unanimous vote of censure from the General Assembly of the United Nations.

Mandela was jailed for 27 years under extreme conditions and isolated from the world. He used this time to continue with his studies in law and his own national history. What is most impressive about his actions is that after his time in prison he forgave his oppressors and detractors in the pursuit of reconciliation and racial equality. In 1990 Mandela was freed, and in 1994 he became South Africa's first black President. During his term he led the transition from an apartheid minority government to a multicultural democracy, and he oversaw the formation of the Truth and Reconciliation Commission to begin the process of national reconciliation.

His life is a great example of what can be achieved with patience, struggle, leadership, forgiveness, humility and hope. Mandela was an inspiration to many. Our thoughts and prayers are with his family, his friends, the people of South Africa and all those who are the beneficiaries of and continue his struggles for equality and reconciliation. Nelson Mandela said:

> What counts in life is not the mere fact that we have lived. It is what difference we have made to the lives of others that will determine the significance of the life we lead.

These words should inspire us all to strive to make a difference.

Mainstream Aquaculture

Mr ELSBURY (Western Metropolitan) — I was pleased to join the Minister for Agriculture and Food Security, Peter Walsh, at the opening of the Mainstream Aquaculture facility in Werribee last week, which is a barramundi breeding facility. Fingerlings from this facility will be sent across the world; they will be exported to 14 countries. The company attributes a super trade mission for enabling it to pick up a $250 000 deal in Singapore. The company also said it is very pleased to have been involved in the Middle East trade mission, as it is currently working on a similar deal in the Middle East. Once it is fully operational, this site will be able to supply almost half of the global barramundi seed stock in the world, so if you eat a barramundi, it will probably have come from Werribee.

Local government inclusiveness initiatives

Mr ELSBURY — I acknowledge the Maribyrnong Inclusive Recognition Awards and congratulate Melton City Council on the launch of its disability action plan. Both events highlighted the great abilities that people in our community have and made it clear that we can work together to assist one another.

Rotary Club of Strathmore

Mr ELSBURY — I would like to thank the Rotary Club of Strathmore for its senior citizens Christmas lunch, which was held at the Strathmore Bowling Club last week.

Holden job losses

Ms MIKAKOS (Northern Metropolitan) — Yesterday was a black day for Victoria. Federal Treasurer Joe Hockey, daring Holden to make an announcement before Christmas, got his wish. It is a

devastating announcement that Holden will discontinue manufacturing in Australia. The effects of this closure will be felt far beyond the many thousands of direct Holden jobs that will be lost. People in other industries that support car manufacturing, such as parts manufacturers and suppliers, engineering, distribution and freight industries, just to name a few, will see their livelihoods demolished by the economic vandalism of the Abbott government and the wilful inaction of the Napthine government. Whilst Mr Napthine did his best to shift blame to others, he stood by and did nothing to protect jobs in Victoria. He stood by and allowed his federal colleagues to pillage Victorian jobs. He has once again proven that Victorians cannot rely on the Napthine government to work for them.

Aged-care facilities privatisation

Ms MIKAKOS — Victoria's seniors are now wearing the consequences of the Napthine government's $75 million cuts to public residential aged care. The latest casualties concern the announced closure of Reg Geary House in Melton. A leaked document from Alfred Health has also shown its intention to enter into a public-private partnership of its three aged-care facilities in Caulfield. As was the case at Peninsula Health, we are likely to see another privatisation there. These are the latest casualties; we have already seen closures in Ballarat, Castlemaine, Koroit, Kyneton, Melbourne and Williamstown. Given the coalition made no mention of its privatisation agenda in the policies it took to the 2010 election, this is a blatant attack on Victorian seniors. The government has absolutely no mandate to sell off public aged care.

Early childhood facilities

Ms MIKAKOS — The Minister for Children and Early Childhood Development, Ms Lovell has spent 2013 claiming credit for kindergarten infrastructure projects that were almost entirely funded by the previous federal government. Things look far more dismal next year, given the Abbott federal government's lack of commitment in this area and its plans to unravel groundbreaking early childhood reforms — —

Honourable members — Time!

The PRESIDENT — Order! I allowed Mr O'Donohue some extra time. I will make the decision based on my monitoring of the clock. Ms Mikakos may finish her sentence.

Ms MIKAKOS — Implemented by the Rudd and Brumby governments.

Holden plant closure

Mr RAMSAY (Western Victoria) — I was disgusted and disappointed yesterday to hear the Labor Party politicise the sad decision announced by Holden's parent company in Detroit. General Motors made the decision some time ago to withdraw its manufacturing operations in Australia by 2017. This was a long-term planned exit, and the important thing now is to help those workers over the next few years to transition to new opportunities. The blame game is not helpful; in fact, it is destructive. Shame on Labor! General Motors is not alone. Cost price squeezes on manufacturing are impacting many businesses, and now is not the time to play the blame game.

Philip Davis

Mr RAMSAY — I want to take this opportunity to acknowledge the enormous contribution and rural advocacy of Philip Davis as a member for Eastern Victoria Region. I knew Philip when he was active in the Victorian Farmers Federation, particularly in the industrial area. He was always a strong advocate in the formulation of industrial relations policies for farmers at both state and national levels. My mentor Dick de Fegely, who is sadly departed, was always passionate about having rural and regional voices in the Parliament. Philip was passionate about the detail, whether it be constitutional law, local government policy or water legislation — the hard slog work. Philip Davis has filled those shoes for 21 years, and I wish him well in his new life.

Beaufort ambulance station

Ms PULFORD (Western Victoria) — On 30 June 2010 the Liberal-Nationals coalition promised to provide Beaufort with an ambulance station of its own. The coalition's media release of that date stated that the station 'will ensure this growing community has the services it deserves'. Eleven paramedics are required to staff a fully operational ambulance station. Recent media reports have made it clear that the coalition has no intention of maintaining the station as a 24-hour operation. At a minimum, the Beaufort ambulance station would require five paramedics to cater for the needs of the Beaufort community, which would be similar to the way that stations are run in communities such as Lorne or Apollo Bay. However, under the coalition it appears the Beaufort station will only be staffed by one paramedic and one community emergency responder. For a government that in

opposition promised a fully functional ambulance station for the people of Beaufort this does not cut the mustard. Perhaps the Premier, or indeed the Minister for Health, believes this is all that the community of Beaufort deserves.

New Norlane housing initiative

Mr KOCH (Western Victoria) — I rise to congratulate the Victorian coalition government, and particularly the Minister for Housing, Wendy Lovell, for getting on with the job of building the coalition government's New Norlane housing initiative. New Norlane is an $80 million public and private housing development that is creating vital new housing options and much-needed employment in Geelong's northern suburb of Norlane. The project recently reached another important milestone with the opening of a display village, which showcases new affordable homes built by Burbank homes, Porter Davis and Hamlan Homes. Each of the building partners has employed locals to work full time on the project, with apprentices placed and supported by local employment and training agency Northern Futures.

This exciting project is building a new future for Norlane and the broader northern Geelong community. New Norlane involves the construction of 160 social houses and 160 private homes. Both are well under way, with 67 new social homes to be completed and tenanted by Christmas. On top of that, a further 32 new private homes have already been sold. Hamlan Homes handed over its first home to a private owner last month. Construction of another 14 private homes is under way, and a further 19 social homes are expected to be completed by May 2014. These new homes are accommodating families that are forming new communities. I again congratulate all those involved in the New Norlane project, and I wish all the new residents well in their new community. This is a great initiative for Geelong.

Mr Finn

Ms BROAD (Northern Victoria) — I refer to remarks in the Legislative Council yesterday about scientists — some named and some unnamed — including 'leeches, who have been living off the taxpayer not just in Australia but around the world', 'shonks' and 'extremists calling for the death of somebody who dared to criticise them' as well as references to people who are motivated by 'filthy lucre' who 'get to stay in the best hotels' and 'fly in the best planes'. It may be news to members of the government, including ministers, who found those remarks entertaining, that the biggest employer of scientists in Victoria is the state government.

I place on the record that I believe it is deeply offensive to characterise scientists in the way they were characterised in this place yesterday. It is quite extraordinary that scientists are accused of bullying and intimidation when Parliament is used to attack scientists in the way they were attacked in this place yesterday. Mr Finn's remarks would be much closer to the mark if he were describing the way many in the community regard politicians, and it is definitely news to scientists that they are highly paid jetsetters.

Australian Labor Party preselections

Hon. D. M. DAVIS (Minister for Health) — I rise about a matter of democracy in Victoria as we head towards the preselection of candidates in all the major parties. I am particularly concerned to learn that the ALP is intending to refer all of its upper house preselections to its national executive. I do not believe that non-Victorians should have a role in the preselection of Victorians for positions in major political parties that will see the diminution of democracy within those parties. Seven of the 24 people on the national executive are Victorians and 17 are not Victorians, so we will see people from other states — from Queensland, New South Wales and Western Australia — making decisions about Victorian preselections, denying Victorian members of a major political party a right to democracy and a right to proper political involvement.

We saw Jennifer Huppert, a former member for Southern Metropolitan Region, come into this place preselected by the national executive and appointed to this chamber. It was a travesty of democracy to see non-Victorians appointing someone to a Victorian parliamentary chamber. That is a loophole in the constitution. These decisions by the Labor Party to allow preselection by the national executive, in which 17 of its 24 members are from other states and which is making decisions about the future of Victorian democracy, are quite wrong. The Labor Party should step back from the decision to allow this antidemocratic move, which sees faceless men and faceless women from other states making decisions that will affect Victorian democracy.

PARKS AND CROWN LAND LEGISLATION AMENDMENT BILL 2013

Second reading

Debate resumed from 28 November; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Ms TIERNEY (Western Victoria) — I rise to speak on the Parks and Crown Land Legislation Amendment Bill 2013. I state at the outset that Labor will not be opposing this bill. The bill has a number of arms and legs, and none of its parts are particularly controversial. I believe, however, that it is important to get some of the details into *Hansard*. The bill will revoke five Crown land reservations to facilitate projects which include the Ballarat West employment zone development, the Bendigo Hospital redevelopment, the East Werribee employment precinct development, three nature conservation reserves in northern Victoria and the addition of land to the Psyche Bend historical reserve. The bill will also amend the National Parks Act 1975 to add 470 hectares to 11 national parks, including the Great Otway National Park and the Brisbane Ranges National Park. The bill increases penalties for unauthorised commercial activity in national parks and strengthens the offence provision.

The bill also amends the Carlton (Recreation Ground) Land Act 1966, the Shrine of Remembrance Act 1978 — which will allow for a deputy chair of the trustees of the shrine to be appointed to act when the chair is not available — and streamlines the process for setting the parks charge in metropolitan Melbourne.

I am pleased to speak about the arrangements in the bill for the Ballarat West employment zone and the East Werribee employment precinct, because both of those zones were projects conceived by the Brumby Labor government. The Ballarat West employment precinct had been commenced before the Baillieu and Napthine governments came to power.

Mr Finn interjected.

Ms TIERNEY — That is a fact, and Mr Finn knows it. The detailed planning for the road project was provided through Labor funding, and that funding was significant to the overall project. The previous Labor government was known for its hard work and dedication to jobs growth and job sustainability, which obviously is not the case in this state now, as we saw with yesterday's announcement. The Ballarat West employment zone will ultimately deliver around 9000 jobs for the region, which is great.

The bill appoints the City of Ballarat as the committee of management for the precinct. That is also a good move, because it will enable local representation to play a key role in what is happening in its region, particularly in the area of job creation. The Ballarat West and Werribee East employment zones are just two examples of the Brumby Labor government's work on job creation, and it gives me great pleasure to see arrangements for those two zones enhanced by this bill.

Moving on, the Bendigo Hospital redevelopment is another example of the Labor government's work in making sure that regional health facilities, and indeed hospital facilities, have improved. From my reading of the member for Bellarine's contribution to the debate in the other place, I understand the minister emphasised the importance of this bill being passed promptly to ensure that processes can proceed in the new year. Although this government has been in charge of the project for the last three years, it has dragged its feet and the project is currently nine months behind schedule.

The bill deals with government management of national parks. It also goes to governance issues in terms of their operation. Along with the provisions of the projects just mentioned, the bill is ultimately about Victoria's national parks. When it comes to Victoria's national parks it is fair to say that this government has incited some controversy around a number of issues related to those national parks. The first relates to cattle grazing in the Alpine National Park. It is a fairly well-known fact that members of the Liberal Party have done a deal with The Nationals to allow cattle to graze in the Alpine National Park. It is also widely known that the government has tried to justify allowing cattle to roam in the Alpine National Park by stating that grazing will reduce bushfire fuel loads. The trouble is that there is no evidence to support that theory, which is precisely why the previous federal government knocked it back, and precisely why the courts knocked it back when the Baillieu government tried to dispute it.

Another aspect of the bill deals with the issue of private development in national parks and points to another extremely controversial move by the Napthine government, which recently passed legislation providing for 99-year leases for private development in national parks. This move is unprecedented not just in this state and country but in the entire world. Less than 1 per cent of the 20 000 national parks worldwide have significant tourism infrastructure in them, and all the development contained in that 1 per cent of parks predates the creation of each national park. This act by the Napthine government is not just out of step with

other states and other parts of Australia but also out of step with the entire world.

I also want to speak about this government's credentials when it comes to the environment. I point to the fact that this government has cut $111 million from Parks Victoria and sacked 600 staff from the Department of Environment and Primary Industries and Parks Victoria. The government has also wound down a number of offices in regional Victoria that deal with a range of issues associated with the environment. To add salt to the wound, this government has also made it harder for families to enjoy a trip away by introducing fees for camping in national parks.

I could go on and on with respect to this government's lack of performance in the area of the environment and indeed how it goes out of its way not to protect the environment. Suffice to say today that Labor will not be opposing the bill before the house but that a lot more needs to be done in this state to ensure that our general natural environment is protected.

Mr BARBER (Northern Metropolitan) — The Greens will be supporting this bill. We have given the measures contained in it some careful scrutiny, and with the following comments and notes we intend to support the bill. Obviously there are a number of revocations of permanent Crown land reservations, including one I pay particular attention to which is in Carlton. I am informed by the Melbourne City Council that the removal of the reservation for the land associated with the Carlton Football Club is part of a larger land swap arrangement that has been approved by the council. There are also a number of government projects being facilitated with these measures, including the Werribee employment precinct development, the Bendigo Hospital redevelopment and the Ballarat West employment zone development.

In relation to Ballarat and Werribee, it is interesting to note some of the commentary that has come up in respect of the transport links associated with these projects. It is one thing to allocate a particular piece of land for a particular economic use; it is another entirely — and I am sure members would agree with this statement — to ensure that the necessary infrastructure is in place. Critical amongst that is transport infrastructure. The Ballarat council should probably be given the most credit for the development of the Ballarat West employment zone in terms of the planning. Local councils always pay close attention to all the needs of a particular planning development, and in this case the council won an award for the quality of planning it did in relation to Ballarat West.

There is one question that is outstanding, and that relates to the intermodal freight hub. This is said to cater for road-based high-performance freight vehicles — in other words, for dirty great trucks, which are getting bigger all the time. While it is good that proper planning for growth has been put in place, this precinct has a rail line immediately adjacent and the independent freight services feasibility study undertaken for the Ballarat region in 2009, which did in fact consider some of the externality of costs associated with both carbon pollution and other matters, found that the intermodal rail service would become more economically attractive than roads in about 2018. It will be interesting to hear from any later government speaker — and certainly I will be paying attention in the next budget — as to whether provision for rail connection is being made in the government's spending plans.

As with many of the new residential outer suburbs, the government might say, 'We'll wait until things build up a bit before we provide that infrastructure'. Of course, that is exactly how we got into the mess we are in now. The government needs to make the commitment and be there on day one with the necessary infrastructure — in this case I am talking about rail freight infrastructure — so that all those who come to occupy the area, whether we are talking about a residential suburb or an employment precinct like this one, are aware of the opportunities that are available and plan accordingly. Otherwise it is inevitable that these areas build up being dependent on motor vehicles, and then the government finds there is never a good time to start investing in real infrastructure.

For a precinct that seems to have won so many plaudits for its sustainability, I would have thought that access to non-road-based public transport was a critical issue, and I will be watching closely to see what the government provides in its May budget in that area. Otherwise we have general support for the provisions of the bill, and we will be supporting it.

Mr ELSBURY (Western Metropolitan) — It is my pleasure to rise this morning to speak on the Parks and Crown Land Legislation Amendment Bill 2013, which presents a great deal of opportunity for the people of Victoria as it is connected to three major projects in our state which are needed to grow employment opportunities, improve the delivery of regional health care and increase the size of our national parks across the state.

Although the bill will bring these outcomes to the people of Victoria — it was supported by the Labor Party in the other place and will be supported by those

opposite in this place as well — unfortunately it has been used as a little bit of a political plaything by the ALP. Certainly in the last few sitting weeks we have seen some interesting activity occurring in the other place. In fact, the member for Altona in the Assembly, Jill Hennessy, admitted about the last sitting week:

> … in this Parliament this week we have done a pretty good job of trashing democracy …

That is what she said about the activities being undertaken in the other place. The Labor Party did it in its desire to cause havoc in this Parliament and once again discarded the respect and decorum expected of members in this place. It shows once again that the ALP is willing to do anything at all.

But back to the bill. The first actions facilitated by the bill allow three major projects to proceed, which will benefit three communities across our state. The permanent Crown land reservations will be lifted to allow the significant projects to be undertaken. They are the Ballarat West employment zone, the East Werribee employment precinct and the Bendigo Hospital. The bill facilitates the important Ballarat West employment zone project to inject greater job opportunities in this major regional city. The Ballarat council speaks in glowing terms about the project, with a fact sheet available on its website stating:

> The Ballarat West employment zone is a 623-hectare precinct to the west of the ring-road and Learmonth Road that has been earmarked as Ballarat's future employment area. The site was selected via council's industrial land use strategy, a strategic and well-considered planning process. The employment zone has good access to road, rail and aviation infrastructure and is located in Ballarat's growth corridor.

It continues:

> The employment zone is an essential part of council's strategic vision for the future growth and prosperity of our city. Ballarat's manufacturing sector is a key driver and cornerstone of Ballarat's economy. The employment zone will create new opportunities for modern and competitive manufacturing facilities in Ballarat as well as associated opportunities for logistics, transport and commercial activities. The employment zone will ensure that sufficient land is available for the development of industry for many years to come.
>
> The new employment zone represents council's desire to proactively plan for Ballarat's growth. Developing the employment zone will create long-term job opportunities and employment stability for our residents.

Bendigo is another great regional centre, where many members of my family live. This bill will assist with the construction of Bendigo Hospital, which is the largest single regional health investment in this state. This project will not only create jobs during the construction and operation of the hospital, including the commercial capacity delivered in this development, but it also provides greater health benefits to people across central Victoria.

The new Bendigo Hospital is a $630 million project being constructed by the Exemplar Health consortium, and 770 construction industry and supply jobs will be created in the construction phase.

The PRESIDENT — Order! As I understand it, we are dealing with a parks bill.

Hon. D. M. Davis interjected.

The PRESIDENT — Order! Okay, but I would not dwell too much on the merits of the hospital. I would be more interested in the merits of the land swap.

Mr ELSBURY — Thank you for that guidance, President. With the land swap that will occur, 372 beds and 10 operating theatres will be created, including a cancer centre, mental health unit and helipad infrastructure.

Finally, we have a major project on an extreme scale in the East Werribee employment precinct. We are seeking to deliver work opportunities to people across Victoria. Ms Tierney was a little bit loose with her claims in her contribution earlier when she said that it was Labor that brought this project to the fore. Ms Broad's comments earlier in relation to Mr Finn's statements about scientists were very selective, and Ms Tierney was also very selective in her comments about the East Werribee employment precinct. This project has been on the books for many decades. Many governments have had this project sitting on the books, and they have been governments of different persuasions. For upwards of 30 years there have been proposals for something to happen at this site. It was the old state research farm where many achievements were made in the breeding of sheep and cattle and in controlling disease amongst livestock, but it has done its dash. It has had its time in that particular frame, so we now have the coalition government moving forward with a precinct structure plan for this fantastic project.

We are also committing $72 million in road infrastructure, including the Sneydes Road overpass and freeway interchange. This commitment was made before any development was started, which is something we have not seen before out in the western suburbs.

The project will deliver 58 000 long-term jobs, including high-quality office-style jobs, as well as retail, technologically based, education and health-oriented jobs. This development will deliver

7000 dwellings in various configurations, allowing people to live closer to where they work. Just like Melbourne's CBD, the East Werribee employment precinct will have mixed-use zoning to allow for an apartment block with a coffee shop on the ground floor while an IT company takes up the first two storeys.

This project will revolutionise work opportunities for the western suburbs, allowing people living in the west to have access to office jobs within the proximity of their homes. East Werribee employment precinct will also include recreational areas which will incorporate smart water use, so that water collected on site is used to fill lakes and is utilised on green spaces across the project.

In her contribution to the debate Ms Tierney had very little concept of how our parks can benefit communities. In fact we need new infrastructure in our parks to bring greater economic benefit to the regional communities in which those natural wonders lie. Old facilities need renewal, while improved facilities may include commercial interests. In my electorate the Werribee Park precinct is of great benefit to the local community. The commercial arrangements which have been made by Parks Victoria enable it to maintain this great community asset. It is an asset which I encourage everyone here, including those in the gallery and those listening via the web, to visit by taking a trip down to Werribee. It has a fantastic 1800s mansion, state rose garden, open range zoo, mansion spa and hotel, winery, equestrian centre and river walk.

This bill brings into parks across Victoria 470 hectares of land which will be added to 11 parks under the National Parks Act 1975. To make these inclusions properties have been purchased for the purpose of adding them to our parks network across the state. In some instances redundant government road reserves and park boundaries have been consolidated into the parks. As examples of land being included, Brisbane Ranges National Park will benefit from 22 hectares, the Great Otway National Park will have two parcels of land added to it totalling 64 hectares and Mount Eccles National Park will increase by 193 hectares. Point Nepean National Park will receive 1.3 hectares, which is small but we must admit it is very important all the same, and Arthurs Seat will also receive an extra 6.9 hectares.

Lake Tyers State Park and Gippsland Lakes Coastal Park will benefit from a consolidation of their boundaries of 40 and 51 hectares respectively. The bill also excises 0.73 hectares from Mount Buffalo National Park to allow a government road reserve for access to adjoining freehold land. Several parks will have minor changes made to their park plans. As we have already heard, 0.16 hectares will be added to Princes Park to encompass a redevelopment of the Carlton football ground, which has extended beyond its leasable area. Some people would rise up in outrage about that, as I believe my colleague Mr Finn would probably do — it is Carlton, after all.

The administration of our parks will also benefit from the improvements in this bill. The points of change are: enabling amendments to the regulation-making head of power in the Crown Land (Reserves) Act 1978 to allow regulations to apply to multiple reserves; enabling one trustee to be appointed to the Shrine of Remembrance Trust as a deputy chairperson who can act in the absence of the chair; and enabling annual increases in the metropolitan rate and the minimum amount of that rate without any action by the Treasurer under the Monetary Units Act 2004. The proper use of our parks is also being reinforced by this bill, with penalties for unauthorised commercial activities that might occur at any time in our parks being increased from 20 to 60 penalty units.

This bill has many facets. We are talking about expanding our park reserves, creating job opportunities across the state in regional centres and in outer metropolitan areas and having opportunities to improve the infrastructure in parks to attract more people to visit them — whether that be through a new commercial venture or something else. It is important that we are able to have parks that people want to go to and where they can enjoy themselves. There are also the minor amendments to how we manage our parks to ensure that they run more efficiently.

With that contribution, I would like to say that this bill brings forward many great benefits for the people of Victoria. I welcome it to this house and look forward to its passage.

Mrs COOTE (Southern Metropolitan) — It is with great pleasure that I stand to speak on this bill in what is quite a historic context. To hear both members of the Labor Party and the Greens agreeing to support a coalition bill on parks is truly in the Christmas spirit. I particularly welcome their contributions. I put on the record my praise for the Minister for Environment and Climate Change, Ryan Smith, who has been an exemplary minister. Parks are a huge passion to him, and he has done a remarkable job in this portfolio, backed up by excellent public servants, who have served all parliaments and all governments exceedingly well. They are true professionals, and I put on the record my recognition of the work that they do.

My colleague Mr Elsbury gave an in-depth dissertation on this bill and what it involves, so members will be

pleased to learn I will not go into all the details. However, the Parks and Crown Land Legislation Amendment Bill 2013 is a wide-ranging bill that amends seven acts relating to Crown land.

As members all know, Parks Victoria has been a long-held passion of mine. Even before I was on Parks Victoria's inaugural board it was something I felt particularly passionate about. I am proud that I was on the inaugural board of Parks Victoria, and it is pleasing to see that it has come such a long way. Recently I saw the former CEO of Parks Victoria, Mark Stone, who is now at the Victorian Employers Chamber of Commerce and Industry, and I congratulated him on his legacy at Parks Victoria. We had the chance to reminisce about some of the positive things that have been done, and it was pleasing to see him.

I turn to the employment and growth aspect of the bill. The bill will support economic growth in Ballarat and Werribee East. That is pleasing to see on a day when all of us feel enormous sadness at the closure of Holden as well as hope that we can play a positive role for workers from all Holden divisions. But this government has increased jobs by an enormous number. If we just look at Geelong, with the announcement of the closure of Ford earlier this year, we see that the state government has put an enormous number of jobs back into Geelong — 300 jobs by getting the national disability agency located in Geelong and recently 500 jobs by relocating the head office of the Victorian WorkCover Authority to Geelong. This government is addressing these issues, and I have confidence that it will in turn address the ramifications and fallout of what happened with Holden yesterday.

The bill will increase jobs. It is very pleasing to see that the Ballarat West employment zone and the East Werribee employment precinct will be developed. I take a moment to say that these developments will lead to massive job growth in Victoria — 9000 jobs and $5 billion in economic activity in Ballarat by 2035 and 58 000 jobs and 7000 new houses in Werribee East. That is an enormous number of jobs that will be created in these areas.

This is on top of the great news that there are now 73 000 more Victorians in employment than when the coalition government was elected in 2010, as I mentioned. That is a great achievement and a lovely way to finish off our parliamentary year. Additionally, the new homes in Werribee East will help to accommodate Melbourne's growing population and ease the housing pressure.

This bill also deals with the Shrine of Remembrance. As members know, the Shrine of Remembrance is another passion of mine. Each and every one of us should feel a great sense of pride in and ownership of the shrine. In Melbourne it is iconic, and I suspect it is iconic to Australia. This bill allows one of the trustees to be appointed as a deputy chairperson who will act as a chairperson when the actual chairperson is absent, or when there is no chairperson present. The deputy chairperson will be an existing trustee. The bill specifically does not increase the number of trustees, which is set at 10.

Every year we see increasing numbers of people, particularly young people, taking part in the Anzac Day service at the shrine. I think there was a record number at this year's dawn service, with well over 40 000 people in attendance. Each year I attend the service at the Shrine of Remembrance, one of many amongst the silent and reverent crowd. It is truly a time for reflection. It is so good to see that Victorians are taking the time to go to the Shrine of Remembrance and pay their respects for all of those people who gave their lives in order for us to lead the better lives that we have today.

The Shrine of Remembrance is in my electorate. In 2012 the coalition government gave $22.5 million towards the restoration of the Galleries of Remembrance at the Shrine of Remembrance. For those members who have not been there, underneath the shrine are some enormous vaults. They are probably as high as this chamber, with enormous and very imposing brick pillars. It is quite astonishing to see and feel the expanse. When people get an opportunity and when these galleries are open, I recommend that people visit them. The project will create new areas of education because the education services at the shrine have been remarkably successful. They are going to put in one of the very first boats that reached the shores of Gallipoli. It will be a remarkable exhibition and something that generations to come will see in our state.

I would like to put on the record that it was the former Premier, Ted Baillieu, the member for Hawthorn in the Assembly, who committed this money. He is a passionate supporter of the shrine. He was appointed by the new Premier as the ambassador for the Anzac Day centenary celebrations, which are coming up in 2015. The restoration of the Galleries of Remembrance is going to widen the opportunity for Victorians to come and see, celebrate and learn about our history. I congratulate the current board of trustees of the shrine and CEO Dennis Bagley for an excellent vision of what the shrine should be doing and where it should be going.

Returning to the bill, I will quickly touch on the expansion of the existing parks. The bill will add about 470 hectares to 11 parks under the National Parks Act 1975. These include the Brisbane Ranges National

Park, with an additional 22 hectares on the eastern edge of the park west of Balliang, and the Great Otway National Park, with 64 additional hectares, of which 12 hectares are near Aireys Inlet, 49 hectares near Carlisle River and 2.8 hectares around a government road. Mount Eccles National Park will have 193 additional hectares of purchased land north-east of Lake Condah, and Point Nepean National Park will have 1.26 additional hectares near the quarantine station.

Wyperfield National Park is a very distant park up in the north of our state. It is an excellent example of what our state must have looked like in centuries gone by, and I encourage people to go and visit it. Wyperfield National Park will have 96 additional hectares north of Yaapeet. Arthurs Seat State Park will have 6.9 additional hectares north of Arthurs Seat Road. The Dandenong Ranges will have 0.12 additional hectares at Mount Evelyn. The Yarra Ranges will have 0.15 additional hectares north of Warburton. Lake Tyers State Park will have 33 additional hectares around a redundant government road. Cape Liptrap Coastal Park will have 0.14 additional hectares near Walkerville South, and the Gippsland Lakes Coastal Park will have an additional 50.2 hectares.

While reading out that list of parks, I thought about the fact that many members in this chamber and many Victorians will have never visited them. I take this opportunity to encourage them to take their families and visit these extraordinary parks during this holiday break. They will see how well managed they are. As Victorians they should be proud of these excellent parks. They would get to see the huge variety of parks that we have in this state. We have large desert parks, coastal parks, small parks and metropolitan parks. Parks are an integral part of how we function as a state and how our community operates. I suggest that many Victorians have not taken the opportunity to fully experience the excellent opportunities in our parks.

This bill also increases the penalties for unauthorised commercial activities. It will be an offence to conduct unauthorised commercial activities in our parks. The bill increases the penalty for this offence for a natural person from 60 penalty units to 80 penalty units and also introduces a new penalty for a body corporate of 300 penalty units. The flip side of the coin is that there are some authorised commercial activities that are allowed to be undertaken in certain parks, and the bill sets these out.

I am pleased to see people being healthy and enjoying our parks. Parks Victoria has adopted a Healthy Parks Healthy People program, but there is an aspect of metropolitan parks that I believe has been abused. There is a difficulty with the number of so-called very rowdy boot camps coming into our parks. They think they are in the United States — —

Hon. D. M. Davis — It is the grunting that is the problem.

Mrs COOTE — As Mr Davis said, the grunting is the problem. The issue is that they think they are members of the United States Marines Corps. They chant et cetera and take over parks near residential areas. Many people complain to me about this. If the boot camp operators have a commercial licence and go through the proper channels, then that is to be welcomed. I do not want people to think for one moment that I am against activity in our parks — it is particularly important — but at 5.30 a.m. when you hear these people grunting, groaning and chanting around the tan you could be forgiven for thinking you were in the deep heart of Illinois, rather than in the heart of Melbourne. It is very important that the purpose of our parks is clear and that people understand it.

I commend this bill. As I said, it makes a number of changes to a broad swathe of acts. The bill will help economic growth in Werribee and Ballarat via the revocation of certain reserves, allowing these to become economic zones. It adds a huge amount of land to 11 parks around the state. I hope all Victorians have a happy and safe Christmas and holiday period and that they take some time with their families to enjoy the magnificent parks in Victoria.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

In doing so, I want to thank members for their contributions to this important bill. I particularly note the significance of this bill to the $630 million Bendigo Hospital project, of which the government is very proud. This project will be facilitated by the land movements outlined in this bill. It is a massive project in terms of the additional benefits the government has got. I thank the chamber for its support of this bill.

Motion agreed to.

Read third time.

TRANSPORT (COMPLIANCE AND MISCELLANEOUS) AMENDMENT (ON-THE-SPOT PENALTY FARES) BILL 2013

Committed.

Committee

Clause 1

Mr BARBER (Northern Metropolitan) — Much of the mechanics of this policy proposal will come later down the line in the form of regulation. What is really being set up here is a legal framework under which the government might then come along and fill in detail with regulation. It is for that reason that I believe it is appropriate to ask during debate on clause 1 a number of broad questions about what the government's intention is in relation to the implementation of this measure as well as the rationale behind it.

Last Sunday the *Sunday Age* carried a story on its front page, where among other things it was claimed that the government was having difficulty enforcing fines that originated out of the myki ticketing system. It was even claimed in this article by some sort of Department of Transport, Planning and Local Infrastructure insider that the reason this bill was being brought forward was the difficulty the department was having in enforcing fines in the courts. This was based on evidence, I presume, that would arise out of the records that are kept as part of myki ticketing transactions. Can the minister confirm whether that is in fact the case?

Hon. M. J. GUY (Minister for Planning) — I am obviously happy to go through the intent of the bill in committee, as Mr Barber would expect. However, that is why the government offers bill briefings. I hope Mr Barber took up the government's invitation to attend a bill briefing, as that is where the intent of the bill would have been made very clear to him. That is the purpose of offering bill briefings to members, and I would have hoped that the Greens would have taken up that offer, rather than coming into the chamber and having to go through a bill briefing stage. I understand the Labor Party took up this offer; every party usually does.

In relation to Mr Barber's question, I understand there were some initial issues. We believe they have been rectified. Obviously when the first cases arise, there may be some unforeseen issues that need to be clarified, but we will manage those issues if and when they come about.

Mr BARBER (Northern Metropolitan) — The myki ticketing system has been in place as the sole system for nearly a year and in transition for a year before that. Is the implication in the minister's last answer that there has not yet been a contested court hearing over a ticketing offence where myki was the form of the ticket?

Hon. M. J. GUY (Minister for Planning) — I believe that is the case, but I will have to take some further advice.

The ACTING PRESIDENT (**Mr Elasmar**) — Order! Does Mr Barber have any further questions?

Mr BARBER (Northern Metropolitan) — I thought the minister was taking further advice.

Hon. M. J. GUY (Minister for Planning) — I apologise if my answer was misleading. I will have to take further advice while the debate is progressing, as I do not know the answer to Mr Barber's question. I believe Mr Barber is correct, but if I need to be corrected, then I will have to come back to Mr Barber.

Mr BARBER (Northern Metropolitan) — What training or special procedures will be put in place for authorised officers before they are authorised to issue the on-the-spot penalty tickets, as they are called, and collect cash directly from passengers?

Hon. M. J. GUY (Minister for Planning) — I apologise for the delay; I was trying to get some answers on the previous question for Mr Barber. I believe it is nearly two months worth of training.

I want to put some points on the record in answer to an earlier question in relation to myki prosecutions. I understand there have already been hundreds of successful myki prosecutions where defendants have withdrawn because of the strength of the case against them or have not turned up to court. We expect that there will be over 1500 ticketing infringement cases in the first half of 2014. There has obviously been a lag in the legal system which has resulted in some delays, but we expect some of those cases to start going through the system in the first half of 2014. I apologise for the delay, but I was trying to get an answer for Mr Barber on those questions.

Mr BARBER (Northern Metropolitan) — I move on to another issue. Some time ago I asked a question on notice of the Minister for Public Transport and it related to a recommendation that came out of the Ombudsman's 2010 report entitled *Investigation into the Issuing of Infringement Notices to Public Transport Users and Related Matters*. In that report the

Ombudsman recommended that ticket inspectors directly issue fines. My question on notice asked whether that was going to occur. The answer from the Minister for Public Transport given on notice was as follows:

> The likelihood of assaults on authorised officers is reduced if the officers themselves do not actually issue infringement notices.

That was the minister's rationale and answer to my question some months ago. Clearly now the government has gone down a different path, and that is to allow authorised officers to issue a type of infringement and in fact to demand cash in hand on the spot. Why has the government reversed its position on this matter?

Hon. M. J. GUY (Minister for Planning) — What Mr Barber is talking about is totally different. He is talking about the passenger's choice, which is totally voluntary. They are paying the equivalent of a fare, which is different to paying a fine. We have not gone down that route, principally for OHS reasons. It is fairly combative, it puts the officer on the spot and it creates a situation that can be problematic, as we have seen recently. That is why the government has opted to offer a voluntary system where passengers can pay a fare — a fare which is obviously greater — at a point in time rather than receiving the fine.

Mr BARBER (Northern Metropolitan) — The minister calls it 'voluntary'. Imagine a circumstance — and I do not think this would be particularly unusual — where someone is stopped because they do not have a ticket or they have a problem with a ticket. Officers have the power to detain them while their identity is being ascertained. That is a common enough procedure. On more than 580 occasions in the last financial year authorised officers used physical force to hold someone in relation to a ticketing offence or their inability to prove their identity or hand over a phone number of a person who could prove their identity.

What will happen now is that the authorised officer will say, 'That's fine; you can go if you pay us $75'. That person now has four or five authorised officers standing around them, and they are told they are not going anywhere unless they pay $75. It sounds more like kidnap and ransom than a voluntary measure, as the minister has described it. That is why I am keenly interested in knowing what procedures and training will be put in place — that is, what written procedures authorised officers must follow in implementing this measure.

Hon. M. J. GUY (Minister for Planning) — I am not necessarily sure that I accept in full the premise of Mr Barber's question; I think part of it was hypothetical. Having said that, the government is confident in the mechanisms around training officers to deal with this type of situation. They will be scrupulously trained in how to manage situations such as this. They will be given nearly two months worth of training. At the end of the day they have a job to do, and we are going to train them properly as to how they are to do that job. There are strict ways in which we expect that job to be done. The government is putting in place the mechanisms for them to be able to do it.

Mr BARBER (Northern Metropolitan) — The government claims that other jurisdictions have a scheme similar to the one being introduced by this bill. Can the minister tell me what the penalty fares are in those other jurisdictions?

Hon. M. J. GUY (Minister for Planning) — I am advised that in terms of the cost element the system we have put in place in Melbourne is fairly consistent with places such as London or Lyon.

Mr BARBER (Northern Metropolitan) — It has also been claimed by the government that this measure is being introduced on a trial basis and that it will be evaluated. Can the minister give me an idea of what that evaluation will consist of? In other words, what is the government evaluating? Is it evaluating the amount of money it collects or the deterrent effect? What would the government define as success in this trial, and how will we find out the results?

Hon. M. J. GUY (Minister for Planning) — It will take 12 months for the measures to be thoroughly analysed. While the trial is ongoing, it will be monitored by the government as well. In the end, it is not about finances; it is about whether the system is being taken up and whether the officers themselves believe it is operating efficiently, is one they are using or believe they can use to manage issues around fare evasion. All of those factors will be taken into account as this trial is under way, but particularly after the 12-month period is up when it will be fully evaluated.

Mr BARBER (Northern Metropolitan) — Contrary to earlier claims that were made about this measure that it is voluntary or an easy way to deal with it, it has also been claimed that this will be a deterrent — that the level of the so-called penalty fare would operate as a deterrent. Currently if you imagine a zone 1 daily ticket being around $7 dollars, the deterrent is $212. In other words, it is about 30 times the fare. In this case, it will be 10 times an average fare. In other words, if I ride

without a ticket on the transport system and get picked up less than once every 10 days, it is actually no deterrent at all. I am out no more money than I would have been, so why is it that the government claims that a $70-odd ticket against a $7 fare is a deterrent? If the aim of this is to be a deterrent, then would it not be the lack of take-up that would indicate that the trial had been successful?

Hon. M. J. GUY (Minister for Planning) — I say, firstly, that those matters have been taken into account. As I said before, we will be reviewing the system after 12 months and certainly on an ongoing basis. It is fair to say that despite London having a more penalty-based system, as opposed to Melbourne wanting to offer it as a disincentive, as you say, to fare evade, the systems in London and Lyon are operating quite well and are quite straightforward. It has not collapsed the London tube system. When I read BBC News, it is not about this issue being a massive problem on the tube system or for the tube network. It seems to be operating with Transport for London quite efficiently. If it can operate efficiently as a deterrent to those who evade fares in places like London and Lyon, then we believe it should be able to be implemented in a system such as Melbourne's.

Mr BARBER (Northern Metropolitan) — It is possibly because the tube is a gated system. Onto another matter, recommendation 14 of the Ombudsman's report entitled *Investigation into the Issuing of Infringement Notices to Public Transport Users and Related Matters* is:

> In consultation with the Department of Justice, develop a framework for measuring the performance and administration of its infringements systems. The framework should include key performance indicators and reporting arrangements for assessing the extent to which it has fulfilled its obligations under the act.

Recommendation 13 is:

> Develop quality assurance mechanisms to ensure the processing of internal reviews is completed in accordance with internal and legislative requirements.

The background to those recommendations was that, for any departmental agency that is running an infringement system, there are what are called the Attorney-General's guidelines, which are meant to be adopted by each agency in its dealings with matters of discretion in the issuing and withdrawing of infringements. Last time I asked this question — and certainly at the time the Ombudsman asked the question as well — I was told there were no detailed written guidelines or manual used by departmental staff in determining whether an infringement was to be quashed or go ahead. Can the minister tell me whether these guidelines, based on the Attorney-General's guidelines for infringement systems, have now been adopted by the department?

Hon. M. J. GUY (Minister for Planning) — I believe they have been. I am happy to check again as we progress to see if I am correct, but I would default to saying I believe they have.

Clause agreed to; clauses 2 to 6 agreed to.

Clause 7

The ACTING PRESIDENT (**Mr Elasmar**) — Order! Before I call Mr Melhem to move his amendments 1 to 6, I advise that they are related amendments and may therefore be moved en bloc. These amendments are also a test for Mr Melhem's amendment 7 to clause 8.

Mr MELHEM (Western Metropolitan) — I move:

1. Clause 7, page 4, after line 9 insert —

   "(4) An on-the-spot penalty fare cannot be paid by cash.".

2. Clause 7, page 4, line 10, omit "(4)" and insert "(5)".

3. Clause 7, page 4, line 14, omit "(5)" and insert "(6)".

4. Clause 7, page 4, line 20, omit "(6)" and insert "(7)".

5. Clause 7, page 4, line 21, omit "(5)" and insert "(6)".

6. Clause 7, page 4, line 25, omit "(7)" and insert "(8)".

The amendments were circulated to members of the Council last Tuesday and relate to whether or not inspectors should be receiving cash payments instead of electronic payments. It is related to the safety of the inspectors, which I covered in my contribution to the second-reading debate on the bill, so I am not planning to say more about that.

Mr BARBER (Northern Metropolitan) — The Greens will support these amendments.

Hon. M. J. GUY (Minister for Planning) — The government will not support the amendments. The proposed amendments would remove the capacity for a person to pay an on-the-spot penalty fare by cash and would detract from the benefits of the on-the-spot penalty fare scheme. We believe the scheme is designed to be fairer and a quicker alternative for dealing with people who travel on public transport without a valid ticket. If the person does not have a credit or debit card, authorised officers would in many cases be forced to report the person to the department,

and the penalty for that behaviour is then likely to be much higher — $212 as an infringement penalty compared to a $75 penalty fare. For someone younger, we believe that kind of penalty would be much greater, and therefore we do not support the amendment.

Mr BARBER (Northern Metropolitan) — We have further questions in relation to clause 7, but they do not relate to Mr Melhem's amendments, so I am happy to handle those after the division on his amendments but before we conclude debate on the clause.

Committee divided on amendments:

Ayes, 14

Barber, Mr (*Teller*)	Leane, Mr
Broad, Ms	Lenders, Mr
Darveniza, Ms (*Teller*)	Melhem, Mr
Eideh, Mr	Pennicuik, Ms
Elasmar, Mr	Pulford, Ms
Hartland, Ms	Tarlamis, Mr
Jennings, Mr	Tee, Mr

Noes, 20

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

Pairs

Viney, Mr	Hall, Mr

Amendments negatived.

Mr BARBER (Northern Metropolitan) — As I said earlier, this bill relies on regulation-making power for much of it to come into operation. Therefore I have a few questions about the government's intent in relation to the regulations. My first question is: for which offence will authorised officers be able to issue these so-called penalty fares?

Hon. M. J. GUY (Minister for Planning) — I think I am going to struggle here to offer Mr Barber anything beyond a very straightforward answer, which is: failure to have a valid ticket. That would be the issue and where this penalty fare would be applied.

Mr BARBER (Northern Metropolitan) — There are other offences that authorised officers are authorised to penalise, so I wanted to know if these penalty fares include other types of offences.

Hon. M. J. GUY (Minister for Planning) — Again, failure to be able to produce proof of concession falls into this category, which I would have thought would have been part of whether the ticket is valid to the ticket-holder. Entitlements also follow the same premise; they fall under the category 'failure to have a valid ticket'. The decision to issue a penalty fare will be determined according to whether a passenger is travelling in the appropriate zone for their ticket, whether they are holding the appropriate concessions, as I said, or of course if they are pursuing other obvious forms of standard fare evasion.

Mr BARBER (Northern Metropolitan) — What about feet on seats?

Hon. M. J. GUY (Minister for Planning) — No, it will not include conduct offences.

Mr BARBER (Northern Metropolitan) — There has been a bit of discussion about situations in which a person is able to arrange for another person to pay a penalty fare for them or circumstances in which they would not be able to pay the fare. Can the minister tell me what procedure is going to be adopted to determine when someone can get another person to pay a fare for them?

Hon. M. J. GUY (Minister for Planning) — For instance, if they have a carer, a parent or guardian, all those cases would be within that realm.

Mr BARBER (Northern Metropolitan) — How will the government determine the duration of the 'reasonable period of time', as described in the bill, that a person will have to pay an on-the-spot penalty fare before an authorised officer withdraws the offer? That relates to subclause (4).

Hon. M. J. GUY (Minister for Planning) — Those guidelines are still to be determined. I would have thought that more than anything else that would be dependent on the circumstances of where the penalty is being applied. I would have thought it would also depend upon the ability of the authorised officer to determine what is appropriate at the time.

Mr BARBER (Northern Metropolitan) — My next question relates to another clause, but I think it is relevant to this regulation-making power. It has been stated that the penalty fare will be $75, but that is not actually indicated in the bill. Section 221AA(2)(g) of the principal act indicates that regulations for up to 20 penalty units can be made. From reading that I take it that the way this provision will work is that the penalty fare, as the minister has called it, could not be

more than 20 penalty units, along with the rise in the penalty unit provision that happens every year.

Hon. M. J. GUY (Minister for Planning) — I will get some clarification from Mr Barber. I think he is talking about a penalty for an offence. There is a difference between the penalty fare and the penalty for an offence. They are obviously different. The penalty fare level would be set by Governor in Council.

Mr BARBER (Northern Metropolitan) — It has been stated that it would be $75. Is there anything in this bill or the principal act that prevents it from being raised to a dramatically different level?

Hon. M. J. GUY (Minister for Planning) — No. As I said, that would be set by Governor in Council. However, I will put on record that the government has no intention of putting in place $2000 fares where a $2.90 fare might apply.

Clause agreed to.

Clause 8

Mr BARBER (Northern Metropolitan) — In relation to clause 8 I would like to ask whether the draft Public Transport Development Authority directions pursuant to this clause are available, and if not, when they will be available.

Hon. M. J. GUY (Minister for Planning) — They are not available at the moment. They are currently under development.

Mr BARBER (Northern Metropolitan) — I was going to ask about the issue of authorised officers handling and carrying cash, but since we have already voted on Mr Melhem's amendment it is clear the government has formed its view on that. In that case, I have no further questions on any clauses.

Clause agreed to; clauses 9 to 11 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

The ACTING PRESIDENT (**Mr Finn**) — Order! The question is:

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

House divided on question:

Ayes, 35

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

Noes, 3

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

Question agreed to.

Read third time.

VICTORIA POLICE BILL 2013

Second reading

Debate resumed from 28 November; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to make a contribution on the Victoria Police Bill 2013, and in doing so I indicate that the opposition will not oppose the bill. We are, however, very concerned about some of the process issues in terms of how we got to this outcome, and we have some questions about the content of the bill. I will take the chamber to those in a minute.

The bill formally establishes Victoria Police as an organisation with a chief commissioner, a deputy commissioner, assistant commissioners, police officers, protective services officers, recruits and other Victoria Police employees. The process that led to the bill was really the State Services Authority review in May 2011, which led to a number of recommendations, some of which are picked up in this bill. Our concern about the State Services Authority review report, which was handed to the government in November 2011 and tabled in March 2012, is that it has taken considerable time for us to get from that to this bill. In the meantime we had the Rush review at a time which proved to be a very difficult one for the police and which indeed

proved to be quite a distraction for police. Ken Lay, the chief commissioner, said:

> … I know Simon said publicly on a number of occasions that we continue to keep our eye on the ball and that we were staying focused, but my recollection was that it was an enormously difficult time.
>
> …
>
> As a member of police command I felt under siege. I thought Simon was under siege.

He also said:

> It was as hard a time as I can ever remember for a chief commissioner.

He also said that leaks 'were a very, very big part in Simon leaving'.

We had the State Services Authority review; we had the Rush review, which, as I said, clearly became a distraction for the police; we had the delay in implementing the recommendations of the State Services Authority review; and then we had the recommendations from the Rush report. I should add that the Rush report made no findings against Simon Overland, but it did recommend reform of the police disciplinary system. The government said in March 2012 — almost two years ago — that it had requested that Victoria Police and the Department of Justice work to progress these reforms with the Police Association Victoria as part of the next round of reforms.

In March 2012 the government was saying that the Rush recommendations around discipline would be implemented as part of the next round of reforms, but here we have the next round of reforms and none of the Rush report recommendations have been acted upon. In fact the second-reading speech says:

> … the government has committed to look at reforms to police discipline at a later stage.

This protracted process has included two reviews, the recommendations of which have been very tardily implemented and which have caused an enormous degree of angst within Victoria Police. The police have said that the reviews have meant that police have not necessarily had their eye on the ball. Considering the very important work police do, that is a very serious concern for the opposition.

There are a couple of issues that I want to address that go to the content of the bill. Essentially the starting point is that the current relationship between Victoria Police and the government exists by convention rather than through legislation. This bill codifies those arrangements and the roles and powers of the police minister and the Chief Commissioner of Police.

The bill gives the minister power to direct the chief commissioner in relation to policy and priorities, but it excludes directions about enforcements or investigations. The police minister has a power in relation to the chief commissioner, but the bill does not provide a mechanism for the resolution of any conflict in that direction. It only requires the minister to consult with the chief commissioner before issuing a directive and it requires the minister to publish that directive. Members of the opposition are concerned that there is provision for the issuing of a directive but there is no mechanism for resolving any differences between the police minister and the chief commissioner. We think that is problematic. It is an oversight, particularly when we are addressing a matter as important as the security of Victorians.

Members of the opposition also note that the bill deals with appointments. The chief commissioner may appoint as a police officer a person who meets prescribed criteria. The minister also has the power to waive any of the prescribed criteria in exceptional circumstances, which are not defined. The concern of opposition members is that this is a lot of power to invest in one person. It appears to sidestep the Police Registration and Services Board, which was established last year. That board is meant to provide advice to the Chief Commissioner of Police about the training and qualifications of members of Victoria Police, so it appears that this issue has not been particularly well thought through.

I turn to the issue of drug testing. The bill makes some changes to the current arrangements and provides for a broader drug and alcohol testing scheme, including hair testing and the testing of officers while off duty. From our perspective, opposition members have no doubt that the community should feel very confident that police officers are fit and able for duty, and we do not resile from that for one moment.

A concern has been raised with the opposition by the Community and Public Sector Union (CPSU) about the inclusion of Victorian public service (VPS) staff in the drug-testing regime. The VPS staff who work with police will be unlike any other VPS employees in that they will be subject to a higher or different level of scrutiny. It certainly will not be the same level of scrutiny, and members of the opposition are unclear why VPS staff in one area will be treated differently from VPS staff in other areas. Many of these issues or concerns amongst VPS staff could have been resolved

if there had been consultation with the CPSU on this issue, but unfortunately there was not.

The bill also deals with the issue of complaints against police and improves the current scheme of protecting police and protective services officers when on duty from any torts or complaints made against them. There is some uncertainty about the new test that has been introduced around when a police officer is liable and when the state of Victoria is liable. I know that this is an issue that has exercised the minds of the Greens, and I will allow Ms Pennicuik to address it in her amendment; however, the concern of members of the opposition is that there is some uncertainty around these provisions, and we had hoped there would be some clarity.

Leaving aside the tardiness of the review that has got us here and the fact that there are still clearly unfinished recommendations and no explanation for the delay, our concern has really been around this government's treatment of police in terms of the priority they have put on police resources. If you judge this by the budget cuts that police have had to endure, it is clear that policing is not a priority for this government.

We have seen 400 Victorian public service police roles stripped from Victoria Police. We have seen police officers taken from the street to perform work that used to be performed by VPS staff. We have seen police officers taken off the streets to look after people in police cells, and we have seen front-line resources reduced because of the $100 million cuts to Victoria Police. There has been an ongoing battle against the police by this government. It is worth noting the comments of the Chief Commissioner of Police, Ken Lay, to a Public Accounts and Estimates Committee hearing in May 2013 when he talked about the impact this government's cuts were having on the police. He is reported as saying:

> There is no doubt at all that there has been a challenging time for us in relation to our finances. There have been occasions when we have actually reshaped our business to meet some of those challenges.

The chief commissioner expressed concerns about the impact that the budget cuts have had on the ability of the police to do their work, so much so that the police commissioner has had to reorganise the way in which the police do their work. That has been done not in a way which increases community safety or that makes sure we get the best outcome in terms of reductions in crime but in a way that meets the budget cuts this government has imposed. We do not think that is an appropriate way to deal with police. Members of the community expect that police ought to be resourced to do their work in a way that reduces crime and makes Victorians safer. Victoria Police ought not be focused on what services it needs to cut in order to meet the arbitrary budget cuts this government has imposed.

It is not surprising then that we have seen on the one hand a reduction in police on the front line because they are looking after prisoners or because of government cuts, and on the other an increase in crime across Victoria. We have seen crime rise across Victoria for the third consecutive year under this government. I suppose that is inevitable when you take 500 police off the front line to take care of prisoners. It is inevitable when you cut the budget in such a way. We have seen crime rise each and every reporting period under Liberal-Nationals state governments. Victorians have every right to be angry at the government for this failure to meet what is really a key measure. It is a failure by a government that promised something very different. The government has essentially failed Victorians under this measure.

We will not oppose the bill, but we have a number of concerns which I have identified. We look forward to the next instalment of this legislation which goes to police discipline. We would hope at least on that occasion there would be greater consultation with all stakeholders. With those few words, we will not be opposing the bill.

Ms PENNICUIK (Southern Metropolitan) — There is hardly a more important bill to come before Parliament than legislation which regulates Victoria Police. Victoria Police has a lot of powers under the act, but it is also able to use force, firearms and other weaponry in enforcing those powers under the act, so the way the police are regulated is of great importance to everyone in the community.

In his second-reading speech, the Minister for Police and Emergency Services, Mr Wells, makes the comment that it has been a long journey to get to this point and that this bill represents a significant stage in the modernisation of legislation governing Victoria Police. The process began some time ago with proposals for a new act in 2004 and 2008. This bill represents the second tranche of this major reform and follows on from the Police Regulation Amendment Act of last year, which the Greens supported. But in the process of supporting that bill we made the comment, which I will repeat now, that this bill is largely a product of the minister's office, Victoria Police command and the Police Association and there has been very little, if any, public input or input from any other stakeholders who would have an interest in the regulation of Victoria Police.

This government follows on from the previous government in that regard. I have to say that this government has at least involved the Police Association, which the previous government did not do when it put forward its amending bill to the Parliament in 2008 and 2009. That was a bill I described as cooked up between police command and the police minister at the time.

Over the last five years changes have been made to the regulation of police — and this bill changes the name of the act from the Police Regulation Act to the Victoria Police Act and follows substantially from the amendments made by the legislation last year. This bill still falls short of a public open process.

I will remind the house of examples that I have mentioned previously. When the New South Wales government reviewed and re-enacted its police act it went through a process, which started in January 2002 as an agreement to undertake it. A report on the outcome of that review took a year and in the process many stakeholders were consulted. They included the police and the Police Association of NSW obviously, the public service association, the New South Wales Crime Commission, the Police Integrity Commission, the Inspector of the Police Integrity Commission, the Ombudsman, the Premier's department, the cabinet office, the Attorney-General's department, the Treasury, the Office of Industrial Relations, Community Relations Commission, the Department of Aboriginal Affairs, the Office for Emergency Services, the Department of Fair Trading, the audit office, the antidiscrimination board, the privacy commissioner, the Office of the Director of Public Prosecutions, the Independent Commission Against Corruption, the joint parliamentary Committee on the Office of the Ombudsman and Police Integrity Commission, the law society, the New South Wales Bar Association and the Labor Council of New South Wales. No such process has occurred in Victoria.

In the short time available to us since the bill was introduced in the lower house we have attempted to liaise with many of the stakeholders who have a strong interest, including the Federation of Community Legal Centres, the Law Institute of Victoria and others who have been struggling to provide comments on the bill, although some comments have been provided to us on particular provisions.

Previously I have also spoken about the process undertaken in New Zealand when its police regulations and legislation were reviewed in 2008. That followed extensive public consultation and review. It looked at the principles of policing, reinforcing the fundamental basis of policing; governance and accountability; maintaining the independence of police within a public management framework; human resources; policing in and within communities; police powers; relationships — recognising a wide range of police partners; administration — enabling the day-to-day of work of a large organisation; and conduct and integrity — and reinforcing ethical behaviour.

There was a quite a long time frame. In April and May 2006 there was the scoping consultation and from June to December 2006 there was the phase 1 consultation. From January to August 2007 there was the phase 2 consultation, which generated a summary of responses to the issues papers that was released during phase 1 and developed a discussion document for more public consultation, and there was cabinet approval for the release of those documents. From August to December 2007 there was a phase 3 consultation. From April 2006 to December 2007 there were public consultations and papers were released. There were submissions and development work on a new bill, there were drafting instructions and an exposure draft was released for more public consultation and feedback. All the papers, including the cabinet documents, were released and publicised on the New Zealand government website, and in fact they are still there today. In Victoria we still have not learnt about public consultation processes when it comes to significant pieces of legislation.

There are many questions, queries and concerns about the provisions of the bill — and Mr Tee mentioned some of them. I have quite a number, and I will do my best to get answers in the committee stage where I will move amendments and query the minister about some of the provisions. However, that is not the same as holding an open public consultation process or referring the bill to one of our legislation committees. At the conclusion of the second-reading debate I will move to refer the bill to the Legal and Social Issues Legislation Committee for inquiry and report by 25 March 2014. That date takes into account the fact that hardly any members will be around during January to attend committee meetings. I hope staff will also be having a break. It is not a huge amount of time considering the time that was taken in other jurisdictions to involve the public and interested organisations in the review of the regulation of Victoria Police.

In his second-reading speech in the Assembly the Minister for Police and Emergency Services mentions figures like 160 years and 150 years of police regulation. He says a police regulation act has been around for 55 years and it needs to be reviewed and updated, and I agree with that, but I do not agree that enough involvement of the public or other organisations

has taken place. The committee process we will go through later today will not involve the Minister for Police and Emergency Services; it will involve his representative in the upper house, who is the Minister for Planning, Mr Guy. If the bill were to be referred to the Legal and Social Issues Legislation Committee, the Minister for Police and Emergency Services could be available to answer questions, and all those groups and organisations that have not been able to provide public comments on the bill will be able to do so. Some of the provisions of concern, including those mentioned by Mr Tee and others, could be examined in detail. That is what committees are for, and I really think this bill should be referred to the Legal and Social Issues Legislation Committee.

I was also listening to the committee stage of the previous bill — that is, the bill dealing with on-the-spot penalty fares. In response to a question from Mr Barber, Mr Guy said that bill briefings are offered to answer members questions so that the house does not need to go into the committee stage. No bill briefing was offered to the Greens on this particular bill. When I mentioned to the government in this house that a briefing had not been offered, an undertaking was given to me that that would be passed on to the minister, but still no offer of a briefing has been forthcoming.

The committee stage is more than just to answer the queries of particular members. It is also an opportunity for the minister or minister's representative to be queried in a public forum on provisions in the bill, which is not the same thing as being offered a bill briefing. Just because a bill briefing may or may not occur and a member may have some questions answered in the briefing does not mean that those particular questions cannot be pursued further in the committee of the whole.

The Greens are disappointed by the lack of public process and involvement in the preparation of this bill, which makes significant changes to the regulation of police in Victoria. Basically, the bill does a number of things. It outlines the role of Victoria Police and confirms that Victoria Police is made up of sworn officers and public servants. It codifies the relationship between Victoria Police and the minister in clause 10 and between Victoria Police and the government in clause 16. That particular relationship as codified in this bill raises some concerns with the Greens. I have prepared an amendment to clause 16 and am happy to have it circulated, along with some additional amendments I will propose.

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

Ms PENNICUIK — My amendment relates to clause 16(2)(a), which states the Chief Commissioner of Police:

> is responsible for implementing the policing policy and priorities of the government …

While that is referred to in the report of the inquiry conducted by Jack Rush, QC, the Greens are concerned that this particular provision goes much further than envisaged by that review. It certainly goes a lot further than anything that has previously been in the Police Regulation Act.

The bill also outlines the process for the appointment of police officers of all ranks, protective services officers and special constables. It outlines the functions of the Police Registration and Services Board and, as Mr Tee has mentioned, largely re-enacts the police disciplinary regime, which the minister has foreshadowed will be the subject of a further bill.

Business interrupted pursuant to standing orders.

DISTINGUISHED VISITORS

The PRESIDENT — Order! I acknowledge in the gallery today the seventh delegation from the Philippines under the Australian Political Exchange Council program, which is led by delegation leader the Honourable Miguel Luis Villafuerte.

QUESTIONS WITHOUT NOTICE

Palace Theatre development

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Planning, and is in relation to the Palace Theatre. I refer to the minister's announcement that he will introduce mandatory building heights around Parliament House. As he knows, these planning restrictions will not save the Palace Theatre as the last live music venue of its size in Melbourne. My question is: before the minister approves any application to redevelop the Palace Theatre site will he consider the impact that the loss of that venue will have on Melbourne's live music industry?

Hon. M. J. GUY (Minister for Planning) — The Labor Party has got a lot of hide by asking about mandatory controls at the top end of Bourke Street when we look at what is going to happen at the Windsor Hotel. The member has a lot of hide asking

me about mandatory controls that I am going to put in place. Had they been in place, then Labor's Windsor Hotel debacle would never have happened. Melbourne would not be losing one of the grandest old lady buildings in this city — the Windsor — because of Mr Tee's government, which wrecked the top end of this city — —

Mr Lenders — On a point of order, President, Mr Tee asked a specific question about government administration, and the minister is now seeking to debate his version of events under a previous government. I ask you to bring him to government administration and not debate.

Hon. D. M. Davis — On the point of order, President, it is clear that the minister was reflecting directly on the planning overlays and controls on that area of the city, about which he had been asked a question. It is directly relevant.

Mr Tee — On the point of order, President, the question dealt with whether or not the minister would consider the impact on the live music industry in any development application on that site. It was quite a narrow question.

The PRESIDENT — Order! I indicate that I am satisfied that at this stage the minister is entitled to reflect on the Windsor Hotel development as a significant building within the precinct that has a relevant relationship to the Palace Theatre building. I hope the minister will not dwell on that matter, because that would lead to a debating position in the answer. His position at the moment in putting the proposed Palace Theatre development in the context of the Windsor Hotel decision is fair.

I indicate to Mr Tee that I am less persuaded by his contribution to the point of order, because — without answering this for the minister — I am not sure that the live music venue is necessarily a planning consideration. I contemplated that when I received the original question, but I elected to allow the minister to answer the question despite the fact that I am not entirely sure whether it is part of his consideration. No doubt the minister will have some comment on that.

Hon. M. J. GUY — If anyone wants the Palace Theatre saved, then the strongest way 'the Palace can be saved' — to put it in inverted commas — is to put in place mandatory controls for the precinct in and around Parliament House. In any planning system the strongest way is to have mandatory controls. No other government in the last 40 years has considered, talked about or implemented mandatory controls for this precinct, except for this government. What I was saying is that had those mandatory controls been in place we would not have to deal with other developments, such as the Windsor Hotel. Other applications, which I have stated publicly are for buildings that are too tall for this end of town, would not be able to be considered. The level of uncertainty people are going through now about what might happen at that site would never be the case if those opposite had done their work in government — the work that I am having to do now.

Mr O'Donohue and I met yesterday to discuss again the issue of the agent-of-change principle regarding live music venues in and around Melbourne. Melbourne should be proud of its live music scene. We should be proud that this city has a live music scene that is a long way better than anywhere else in this country. This government has done more to protect that culture and that element of our city than any other government.

What Mr O'Donohue and I spoke about yesterday, and have spoken about in the past, is that we have been looking at ways to ensure that the agent-of-change principle plays an important role and at how it can be implemented best. Whether it is through a state amendment or a local planning scheme amendment, we will find a way. More to the point, we will find a way to give certainty to that industry and to that section of the population that enjoys what is one of Melbourne's greatest tourism and cultural assets. We will do this because no other government in Victoria has had the guts to do this. Whether it is at the Palace or other live music venues, Mr O'Donohue and I will do that work over the summer period and the coming weeks to ensure that live music remains one of Melbourne's greatest assets.

The PRESIDENT — Order! The minister might give consideration to consulting Mr Koch, who on a previous occasion showed a remarkable understanding of the current music scene.

Honourable members interjecting.

The PRESIDENT — Order! I concede that he had some assistance from Mr O'Brien.

Supplementary question

Mr TEE (Eastern Metropolitan) — While the mandatory controls are important, on their own they will not stop the Palace Theatre being turned into a hotel or into apartments — —

Hon. M. J. Guy interjected.

Mr TEE — On their own they will not stop the Palace being turned into another thing. What it requires — —

Hon. M. J. Guy interjected.

The PRESIDENT — Order! The minister will have a chance to answer this in his response. Let us hear the question first.

Mr TEE — I might add that the agent-of-change principle might have helped, if it applies to the site, but by way of supplementary question — and this comes back to the President's intervention — there will be an economic impact of the loss of this venue for live music, and that will impact on Melbourne's livability. Before the minister approves development on the site, will he require the proponent to conduct an independent cost-benefit analysis so that we can measure the economic impact of the loss of this venue?

Hon. M. J. GUY (Minister for Planning) — I interpret Mr Tee's supplementary question as scrambling to be relevant after Labor did nothing for 11 years. There is no application on my desk about the hotel down the road. One has been submitted, but it is not on my desk for consideration. I do not know how much — —

Mr Tee interjected.

Hon. M. J. GUY — So you have got your story out of the *Age*; is that it, Mr Tee? Good work! You have read the newspaper. You come into the Parliament to throw insults, and you find that your backing evidence is a newspaper. That says it all about Mr Tee and his understanding of the planning system. It is a terrifying thought that this man wants to be a minister. What I have said and now reiterate is: this government, and only this government, is working now — not in the future — with the City of Melbourne about mandatory height controls for the Bourke Hill precinct. We have said very clearly that I will only consider permits that meet the height requirements that are in place, and the City of Melbourne will dictate a lot of that to us.

Health infrastructure funding

Hon. R. A. DALLA-RIVA (Eastern Metropolitan) — My question without notice is to the Minister for Health, Mr Davis. Will the minister update the house on recent developments in the coalition government's more than $4.5 billion health capital agenda, which is designed to meet the growing demand for health services in Victoria and to catch up on Labor's backlog?

Hon. D. M. DAVIS (Minister for Health) — I thank the member for his question and for his very strong advocacy for the eastern suburbs, and in particular for growth at Box Hill Hospital, which is part of Eastern Health. On the weekend I was proud to be at the de-craning ceremony at Eastern Health to see the cranes come down on the $447.5 million building at Box Hill Hospital, the one where Baulderstone was able to get us an extra floor. I can tell members, and Mr Dalla-Riva is very aware of this, that there is massive building of health infrastructure going on around the state. It is a major catch up after 11 years of Labor waste, 11 years of Labor neglect and 11 years of failure.

There is $1 billion allocated for the Victorian Comprehensive Cancer Centre. We are building it; the opposition did not.

At Bendigo Hospital $630 million has been allocated for a massive building project. I was proud to be up there last week doing the first concrete pour with Mr Drum and Mrs Millar and my ministerial colleague Ms Lovell.

Mr Jennings — How did they get out?

Hon. D. M. DAVIS — I have to say the pour went magnificently. No-one got a chance to put their hand in the concrete at that point, but I think many wanted to do so. It is one thing that Jacinta Allan, the member for Bendigo East in the Assembly, and Daniel Andrews, the Leader of the Opposition in the Assembly, never did — they never poured the first concrete.

Mr Lenders — My point of order, President, goes to the issue of anticipation, and we would be satisfied if Mrs Peulich were to assure the house that notice of motion 667 in her name on the notice paper will under no circumstances be debated today. If it is, then the minister's response is clearly breaching the rule of anticipation, because it is a verbatim part of her motion.

Hon. D. M. DAVIS — On the point of order, President, as the Leader of the Government I indicate that we have no intention of debating that motion today; we might save it for a different week, but it is not for this week.

Mr Lenders — Further to the point of order, President, on Mr Davis's assurance, I withdraw my point of order on anticipation.

Hon. D. M. DAVIS — But it is not just the Bendigo Hospital that is being developed. There are amazing new construction projects in Geelong, with almost $200 million worth of building under way in health activity projects in Geelong. I was proud to make the

announcement at Waurn Ponds of the registration of capability for the new community hospital on or adjacent to the Deakin University campus.

As people will be aware, I was proud to be at the Monash Children's hospital development to see one of the first steps taken with the announcement of the appointment of the managing contract to Baulderstone.

An honourable member interjected.

Hon. D. M. DAVIS — It was something you did not do over 11 years; that is what I can say.

I was also proud to join with the Deputy Premier, Peter Ryan, to open the new $32 million Leongatha Hospital and pay tribute to the community for the work that is happening there.

In recent times I visited Echuca to see the $65 million Echuca Regional Health project under way. Mr Drum, Ms Lovell and Mrs Millar are very aware of the projects in northern Victoria. I was pleased to recently join with the Legislative Assembly member for Mildura to announce funding for Mildura hospital and the outcome of the contract, which will see a new emergency department and new mental health facilities built at that hospital.

The truth is that there is demand in our system and we need to build capacity for it. Last year there was a 3.56 per cent growth in total services for acute health in Victoria. We are building for the future, building the capacity. Unlike the last government, which did not build the capacity, we are building more capacity around the state, with more capability to deliver the services that are required, including at Ballarat Base Hospital, where construction of the new helipad is about to be kicked off. People in the community will be very happy to see that the helipad is going to be built in Ballarat after years of delay and dithering by Labor. In 2004 Mr Koch led a motion in this chamber calling for that helipad. Six years later Labor had not done it. It did nothing at all; it never allocated a cracker of money, never built the thing and never let a contract on it. I can tell members — —

Honourable members interjecting.

The PRESIDENT — Order! Ms Pulford and Mr Ramsay! The minister, to complete his answer, without assistance.

Hon. D. M. DAVIS — More than $4.5 billion worth of health capital projects are under way in Victoria today — a record amount and a catch-up after 11 years of neglect and Labor's failure to build for the future. We are building for the future in our health system, and we are doing it all around Victoria.

Homelessness national partnership

Ms HARTLAND (Western Metropolitan) — My question today is for the Minister for Housing. The Council of Australian Governments 2008 national partnership agreement on homelessness expired on 30 June 2013. A one-year transitional national partnership agreement on homelessness was established to enable Australian and state and territory governments to take some time to plan a longer term response to homelessness. The transitional agreement maintains the commitment to halve the rate of homelessness and to provide supported accommodation to all rough sleepers who seek it by 2020. My question for the minister is: given that the transitional agreement expires mid-next year, has the Victorian government begun discussions or does the Victorian government have meetings planned with the commonwealth government about the next phase of this partnership on homelessness, and if so, when will these meetings take place?

Hon. W. A. LOVELL (Minister for Housing) — I thank the member for her question. I must say that one of my great disappointments was the previous Labor government's failure — —

Hon. D. M. Davis — Labor-Greens government.

Hon. W. A. LOVELL — Labor and Greens. Yes, it was a Labor-Greens coalition government which failed to renew the national partnership for an extensive period of time. The national partnership expired on 30 June last year. It was very late in February of last year that the Labor-Greens coalition actually engaged with the states about a continuation of that partnership, and it was only continued for one year. That surprised me, given that when the Labor Party came to power in 2007, homelessness was one of its key platforms. I would have thought that it would have taken the opportunity to lock in its agenda for longer than just 12 months.

The negotiations on that national partnership ran very late, which made it very difficult for the state. In fact some of the national partnership funding — the development agreement part — had not even been signed off by the time of the federal election. I am pleased to say that the development agreement funding has now been signed off and has flowed through to Victoria. We will continue to have discussions with the new commonwealth government on a new national partnership on homelessness.

Supplementary question

Ms HARTLAND (Western Metropolitan) — I am very pleased to hear that those discussions have begun. Can the minister outline when she expects this will be confirmed, considering the plan is for the middle of next year? As I understand it, a whole range of organisations will lose their funding unless this happens, including A Place to Call Home, the foyer model youth facility and the social housing advocacy and support program — there are about 30 programs in all. Obviously those programs need some certainty. I am not sure the minister actually confirmed this in her answer. She said she was having discussions. When does the minister expect that the agreement will be signed off, considering that it will finish in the middle of next year?

Hon. W. A. LOVELL (Minister for Housing) — As I have said, discussions are under way with the commonwealth. I reiterate that under the Labor-Greens coalition those discussions did not even start until February last year, and it is disappointing that the Labor-Greens coalition government did not continue the funding beyond 30 June this year. However, we will continue to negotiate with the commonwealth to provide certainty to our homelessness service providers.

Kindergarten participation rates

Mr DRUM (Northern Victoria) — My question is to Wendy Lovell in her capacity as Minister for Children and Early Childhood Development. Can the minister inform the house of any changes in kindergarten participation in 2013?

Hon. W. A. LOVELL (Minister for Children and Early Childhood Development) — I thank the member for his question and for his ongoing interest in early childhood development in Victoria. I am absolutely delighted to announce to the house that the kindergarten participation rate for 2013 is 98.2 per cent. This is up from 97.9 per cent in 2012. The department advises me that it is a record participation rate for children in kindergarten in Victoria. This represents a 3.1 per cent increase in kindergarten participation in Victoria since the coalition government came to power in 2010.

As we all know, kindergarten is a very important part of a child's education. It sets them on the right path for life. We know that children who have participated in a quality early childhood program delivered by a qualified teacher perform better in the year 3 national assessment program — literacy and numeracy tests. We know quality early childhood programs provide better students to our primary and secondary schools and tertiary institutions and ultimately better applicants for jobs in the workforce.

However, we do not just focus on participation rates alone; we have a particular focus on ensuring that vulnerable children have access to kindergarten. That is why we provide a kindergarten fee subsidy — to ensure that vulnerable children can get access to free kindergarten or kindergarten at minimal cost.

I am also very happy to say that Victoria is in a much better position to accommodate the increasing number of children attending kindergarten in Victoria. That is because since the coalition came to power in December 2010 we have invested more than $106 million in children's infrastructure through the children's facility capital program. This is a record investment in children's infrastructure. We have not only had a record investment in infrastructure; we have also had a record investment in maternal and child health, playgroups, kindergarten programs and early childhood in general. The government recognises that this is an investment in children's education, in the future of Victoria's children and also in Victoria's future.

East–west link

Ms MIKAKOS (Northern Metropolitan) — My question is to the Minister for Housing. I refer the minister to the recent decision by the Napthine government to buy the 175 luxury Evo apartments in Parkville, and I ask: what does the minister intend to do with this new luxury addition to Victoria's housing stock?

Hon. W. A. LOVELL (Minister for Housing) — That particular acquisition is not within my portfolio. It is part of the EastLink project, and I suggest the member ask that question of the Minister for Public Transport.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — Given that this is a significant addition to Victoria's housing stock, I would have thought that the Minister for Housing would have a view about it, so I ask: given that the government does not consider the Evo apartments suitable accommodation for the original owners, does the minister consider them suitable for those Victorians in need of public housing?

The PRESIDENT — Order! I am troubled by Ms Mikakos's supplementary question because the minister has indicated that it is not within her jurisdiction. Therefore to direct the supplementary question to her specifically on this matter — —

Mr Drum interjected.

The PRESIDENT — Order! I thank Mr Drum for his help. To direct the supplementary question to the minister specifically on this matter is effectively seeking an opinion from her. I do not believe the supplementary question is in order. I will give Ms Mikakos a chance to rephrase the question in some way. Frankly, I am not sure where Ms Mikakos can go, given that the minister has said it is not in her jurisdiction, but I will give her the opportunity.

Ms MIKAKOS — The minister in her role as Minister for Housing has the opportunity to take responsibility for these particular apartments, so I ask the minister whether she intends to take responsibility for the Evo apartments as the minister responsible for Victoria's housing stock and whether she will be making these apartments available to those people in need of public housing?

Hon. D. M. Davis — On a point of order, President, it is quite clear that this is not in the minister's portfolio area of responsibility, and the strained attempts by Ms Mikakos to link it in some indirect way are clearly far beyond the scope of what she should be asking. The member has many ways of putting questions on notice or raising adjournment matters for ministers in the other chamber, and that may be the form of the house that is most suitable for her to avail herself of here.

Mr Jennings — On the point of order, President, you would be aware that ministers understand the scope of their responsibilities as they currently stand. They are also aware of the circumstances by which that scope might change or that assets or responsibilities may came in or out of their portfolios and that they anticipate that occurring. In that context, Ms Mikakos's question satisfies that test in relation to discussions that may be taking place within the government about the appropriate transfer of a housing asset. It is a reasonable assumption that at some stage that will be transferred to the appropriate minister within the government.

Hon. D. M. Davis — On the point of order, President, it is clearly not a reasonable presumption; it is entirely hypothetical and another strained attempt.

The PRESIDENT — Order! In the context of the point made by Mr Jennings, which I think was a relevant one, I would have been happier with a supplementary question that was a direct question asking if the minister was interested in obtaining this housing stock for public housing rather than have the question amble around other aspects. I would even have been happier if Ms Mikakos had asked whether the minister's department was involved in any discussions about the availability of this building for public housing. The supplementary question was not posed in either of those terms. Therefore I do not think it got to where it needed to get to. Mr Jennings's point would be right had the question been posed in either of those ways. Unfortunately on that basis I must rule out the supplementary question this time.

Ms Mikakos — On a point of order, President, I thought that my second attempt at the supplementary question was, in essence, the way you posed. I was essentially asking the minister whether she was prepared to take responsibility for these particular housing assets that the government has decided to acquire and whether they would be made available as public housing. That was, in essence, the question I posed to the minister.

Hon. D. M. Davis — On the point of order, President, 'essentially' is not good enough. That was not the question the member posed.

The PRESIDENT — Order! Unfortunately I must concur with the Leader of the Government on that; it was not the question. The minister was asked if she intends to take responsibly for it; the question was couched in a hypothetical way. What I indicated was that had the member asked the minister if she would pursue this housing for public housing, whether this building happens to be available, whether her department is prepared to chase it up and look at it or whether there are negotiations currently proceeding, then those questions would have been very relevant to the minister's jurisdiction and she would have been in a position to answer them. But when the member asked, 'Are you prepared to take responsibility?' and so forth, unfortunately it was too wide of the mark on that occasion.

ICT sector research and development

Mr P. DAVIS (Eastern Victoria) — I direct a question without notice to the Minister for Technology, Mr Rich-Phillips, and I ask the minister to inform the house of what the Napthine government is doing to develop Victoria's research and development capability in the ICT sector.

Hon. G. K. RICH-PHILLIPS (Minister for Technology) — I thank Mr Davis for his question and for what may be, without anticipating question time, his last question without notice to me in my role as Minister for Technology. Having had the benefit of Mr Davis's wisdom and knowledge over the 14 years that I have been here, I am delighted to have the

opportunity to give him some information on the ICT portfolio and in doing so have the opportunity to wish him all the best with his future outside this place from this period forward. It has been great to work with Mr Davis and be the beneficiary of his knowledge and wisdom over the time that I have been here.

Last week I was delighted to join Jim McCluskey, the deputy vice-chancellor of research at the University of Melbourne, and Dr Tony Hey, the vice-president of research connections at Microsoft, for the launch of the new Microsoft Centre for Social Natural User Interface at the University of Melbourne. This research centre represents an $8 million partnership between the Victorian government, the University of Melbourne and Microsoft to undertake leading-edge research into the interface between human and machine.

Over the last 40 years we have seen that the way in which people interact with technology has changed dramatically. The first iterations of computers were programmed through tape or punch card, and we have seen their evolution into personal computers, initially driven through keyboards and later with mouse and pointing devices. More recently we have seen the proliferation of smart devices — hand-held devices, tablets et cetera — the use of touch screens and, increasingly, voice recognition and other such technologies.

The new research centre at the University of Melbourne will take research into the interface between people and the machines they use even further, looking at new technologies around voice recognition and recognition of physical movement to change and evolve the way in which we use technology. This is an incredibly exciting area of research. We have seen enormous changes in the use of technology in the last five years, especially with smart devices, which highlights the opportunities that exist for day-to-day use of technology as well as for the way in which technology will be used to assist people with disabilities and impaired movement to make their lives better.

The Victorian government has been delighted to partner with Microsoft and the University of Melbourne to develop this research institute. This underpins Victoria's position as the leader in Australia in research and development capability in ICT. Over the last 15 years successive Victorian governments have invested more than $1.8 billion in programs and research and development capability around our technology centre, and this support is now recognised as an enormous strength of the Victorian technology sector. We have institutions such as the IBM Research laboratory and the Bell Labs Centre for Energy-Efficient Telecommunications here in Victoria.

This Microsoft facility joins other Microsoft research facilities in Redmond, Silicon Valley, Cambridge and Beijing. This is a very significant investment by Microsoft in recognition of the critical mass and strength that we have in research and development in Victoria. It will continue to position Victoria as the leader in research and development in ICT in Australia and will continue to highlight our strengths throughout the Asia-Pacific region.

Ambulance officers enterprise bargaining

Mr JENNINGS (South Eastern Metropolitan) — My question is for the Minister for Health. The minister is very well aware that he has spent taxpayers money advertising an open letter to paramedics publicising some of his government's bargaining position on the enterprise bargaining agreement (EBA). However, he is also aware that he is silent on the important question of professional quality of care within the ambulance service. Can the minister take the opportunity to guarantee that ambulance first aid officers will not be used in the future to replace any qualified paramedic in the ambulance service across regional Victoria?

Hon. D. M. DAVIS (Minister for Health) — I thank the member for his question. This is a very important matter. We are in the middle of an enterprise bargaining agreement, as members in this house will well understand. I understand that the processes at the Fair Work Commission have been adjourned today because of the availability of the commissioner, Commissioner Smith, and will be reconvened next Tuesday. I welcome that; I welcome the decision by the ambulance union to return to the Fair Work conciliation process. The member will appreciate that two weeks ago the government, with Ambulance Victoria, put forward a formal public offer. On the Tuesday of that week — —

Mr Jennings — Selective leaking.

Hon. D. M. DAVIS — It was not selective leaking at all; it was actually a formal offer that was put out publicly right across the land for everyone to see, importantly including the paramedics. The paramedics need to see that offer directly and understand the facts of the matter, and Ambulance Victoria — —

Mr Jennings interjected.

Hon. D. M. DAVIS — It was not selectively leaked at all. It was emailed to every single paramedic employed by Ambulance Victoria, and the Premier got

up in the lower house and spoke directly about the matter. That is not selective leaking; it is publicising a fantastic offer for paramedics.

I have to say that we are very proud of the offer. It is a 6 per cent up-front pay rise, with a $1500 sign-on bonus. There are also two further tranches of 3 per cent increases to follow. This is a very significant uplift. It is true that it is not as big as the more than $1 billion ask from the ambulance union log of claims. I concede that the state cannot afford more than $1 billion in uplift for ambulance officers, when across the land the economy cannot afford massive increases for everyone.

What we are seeing is a very serious matter. This week we have seen a threat to jobs in the manufacturing industry. I have to say that the manufacturing industry, the retail industry and a number of other key industries, including the media, are not seeing massive uplifts in pay. The paramedics union wants extraordinary uplifts in pay — more than $1 billion.

The government has put forward, with Ambulance Victoria, a very fair offer: a 6 per cent increase up-front, a $1500 sign-on bonus and further tranches of 3 per cent. These are very fair and reasonable offers by community standards, and I think the community will judge the hardline ambulance union harshly for its behaviour in this. It will be judged harshly for its behaviour.

The government is determined to see the outstanding matters dealt with fairly, and the proposal is that the paramedics take their pay up-front — 6 per cent, then 3 per cent and 3 per cent — and that outstanding matters in the union log and outstanding matters in the government log be negotiated. If a negotiated outcome can be reached, well and good; if it cannot, the government has said, with Ambulance Victoria, that it can be arbitrated by an independent arbitrator. We cannot think what could be fairer than that. This will see a fair outcome for paramedics, a fair outcome for the community and, particularly, a fair outcome for taxpayers. This is a very significant increase.

In terms of the involvement of volunteers in country Victoria, it is true that volunteers have always had a role in Ambulance Victoria's operations.

Mr Drum — Always!

Hon. D. M. DAVIS — Mr Drum understands that. Nobody would concede that they will not have an important continuing role, but the government's commitment is to expanding the service. There are 465 additional paramedics in place now compared to when Mr Jennings left office. That is 465 fully paid professional paramedics. I am proud of that.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — President, you are well and truly aware that the minister has crossed the Rubicon in relation to the level of detail he has gone into. He is negotiating the EBA on his feet in question time. He is negotiating the EBA in the press. He is actively negotiating the EBA through the media and through this chamber.

The minister has a fundamental test, in my view. That fundamental test is how he can convince patients across Victoria that he is in fact not seeking to reduce the qualifications within and the quality of care provided by Ambulance Victoria. I believe he has an obligation to convey that to the community. Can he take this opportunity to speak to the people of Victoria and say that he will not reduce the quality of care in the delivery of ambulance services by deprofessionalising the ambulance service?

Hon. D. M. DAVIS (Minister for Health) — What I can say to the people of Victoria is this government has been about professionalising our ambulance service. We have put in place more paid, fully qualified paramedics across country Victoria and across the city as well. There are now mobile intensive care ambulance (MICA) services in 10 big regional towns, which the Labor Party — Wade Noonan, the member for Williamstown in the Assembly, and his mates — would rip out of those towns. I have to say that putting paramedics with MICA qualifications into Wodonga, Warrnambool, Shepparton and other important centres across country Victoria is making a very big difference to the improvement of quality.

Our commitment to quality is great. We have put the money in, we are putting the additional resources in and people are doing better in country Victoria. The outcomes are very clear.

Mr Lenders — No-one believes you.

Hon. D. M. DAVIS — Mr Lenders, 465 paramedics are now on the payroll — full-time, paid-up paramedics — who were not there before. People in Mildura understand that they now have a MICA service that they did not have under the former government. It is the same in Wodonga, Bairnsdale, Sale, Warrnambool and across country Victoria.

Mildura aviation training facility

Mrs MILLAR (Northern Victoria) — My question is to the Minister for Higher Education and Skills, the Honourable Peter Hall. Can the minister advise the house on what the coalition government is doing to support the training needs of the aviation industry in Victoria?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Mrs Millar for her question and her interest in this very important topic. Usually my colleague Mr Rich-Phillips gets the aviation questions in this chamber, but I point out that training within the aviation industry is funded under the Victorian training guarantee. I am therefore given the opportunity to talk about skills shortages in the aviation industry and how the Victorian government might assist in addressing those shortages.

It is very relevant that Mrs Millar asks this question today, given that on Friday of last week I travelled to Mildura to have a look at one of the most recent partnership initiatives that will greatly address some of the skills shortages in the aviation industry. There will be a great need in the coming years for more commercial pilots. What we are seeing in Mildura is a unique partnership between Sunraysia Institute of TAFE, which trades as SuniTAFE, Mildura Airport Pty Ltd and a company called Fast Track Pilot Training. They have come together to ensure that Mildura will become a hub for commercial pilot training into the future. Currently they have 9 students enrolled in a diploma of aviation in instrument flying, with plans to increase that number by up to 100 next year.

Honourable members interjecting.

Hon. P. R. HALL — I would put my life in the hands of these people. They have a proven reputation for first-class training delivery for commercial pilots across Australia. Now they are coming to Mildura. What that will mean is that there will be an opportunity not only for local students or just regional students but for people from across Australia to come to Mildura to learn how to fly.

There is no better choice in Victoria than Mildura, given the climate of the area and the frequency of days suitable for training. Mildura lends itself very nicely to becoming a hub for pilot training in that part of Victoria. The facilities at Mildura Airport have been aided, I might add, by a $5 million-plus contribution from the Victorian government. Those who have travelled there in recent times will have seen the great upgrade of that airport, which was facilitated by a Victorian government grant. This is a world-class facility they now have in Mildura.

I want to congratulate Sunraysia TAFE on the role it has played in this. It will meet all student needs, including the administrative needs, of this unique arrangement, and it will offer the course in partnership with the registered trade organisation, with the support, as I said, of Mildura Airport and its facilities and other local businesses.

These are the sorts of partnerships we have actively encouraged. Training in Victoria is best brought about by partnerships between industry and training providers. This is a good example of an industry working with providers to address a training need in its area with tailor-made training. It will become an important economic development tool for Mildura, because of the spin-off benefits of having people from all over Australia participating in this very worthwhile training activity. I congratulate all participants in this unique partnership, which will bring benefits for us all.

Healthscope Pathology job losses

Mr JENNINGS (South Eastern Metropolitan) — My question is for the Minister for Health. In 2012 the government supported the privatisation of the Bendigo pathology service. That was despite the concerns of medical scientists who work at that facility and the 6000 residents who signed a petition to oppose that service being privatised.

Mr Drum interjected.

Mr JENNINGS — Mr Drum made commitments on 29 February 2012 in this place that said there would be no job losses or lowering of service provisions in the privatised service. I would have believed the community would have had justification for believing that these were guarantees provided by the government. How can the minister justify the loss of 10 jobs, which were announced at Healthscope Pathology some three weeks before Christmas, with just one week's notice provided to those employees?

Hon. D. M. DAVIS (Minister for Health) — I am informed that the process of examining options for the pathology service at Bendigo began in 2010 with the acquiescence and support of the member for Bendigo East in the Assembly. She was involved in commissioning a study that looked at this very directly. The new government, when it came to power, was informed of this matter by the officials at Bendigo Health. There was a process of allowing a contest to occur between an in-house bid and an external set of

bids, following the pattern from the 2010 study, which was commissioned by the member for Bendigo East with the full support of the member for Bendigo West. Let us be quite clear: she strongly supported it.

Mr Lenders — On a point of order, President, in relation to government administration, you have previously allowed ministers to refer to a context of what a previous government may or may not have done. I put it to you that Mr Davis's assertion about a view of the member for Bendigo East, which she may or may not have had, had nothing to do with government administration. The member for Bendigo East was never a minister for health and never an acting minister for health. I put it to you, President, that Mr Davis is debating the matter. Any view the member may or may not have had is not relevant to government administration on this issue, and the minister should confine his remarks to his administration and not seek to debate the issue.

Hon. D. M. DAVIS — On the point of order, President, I am referring directly to a process by which a contestability situation was established between an in-house bid and external bids. That process was begun in 2010, and the then Minister for Regional and Rural Development was a strong supporter of that process of contestability. There were studies commissioned by Bendigo Health, with the strong support of the member in that period.

The PRESIDENT — Order! Mr Davis is debating the point of order.

Mr Jennings — On the point of order, President, I call on the member to withdraw his comment that the member for Bendigo East supported the privatisation of this service, which is what he said before the point of order of the Leader of the Opposition. He said this. If he can demonstrate that with the aid of any public record, then in fact it stands as correct. If he cannot do that, I ask him to withdraw.

Hon. D. M. DAVIS — Further on the point of order, President, it is very clear that the then Minister for Regional and Rural Development was a member of cabinet at the time and strongly supported these initiatives by Bendigo Health. She was also the local member, and indeed the consultancies were commissioned — —

The PRESIDENT — Order! I seek a withdrawal of the comment that the member supported what is now the current determination. What is clear from the minister's previous comments — and I lean towards Mr Lenders's view that the minister was debating the matter as he continued — is that what has been established at best is that the member for Bendigo East in the other place supported a process to examine options. She may have commissioned a process to examine options, but she was clearly not in a position to have made the determination. To that extent, the phrase the minister has used misconstrues her position, and I would ask him to withdraw that phrase.

Hon. D. M. DAVIS — I withdraw my comment that she personally commissioned the study.

Mr Jennings — That is not what you were asked to withdraw.

Hon. D. M. DAVIS — If I can continue to explain to the house — —

Mr Jennings — On a point of order, President, I understood your direction was that the minister withdraw the comment that the member for Bendigo East supported the privatisation of the service. I invited the member to draw the attention of the house to a public record of that fact. If he has any evidence, I will withdraw my request for a withdrawal. That is what I understood Mr Davis was asked to withdraw — his assertion that the member for Bendigo East supported the privatisation of the service.

Hon. D. M. DAVIS — On the point of order, President, I am very clear that the member did not directly commission the study herself and the process that led to that privatisation. However, my information is very strong that she did support the contestable process that was initiated at that time, which flowed through into our period of government.

The PRESIDENT — Order! That may be, but the fact is that the minister cannot then extrapolate that to say that she supported it. She supported a process, and any member can support a process that examines a matter, but to then construe that a member had supported the outcome of that process is unfair. I ask the minister to withdraw that comment unless, as the Leader of the Opposition says, he can substantiate her direct support for the determination — not for the process, but for the decision.

Hon. D. M. DAVIS — I do not have direct evidence that she directed the process, but I do have evidence that she supported the process.

The PRESIDENT — Order! Yes, indeed, minister — we are in perfect agreement! She supported the process, but there is no evidence to suggest that she supported the outcome of the process. That is what you

have been asked to withdraw, and I ask you to withdraw it.

Hon. D. M. DAVIS — I withdraw.

The PRESIDENT — Order! Thank you. The minister to continue.

Hon. D. M. DAVIS — What is clear is that the member for Bendigo East may not have supported the outcome directly at that time but was involved in the initiation of the process — the studies that were undertaken before the change of government that led to contestability processes being put into place. It is clear that she was in favour of those processes and wanted the outcome to be driven in that direction.

What I can say very clearly is that the government sought from Bendigo Health support for a process that saw jobs protected for 12 months; that was the promise made by the pathology group involved. The government also supports additional academic support in Bendigo Health. I can indicate that the $30 million that will be saved over the forward estimates period will be put into patient services. More patient services will be put in place because of the decision by Bendigo Health to take the steps it took. It is my understanding that the transmission-of-business rules were adhered to and that the guarantees provided to Bendigo Health have been adhered to.

What is also clear is that the member for Bendigo East is now walking away from the process she herself supported in the first instance. It was her government — it was that cabinet — that supported the initiation of a process, a series of consultancies and recommendations that led to the contestability process. I say that the member for Bendigo East was in this up to her neck from the start — up to her neck. She supported the kick-off of the process. That is where she wanted to go, and now she cries crocodile tears, and now we have Mr Jennings coming in here to try to argue something different.

Mr Jennings — On a point of order, President, you know that my point of order is going to be that the minister has done it again — exactly the same crime. He has imputed a view of the member for Bendigo East that he has not been able to substantiate once, and now he has repeated that accusation, and I similarly seek his withdrawal.

Mrs Peulich — On the point of order, President, first of all in taking his point of order the member used the word 'crime', which I believe is a transgression of the standing order which pertains to reflecting on members. Secondly, I am not sure exactly which grounds or standing orders the member is citing in calling for a withdrawal on another member's behalf. If the other member believes the statements are inaccurate, she has the perfect opportunity to place her response as a personal statement on the public record. There is no such standing order; this is a point of debate.

The PRESIDENT — Order! I will take the point of order from Mr Jennings as having been that the minister is very clearly debating this matter. I have made a ruling with respect to what I consider to be a fair extrapolation of the position of the member for Bendigo East, a member in another place — that is, that she supported a process but that there is no indication available to me or to the house that she supported the outcome. I would hate to think that members who support a process of examination or investigation of any matters of governance, be it a planning scheme investigation, be it an environmental impact study or suchlike, are roped in, because they supported the process, to the outcome of the process, which they could not have known would eventuate at the outset. That would be a very unfair position for all members going forward.

In the chair my position is that I will always respect the entitlements of members and the capacity of members to discharge their responsibilities as members properly, and in most cases that proper execution of their duties would involve supporting processes that investigate matters thoroughly and that provide information upon which decisions might well be made by a government. However, clearly a member supporting a process is not necessarily wedded to the outcome of the process, and we ought to not characterise any member as being in that situation, because that is a very long bow to take, which will have significant repercussions for many members going forward — if we use that as a test.

In this respect the point of order that I take from Mr Jennings is not so much that the minister made exactly the same claim — because I think the minister was a bit more cautious in terms of the way he addressed the position of the member for Bendigo East in the latter half of his answer — but that he was debating, which he was very clearly doing from my perspective. I therefore ask the minister to conclude without debate.

Hon. D. M. DAVIS — I can indicate to the house that I have spoken to the CEO of Bendigo Health and have been very clear that I expect the proper rules to be adhered to in these matters and also that I expect the undertakings made by the private group that is delivering pathology services in public facilities to be

adhered to. I am assured that that is the case. I am also assured that there are significant benefits for patients in Bendigo, including the expansion of services. I am assured also that the resources that are available because of the decisions and the process initiated in 2010, prior to the election, will deliver additional services for the people in Bendigo.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — I was going to call on the guarantees provided by Mr Drum, but in fact the minister has just given guarantees himself of a better outcome. How can the minister justify his statements to patients who go through their GP clinics at Bendigo — or Boort or Inglewood — who now have their tests sent to Clayton, and they are processed within a two to three-day turnaround time as compared to the previous 24 hours?

Hon. D. M. DAVIS (Minister for Health) — I am informed that the quality of service on balance has actually improved in the period under the new service provider.

Justice Health Ministerial Advisory Council

Ms CROZIER (Southern Metropolitan) — My question is to the Minister for Corrections, Mr O'Donohue, and I ask: can the minister inform the house about recent improvements the coalition is making to the Victorian justice health system?

Hon. E. J. O'DONOHUE (Minister for Corrections) — I thank Ms Crozier for her question — not only as the Parliamentary Secretary for Health but also as a health professional in her own right — and for her ongoing interest in these matters.

Correctional health can be a very challenging field. The government wants Victoria's correctional health system to be a leader, to be innovative, to be effective and to deliver good health outcomes for prisoners.

We know that prisoners are among our most disadvantaged and unhealthy cohort. Many prisoners enter the correctional system with drug and alcohol dependencies, chronic and infectious disease and significant levels of mental illness. Almost all prisoners return to the community, so any improvements to their health can have broader community benefits. That was one of the considerations in the government's decision to ban smoking in prisons from 1 July 2015. As I have informed the house, a staggering 85 per cent of prisoners smoke, compared to about 14 per cent of the general community. The smoking ban will improve the long-term health of Victorian prisoners and bring Victoria into line with other jurisdictions.

I am delighted to announce today the establishment of the Justice Health Ministerial Advisory Council to provide advice to me and to provide advice to government to ensure that Victoria continues to be innovative and efficient and deliver appropriate health care to prisoners. I am pleased to advise the house that the chair of the new ministerial advisory council is Mr Trevor Carr. Mr Carr is the CEO of the Victorian Health Care Association, and I have no doubt he will provide excellent leadership in his role as chair.

The council's membership is diverse, experienced and very highly skilled. It includes Professor Jim Ogloff, professor of clinical forensic psychology at Swinburne University; the CEO of VicHealth, Jerrill Rechter; Associate Professor Mark Stoove, who is the head of justice health research and HIV research at the Burnet Institute; Rowan Story, oral surgeon and director-general of the air force health reserves; Matthew O'Keefe, the chair of the Victorian Association for the Care and Resettlement of Offenders; Ms Andrea McCall, chair of the Women's Correctional Services Advisory Committee; and Rosemary Hogan, general manager of Services for Older People at Jewish Care.

In addition to these outstanding professionals, the Secretary of the Department of Justice will act as an ex officio member, as will the department's principal medical officer. I am pleased also that this new advisory council will meet prior to Christmas. I look forward to it working and providing advice to me and to government so that Victoria can remain a leader in correctional health delivery.

President, if you will indulge me, I take this opportunity to wish Mr Philip Davis every success for his future and congratulate him on an outstanding career in Parliament.

Sitting suspended 1.04 p.m. until 2.07 p.m.

VICTORIA POLICE BILL 2013

Second reading

Debate resumed.

Ms PENNICUIK (Southern Metropolitan) — The bill also makes changes to the area of claims against police and protective services officers (PSOs) for torts committed by them in the course or purported course of their duties. It amends section 123 of the Police Regulation Act 1958 in regard to the indemnity of

police officers and protective services officers, and it goes some way to improving those provisions in the act, although I do not believe it goes far enough. In particular — and I will talk more about this in the committee stage when I move the amendments that were circulated earlier — the first amendment I refer to is to clause 16 and the next amendments are to clause 74 of the bill, which covers vicarious liability for wrongs committed by police or protective services officers.

The new provisions in the bill mean that if a claim is made against police or protective services officers by a citizen that the claim is made against the state rather than against the individual police or protective services officer and the state is liable unless it denies liability due to the serious and wilful misconduct of that police or protective services officer. The position of the Greens — and it is the position we held with regard to the bill put forward by the previous government which did not change that provision in any regard — is the same as for all employers in that the state should be vicariously liable for the actions of the police, in particular if they have acted in a serious and wilful way. That is where the most damage is possibly done to the citizen who is making the claim.

I will talk a bit more when I move the amendments about cases in the public realm related to serious misconduct by police that have left people assaulted by police with no way to claim damages because under the current act they have to claim against the particular individual and that individual can divest themselves of or have no assets. The person who has been damaged therefore has no recourse to damages. Our view is that the state should be liable for all police torts. The bill also re-enacts part 6 of the act which is the scheme that facilitates the release of agency photographs by the Chief Commissioner of Police to media organisations with certain qualifications.

I would like to commend the parliamentary library, which has put together a comprehensive set of documents about the bill and related parliamentary documents, background, media coverage, organisations, useful links and comparative information. It is a little bit different from the normal bills backgrounder that the library usually puts together. It runs to some 10 pages and is a comprehensive suite of information on the background of the bill and the review of the police act. I thank the parliamentary library again for assisting us in that regard. There is a lot of useful information there. I cannot admit to having read through all of it in the time available, but I have certainly looked through the key documents, including the Rush report, which I had already read in preparation for a debate earlier last year.

The bill makes some key changes to the Police Regulation Act 1958. Clause 10 empowers the minister, after consultation with the Chief Commissioner of Police, to direct the chief commissioner regarding the policy and priorities of Victoria Police for the purpose of safeguarding the operational independence of the chief commissioner. Clause 10(2) limits the minister's power to direct the chief commissioner and, subject to subclause (3), the minister cannot direct the chief commissioner on any matter relating to preservation of the peace, enforcement of the law, investigation or prosecution of offences, decisions about individual members, the organisational structure of Victoria Police, the allocation or deployment of police officers, training, education and professional development, or the content of any internal grievance resolution procedures. Clause 10(3) provides some exceptions to those limitations where the minister may give a direction if one of the listed entities has made a report or recommendation in relation to the matters set out in clause 10(2)(a) to (h) or if the minister believes that the chief commissioner has not responded adequately to that report or recommendation.

The following entities are listed for the purposes of the clause. They include the Independent Broad-based Anti-corruption Commission; the Auditor-General; the State Services Authority; the public sector standards commissioner; a coroner; the Commissioner for Law Enforcement Data Security; a parliamentary committee; a commission of inquiry established under the Constitution Act 1975; a board of inquiry established under the Constitution Act; a royal commission; or a prescribed entity.

The coroner is of particular interest to me because in 2008 I moved an amendment to the Coroners Act 1985 such that any recommendations made by a coroner to any agency must be responded to publicly within three months. My staff and I have been looking through recommendations from coroners made since that provision came into force. A great many of them relating to inquests have been directed to the police, and we are looking at how the provision in relation to the coroner's recommendations to the police and other entities is working. I believe it is a valuable provision for the public so that they at least can follow whether a recommendation made to a particular agency by a coroner has been implemented, and if not, why not.

Clause 11 empowers the minister to request information. Clause 12 requires the chief commissioner to provide an annual report to the Parliament. The ALP

has raised this issue, and Mr Tee talked about the fact that there was no specific provision to cover how to resolve a possible conflict between the minister and the chief commissioner under clauses 10 to 12, and I think that is a valid point.

I will propose an amendment to clause 16. That clause states that the chief commissioner is both the chief constable and the chief executive officer of Victoria Police and, subject to the direction of the minister under clause 10, is responsible for the management and control of Victoria Police. I do not have any argument with that. Clause 16(2)(a) states that the chief commissioner:

> … is responsible for implementing the policing policy and priorities of the Government …

I have a concern about the clause in that it seems to be in conflict with clause 10, which codifies the relationship between the minister and the chief commissioner. Clause 16 talks about the government, but it has no qualifications on it as there are under clause 10. My amendment seeks to remove that subclause. We are concerned about going down the road of suggesting that the first responsibility of the chief commissioner is to implement the policing policies and priorities of the government. The responsibility of the police force is to enforce the law as legislated by the Parliament and within the powers and constraints given to it. I agree that the chief commissioner should provide advice and information to the minister on the operations of the police force and policing matters generally, and that the chief commissioner is responsible to the minister for the general conduct, performance and operations of Victoria Police. Clause 16 is very broad and, given clause 10, it is unnecessary. I seek to remove the subclause, but I will talk more about it when I move my amendment.

Divisions 3 and 4 under part 3 of the bill deal with the appointment of deputy commissioners and assistant commissioners, and division 5 deals with other police officers. For example, clause 27 deals with the appointment of a police officer below the rank of assistant commissioner on prescribed criteria. Clause 27(3) states:

> The Chief Commissioner, in exceptional circumstances, may waive any of the prescribed criteria for appointment in any particular case.

Mr Tee raised that as a particular concern, and it is a concern. It was something that both the Greens and the then opposition, the current government, raised with regard to the former government's police bill, which awarded similar sweeping powers to the chief commissioner with regard to granting gratuities, for example. That phrase was also in the Labor government's bill and was concerning. There is a similar provision with regard to waiving particular criteria for the appointment, transfer or promotion of police personnel. That issue will need clarification in the committee stage.

Division 8 of part 4 of the bill goes to the liability for tortious conduct by police and protective services officers. In his second-reading speech the minister stated:

> The bill requires plaintiffs to bring all police tort claims against the state of Victoria only. Individual police officers or protective services officers may only be named in proceedings if the state denies liability. This sensible mechanism is already successfully in place in NSW.

I contend that the provisions in the bill are slightly different from those in New South Wales. The minister goes on to say:

> It gives plaintiffs certainty, in the vast majority of cases, that if their claim is made out the state will be liable. It also protects police and PSOs from the unnecessary stress of being named in lengthy court proceedings in the circumstances where these members were just doing their job.

Clause 74 relates to the liability of the state for police torts. Subject to this section, the state is liable for a police tort. Clause 74(2) states:

> The State is not liable for a police tort if the State establishes on a police tort claim that the conduct giving rise to the police tort was serious and wilful misconduct by the police officer or protective services officer who committed the police tort.

I know the ALP has raised the issue of the definition of 'serious and wilful', which is a fair point and that definition is something the minister could go to in committee, but I wish to see that section removed from the bill such that the state would be liable for all torts committed by police officers or PSOs in the performance or purported performance of their duties or acts incidental to the performance of those duties.

As I have argued before, given the coercive powers granted by the state to police officers, their ability to use force and their being armed with weapons with which they can use that force, there is no policy justification for the state being less accountable than ordinary employers for the conduct of officers. In the employer-employee context employers are held vicariously liable for acts including unauthorised and criminal acts of their employees provided those acts are so connected with the authorised acts. I do not believe it is appropriate for the state to not be liable for the entire

conduct of police officers, given the coercive and other powers they hold.

Other parts of my amendments go to the issue of what happens if police personnel — police officers or protective services officers — have assaulted somebody or acted in a way which is serious and wilful misconduct. The problem with the act at the moment and this particular provision means that if the state denies liability, the plaintiff is left in the position of having to sue the individual police officer, who may have no assets. I understand and appreciate that the bill also puts in place that the plaintiff cannot be liable for the costs of the state, but I still feel that in the worst cases of wrongs done by police officers the plaintiffs will be left in a situation where they will have no recourse and no compensation for damages they have suffered.

We approached the department about this, and it advised us that the provisions have been drafted so that if the police tort is committed by the police officer or protective services officer in the course of their purported duties — whether their duties derive from the common law, statute or otherwise — the state will be liable unless the state successfully defends the claim on the basis that the conduct was serious and wilful misconduct. Therefore we have checked that, and it seems to be as I have stated.

We have also looked at interstate situations, and it does vary in jurisdictions around the country, but it is the case in New South Wales, Queensland, the Northern Territory and the federal jurisdiction that the state is liable for all conduct in the execution or purported execution of the duty of the police or protective services officer. This is one of the key issues we had with the bill put forward by the previous government which left plaintiffs with nowhere to go.

Part 5 of the bill introduces a wider regime for drug and alcohol testing of police, particularly in terms of critical incidents and targeted testing but also the introduction of a random testing regime. As the ALP has noted, that would apply to both sworn and non-sworn police officers. One of the issues is whether or not random alcohol or drug testing is an effective mechanism. I have spoken about that in relation to a previous bill in this place, and I know the Police Association Victoria was formerly opposed to random alcohol and drug testing. Our inquiries as to the Police Association's opinion on this bill is that it is supportive of it, so I have to infer from that that it is supportive of the introduction of random testing under the act.

There is definitely no-one questioning the need to test police officers for alcohol or drugs if they have been involved in a critical incident or there is a reasonable belief under the act. However, I make the point that there is a lot of literature and opinion by experts in the field that random testing is not that effective and can have negative effects in terms of morale. It can cost a lot of money and not be effective in relation to whatever aim it is trying to achieve. It also has to do with the culture of an organisation and should be used as a rehabilitative rather than a punitive approach, so there is a lot about which to be concerned with the introduction of a random testing regime, particularly the expansion to non-sworn members of Victoria Police. The bill does not change the disciplinary procedures in the current act, and the minister has foreshadowed that there will be further legislation in that regard.

Part 8 of the bill provides that a person commits a contempt of the Police Registration and Services Board if, amongst other behaviour, the person insults someone performing their function as a member or officer of the Police Registration and Services Board on an appeal or a review or if the person insults, harassers, intimidates, obstructs or hinders another person attending a hearing of the board on an appeal or a review. That should be treated as a contempt. The penalty that now applies is a concern, or certainly there should be a query about it. As I understand it, the bill increases fourfold the penalty for that offence. In comparison with other jurisdictions it seems high. The Scrutiny of Acts and Regulations Committee gave the example of two other jurisdictions that prohibit such disruptive behaviour before a police disciplinary board with fines of $100 and $2500 — and neither provides for imprisonment — as opposed to the new penalty put in place by this bill, some $17 000, which seems very high.

They are the main provisions of the bill in front of us. As I mentioned, I am concerned about the lack of public involvement in the preparation of the bill — the ability of organisations and members of the public to comment on the bill — and that is why I think this bill should spend some time being examined by the Legal and Social Issues Legislation Committee, to which I will move to refer it after the second-reading debate is over. Then in the committee stage I will move the amendments I have circulated and briefly explained, and I will ask some questions on certain provisions, which I have also raised during my contribution.

Hon. R. A. DALLA-RIVA (Eastern Metropolitan) — I rise on behalf of the government to make a contribution in relation to the Victoria Police Bill 2013. I do so in the knowledge that the bill will create a new principal act for the governance and

administration of policing in Victoria. As such, most of the provisions of the Police Regulation Act 1958 will be repealed. As a former member of the constabulary who operated under that act, I recall that even as a young police officer I would always wonder why we were working with an act that was dated 1958 — before I was born. As a former police officer, I am pleased to see the introduction of a bill that will lead Victoria Police into this century. The reality is that apart from a variation to retain the pension provisions in a renamed Police Regulation (Pensions) Act 1958, the new bill is essentially a continuation of what has occurred previously.

I will put it in the context of the legislative reform of the previous legislation, the Police Regulation Act. The Police Regulation Act was a consolidation of police legislation that existed prior to 1958. It has been amended more than 100 times since coming into operation. In his 2001 ministerial administrative review into Victoria Police, John C. Johnson described the act as antiquated and piecemeal and stated that it did not provide an adequate framework for policing in the 21st century. Proposals for a new police act were considered by previous governments, as was outlined by Mr Tee in his contribution, at least in 2004 and 2008. In March 2012 the government tabled an inquiry into the command, management and functions of the senior structure of Victoria Police — known as the Rush inquiry — by the honourable Jack Rush, QC. In its response to the inquiry the government committed to replace the Police Regulation Act 1958 with a modern, fit-for-purpose act. The bill before the chamber implements that commitment.

Some issues were raised by Ms Pennicuik regarding the formation of the act. As I indicated, substantial work was done over many years about the need for a new act. I disagree with the notion that we now need to defer it even further, given the extent of the work that has been done under previous governments and the current government, and even more so given that the Rush inquiry was a detailed one. I sought advice from advisers as to the Rush inquiry and the amount of input that was provided to it. Submissions were received from key interest groups and individuals. The Rush inquiry invited comment and submissions from relevant persons and entities identified as being able to assist the inquiry. Equally, members of the public were able to make submissions or comments to the inquiry via email, and the inquiry received 22 submissions.

It is getting late into the afternoon, or it will be if we continue, and Ms Pennicuik will obviously go through her proposed amendments in the committee stage and also move her reasoned amendment to refer the bill to a committee. The government has argued that there is no need to undertake further committee work.

The bill creates a modern legislative framework for the administration of police in Victoria, clarifies the relationship between Victoria Police and the government and delivers on the government's commitment to implement recommendations 12 to 17 of the Rush inquiry. It clarifies the governance and administration laws that apply to police and protective services officers (PSOs). It introduces a clearer and more efficient scheme for liability for tortious conduct by police and PSOs. It introduces a broader drug and alcohol testing scheme for police officers, protective services officers and Victorian public service staff who work at Victoria Police. The bill modernises the laws relating to police administration offences and re-enacts the changes introduced in 2012, which give effect to the commitments from the 2011 Victoria Police enterprise bargaining agreement and associated memorandum of understanding.

I do not propose to go through each of the issues outlined in the bill. I am sure that they will be discussed in detail and adequately attended to during the committee stage. As I said, the bill clarifies the relationship between Victoria Police and the government; it improves the current scheme for state liability for conduct of police and PSOs within tort law; it provides for broader drug and alcohol testing for police officers and PSOs; and it covers additional matters.

The bill talks about the constitution, role and functions of Victoria Police and the appointment, promotion and transfer of Victoria Police personnel, including the Chief Commissioner of Police**,** deputy commissioners, assistant commissioners, police officers of other ranks, PSOs and police recruits. The bill covers issues around the general duties and powers of police officers and PSOs and the ill health, retirement, incapacity for duty and disciplinary provisions for police officers and PSOs.

The bill clarifies the role of the Police Services and Registration Board, including its powers to hear reviews and appeals, manage the police profession register and provide advice on professional standards to the chief commissioner. It provides for the investigation of complaints and protected disclosure complaints relating to police and PSOs. The bill covers the appointment of special constables and the power to declare incidents requiring cross-border assistance. Having been a special constable myself, I recall the time that I travelled to South Australia, so I understand the necessity for that provision. Finally, the bill covers

confidentiality provisions, offences and ancillary offence provisions relating to Victoria Police information and administration.

The bill before the chamber should be acknowledged as an important piece of legislation. Ms Pennicuik wishes to pick holes in it, but the bill has been adequately covered through a number of inquiries, most recently the Rush inquiry, with the government agreeing to implement its recommendations. We should not be going into the committee stage to consider this bill. I know the Victoria Police community and others, and certainly the government, are looking forward to this bill being implemented as soon as possible. With those few words, I look forward to the bill passing through the house.

Mr FINN (Western Metropolitan) — It gives me enormous pleasure to rise today to support the Victoria Police Bill 2013. If there is one organisation in this state that holds the place together, it is Victoria Police. Without this organisation we would be in a great deal of trouble. We only have to go back to what I think was the police strike in 1922. Mr Dalla-Riva may be able to help me out; he was around then, was he not?

Hon. R. A. Dalla-Riva — It was 1923.

Mr FINN — Sorry, it was 1923 when we did not have the police to assist us. My understanding of the history is that there was bedlam on the streets. That strike reasserts the importance of the role of the thin blue line of Victoria Police, and the wonderful and very important job that it does protecting each and every one of us. Quite often police officers put themselves in danger to protect us all. We all owe members of Victoria Police a huge debt of gratitude because, as referred to in Gilbert and Sullivan performances, their job is not an easy one at all. The police by and large do a sensational job. The overwhelming majority of police officers in this state are people we can respect and admire. I take this opportunity to thank them for the job they do holding this state together, because without them there would be little left.

This bill recognises the important role played by Victoria Police. It is important that legislation recognises the importance and the profound basis of our society, which is law and order, and of course it is the police who uphold that. As we know, there was a time during the course of the previous government when Victoria Police went through some troubled times. During the era of former chief commissioners of police Christine Nixon and Simon Overland Victoria Police went through some very difficult times. It is safe to say that morale within the force hit rock bottom; there was a feeling within the police force that they were heading in the wrong direction. They have been through the tunnel — it might not be the east–west tunnel — and I am delighted to say that the police have come out the other side now under the leadership of Chief Commissioner of Police Ken Lay. Once again it is an organisation that we can revere and hold in high esteem. There are still a few Nixon-Overland adherents, but time will hopefully lead us to a better way of enforcing the law than what those people might be thinking.

As I said, the Chief Commissioner of Police, Ken Lay, is doing a fine job. This bill will strengthen his position. It will enable him to do more of the things that he has already been doing to get Victoria Police into shape after all its hiccups and keep it there. For that reason alone the bill very much deserves support. This bill re-enacts provisions introduced by the Police Regulation Amendment Act 2012. I am sure we all remember that act very well; it gave effect to the commitments made in the memorandum of understanding entered into by the government, the Chief Commissioner of Police and the Police Association.

Whilst I am talking on the Police Association, I will just pause to note that its secretary, Senior Sergeant Greg Davies, is retiring early in the new year. The Police Association has its work cut out for it in providing a replacement for Greg Davies; he has been an outstanding leader. He has reached out to the government, to his members and to the media. He has done a superb job, and I again take this opportunity to congratulate him on the job that he has done. If we are looking for an example of a union official to look up to, Senior Sergeant Greg Davies is it. You will not find him doing some of the things that other union officials in this state have got up to over a period of time. I congratulate Greg Davies on the work he has done and urge the Police Association to find someone like just like him, as difficult as that might be, when it is looking for a replacement next year.

One hundred and sixty years ago the Parliament enacted the first act for the regulation of Victoria Police. Victoria Police has a long and proud history. This bill brings together what was a bit of a mishmash of legislation since the Police Regulation Act was implemented in 1958. The legislation has become a bit of a mishmash, and this was pointed out by Jack Rush, QC, in his report of the inquiry into the command, management and functions of the senior structure of Victoria Police. I am very pleased that that mishmash will no longer be the case. The bill brings the various aspects of policing together into a single piece of legislation that will give the police and the community the certainty they need so the police can do their jobs.

I have said in this place for quite some time that there are two things the police need to do their jobs. The first is resources; it is the role of the government to provide these, including cars, uniforms, weapons and police stations — the whole gamut. The second thing the police need — and this is perhaps even more important than resources — is the authority to do their job.

I was involved in an incident earlier this year outside the front of this building, the March for the Babies — which I have raised in this house before — where it seemed to me that the police were unsure of their authority and that this undermined their ability to do their job. It is extremely important — and I think this bill goes some way towards doing this — to ensure that the police are fully aware that both this place and the other place, the government as a whole and the community are right behind them when they seek to uphold the law.

There is nothing worse than police who are out on the beat and on the streets protecting u, being unaware of the support they have or, even worse, aware of the support that they do not have, as is the case with the Labor Party and the Greens. As we know — and I do not want to make this an unduly political or partisan argument — the Labor Party and the Greens are very fond indeed of undermining law and order in this state. They can in no way, shape or form be described as friends of the police. They will use the police for their own purposes — there are no two ways about that; they love that sort of thing — and I have a feeling we are going to hear a little bit of that this afternoon and possibly into the evening.

The reality is that when it comes to law and order and supporting the police you will not see the Labor Party or the Greens within a mile. I think that is a tragedy. What the police need is tripartisan support. The police in this state need community recognition that they are important not only to our present but also to our future. We cannot hope to build a prosperous, thriving society if the police are not given the support they need to do their job.

I am delighted to support this bill today. The bill will largely repeal and replace the Police Regulation Act 1958, and that is a very good thing. This is a sizeable document, as I think Ms Pennicuik made reference to. But given the importance of the legislation and the role police in this state play, it is entirely justified in being the size that it is.

The police have given 160 years of great service to the people of Victoria. I would not say we now need to start again — not at all — but legislatively I suppose we could say that. As I stand here on the last sitting day of 2013, I hope we will be passing a piece of legislation that is going to bring great benefit to Victoria Police and the people of Victoria. That is something.

Let us face facts. If we in this Parliament are not here to get results and bring benefits to the people of Victoria, what are we here for? This whole law and order matter is absolutely crucial to every man, woman and child in this state. There are no two ways about it. If we are in a situation where we live in fear, we cannot live properly. If we are in a situation where we are under threat, we cannot live properly. If we are in a situation where we cannot have faith in those who are sworn to protect us, we cannot live properly.

Whilst this legislation clearly has immediate benefit for members of Victoria Police, it also has direct benefits for the average man and woman in the street who are going about their daily routine in going to work, raising their families, taking their kids to school and all that sort of thing. This legislation will bring great benefits to these people.

The bill before us is so much better than what we had before, which was a piece of legislation drafted across six decades. I am sure everybody would agree that anything drafted over six decades becomes a bit of a mishmash; in fact it becomes a bit of a dog's breakfast. The bill replaces the 1958 legislation. It replaces the antiquated language. It replaces a whole range of matters that are contained in the Police Regulation Act 1958. It brings us into the 21st century; it brings policing into the 21st century. For that reason alone it is worth the support of this Parliament. It certainly has my support.

If anybody has a bit of time over the Christmas break, they may care to get a copy of this legislation and have a read of it. They will find that it is of great benefit to the people and the police of this state. I have no hesitation in commending the bill very warmly to the house.

Mr O'BRIEN (Western Victoria) — It is with great pleasure that I rise to make a short contribution on the Victoria Police Bill 2013 for the reasons put to the house by Mr Dalla-Riva and more recently by Mr Finn. Coalition members give this bill, at the very least, their absolute undivided support. Police play an extremely important role in the community. This significant bill brings together recommendations from the Rush review and other reviews and the matters that have been comprehensively outlined by Mr Dalla-Riva. It will be further canvassed in committee to ensure that we in government are providing our police with legislative support and the best available resources.

I will round off the debate by acknowledging particular individuals in the police force and in government

accountability who have come to my attention during my three years in Parliament. The first thing that happened in my time here was the 2010 Victorian state election. Following the election the current Deputy Premier and Leader of The Nationals, Peter Ryan, was the Minister for Police and Emergency Services. He worked with the then Premier, Ted Baillieu, the member for Hawthorn in the Assembly, to come up with a policy of committing the coalition to providing an additional 1700 police. This will stand as a significant testament to the government's commitment to law and order, to providing operational police on the ground and therefore to supporting police in their role.

I also pay tribute to the present Minister for Police and Emergency Services, Mr Kim Wells, for his administration of the portfolio, for bringing this bill to the house and for his previous role as Treasurer, because 1700 police are a cost to government. Governments must make choices. This government has made a choice to support our police in the correct means and to provide the community with the support and safety that police offer.

I briefly acknowledge some individuals, some of whom I first encountered in the flood recovery work that confronted this government and this community when I first came to office. The police who worked in Dimboola and Jeparit did the very difficult job of keeping communities together and of making sure the volunteers were working in a safe way. That flood emergency resulted in significant property damage, but as a result of the activities of the police and other emergency services thankfully no lives were lost. Those people, including Neil Comrie, a former member of Victoria Police who conducted the very extensive reviews, should all be commended.

I also pay tribute to two policemen I personally worked with prior to entering politics. They are the two small-town officers who have worked in the Penshurst community for many years. John Sutherland, who was there when I had a hotel, provided great support. Thankfully there were no difficult incidents, but that was partly owing to the steady hand that John Sutherland provided as a respected member of the community. Many other single-town policemen provide similar support to their communities. John Sutherland was succeeded by Rick Jacobs, who was tough when he first came to town. One person — I will not say who — wrote a song with lyrics that went, 'The old publican is no good until the new one comes to town'. I vary it to say, 'The old cop is no good until the new one comes to town'. When Rick arrived there was no doubt there was a new cop on the beat; a number of things were pulled into line. But the respect conferred upon him and the trust placed in him gave him the support of the community when dealing with many tragic accidents — particularly road accidents, one costing seven lives and one costing three lives on either side of that town — that have afflicted the Penshurst community and other communities in the area.

The next involvement I had with police during my time in Parliament was with the people who worked diligently, many of them behind the scenes, on Taskforce Sano, the task force dealing with child abuse. I dealt with Mal Hyde and Ian Dosser, who liaised with the Family and Community Development Committee. They are ex-policemen and provided the committee with great support, as has been acknowledged. There were many other nameless policemen and women providing diligent forensic work that has resulted in successful prosecutions.

I would also like to acknowledge a personal friend of mine, Leading Senior Constable Mark Thomas, who is a diligent policeman in Freshwater Creek. He has worked in the arson squad and has done other forensic work. He has continued that work despite the loss of his parents in short succession.

Finally, an important police initiative has been started by Assistant Commissioner Tracy Linford in Warrnambool. It is a road safety challenge that has been supported by Robert Hill. In the spirit of Christmas, the most important message this government can take to the community is about road safety — to take care on the road. The Under 25s Road Safety Challenge is supported by various police in Warrnambool, including assistant commissioners Robert Hill, John Blaney and Tracy Linford, as well as Andrew Loader and Acting Superintendent Don Downs, the divisional commander of western region division 2.

That is just a sample of the people one member of Parliament has come into contact with in the range of services police provide. I make those acknowledgements in support of the bill. I join my colleagues in repeating the government's support for the police. I commend the bill to the house.

Motion agreed to.

Read second time.

Referral to committee

Ms PENNICUIK (Southern Metropolitan) — By leave, I move:

> That the Victoria Police Bill 2013 be referred to the Legal and Social Issues Legislation Committee for inquiry, consideration and report by 25 March 2014.

I move this motion because the bill we are considering, the Victoria Police Bill 2013, is a comprehensive bill. It changes the relationship between the minister and police. It changes the procedures for indemnity of police officers and protective services officers and makes considerable changes to the vicarious liability of the state that exists under the act. It makes changes to the appointment of police personnel. It also makes changes to the Police Registration and Services Board and the appearance of police before the board and their ability to be represented et cetera. As I have said many times in this Parliament, we have set up standing legislation committees by which bills can be examined and, as I have also said many times, that is a routine matter in other parliaments, in particular in the Senate, on which our standing legislation committees are modelled.

When I mentioned my proposed motion to refer the bill to the Legal and Social Issues Legislation Committee, Mr Dalla-Riva made the point that he consulted with advisers as to whether there had been any consultation on or submissions made to the Jack Rush inquiry. I concede there were submissions made to and consultations on the inquiry, which is now some time ago, but there have been no such submissions or consultations with regard to the bill. In fact the minister says in his second-reading speech:

> This bill was developed in close collaboration with Victoria Police and the Police Association.

Collaboration with Victoria Police and the Police Association Victoria is a necessary but not sufficient condition for consultation. There are other organisations in the community who are interested, such as the legal profession, the privacy commissioner and other unions that are involved with the police, like the Community and Public Sector Union, which deals with unsworn public sector employees who work for the police. There are also general members of the public who want to be involved in the drafting of such important legislation.

As I mentioned in my contribution to the second-reading debate, in terms of the review of the act, the most recent reviews that have happened in Australia, such as in New South Wales and in Western Australia, were open, public processes which took some time and to which the public and interested organisations were able to make submissions and comment on the legislation. This motion is to refer this bill to the committee. It is one thing to say there were submissions to the Jack Rush inquiry, but that was some time ago and it was not the bill.

On Tuesday, when Ms Hartland moved a motion to refer the Disability Amendment Bill 2013 to the same committee, the minister said, 'There have been consultations on disability'. But there had not been consultations on the bill. That is what the legislation committees are meant to deal with — the actual bill. There can be any means of consultation on other things, and Ms Hartland took issue with the notion that there had been any consultation per se, but there had certainly not been any on the bill. There has not been much public involvement, if any, in this particular bill.

That is what I want to refer to the Legal and Social Issues Legislation Committee. I did not receive a briefing on the bill. I have not had the time nor the opportunity to speak at length to the minister or his office about this bill, and neither has any member of the public nor any organisation that wishes to do so. Under standing orders the minister could be asked to appear before the committee and answer questions about clauses of the bill and people could make submissions. I think that is a healthy process. It is to the detriment of this Parliament that the government continually blocks the referral of legislation to the legislation committees, which is supposed to be done with a view to improving the legislation for the benefit of all Victorians. That is the reason I moved this motion, and I hope the opposition will support it.

Mr TEE (Eastern Metropolitan) — I thank Ms Pennicuik for the opportunity to support her proposal. Having thought about it, the opposition will not support the referral. We normally are of a mind to refer these matters in the way Ms Pennicuik has suggested, but on this occasion many of these amendments have come out of two reviews — the Rush review and the State Services Authority review — which have been on foot for a very long time. Those processes having been completed some time ago and this bill being an implementation of the outcomes of those processes, we are not convinced of the need to refer it on this occasion.

The lingering doubt we have is in relation to the failure to consult with the Community and Public Sector Union on the bill, which sways us the other way. But on balance, having had those two reasonably comprehensive processes, we do not believe that on this occasion it warrants a further process by referral to the Legal and Social Issues Legislation Committee.

Hon. M. J. GUY (Minister for Planning) — There have been a number of comprehensive processes to get this bill before the house today, so the government will not be supporting the motion.

Ms PENNICUIK (Southern Metropolitan) — It is disappointing that neither the government nor the opposition will support this motion. I draw the attention of the house to the fact that the latest the bill can commence is December next year, so it is not as if the several weeks or two months of inquiry that I am asking for will have any effect on that. The act is already 55 years old, although it has had lots of amendments, so I think there is still time for the community and organisations in the community with an interest in this legislation to have the opportunity to appear before the committee and put their concerns.

I am also concerned that on principle the opposition does not support it, particularly when it has raised concerns such as the lack of a definition of 'serious and wilful misconduct', the lack of a definition of what exceptional circumstances are for a waiving of prescribed criteria, concern about the drug testing regime and the lack of process for resolving conflict between the Chief Commissioner of Police and the Minister for Police and Emergency Services. The opposition has raised several concerns.

Mr Tee said Labor members were flip-flopping about whether they should support my motion. I say on principle that where there is a bill before us of such public importance and such public interest, and where a member of the opposition or even a government member wishes to see a bill referred to Legal and Social Issues Legislation Committee, we should refer it. In other parliaments that is done as a matter of course.

House divided on motion:

Ayes, 3

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

Noes, 34

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

Motion negatived.

Committed.

Committee

Clauses 1 to 15 agreed to.

Clause 16

The ACTING PRESIDENT (**Mr Elasmar**) — Order! Ms Pennicuik's amendment 1 stands alone from her other amendments and seeks to amend the role of the Chief Commissioner of Police under division 2 of the bill.

Ms PENNICUIK (Southern Metropolitan) — I move:

1. Clause 16, lines 31 and 32, omit paragraph (a).

Amendment number 1, which stands formally in my name, seeks to amend clause 16 by omitting subclause (2), paragraph (a). The relevant paragraph reads that the chief commissioner:

> (a) is responsible for implementing the policing policy and priorities of the Government …

That is a very broad statement, and I have some questions about that paragraph. It seems to me that clause 10, which is the substantial clause outlining the relationship with the government and ministerial directions, indicates that from time to time the minister, after consulting with the Chief Commissioner of Police, may give written directions to the chief commissioner in relation to the policies and priorities of Victoria Police. It also makes quite a lot of qualifying statements about how those directions can be given and in what circumstances they cannot be given. I had some questions as to, firstly, why clause 16 is worded so broadly without any qualifiers. I ask the minister to elaborate on the thinking behind clause 16(2)(a), which does not seem to provide for the independence of the chief commissioner from the government.

Hon. M. J. GUY (Minister for Planning) — Ms Pennicuik should look at clause 10, where the powers outlined through ministerial direction are that you cannot read the two separately. You need to read the two together. I think that might answer Ms Pennicuik's question.

Ms PENNICUIK (Southern Metropolitan) — Is the minister saying that clause 16 is dependent on clause 10? The bill does not say that.

Hon. M. J. GUY (Minister for Planning) — No, it is not dependent on clause 10, but the two work in conjunction.

Ms PENNICUIK (Southern Metropolitan) — Other than a directive from the minister, is there any way the chief commissioner would know what the policing priorities and powers are?

Hon. M. J. GUY (Minister for Planning) — Obviously there would be statements from the minister, or indeed there might be an election period policy announcement. An incoming government would give directions on its policing policy intent on coming to power. The chief commissioner would obviously have that kind of information, and it is very clear that the chief commissioner has operational independence, but the government has a range of means, including policy direction, to direct how Victoria Police is able to operate.

Ms PENNICUIK (Southern Metropolitan) — That is my concern about clause 16(2)(a). If the Acting President will allow us to refer backwards and forwards within the bill, because they are related clauses, clause 10 states that the minister may from time to time give written directions to the chief commissioner. The minister has just referred to election promises or statements made. Is a chief commissioner expected to monitor election promises and statements made, and under clause 16(2)(a) are they meant to implement those?

Hon. M. J. GUY (Minister for Planning) — There is a difference between ministerial directions and the policies of an incoming government. I do not think one is similar to the other. Ministerial directions are very different from a Chief Commissioner of Police considering the priorities of an incoming government.

Ms PENNICUIK (Southern Metropolitan) — I am concerned about this, because it is one thing for the minister, from time to time, to give a direction to the chief commissioner. Clause 10(2) says that the directions cannot be given in relation to paragraphs (a) to (h). Interestingly paragraph (f) refers to the deployment of police officers and protective services officers (PSOs) to or at particular locations. One could argue, for example, that under clause 10(2)(f) the minister could not direct the chief commissioner to deploy protective services officers at every railway station. This is a pertinent question, because the community has been concerned about the government's policy that there must be protective services officers at every railway station. Clause 10(2)(f) says that the minister cannot give directions about the allocation or deployment of police officers or protective services officers to or at particular locations, which I would totally agree with, because I think it is the job of the chief commissioner to deploy protective services officers and police officers where they are actually needed.

I do not believe the minister has allayed my concerns, because he said that a statement or an election promise could be considered. It needs to be tighter than that. Under the current act, the role and authority of the chief commissioner and officers are much more limited. They are very much broadened under this particular bill, and the public should be interested in those broadened provisions. The Minister for Police and Emergency Services has said that these things have traditionally been determined by convention, but they have been codified in this bill. It is important that we actually understand what we are doing.

Hon. M. J. GUY (Minister for Planning) — As is very common in committees, I will not be able to allay all of Ms Pennicuik's concerns, principally because I think they are subjective and I do not agree with all of them. Let us be very clear about PSOs. PSOs can be deployed to certain locations, as prescribed. The minister cannot direct the chief commissioner to appoint a PSO to a certain location as such. Obviously there is a policy intent of the government, which can easily be put in place as a result.

Ms Pennicuik has talked about concerns with the PSOs or with the PSO policy. Those might be the concerns of the Australian Greens, but I think the vast majority of people in this city are actually very comfortable with PSOs, who are either escorting women back to their cars after hours in railway station car parks, which are dark at night, or ensuring that railway stations themselves are safer places than they used to be. I think people find it quite a useful policy. Ms Pennicuik might have some concerns with that level of security at railway stations. The government thinks that the policy intent of it is good and that it has been put in place very successfully. We believe that is being done. I do not agree with the concerns Ms Pennicuik has raised. I think that most of them are subjective assessments.

Ms PENNICUIK (Southern Metropolitan) — We could debate the policy of PSOs, but I do not wish to go into that. To pick up one of the minister's points, there are also dangers in having PSOs at railway stations. Mr Barber raised that issue yesterday — some PSOs have gone above and beyond the call of duty. There are examples of their having harassed commuters, overusing their powers or demonstrating that they do not understand their powers. It is not just the rosy picture the minister has painted. I do not want to pursue that debate. I am concerned about clause 16(2)(a) and how it operates. Whether or not the minister thinks what I am saying is subjective, we need to clarify how

the chief commissioner is meant to implement policies beyond what is in clause 10, and I do not think the minister has adequately responded to that.

Hon. M. J. GUY (Minister for Planning) — I think it is very clear that the government has stated that we do not intend to direct the chief commissioner as to how to implement a policy through his operational powers, but the government is entitled to have a policy direction which the chief commissioner then will implement.

I have to make reference to Ms Pennicuik's comments about PSOs again and issues with PSOs harassing train commuters. I just find it astounding that Ms Pennicuik would not recognise the positive initiative of having PSOs escorting women to their cars in car parks after hours — I would describe it by reference to my own mother being escorted, as an example. I cannot believe Ms Pennicuik would not think that would be a positive initiative enabling women and all people to feel safe after hours on a metropolitan or even a regional railway station. The idea that PSOs not being there and people being exposed to being assaulted or beaten up is somehow a better policy than having protective services officers on railway stations after hours I find literally impossible to be believed — that Ms Pennicuik would consider that it is somehow a negative part of public policy to have security services on railway stations to protect people from thugs.

Mr TEE (Eastern Metropolitan) — I indicate the opposition will not be supporting Ms Pennicuik's amendment. The bill is an attempt to codify existing practice. As I said in my contribution, it raises the issue of what occurs when there is a conflict between the views of the chief commissioner and the Minister for Police and Emergency Services, and that is not teased out in the bill at all. As I understand the way that clause 16 operates, however, it quite properly attempts to achieve balance when it comes to ensuring that the police commissioner is responsible for implementing the broader policies of the government. That is appropriate in a democracy.

The government gets elected with a policy, whether it is about PSOs or others, and people may not like the policy — and I do not like it — but there needs to be a level of implementation of it. I think clause 16(2)(a) seeks to bring that about. Clause 16(2)(b) properly reinforces the fact that the police commissioner is responsible for police operations and policing matters generally but should keep the minister informed of those. That is important, because it enables the police minister to make sure the government is aware of what the police are doing so that it can ensure that there is appropriate resourcing and priorities for police activities. I therefore think clause 16(2)(b) is about communication and clause 16(2)(a) is about ensuring that the elected government's agenda is implemented without, as I said, imposing upon the operational matters, which I think 16(2)(b) makes quite clear are matters for the police commissioner. I am not sure if the provisions could have been drafted more tightly, but I think that is the intent, and we are not uncomfortable with that.

Ms PENNICUIK (Southern Metropolitan) — With regard to policies and priorities, given that clause 10 precludes the minister from directing the chief commissioner to allocate police or protective services officers to a particular location, what sort of a policy or priority would be an example that would apply under clause 16(2)(a)?

Hon. M. J. GUY (Minister for Planning) — An example my advisers and I have thought of for Ms Pennicuik is around family violence — a government coming into office with an election policy of reducing family violence and having initiatives it might seek to put in place with respect to that policy. That policy would then be implemented by the chief commissioner, who would have the ability and operational responsibility to implement a policy along those lines.

Ms PENNICUIK (Southern Metropolitan) — Mr Tee raised the point about the drafting of the clause, which is probably what drew my attention to it and created my concern about it; it is drafted very broadly. It is why I would like to pursue it with the minister. I think that is probably a good example. If that is an example of what this clause is intended to apply to — that the minister may say that family violence is an area the government would like the police to concentrate on, and that is it, without any further interference — that is possibly a good example. Can the minister think of another example?

Hon. M. J. GUY (Minister for Planning) — Chair, with respect, I am not going to go through the Thursday of the last sitting week giving the member example after example. We could talk about road safety, we could talk about agricultural crime — there is a whole range we could go through. In terms of definitions in a bill it would be difficult to have a very clear direction as to what a minister is going to send to the chief commissioner, so yes, of course the bill is going to be drafted broadly. It is going to be drafted broadly because government policy could be broad.

One point Mr Tee did make correctly was that a policy a government might have when it comes to office after an election could be broad; through ministerial direction it will become narrower, and then it will be up

to the chief commissioner to implement it. That means a clause such as this needs to be broad — to enable an incoming government of any persuasion to have commitments that can be acted upon through policy directions of the minister to the chief commissioner to implement operationally.

Ms PENNICUIK (Southern Metropolitan) — Would the mechanism for that be through clause 10?

Hon. M. J. GUY (Minister for Planning) — It is unlikely to be used very often, but if needed, it could be, yes.

Amendment negatived.

Clause agreed to; clauses 17 to 73 agreed to.

Clause 74

The ACTING PRESIDENT (**Mr Elasmar**) — Order! Ms Pennicuik's amendments 2 and 3 are a test for her remaining amendments and seek to alter the circumstances in which the state is considered liable for police torts. I call on Ms Pennicuik to move her amendments 2 and 3.

Ms PENNICUIK (Southern Metropolitan) — I move:

2. Clause 74, lines 28 and 29, omit subclause (1) and insert —

"(1) Subject to this Division, the State is liable for all police torts.".

3. Clause 74, lines 30 to 34 and page 60, lines 1 to 8, omit subclauses (2) and (3).

These amendments go to the issue of liability of the state for police torts. Section 123 of the current Police Regulation Act 1958 provides:

(1) A member of the force or a police recruit is not personally liable for anything necessarily or reasonably done or omitted to be done in good faith in the course of his or her duty as a member of the force or police recruit.

(2) Any liability resulting from an act or omission that, but for subsection (1), would attach to a member of the force or police recruit, attaches instead to the State.

In effect it means that, if the act is not done in good faith, then the state is not vicariously liable. That is the current situation.

New division 8 puts in place a different regime whereby a plaintiff for an action done or a police tort applies and takes the action against the state automatically under the new provisions, which is an improvement on the current provision. In that respect I support that move in the right direction. However, clause 74(2) provides:

(2) The State is not liable for a police tort if the State establishes on a police tort claim that the conduct giving rise to the police tort was serious and wilful misconduct by the police officer or protective services officer who committed the police tort.

That still leaves in place the situation where, if the tort arises from serious or wilful misconduct by the police officer, then the state can deny liability, which leaves the plaintiff in the situation of having to claim damages or compensation from the police officer or protective services officer. Without going into the detail — I have gone into detail about the Horvath case in this chamber on another occasion — even though persons had had compensation awarded to them, that decision was overturned by the Court of Appeal and left those plaintiffs with nowhere to go.

The principle of the matter is that the plaintiffs who are the subject of the serious or wilful misconduct by the police officer should not be left to carry the can. It should be the state that is vicariously liable for all police torts whether or not serious or wilful misconduct is involved. By way of my further amendments, which are tested by this first amendment — and the following amendments that I would put in place — the state would be able to recover from the police officer or protective services officer damages or costs or both on a police tort claim. The state could then recover in any court of competent jurisdiction the amount of those damages and costs from the police officer or protective services officer who committed the police tort if the state established that the act or omission that constituted the police tort was not necessarily or reasonably done or omitted to be done in good faith by the officer in the performance or purported performance of their duties. That mirrors the situation in New South Wales, where the state is able to recover those costs.

An argument often put by the government is that, if a police officer is held personally liable for a tort that involves serious or wilful misconduct, then that would deter other police officers from so acting. I am not sure that that stacks up, but the effect of it is to leave the plaintiff in the situation of having no recourse. It seems to me that the better action — and I know this is supported by the bar association, the law institute and other organisations — is that the state should be liable for all police torts, should be able to recover costs and also should be able to take disciplinary action, including charging police for that serious and wilful misconduct and charging them with criminal offences if they are involved. That is the reason I moved the amendment.

Mr TEE (Eastern Metropolitan) — I indicate again that the opposition is not supporting this amendment.

As I understand the way the bill operates, if a police officer is negligent and someone is injured as a result of that negligence, then the state can be sued and damages can be recovered from the state of Victoria. If the injury occurs because the actions of the police officer are both serious and wilful, then the injured person sues the police officer directly, and if damages are awarded against the police officer and the officer is unable to pay, then under clause 79 compensation is payable by the state.

Essentially, if in the ordinary course of acting a police officer is involved in negligent conduct, they are indemnified by their employer, but if their behaviour is wilful and serious misconduct, which I think is a reasonably hard test, then the police officer themself is sued. If the plaintiff is unlikely to recover the damages and has exhausted avenues to recover that amount, then the state is ultimately liable. This is a longstanding employment law principle. It might be something that should be reviewed and reconsidered, but I am not convinced that an amendment is the way to do it. If there is a proper process that recommends that outcome, that would be something that the opposition would be very keen to look at.

Before we mess around with a principle that has been in place for a very long time, we need to be clear about the ramifications and the precedent that sets for other employers and other industries. It is not a matter that opposition members are closed off to, but I do not think this is the time or the place to start making those changes to the employment law principles. Opposition members think there is sufficient protection here for the plaintiff, who, as I said, still has a right to sue the police officer and can still recover damages from the state if that is required, so opposition members will not be supporting the amendment.

Hon. M. J. GUY (Minister for Planning) — I know there have been some comments about limited consultation, and I would say that there has been a lot of consultation to get to this stage — with the Victorian Bar, the Law Institute of Victoria and particularly the Police Association. I note that the amendment purports to plug a hole in the scheme created where police and PSOs are personally liable for serious and wilful misconduct but cannot pay, but we would argue there is no hole to plug. If the police officer or the PSO cannot pay, clause 79 says that the state must. The proposed amendment would also create uncertainty and lengthy and costly processes for the parties involved, and as such the government will not be supporting it.

Ms PENNICUIK (Southern Metropolitan) — I am aware of clause 79, but paragraph (2) of that clause also says that the minister must be satisfied that:

(b) the claimant has exhausted all other avenues to recover the amount.

This again puts the person who suffered the wrong in a situation where they have to exhaust all possibilities, which could take years. I do not believe that is good enough.

Mr Tee talks about employment law. Under employment law employers are liable for the actions of their employees.

The situation with the police, as I mentioned before, is that they are over and above other employees because they have coercive powers — they can arrest people; they can use reasonable force; they can use weaponry. That is not the same as other employees. In fact I think the duty is higher on the state with regard to police. Mr Tee said there has not been a process; I have suggested a process such as referring the bill to the Legal and Social Issues Legislation Committee.

Mr Tee also said that we should not be mucking around and changing the situation, which is exactly what this provision does — it changes section 123 of the act. That is not much of an argument, because we actually are changing it, and as I conceded, we are changing it for the better. It will be better than it currently is — I can see that — but I still think it does not go far enough, and I think we should go to a situation where the state is always liable and tries to recover its costs in other ways, as is the case in other jurisdictions.

Committee divided on amendments:

Ayes, 3

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

Noes, 35

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

Amendments negatived.

Clause agreed to; clauses 75 to 287 agreed to; schedules 1 to 6 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

DRUGS, POISONS AND CONTROLLED SUBSTANCES AMENDMENT BILL 2013, ENERGY LEGISLATION AMENDMENT (GENERAL) BILL 2013 and MINERAL RESOURCES (SUSTAINABLE DEVELOPMENT) AMENDMENT BILL 2013

Withdrawn

Withdrawn on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

DOMESTIC ANIMALS AMENDMENT BILL 2013

Second reading

Debate resumed from 28 November; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr LENDERS (Southern Metropolitan) — I rise to speak on the bill, which is probably a difficult bill for all of us. As I begin my remarks I would like to say that anything I say on the bill is in the context of the Labor Party supporting the action by the Minister for Agriculture and Food Security, Mr Walsh. The bill arises from a coronial finding into the tragic death of Ayen Chol, who was born on 25 May 2007. The coronial report was delivered on 28 September 2012. I have read through all 28 pages of the report, and my contribution to the debate will be about the policy for dealing with the issue.

The Labor Party will be voting for the bill if it comes to a division. The minister has done what all ministers have tried to do over the last several years, which is to find a way of dealing with a particularly difficult situation — that is, the control of dangerous dogs. All members of the house have had a lot of community interest about this dangerous dogs legislation on a number of fronts.

First and foremost has been the demand from our community that the government do something to protect people from dangerous dogs and particularly to protect children from dangerous dogs. It is fair to say that about five or six years ago we had close to community consensus that part of the approach to dealing with dangerous dogs should be to nominate specific breeds that were dangerous and to put in place a regime to do that. The remainder of dog breeds are to be dealt with in cascading categories as to whether they are dangerous, menacing or a nuisance — there is a whole series of categories. The central underpinning of the regime is that an owner has responsibility for a dog and that the dog's behaviour and attributes are part of that responsibility.

After the tragic death of Ayen Chol my leader, Daniel Andrews, the Leader of the Opposition in the other place, undertook that Labor would support the government in trying to bring about an outcome to this matter, and in the spirit of that and in the spirit of the coroner's recommendations if the bill comes to a vote, we will be voting with the government.

In my contribution I would like to start a discussion about whether there is a better way to deal with this. There has been much discussion about how we deal with dangerous dogs. Should we look at the Calgary model from Canada? I have probably had more correspondence on this issue than on any other matter this year. While we are supporting the legislation, we have an open mind about whether there might be a better way to do this.

I read the coroner's findings; I went through page after page of harrowing reading about what is in front of us. The coroner commented quite a few times on the responsibility of owners to look after their dogs. She commented on the circumstances of what had happened, the culpability of individuals and a range of other things. On a number of occasions the coroner alluded to the fact that Parliament has legislation on breed-specific dogs and talked about whether that is appropriate. It did not seem to come out unequivocally through the narrative of the report, but when you get to the recommendations you see that the coroner was unequivocal, and she called on the Parliament to amend the Domestic Animals Act 1994. There are three recommendations. The first recommendation is:

> That the Victorian Parliament legislate to expressly prohibit the breeding of restricted breed dogs and that a criminal sanction attach to any breeding activity.

This legislation does that.

The second recommendation is:

> That the Domestic Animals Act 1994 … be amended to require veterinary surgeons to mandatorily report to regulatory authorities if they are called upon to treat or to attend any dog which is a restricted breed dog or may be a restricted breed dog, which is not registered, neutered and microchipped.

If this bill does not do that, in his second-reading speech the minister says there will be administrative procedures to deal with it.

The third recommendation is:

> That the onus of establishing that a dog, suspected by the regulation authorities to be a restricted dog, is not a restricted breed dog, be placed on the owner of the dog and that the Domestic Animals Act 1994 (Vic) be amended to this effect.

The minister and government in its legislation are doing exactly what the coroner called on them to do, the only deviation being that they are seeking to implement one of those two recommendations by regulation or through directions to the veterinary registration board rather than with legislation. It would be to quibble to imply they are not doing what they are doing, so we deal with that. But we then get to the debate we have in Victoria at the moment as to whether this is the most effective action, if the test is the protection of children — that is, that we do not again have a horrific event again like we had in the city of Brimbank a few years ago. Is it about stopping that sort of horrific event? Or more generally, how do we ensure that citizens on the streets, whether they be children or anybody else, are safe from dogs?

A long debate has gone on among parts of society, particularly among owners of restricted breed dogs, who have a strong view that the breed-specific legislation is not the way to go. I am not convinced that argument is necessarily a pertinent argument. People put to me that no matter how you measure the attacks from dogs — the scale or types of attacks — the restricted breeds are a small component but are not responsible for them all.

One of the things I have done on behalf of my party is to put onto the Legislative Council notice paper a motion, which is listed as notice of motion 705 on today's notice paper, calling for a parliamentary review into the specific breeds legislation. I have not moved the motion yet, because it is my view that we want bipartisanship — or tripartisanship or quadripartisanship, whatever you wish to call it — in this space. In voting for this legislation today, I ask the government and the minister to consider this. If in the view of the government the wording of this inquiry could be better or there is some other technical tweaking that could make this inquiry better, then I would be the first to say to the government that we should undertake that inquiry in the form suggested, provided it is a parliamentary inquiry that is open and transparent.

As I said in my opening remarks, I am not criticising the government for this, because the community has moved on. Until two years ago the Royal Society for the Prevention of Cruelty to Animals (RSPCA) itself, which is one of the strongest advocates against breed-specific legislation, was of the view that breed-specific legislation was appropriate. Attitudes have moved on in this space. As I said, I do not know whether it is appropriate or inappropriate, but I do know that it is time for us to try to be a bit more forensic.

To my knowledge it has been some years since we have had any serious review of this, so it is an unusual procedure. However, I will refer to my motion on the notice paper in terms of it being something that I would urge the government to consider. That motion seeks to have the Environment and Natural Resources Committee inquire into three things. Firstly, it would investigate the success of breed-specific legislation in preventing and reducing dog attacks, so it would be an inquiry that looks at the legislation and asks, does it work? It is as simple as that. Secondly, it would consider whether there are more cost-effective means of preventing and reducing dog attacks. Again, is it cost effective? What is a citizen prepared to pay for the right to have a dog and keep it trained and protected? Are there more cost-effective ways? Thirdly, it would draw on and incorporate relevant materials from other Australian parliamentary investigations in the interests of a concise report by the due date. In investigating any of this we would be looking at what other models work.

A lot of people have been spruiking what is known as the Calgary model. I met with the author of the Calgary model who administered it for a time. What he was saying to me was that we should take a common-sense approach, which is basically what we do in Australia already. The emphasis, the resources put into it and its focus might be a bit different, but basically there is an obligation on an owner to look after and be held accountable for their dog and a community education campaign to make sure that people know how to deal with dogs and the behaviour of dogs. It is hardly rocket science, but Calgary has it in a form which a lot of the anti-breed-specific legislation proponents in Australia think would work.

I would be seeking that the government consider either my motion or something like it that would allow us to report objectively and analytically and in a way that in the end would produce legislation that reflects what

many of the practitioners in this space have looked for over time. As I said, the RSPCA supported breed-specific legislation a few years ago and now opposes it, while the government has not looked into this seriously for a number of years.

This is not an overly complicated bill. It was considered in the Legislative Assembly and speakers have addressed it there, so I do not propose to go through it all again. However, this is now the third iteration of domestic animals amendments in this Parliament. Just this week the City of Monash has been before the courts expending a lot of money trying to get definitions right. We have seen a lot of emotion expressed over a particular dog in that case, and that means a lot to the people involved, but it opens up a public policy question: is this the best way to do it?

In closing, I support the action of the government in implementing the direct, specific and unequivocal recommendation of the coroner that we tighten up our breed-specific legislation to try to make it work more effectively and that we reverse some of the onus so that it is easier for our municipal governments to enforce this law. Having said that, the time has come to review breed-specific legislation, look at alternatives, look at their costs and benefits, and see what works elsewhere. It needs to be an open review that can take sworn evidence from witnesses, conduct public hearings and report, and the government then needs to respond to the report.

I urge the government to either adopt this motion or come up with one of its own so that we can have that debate and hopefully move forward from here. We will vote for the bill, but more work needs to be done. This is a suggested way forward.

Mr RAMSAY (Western Victoria) — I rise to speak on the Domestic Animals Amendment Bill 2013. It certainly gives me no pleasure to do so, because unfortunately the bill has come before the chamber because of the sad death of a four-year-old child as a result of a pit bull attack. At the outset I state that it is beyond belief that people would keep a dangerous dog — a dog that is bred to kill — as a family pet. Make no mistake, these pit bulls are bred and trained to fight, attack and kill. It is on that basis that I commend the Minister for Agriculture and Food Security, Mr Walsh, for introducing this bill and for the drafting of the bill in response to a coronial inquiry.

As I said, the bill implements recommendations made by the coroner in the inquest into the death of four-year-old Ayen Chol as the result of a pit bull attack in August 2011. The bill further enhances the enforcement and administration of the declared dogs provisions and makes other minor machinery and technical amendments to improve the administration of the Domestic Animals Act 1994.

At this time I wish to express my sincere condolences to the family of Ayen Chol and others who have suffered loss or pain as a result of attacks by restricted breed dogs. It is unimaginable that something so tragic could happen to anyone, let alone a small defenceless child. I strongly support this bill, which implements recommendations made by the coroner. It should never be the case that through the careless actions of another, someone's life is impacted so severely by any type of animal, especially one which we call man's best friend.

Two of the three recommendations made by the coroner are being implemented in this bill. The first recommendation was:

> That the Victorian Parliament … expressly prohibit the breeding of restricted breed dogs and that a criminal sanction attach to any such breeding activity.

Another recommendation was:

> That the onus of establishing that a dog, suspected by regulatory authorities to be a restricted breed dog, is not a restricted breed dog, be placed on the owner of the dog and that the Domestic Animals Act 1994 … be amended to this effect.

The other recommendation was:

> That the Domestic Animals Act 1994 … be amended to require veterinary surgeons to … report to regulatory authorities if they are called upon to treat or attend any dog which is a restricted breed dog or may be a restricted breed dog, which is not registered, neutered and microchipped.

This recommendation will be addressed by the Veterinary Practitioners Registration Board of Victoria in the form of a guideline that outlines veterinarians' responsibilities to provide information to authorised officers in the interests of public safety.

I have heard the deeds or breeds argument; however, there seems to be evidence which strongly suggests that some breeds do have a propensity to attack humans and other dogs, these being the pit bull, pit bull crosses and American pit bulls.

One of the measures this bill introduces, at the request of local government, will enable a court to make an order disqualifying a person from owning or being in control or in charge of a dog where the person has been found guilty of certain dog attack offences in the Domestic Animals Act 1994 or the dog offences in the Crimes Act 1958. Unfortunately, we do see cases of people who own restricted breed dogs who are not

necessarily responsible pet owners. As such we need to tighten the law in this area. To that end, when the owner of a registered restricted breed dog moves residence from one municipality to another they will be obliged to inform the municipalities of their change of address.

This bill provides an amendment for councils to seize and retain custody of dangerous breed dogs until a declaration has been determined by the Victorian Civil and Administrative Tribunal. As holding an animal for protracted lengths of time involves intrusive maintenance costs, an order can be made for a council's costs of keeping a seized dog if the declaration is affirmed. The time which is currently provided for determination by the Victorian Civil and Administrative Tribunal is 28 days; this bill will reduce that time to 14 days, offering an assurance that a dog will be impounded for a shorter period to protect its welfare and reduce costs to the council for holding the dog. Fourteen days is considered adequate time for an owner to make an application, as the owner is given a notice which includes information on how to appeal the declaration.

Under the Domestic Animals Act 1994 councils are already required to report to the secretary in relation to declared dogs and dogs destroyed under certain circumstances. As set out in the second-reading speech, this bill requires additional reporting to the secretary of:

(a) any declaration of a restricted breed dog, dangerous dog or menacing dog set aside by the Victorian Civil and Administrative Tribunal on review;

(b) any dog destroyed as a suspected restricted breed dog where the owner is unknown; and

(c) any dog surrendered to council where the owner advises that he or she is no longer willing or able to care for the dog because it has exhibited aggressive behaviour, been involved or is suspected of having been involved in a dog attack or is considered to be a restricted breed dog.

The coroner also recommended changes to the legislation to provide an offence for breeding a restricted breed dog. Mr Finn is asking me to wind up, so I will move on a little more quickly so that I can finish my contribution and we can all go home for Christmas. The bill will make it an offence with a maximum penalty of 60 penalty units or six months imprisonment for a person to breed a restricted breed dog. The bill also provides a three-year limitation period for filing a charge sheet for this offence instead of the normal 12-month limitation period. Evidence of breeding a restricted breed dog will be the mating of a fertile or entire restricted breed dog with another dog where the mating results in progeny. Confirmation of progeny can only be determined by DNA evidence of parentage, so additional powers have been provided to enable the taking of samples. This power will apply to determine whether the breeding offence has been committed and also to determine whether specified dog attack offences have been committed.

The coroner stated in her findings that one means of detecting a restricted breed dog breeder is by examination of records held by a veterinary practice. It may be that owners of restricted breed dogs have used veterinarians for vaccinations, pregnancy care or treatment. Such records may identify litter mates and owners of illegal restricted breed dogs and their breeding. The bill will enable an authorised officer, with the written consent of the secretary, to serve a notice on a veterinary practitioner to produce or make available for inspection a document in their custody or possession which the authorised officer reasonably believes to be relevant to determining whether another person has committed the breeding offence. Non-compliance will be an offence and will enable the authorised officer, with the written consent of the secretary, to apply for a warrant to search premises, including residential premises, for relevant documents.

In light of the death of Ayen Chol, I am pleased that we are following through on the coroner's recommendations. If a council officer makes a determination that a dog is a restricted breed dog, then it is incumbent on the owner to prove that it is not. It is the normal practice of owners of dangerous breed dogs to say, 'Prove it'. This bill will apply a reverse onus of proof back onto the dog owner, where it will be the council saying, 'Prove it'. This will implement the recommendation of the coroner in the inquest of Ayen Chol that the onus be placed on the owner of the dog to establish that the dog is not a restricted breed dog. In the case of restricted breed dog owners hindering, obstructing or refusing entry, or not providing information or documents to authorised officers, the bill will increase the maximum penalty units for such offences to 60 penalty units for each offence.

In summing up, I note that Mr Lenders called for a parliamentary committee review. I note that in his contribution Mr Helper, the member for Ripon in the other house, called for the same review, and the government will obviously respond to that request. As I said, tragically it took the death of a four-year-old to bring this bill before this house. I hope there is bipartisan support for this bill, and I commend it to the house.

Debate adjourned for Ms PENNICUIK (Southern Metropolitan) on motion of Mr Barber.

Debate adjourned until later this day.

PUBLIC ADMINISTRATION AMENDMENT (PUBLIC SECTOR IMPROVEMENT) BILL 2013

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Public Administration Amendment (Public Sector Improvement) Bill 2013 (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 opinion on the reasons outlined in this statement.

Overview of bill

The aspect of the bill relevant to the charter act is the conferral on the Victorian Public Sector Commission (which is established under the bill to replace the State Services Authority) of appropriate powers to conduct inquiries as directed by the Premier.

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

Right to privacy, freedom of movement and expression

Section 13(a) of the charter act provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with. Sections 12 and 15 of the charter act provide that a person has the right not to have his or her lawful movement or expression interfered with.

Section 57(2) of the act, inserted by clause 10 of the bill, confers a power on a person conducting an inquiry to compel a person to attend an examination, give evidence under oath, and provide documents. This provision is relevant to the freedom of movement, as a person may be required to appear before the commission, and the rights to privacy and freedom of expression, as that person may be required to impart information.

These powers are given to achieve the commission's objective to strengthen the efficiency, effectiveness and capability of the public sector and will be lawful and only apply to persons whose evidence is material to an inquiry. Accordingly, even if these provisions did limit the right to privacy, freedom of movement and expression, the limit is reasonable and justified.

Presumption of innocence

Section 25(1) of the charter act provides that a person charged with a criminal offence has the right to be presumed innocent until proven guilty in accordance with the law.

New subsection 57(2), inserted by clause 10 of the bill, creates penalties for failing to comply with a summons to attend or produce documents, without reasonable excuse, and attending but refusing to be sworn or, without lawful excuse, refusing to answer any relevant question or produce any document. These provisions impose an evidential onus on accused persons, thus displacing to some extent the onus on the prosecution and may therefore be a limit on the presumption of innocence.

It would undermine the effectiveness of the offence provisions (which, in turn, would undermine the efficacy of the Victorian Public Sector Commission's investigative functions) if the prosecution had to prove beyond reasonable doubt that the defendant did not have a relevant excuse. This is because whether a defendant had a relevant excuse is a matter within the knowledge of that defendant. Accordingly, even if these provisions did limit the right to be presumed innocent, the limit is reasonable and justified.

The Hon. David Davis, MP
Minister for Health
Minister for Ageing

Second reading

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I advise the house that the bill was amended in the other place to remove the existing power of the Premier to order an inquiry by the new public sector commissioner into independent officers of the Parliament, such as the Auditor-General, the Ombudsman and the Electoral Commissioner. 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 efficient and effective operation of the public sector is fundamentally tied to having good governance structures in place. Good governance provides the frameworks within which public sector bodies should operate to support government, and instils public confidence in the public sector's capability and integrity.

Whilst Victoria has strong foundations in this regard there is further opportunity for reform.

This bill provides a number of initiatives which will improve service delivery and efficiency for the benefit of all Victorians.

The bill has two main purposes. The first is to establish the Victorian Public Sector Commission (VPSC) as an independent entity focused on improving the performance of the public sector. The second is to make amendments to the Public Administration Act 2004 to improve the governance framework and performance of public sector bodies.

I would now like to identify some key aspects of the bill.

Functions of the VPSC

The VPSC will be focused on strengthening the efficiency, effectiveness and capability of the public sector, and importantly it will advocate for a high standard of public sector professionalism and integrity. It will replace the State Services Authority (SSA).

One of the ways in which the VPSC will drive efficiency and effectiveness will be to provide advice and support on issues relevant to public sector administration, governance, service delivery and workforce management and development based on in-house expertise and analysis of the current and emerging environment. This function will include activities similar to the State Services Authority's systems reviews.

The VPSC will also have a forward-looking focus which will allow the public sector to proactively address emerging issues and opportunities and put in place best practice approaches to meet future challenges.

Another important role for the VPSC will be to collect and analyse whole-of-government data to understand the needs of the sector, identify gaps in capability and provide an evidence base to support reform.

The bill also provides for the VPSC to undertake 'inquiries' on any matter relating to a public sector body at the direction of the Premier. This inquiries function provides an important tool for executive government to obtain independent advice and analysis from an entity which is also part of the Victorian public sector.

In maintaining and advocating for public sector professionalism and integrity, the VPSC has an important leadership role in relation to the public sector workforce.

The VPSC will be responsible for issuing binding codes of conduct based on public sector values and establishing standards concerning the application of the public sector employment principles. The VPSC also has a role in monitoring compliance with the values and principles within public sector bodies and reviewing employment-related decisions. Through these reviews the VPSC will be an important part of ensuring public service employment decisions are in keeping with proper and fair processes.

The VPSC, through the commissioner, will have a public advocacy role in support of a professional and apolitical public sector. This role, in addition to the VPSC's maintenance of a register of lobbyists, will improve public confidence in, and strengthen, the sector.

The VPSC builds on the important work the SSA has undertaken in its nine years of operation and provides a refreshed energy to assist the government to lead future public sector reform.

The commissioner

The VPSC will be constituted by a single commissioner who will play an important leadership role in influencing its strategic direction and reputation. Given the prominence of this role, the commissioner will be appointed, on the recommendation of the Premier, by the Governor in Council.

VPSC Advisory Board

The VPSC and the commissioner will be supported by an advisory board, consisting of the Secretary of the Department of Premier and Cabinet (DPC) and up to seven other members with experience and knowledge of the public sector, business, service delivery and regional matters.

Having this diversity of experience and knowledge will inject new perspectives into the priority setting of the organisation and influence the direction of future reforms.

The advisory board will ensure leading ideas in public administration and service delivery are at the forefront of the VPSC's operation through the development of the annual and strategic plans.

Other amendments

In addition to establishing the VPSC, the bill will amend the Public Administration Act 2004 to improve the governance framework of public entities.

The bill will confirm departments' responsibilities in relation to public entities within their ministers' portfolios. The provisions will specifically require public entities to provide information to enable department heads to properly support their ministers in relation to the performance of portfolio entities.

These provisions will strengthen the governance and oversight of public entities and will enable any risks and issues to be identified and dealt with early.

These provisions will not apply to special bodies, nor will they abrogate the independence or responsibilities of entities, or interfere with the discharge of their functions.

Subsidiaries are public entities

The bill clarifies that a subsidiary of a public entity is a public entity for the purposes of the Public Administration Act 2004 thereby clarifying their obligations and the coverage of the act.

Declared authorities

The bill removes the requirement that the Premier approve remuneration for certain positions which are declared authorities under the Public Administration Act 2004. The removal of this requirement will provide greater consistency across the sector. Arrangements for remuneration in existing legislation will prevail.

Administrative guidelines issued by the secretary, DPC

The bill also provides that the secretary, DPC, may from time to time issue guidelines which pertain to the operations of a public service body or public entity to ensure that consistent standards of administration are maintained across the public sector.

New duty of public entity boards

In line with modern governance expectations, the bill includes a new requirement that boards collectively consider their own performance.

Conclusion

The government considers that this bill will make marked improvements to the Victorian public sector.

The VPSC will ensure that public sector structures and operations continue to reflect best practice and that the public sector is well equipped to respond to the needs of all Victorians. As a steward for public sector professionalism and integrity the VPSC will build public confidence and trust in the sector and its ability to deliver government policies and services.

The other amendments in this bill will entrench modern and best practice governance standards in Victoria.

I commend the bill to the house.

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

Debate adjourned until Thursday, 19 December.

LOCAL GOVERNMENT AMENDMENT (PERFORMANCE REPORTING AND ACCOUNTABILITY) BILL 2013

Introduction and first reading

Received from Assembly.

Read first time for Hon. M. J. GUY (Northern Metropolitan) 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 Local Government Amendment (Performance Reporting and Accountability) Bill 2013 (the bill).

In my opinion, there are no charter act rights that are relevant to the bill, as introduced to the Legislative Council.

Conclusion

I consider that this bill is compatible with the charter act.

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 coalition government initiated a review of the public accountability provisions within the Local Government Act 1989 as an important step forward for ensuring that Victoria has a strong, viable and accountable local government sector.

The current planning and accountability provisions, contained within part 6 of the Local Government Act 1989 and the Local Government (Finance and Reporting) Regulations 2004, have been in place for nearly a decade. These provisions have served local government well and have been considered leading practice for Australian local government. But the world has changed since these provisions were first developed and adopted, and we have seen our accountability framework slip from being best practice.

The issue of improved performance reporting in local government has been commented on in recent years by two consecutive performance audits by the Victorian Auditor-General's Office. The first audit in 2008 found that, for most councils, reporting had limited relevance to residents and ratepayers because it lacked information about the quality of council services, the outcomes being achieved and how these related to councils' strategic objectives. A follow-up audit in 2012 found that while some improvements were evident since the earlier 2008 audit, performance reporting by councils on the whole remained inadequate.

The view of this government is that effective performance reporting by councils is essential for ensuring accountability to residents and ratepayers as to how public money is being spent and the quality of services delivered. It should underpin a modern, productive and innovative local government sector that is able to identify and respond to areas of poor performance to continuously improve. The government articulated this view in *Securing Victoria's Economy* by committing to introduce a mandatory performance reporting framework for councils for the 2014–15 financial year.

In accordance with these expectations, this bill is the product of 12 months of hard work and collaboration between the coalition state government and local government stakeholders. A wide-ranging consultation and engagement process has been undertaken, with some 35 information sessions with over a thousand mayors, councillors, senior staff and other stakeholders as part of the development of the new performance reporting framework. Over half of Victoria's 79 councils are voluntarily working with the government to trial the draft framework through a pilot program.

The government has listened to concerns about the burden of existing reporting requirements and the need to reduce bureaucratic red tape. That is why the government has sought to minimise new reporting burdens by utilising existing data collection and reporting mechanisms in this new framework.

The state and local government sectors have also worked together to remove or streamline 38 local government reporting requirements to further reduce red tape and free up councils to focus on delivering services to the community rather than unnecessary administration.

The bill before the house today clarifies provisions relating to the new accountability framework for local government. This includes:

strengthening local government accountability through the introduction of a requirement to report against a standard set of performance indicators that allows benchmarking of results across key services, financial management and sustainability as well as confirming that key policies and frameworks that underpin strong governance and management are in place;

strengthening strategic resource planning by prescribing the form of both recurrent and capital planning to be undertaken by councils;

streamlining financial reporting, improving consistency and removing duplication by replacing the requirement for councils to produce 'standard statements' with 'financial statements' in the strategic resource plan, budget and annual report;

maintaining transparency for achievement of major initiatives which will replace the requirement for councils to identify 'key strategic activities' and ensures councils are accountable for major council plan and budget commitments;

aligning publication of reports with modern practice by requiring each council to publish their council plan, strategic resource plan, budget and annual report on their internet website.

Additional provisions and other minor technical amendments within this bill aim to strengthen and improve the accountability of local government.

If legislated, this bill would become operational in April 2014 in time for the 2014–15 local government planning and reporting cycle.

The bill is the cornerstone of a broader reform agenda to create an effective and efficient local government sector that is able to meet Victoria's changing needs into the future. It will deliver new evidence to underpin the government's reform strategy for local government which aims to strengthen governance, contain costs, ensure sustainable service delivery and fund tomorrow's infrastructure.

Importantly, it will enable residents and ratepayers to hold their local council accountable for managing public resources prudently and efficiently.

I look forward to working with each council to implement these reforms and deliver a strong, accountable and sustainable system of local government in Victoria.

I commend the bill to the house.

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

Debate adjourned until Thursday, 19 December.

ENERGY LEGISLATION AMENDMENT (GENERAL) BILL 2013

Introduction and first reading

Received from Assembly.

Read first time for Hon. P. R. HALL (Minister for Higher Education and Skills) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. P. R. HALL (Minister for Higher Education and Skills), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the charter act), I make this statement of compatibility with respect to the Energy Legislation Amendment (General) Bill 2013.

In my opinion, the Energy Legislation Amendment (General) Bill 2013, as introduced to the Legislative Council, is compatible with the human rights set out in the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill amends the Electricity Industry Act 2000 and the Gas Industry Act 2001 to extend the powers to exempt a person from the requirement to hold a licence in relation to the generation of electricity and the provision of gas distribution services for certain purposes; to simplify publication requirements in respect of licensee standing offers; amend the requirements in respect of the submission, review and approval of financial hardship policies; and to make other minor and consequential amendments.

Human rights issues

The bill does not engage any human rights protected under the charter act. I therefore consider that this bill is compatible with the charter act.

The Hon. Peter Hall, MLC
Minister for Higher Education and Skills
Minister responsible for the Teaching Profession

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 Energy Legislation Amendment (General) Bill 2013 will amend the Electricity Industry Act 2000 and the Gas Industry Act 2001.

Part 2 of the bill amends the Electricity Industry Act 2000 to make a series of small changes that improve and clarify existing processes for the electricity industry and the Essential Services Commission.

The bill streamlines existing publishing and notification requirements for electricity retailers in light of the recent introduction of flexible pricing in Victoria. Flexible pricing is a voluntary option that gives customers more choice and control over their power bills. It also encourages customers to use power outside peak hours, which reduces the need for expensive energy infrastructure upgrades that are paid for by all energy consumers.

The bill requires retailers to provide retail contract offer details to a website nominated by the minister, or, if no website has been nominated, to the Your Choice website operated by the Essential Services Commission. The minister may nominate an independent website that lets customers compare flexible pricing offers from all licensed electricity retailers.

The My Power Planner website, for example, helps customers understand how the new flexible pricing options could work for them, and allows them to make informed decisions regarding the choice between flexible pricing and flat rates.

The Essential Services Commission will continue to publish information on retail offers for gas customers and for electricity customers without smart meters on its Your Choice website.

The bill amends lodgement requirements for licensed electricity retailers' financial hardship policies to ensure that a newly licensed electricity retailer must submit a policy for approval by the Essential Services Commission. It also allows the commission to direct a retailer to review an existing policy that the commission considers is no longer compliant with minimum obligations.

The bill makes a number of minor and technical amendments to clarify the licensing exemption regime under the Electricity Industry Act 2000, updating provisions that have remained largely unchanged since 1994. The Electricity Industry Act 2000 currently allows an exemption from the requirement to hold a licence to generate, supply, sell, distribute or transmit electricity to be subject to conditions. The bill provides that exemption conditions may include obligations that also apply to licensed entities, such as compliance with industry codes and guidelines.

In addition, part 2 of the bill repeals several redundant provisions consequential to the repeal of cross-ownership provisions by the Energy Legislation (Flexible Pricing and Other Matters) Act 2013.

Part 3 of the bill amends the Gas Industry Act 2001 consistently with the amendments to the Electricity Industry Act 2000. It amends the licensing exemption regime for the retail sale of gas in the same manner and to the same extent as the amendments to the electricity licensing regime. It also mirrors the changes under part 2 of the bill for the lodgement of financial hardship policies by new licensed retailers and the review of existing policies. Finally, it removes a redundant provision consequential to the repeal of cross-ownership provisions made earlier this year.

I commend the bill to the house.

Debate adjourned on motion of Mr LEANE (Eastern Metropolitan).

Debate adjourned until Thursday, 19 December.

GAMBLING REGULATION AMENDMENT (PRE-COMMITMENT) BILL 2013

Introduction and first reading

Received from Assembly.

Read first time for Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation), 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 Gambling Regulation Amendment (Pre-commitment) Bill 2013.

In my opinion, the Gambling Regulation Amendment (Pre-commitment) Bill 2013, 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

Human rights issues

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

Right to privacy

Section 13(a) of the charter act provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

The right to privacy is relevant to this bill but is not limited.

The right to privacy is relevant because players of gaming machines will be required to provide personal information to a venue operator and the monitoring licensee when registering to use precommitment. Further, both the monitoring licensee and venue operators may be able to access players' personal information when assisting players to update details, replace cards and change limits.

However, this interference with privacy is constrained, not arbitrary or unlawful and linked to the purpose of the bill.

Further, to ensure the protection of players' privacy, the bill introduces two measures.

First, the bill includes an offence in section 3.8A.25 prohibiting unauthorised disclosures of precommitment information. Disclosures will only be allowed if:

1. the person consents;

2. to a law enforcement agency for law enforcement purposes;

3. for the performance of functions under the Gambling Regulation Act 2003;

4. if the information is lawfully publicly available; or

5. if the information is de-identified and used for research.

Further, the power in the bill for the Minister for Liquor and Gaming Regulation to enter into related agreements with venue operators and the monitoring licensee with terms determined by the Minister for Liquor and Gaming Regulation allows the minister to license venue operators to use the information generated by the precommitment system. The use of a licensing arrangement means that venue operators can be subjected to additional contractual safeguards related to the use of private information. A breach of a related agreement by a venue operator can constitute grounds for disciplinary action.

Edward O'Donohue, MLC
Minister for Liquor and Gaming Regulation

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The Victorian coalition government has committed to introducing a number of keystone reforms to promote responsible gambling and reduce the harm associated with problem gambling.

Most notably, the coalition government has established the independent Victorian Responsible Gambling Foundation with a mandate to reduce the incidence and severity of problem gambling across Victoria. This body, with funding of $150 million over four years, undertakes the treatment, research and education activities necessary to address the complex issue of problem gambling. This is the largest financial commitment towards reducing the harm associated with problem gambling ever provided by a state or territory government in Australian history, and represents a 41 per cent increase over the funding provided by the former state government.

With this bill, the coalition government has moved to make Victoria the first jurisdiction to have a statewide, networked precommitment system. With this bill, Victoria remains the national leader in implementing responsible gambling measures.

While governments have an important role to play in promoting responsible gambling, individual gamblers must also have the tools to empower them to make their own decisions about gambling responsibly, in particular with respect to the limits they set on playing gaming machines.

The coalition government has led the way by committing to introducing a voluntary precommitment scheme. Precommitment is a vital harm minimisation and consumer protection measure that will help players control their gambling and avoid it escalating to harmful levels. Precommitment is not just for problem gamblers; it is for everyone who makes the decision to play a gaming machine. Players can decide what they want to spend or how long they want to spend playing a gaming machine, and precommitment provides the tools to enable the player to keep track of the time and costs of their gaming machine play and the tools to enable the player to stick to the limits they have set.

The bill before the house introduces the legislative framework to give effect to the coalition government's commitment. As the bill makes clear, the precommitment system will be up and running in 2015–16. This is over seven years sooner than the former federal Labor government's proposed timeline for the completion of the national rollout of precommitment.

The Victorian precommitment system will mean that players will be able to set limits both on the time they spend playing gaming machines and on their losses. The precommitment system will also enable players to track their playing history and spending over time so that they can get a much clearer idea of how much time and money they spend playing gaming machines.

The proposed features and functions of the Victorian precommitment scheme were determined on the basis of striking a balance between providing players with choice and keeping the system simple and user friendly. Also taken into consideration was keeping cost low for industry, whilst ensuring that the features and functions of the precommitment scheme are effective at minimising harm. The proposed system will also allow for upgrades to technology when needed.

As has been previously announced, the current monitoring licensee, Intralot Gaming Services Pty Ltd, is in discussions with the government to provide the precommitment system throughout Victoria. With the company's monitoring equipment installed in all hotels and clubs in Victoria, this option requires the least cost and effort for operators and less duplication of infrastructure. I am pleased to say that this decision has the broad support of the Victorian gaming industry.

I now turn to the provisions of the bill before the house.

The bill will expand the scope of the current monitoring licence to enable the monitoring licensee to provide, operate and maintain the precommitment system and to provide

related services, such as a precommitment website. This will allow the government and the monitoring licensee to enter into the necessary commercial arrangements for the provision of the precommitment system and services. These arrangements will include the state's requirements for the functions and features of the precommitment system. The bill will also enable other commercial arrangements to be made with venue operators that will underpin the delivery of the overall precommitment scheme.

Venue operators will be subject to new obligations to ensure that their gaming machines are connected to the precommitment system and to install certain equipment in their venues that will allow players to access the features of the precommitment system. This equipment includes interactive display screens on the gaming machines, that will display messages to players regarding their play activity such as alerts about when they are reaching a limit, as well as kiosks that will allow players to register for precommitment, set and update their limits and view their play data. Other equipment includes card readers, card encoders and keypads.

The Victorian Commission for Gambling and Liquor Regulation will have regulatory oversight of the precommitment scheme. The bill gives the commission new powers to make technical standards for both the precommitment system and the equipment that venues will require. The commission will be required to approve the precommitment system and any equipment that will be installed on the gaming machines.

A number of gaming venue operators have introduced loyalty schemes within their venues. The Gambling Regulation Act 2003 currently includes a number of harm-minimisation and consumer protection measures in relation to loyalty schemes. In particular, a loyalty scheme must enable a participant in the scheme to set a time or net loss limit on their gaming machine play. These limit-setting functions have fewer features than those proposed under the statewide precommitment scheme.

In order to promote the precommitment system and to avoid any confusion for players from having two limit-setting systems available within a venue, the bill prohibits any other limit-setting mechanisms from operating within a venue from 2015–16, apart from the statewide precommitment system. Loyalty scheme providers and venue operators will also be required to inform players, through their written activity statements, about the ability to set limits under the precommitment system.

In determining the best way to implement precommitment for both players and industry, consideration has been given to the benefits that could accrue from the use by a player of one card for both precommitment and loyalty and one means of accessing information at a gaming venue about both schemes. This could encourage the use of precommitment by players and remove the stigma of using a card that is designed solely for precommitment. The bill therefore proposes that, for those venues that have a loyalty scheme, the same card, card reader, display screen and kiosk must be used for both loyalty and precommitment. To allay any concerns about loyalty schemes being promoted more prominently in a venue than precommitment on the display screen or on a kiosk, venues will be required to ensure that information relating to precommitment is given precedence over information relating to loyalty. In this way, the system will ensure that players are made clearly aware of how much they are spending on gaming.

Players will be issued with a card once they have registered for precommitment. Whilst these cards will be issued by venue operators, any logos, symbols or other markings that are associated with gaming machines should not appear on the card. The bill therefore extends the restrictions in the act on gaming machine advertising to the player cards used for precommitment.

The precommitment system will capture the personal details and play history of players who choose to register for precommitment. The government understands the concerns about potential misuse of that sensitive information. To address these concerns, the bill includes an express prohibition on the unauthorised disclosure of precommitment information in order to ensure the protection of players' data. However, the data from the system will be an important source of information regarding gaming machine play and the use of limits, and the bill includes a power for the minister to direct the monitoring licensee to provide de-identified data to researchers. This will help facilitate research and evaluation into the effectiveness of precommitment.

To further ensure the protection of the player data captured by the precommitment system, the government requires the system to be designed so that there will be no data transferred to or from the precommitment system and loyalty schemes. In addition, venue operators will not have access to identified data in relation to players registering for or using precommitment at their gaming venue.

Finally, the bill includes a regulation-making power. This will enable regulations to be made about the equipment used for precommitment, as well as imposing obligations on venue operators about the operation of precommitment in venues and their duty to assist players to register for, and use, precommitment.

In summary, this bill is the first step in implementing the legislative and regulatory framework for the statewide precommitment scheme. The coalition government's commitment to introduce voluntary precommitment in 2015–16 will also involve ongoing consultation with the gaming industry and other interested parties, including community groups, on developing protocols to encourage the take-up of precommitment and reduce any potential social stigma for players. The government will also be revising the responsible gambling codes of conduct to require venues to support and promote the use of precommitment technology.

I commend the bill to the house.

Debate adjourned for Ms PULFORD (Western Victoria) on motion of Mr Leane.

Debate adjourned until Thursday, 19 December.

COURT SERVICES VICTORIA BILL 2013

Introduction and first reading

Received from Assembly.

Read first time for Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation), 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 Court Services Victoria Bill 2013.

In my opinion, the Court Services Victoria Bill 2013, as introduced to the Legislative Council, is compatible with the human rights set out in the charter act. I base my opinion on the reasons outlined in this statement.

The bill establishes Court Services Victoria, a new statutory body that will be governed by a Courts Council ('the council'). The council will consist of the heads of jurisdiction from the Supreme Court, the County Court, the Magistrates Court and the Children's Court, as well as the State Coroner and the President of the Victorian Civil and Administrative Tribunal (VCAT), and up to two appointed members with relevant experience or qualifications in finance, administration or management.

The object of the bill is to strengthen judicial independence by establishing a body to provide the administrative services and facilities necessary for the operation of the Victorian courts, VCAT and the Judicial College of Victoria independently of the direction of the executive branch of government and accountable directly to the Parliament and through statutory accountability regimes established by the Parliament.

Clause 21 of the bill provides that judicial members of the council, when making decisions in that capacity, are subject to the same immunity as they would have if they were making decisions on administrative matters as a judge or magistrate in relation to their court. Clause 21 may be relevant to the right to a fair trial set out in section 24(1) of the charter act because a person who suffers loss or is wronged as a result of a council decision may not be able to bring a claim against the judicial member to seek redress.

Section 24(1) of the charter act provides that a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. In other jurisdictions it has been found that a broad statutory immunity from liability which imposes a bar to access to the courts for persons seeking redress against those who enjoy the immunity may breach the fair hearing right.

Any implied right of access to the courts is not an absolute right. Even if the application of existing immunities by clause 21 does limit the right set out in section 24, such limits are reasonable and justifiable under section 7(2) of the charter act. The immunities are designed to protect the public interest in an independent judiciary. The application of existing immunities supports independent decision making in relation to administrative arrangements for the courts by the judicial members of Court Services Victoria.

Edward O'Donohue, MP
Minister for Liquor and Gaming Regulation
Minister for Corrections
Minister for Crime Prevention

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

This historic bill establishes an independent body, directed by the heads of jurisdiction, free of departmental or political control and accountable to Parliament, to provide administrative services and support for all Victorian courts and for VCAT.

Independence of the judiciary is a fundamental tenet of the rule of law that underpins our free, open and democratic society. However, while Victoria has a judiciary that is independent of executive government and of the Parliament, the administration that supports our judiciary is not independent of executive government direction because it reports to and is ultimately under the control of the Secretary of the Department of Justice and hence the Attorney-General.

This derives from longstanding practice. Courts are an arm of government under the Crown, and thus the Crown needs to provide the administrative resources for courts to undertake their functions.

However, while the Crown needs to provide the administrative support for the courts, and while the executive and administrative staff who support the courts do so with great professionalism and integrity, it is preferable in principle and in practice for that support to be provided not via a government department but via an administrative agency subject to the direction of the heads of jurisdiction.

It is preferable in principle because it reduces the potential for executive government to interfere in the operations of the courts, and preferable in practice because remote and divided responsibilities can impede and frustrate the ability of the courts to manage their own operations and to introduce efficiencies and reforms.

For many years, members of the judiciary have been seeking such reforms, and today this bill delivers them.

The independence of the judiciary is supported by longstanding constitutional arrangements through the protection of individual judicial tenure, remuneration and immunity from suit for the performance of duties as a judge. Each protection plays an important part in allowing our judiciary to fulfil their oath of office to discharge their duties according to law and to the best of their knowledge and ability without fear or favour or affection or ill will.

As the Honourable Chief Justice Murray Gleeson (as he then was) stated in 2005:

> The impartial administration of justice according to law is a power and a duty of government …

> Independence of the judiciary asserts that independence is essential to the proper performance by the judiciary of its functions in a free society observing the rule of law. It affects both the quality of judicial performance and the acceptability of decisions. Confidence in the administration of justice depends upon a general assumption that judges act according to law, and free from pressure or interference of a kind that might deflect them from their duty.

This bill will strengthen the independence of the Victorian judiciary and public confidence in our courts by securing a more independent structure for the administration that supports the judiciary in the exercise of their functions.

It is useful to put this reform in a historical context.

A paper by Professor I. R. Scott included as an appendix to the 1984 report of the Civil Justice Committee traces the history of the administration of the Supreme Court of Victoria. In the first decades of the court:

> The judges were the persons upon whom responsibility fell for seeing that the court was efficiently and effectively organised and that it was they who had the power to direct non-judicial staff and through the use of the rule-making powers, the authority to make such changes to the organisation and administration of the court as they thought necessary from time to time …
>
> They were in effect, collectively the permanent heads of the Supreme Court department of government.

Over time court administration, like government administration, grew in size and increased in complexity and court administrative staff became subsumed within larger departments whose responsibilities extended to matters well beyond court administration.

In 1985, Chief Justice Sir John Young described a vacuum that had developed in relation to court administration, with neither the judges nor the law department taking up the responsibility of court administration in the modern era.

The report of the Civil Justice Committee in 1984 had recommended a partnership model between the courts and the department to fill the void. The position of CEO of the Supreme Court was created and projects such as the introduction of word processing and computerisation of court records were commenced. However, structurally the arrangements remained the same.

In the last two decades of the 20th century, a number of jurisdictions both within Australia and overseas moved to provide courts with independent administrative structures.

The High Court in 1979 was provided with a separate administrative structure. The Federal and Family courts were similarly provided with control over the management of their administration in 1989 with the passage of the Courts and Tribunals Administration Amendment Act 1989 (cth).

South Australia in 1993 established the Courts Administration Authority as a body governed by a judicial council, independent of control by the executive government, to provide courts with the administrative facilities and services necessary for the proper administration of justice.

In relation to Victoria, a 1991 report published by the Australasian Institute of Judicial Administration (AIJA) concluded that despite the reforms which had occurred the 'partnership model' between the Victorian courts and the department had not been successful. There were a number of calls and proposals for reforms in subsequent years, but these did not bear fruit.

In 2006, a paper by the Honourable Justice Tim Smith delivered at the Judicial Conference of Australia Colloquium highlighted the continuing and increasingly problematic nature of the executive model in Victoria and noted:

> The distribution of the authority and responsibility for administrative services for the courts has a direct bearing on the degree of judicial independence, community perceptions of that independence and the degree of the separation of the branches of government — key principles in our society.

In 2012, Chief Justice Marilyn Warren stated that:

> The present courts governance structure is inappropriate, clumsy and compromises the independence of the courts. This is a non-partisan matter that the courts have been explaining for almost 10 years.

This government committed in opposition to establishing a new courts administrative body independent of departmental or political control, subject to the Parliament and statutory accountability regimes the Parliament has created, to provide executive support for all Victorian courts and VCAT.

Upon coming to government we set about working with the Victorian judiciary to achieve this outcome. A steering committee was formed involving all jurisdictions and chaired by the Honourable Michael Black, AC, QC, former Chief Justice of the Federal Court, and undertook a significant amount of work considering various models of court administration.

In 2012 an administrative reorganisation of the Department of Justice created the Courts and Tribunals Service as a transitional step to ensure that the new body would have the capabilities required to support the courts and VCAT independently of the Department of Justice.

An advisory council comprising the heads of jurisdiction and chaired by the chief justice was established to oversee the transition. The council has been working closely with an interim CEO and the Department of Justice to put in place the structures necessary to support the courts and VCAT.

The advisory council has also been closely involved in the development of this bill and I am pleased to report that the heads of jurisdiction have expressed their unanimous support for the legislation. They consider this to be a historic milestone for Victorian courts.

The bill establishes Court Services Victoria (CSV) as a new court-focused and court-administered statutory body to provide the services and facilities needed by Victoria's judiciary and court users.

Court Services Victoria will allow the judiciary and their senior executives to develop efficient, innovative, whole-of-system approaches to court administration.

The courts themselves will remain as separate entities and their governing councils, internal arrangements and rule-making responsibilities will remain unchanged.

Each jurisdiction will maintain responsibility for directing its individual functioning, while allowing the courts and tribunals and their executives to come together with the chief executive officer to manage CSV as a whole.

The main function of CSV will be to provide, or arrange for the provision of, the administrative facilities and services necessary for the performance of the judicial and administrative functions of the courts and VCAT.

The governing body of CSV will be the Courts Council. It will be chaired by the chief justice and will comprise the heads of each jurisdiction and up to two co-opted non-judicial members. The Courts Council will direct the strategy and governance of CSV. This will create not only a governing structure independent of the direction of executive government, but also one closely integrated with the courts and VCAT, and able to respond to emerging issues and innovate based on firsthand knowledge and experience.

The CSV chief executive officer will be responsible for managing CSV's day-to-day operations and staffing, with powers, functions and obligations similar to those of chief executive officers in other independent statutory bodies.

Each jurisdiction will continue to have a chief executive officer for that jurisdiction. They will be appointed by the council on the nomination of the head of jurisdiction and will be responsible to the head of jurisdiction for the management of the administrative functions of that jurisdiction.

The allocation of public resources to each court will continue to be determined through usual budgetary processes accountable to the Parliament, and Court Services Victoria will provide administrative staff and facilities to each court in accordance with that court's budget.

The transfer of responsibility for court administration to CSV and the Courts Council means that those bodies will be directly accountable to the Parliament and the bodies Parliament has established to ensure public accountability for the stewardship of public resources, the use of taxpayers money and the effective use and management of administrative staff on the public payroll.

As Chief Justice French of the High Court of Australia stated in 2011 about public accountability for courts management:

> [T]he courts use public resources and the taxpayers who fund them are entitled to know that the courts are using those resources efficiently.
>
> The use of performance indicators for courts is a way of trying to account for their use of public funds. It is not an infringement of the separation of powers or of judicial independence.

The importance of accountability was reinforced by Chief Justice Marilyn Warren in 2012, saying:

> There is perhaps greater pressure to ensure transparency in court administration, and in particular, accountability for money spent and actions taken. Statutory external review bodies have an important role to play in investigating the non-judicial administrative functions of courts and holding administrative officers accountable. The issues they highlight and the recommendations they make at a systemic level can contribute to improvements in public administration.

In the same paper, Chief Justice Warren pointed out that care needs to be taken to ensure that external review bodies do not interfere with the independent exercise of judicial power.

This bill recognises the importance of accountability by CSV and the Courts Council for the management of public funds. The bill seeks to strike an appropriate balance by ensuring that parliamentary oversight and statutory accountability mechanisms and the jurisdiction of external review agencies will apply to the CSV, but with appropriate protections for the independent exercise by members of the judiciary of judicial and quasi-judicial functions.

With the introduction of this bill, Victoria's court system embarks on one of the most significant periods of change in its nearly 160-year history, by vesting administration of Victoria's courts in the courts themselves, answerable to Parliament and statutory accountability regimes rather than to control by the executive government, and with the freedom to manage their operations efficiently and effectively and to innovate and reform, to the benefit of court users and the broader Victorian community.

I commend the bill to the house.

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

Debate adjourned until Thursday, 19 December.

ELECTRICITY SAFETY AMENDMENT (BUSHFIRE MITIGATION) BILL 2013

Introduction and first reading

Received from Assembly.

Read first time for Hon. P. R. HALL (Minister for Higher Education and Skills) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. P. R. HALL (Minister for Higher Education and Skills), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Electricity Safety Amendment (Bushfire Mitigation) Bill 2013.

In my opinion, the Electricity Safety Amendment (Bushfire Mitigation) Bill 2013 as introduced to the Legislative Council is compatible with the human rights protected by the charter

act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The main purpose of the bill is to amend the Electricity Safety Act 1998 (the act) in relation to requirements to keep trees clear of electric lines and obligations on major electricity companies with respect to bushfire management plans.

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

Right to privacy

Section 13(a) of the charter act provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with.

Clause 7 of the bill substitutes section 84 of the act with new sections 84A to 84D. New section 84B(1) provides an occupier of land that is contiguous to land on which there is a private electric line is responsible for the keeping of the whole or any part of a tree situated on the occupier's land clear of the line. Subsection (2) then provides that the occupier may enter onto that land for the purpose of fulfilling this responsibility.

New subsection 84B(2) is relevant to the right to privacy in that it empowers a person to enter another person's property for the purpose of keeping a tree clear of an electric line. However, in my view this does not limit the right to privacy as it does not amount to an interference with privacy that is either unlawful or arbitrary. An occupier's responsibility under new section 84B is for the important purpose of mitigating against the fire risks arising from trees being too close to electric lines. Empowering an occupier to enter another person's land (for example, another person's backyard into which a tree on the occupier's land intrudes) in order to prune or remove such a tree is directly linked to this purpose. Further, the occupier may do only what is necessary to keep the tree clear of the line.

The Hon. Peter Hall, MLC
Minister for Higher Education and Skills
Minister responsible for the Teaching Profession

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 will improve the effectiveness and efficiency of regulatory arrangements for mitigation of bushfire risk in relation to electricity assets.

The changes set out in this bill will reduce the risks of powerlines starting bushfires in low-density residential areas on the urban fringe. By tightening requirements to keep vegetation clear of powerlines in these areas, the bill will mitigate risks to urban land and increase preparedness for periods of high bushfire danger.

The obligations of powerline operators, established by Victoria's electricity safety regulatory regime, vary according to an area's fire hazard risk. These obligations include responsibility for keeping trees clear of powerlines and inspecting powerlines.

The Electricity Safety Act 1998 treats urban areas as low bushfire risk areas by default. The bill will amend the act to provide that urban areas are those predominantly subdivided into residential lots no larger than 0.1 hectares, rather than 0.4 hectares as is currently the case. Higher bushfire mitigation standards — for example, more frequent inspection of powerlines — will apply to lots between 0.1 and 0.4, unless the relevant fire authority assigns a fire hazard rating of 'low'. This amendment recognises that such lots may have untended grassland or extensive tree cover that can carry fire.

Currently, the Electricity Safety Act 1998 provides that managers of public land in urban areas, including school councils and committees of management, are responsible for clearing trees from electricity lines on that public land.

The bill amends the act to clarify that for managers of public land such as school councils and committees of management, distribution companies will now have the responsibility for clearing trees from electricity lines on that public land. Where municipal councils currently have responsibility for clearing trees from electricity lines on public land there is no change to these obligations as a result of these amendments. The effect overall is to avoid the confusion and inefficiencies associated with having a multitude of land managers undertaking small-scale tree-clearing activities.

The bill will also transfer the responsibility for electric line clearance from VicRoads to the distribution companies. This will avoid the current uncertainty associated with determining whether or not VicRoads established a plantation and is therefore responsible under the Electricity Safety Act 1998 for tree-clearing responsibilities on that plantation.

Currently, distribution and transmission companies must submit annual bushfire mitigation plans to Energy Safe Victoria for its approval. To reduce the administrative burden, whilst maintaining effective bushfire mitigation activities, the bill will amend the Electricity Safety Act 1998 to make bushfire mitigation plans valid for five years rather than annually. Companies will be required to advise Energy Safe Victoria of any substantive changes to their plans during each five-year period and lodge revised plans if necessary, just as they must do now for electricity safety management schemes.

Finally, the bill will amend the Electricity Safety Act 1998 to require a distribution or transmission company to publish on its website, and make available for inspection at its office, a summary of its bushfire mitigation plan rather than the whole plan. The plans themselves are technical in nature, and a summary will be a more meaningful source of information for the public.

The bill also makes minor consequential changes.

I commend the bill to the house.

Debate adjourned on motion of Mr LEANE (Eastern Metropolitan).

Debate adjourned until Thursday, 19 December.

SUSTAINABLE FORESTS (TIMBER) AND WILDLIFE AMENDMENT BILL 2013

Introduction and first reading

Received from Assembly.

Read first time for Hon. P. R. HALL (Minister for Higher Education and Skills) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. P. R. HALL (Minister for Higher Education and Skills), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the 'charter act'), I make this statement of compatibility with respect to the Sustainable Forests (Timber) and Wildlife Amendment Bill 2013 (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 opinion on the reasons outlined in this statement.

Overview of bill

The bill amends the Sustainable Forests (Timber) Act 2004 (the 'SFT act'), Wildlife Act 1975 (the 'Wildlife Act') and Safety on Public Land Act 2004.

The main purposes of the bill are to amend the SFT act to establish and provide for the enforcement of timber harvesting safety zones, enforceable undertakings and exclusion orders, and to amend the Wildlife Act to provide for banning notices and exclusion orders. The primary objective of these amendments is to preserve public safety.

Human rights issues

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

Freedom of movement

Section 12 of the charter act provides that every person lawfully within Victoria has the right to move freely within Victoria. Several clauses of the bill enable an authorised officer, police member or court to restrict a person from an area they may ordinarily have access to.

Clause 6 of the bill inserts a new part 7A into the SFT act which concerns the declaration and regulation of coupes, nearby roads and state forest areas as 'timber harvesting safety zones'. New section 77G provides that a person (other than an authorised person) must not enter, or remain in, a timber harvesting safety zone if notice of the zone has been conspicuously displayed on or near the zone, and in the case of operations conducted by VicForests, published on VicForests internet site. Notice of a zone must specify the precise location of the zone, the commencement date of operations in the zone, and state that offences and penalties apply in relation to the zone. New section 77D provides that an authorised officer may direct a person to leave a timber harvesting safety zone and attaches a penalty to a refusal or failure to follow such a direction.

Clause 14 of the bill inserts a new part 9B into the SFT act empowering a court to make an order excluding a person from a timber harvesting safety zone or any state forest area. To make such an order a court must find the person guilty of a certain specified offence (for example, refusing or failing to comply with an authorised officer's direction to leave a timber harvesting safety zone, or hindering, obstructing or interfering with timber harvesting operations) and be satisfied that the order 'may be an effective and reasonable means of preventing the offender from committing a further specified offence'. New section 94G provides that an authorised officer or member of the police force may direct a person contravening an exclusion order to leave that area. Refusal or failure to comply with such a direction is subject to penalty. When issuing a direction, the officer or member of the police force must make all reasonable attempts to ensure that the person understands the direction.

Clause 20 of the bill inserts a new section 58C(1) into the Wildlife Act, which provides that a person must not, without licence or authorisation, enter on or remain in any specified hunting area at certain times during duck season. Clause 23 of the bill inserts a new part VIIA, within which new section 58G permits an authorised officer or police member to issue a notice banning a person from specified hunting areas if they believe on reasonable grounds that the person has committed or is committing a specified offence (for example, interfering with, harassing, hindering or obstructing a person who is engaged in hunting or taking game in a specified hunting area). The period specified in the banning notice must not exceed the remaining period of the open season in which it was issued and only applies to the times specified in the notice. New sections 58J, 58K and 58L make it an offence to contravene a banning notice, provided an authorised officer or member of the police force has directed the person in contravention of a banning notice to leave the specified hunting area (such direction to be reasonable in all the circumstances), and attach a penalty to a refusal or failure to comply with such a direction. Under section 58C(3) a banning notice must not be issued unless the authorised officer or police member believes on reasonable grounds that either the banning notice will be effective to prevent or deter the continuation of or commission of further specified offences or that the continuation of the offence will risk the safety of any person or will hinder or obstruct lawful hunting.

New part VIIA also empowers a court to make an order excluding a person from a specified hunting area if the court finds the person guilty of a certain specified offence and is satisfied that the order 'may be an effective and reasonable means of preventing the offender from committing a further specified offence'. A penalty is attached to contravention of such an order. The exclusion period specified in the order must not exceed 12 months in length and may only apply to duck hunting seasons and the times specified in the order.

New sections 58P and 58Q provide that an authorised officer or member of the police force may direct a person contravening an exclusion order to leave the specified hunting area (such direction must be reasonable in all the circumstances). Refusal or failure to comply with such a direction is subject to penalty.

To the extent that the right to freedom of movement may be limited by these provisions, I consider any limitation is reasonable pursuant to s 7(2) of the charter.

The purpose of these provisions is to allow authorised timber harvesting under the SFT act, and authorised duck hunting under the Wildlife Act, to occur without hindrance. The provisions also aim to reduce safety risks to persons engaging in timber harvesting and duck hunting, to protesters and authorised officers and police members, and any other persons who may be present. I am of the opinion that restricting access to these areas, providing the measures outlined constitute the most rational, and least restrictive, means of effectively achieving these purposes.

Furthermore, I am of the opinion that the exclusion orders under the new part 9B of the SFT act and the new part VIIA of the Wildlife Act constitute the least restrictive measure available for achieving the abovementioned purposes. The scope of the exclusion orders are strictly limited in respect of the area to which they will apply and the maximum duration is 12 months. These orders may only be made by a court following a finding that the person has committed a specified offence and, additionally, where the court is satisfied that an order may be an effective and reasonable means of preventing the commission of a further specified offence. Additionally, in making an exclusion order under either act, a court must take into account the likely effect of the order on the person, which will include consideration of the extent to which the exclusion order infringes their human rights.

Freedom of expression and assembly

Section 15 of the charter act provides that every person has the right to freedom of expression. Section 15(3)(b) permits limitation of this right as reasonably necessary for the protection of public order and public health.

In certain circumstances, the provisions of the bill which restrict access to certain areas may interfere with freedom of expression, in that persons may wish to access those areas for the purpose of protesting. However, these provisions are necessary to reduce significant health and safety risks, both to duck hunters and timber harvesting operators, persons who wish to protest against such activities and authorised officers and police members. Accordingly, I consider that the provisions of the bill constitute permissible limitations on the right to freedom of expression.

For the same reasons, I consider that any interference with the right to freedom of assembly under section 16 of the charter act by these provisions of the bill are reasonable and demonstrably justified pursuant to section 7(2) of the charter act.

Right to privacy and reputation

Section 13 of the charter act provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with and not to have his or her reputation unlawfully attacked.

Publication of failure to comply

Clause 7 of the bill inserts several new provisions into the SFT act relating to the monitoring and enforcement of undertakings entered into by the secretary and a person who has carried out unauthorised timber operations. New section 83B permits the secretary to publicise the failure of a person to comply with the enforcement process for an undertaking. The secretary may only make such a publication where a person has failed to comply with an order of the Magistrates Court made for the purpose of ensuring compliance with an undertaking, and has subsequently failed to respond to a written notice. The secretary may also publicise a person's failure to comply with an undertaking where that person is found in contempt of court for failing to comply with an order of the Magistrates Court.

The publication of a person's failure to comply with a notice following their contravention of an undertaking may negatively affect that person's reputation. However, I consider that any interference with the right to reputation by new section 83B is lawful. The bill sets out precise and reasonable circumstances in which publication of this information may occur. Publication of this information will only occur after a person has refused to comply with both the original undertaking and a subsequent order of the Magistrates Court. In this regard, the publication of a person's failure to comply with the enforcement process constitutes a measure of last resort to encourage compliance. Publication also promotes transparency and accountability in relation to undertakings more broadly.

Register of undertakings

Clause 7 inserts a new section 83C into the SFT act, which requires the secretary to maintain a register of undertakings entered into with persons who have carried out unauthorised timber operations. Any person may inspect the register of undertakings at any reasonable time without charge. In my view, this does not limit the right to privacy as it is neither unlawful nor arbitrary. A person who voluntarily enters into an undertaking with the secretary would do so on the basis that they are subject to the enforcement process in new section 83B and therefore would expect the details of such undertakings to be publicly available. Further, public availability promotes transparency and accountability in relation to undertakings more broadly.

Information sharing

Clause 23 of the bill inserts a new section 58R into the Wildlife Act, which provides that the secretary and members of the police force may share information concerning the issuing of a banning notice or an exclusion order under the Wildlife Act. The information which may be disclosed includes the fact of, and details of, a banning notice or exclusion order, and information which the secretary or police member thinks fit to share for the purposes of the effective and efficient enforcement of the notice or order. The information shared under this section is likely to include private information.

I consider that new section 58R does not interfere with the right to privacy in a manner which is unlawful or arbitrary. The section strictly limits the permitted disclosure to information which is directly related to the effective monitoring of compliance and enforcement of the relevant banning notice or exclusion order. Further, any information

disclosed under this provision is subject to the protections in the Information Privacy Act 2000.

Requirement to provide name and address

Clause 24 inserts a new subsection into section 61 of the Wildlife Act, which requires a person to provide their name and residential address to an authorised officer or police member who intends to issue a banning notice to that person.

In my opinion, clause 24 does not limit the right to privacy because any interference is lawful and not arbitrary. The disclosure of any private information under clause 24 is specifically authorised as a necessary component to giving effect to banning notices, and such information can only be required of a person whom an authorised officer suspects on reasonable grounds has committed or is committing a specified offence.

Right to property

Section 20 of the charter act provides that a person must not be deprived of his or her property other than in accordance with law. A deprivation of property is in accordance with the law when the deprivation occurs under powers conferred by legislation which is formulated precisely and will not operate in an arbitrary manner. The bill contains several sections which may engage the right to property.

Clause 8 of the bill amends section 88(1) of the SFT act, which concerns the power of authorised officers to seize items. The SFT act currently empowers authorised officers to seize items used in the commission of an offence. The effect of clause 8 is to extend this power to include the seizure of items in circumstances where a person 'is about to commit' an offence using that item. Clauses 9 and 10 of the bill set out the procedure for the return of certain items that fall into a defined category of 'prohibited things'. Except in certain specified circumstances in new section 89A(4) of the act, a prohibited thing must not be returned after it is seized, and is instead forfeited to the Crown under the provisions set out in clauses 11 and 12 of the bill.

These provisions do not infringe the right to property because the deprivation of property, if any, is provided for by law of sufficient clarity and is not arbitrary. An item may only be seized in circumstances where the item is connected to the past, current or pending commission of an offence, and with the exception of prohibited things, a person who is subsequently not convicted of an offence relating to the seized item is entitled to have that item returned. The excluded category of 'prohibited things' only applies to a specified and strictly limited set of items that may readily be used in activities that have the potential to cause a significant safety, security or environmental risk (namely, boltcutters, cement or mortar mix, metal or timber frames, steel chains and shackles or joining clips). Moreover, the bill contains safeguards to ensure that any deprivation of property is not arbitrary, including the requirement that the person is provided with a written receipt for any item seized and is informed of their right (if any) to have the item returned.

Conclusion

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

The Hon. Peter Hall, MLC
Minister for Higher Education and Skills
Minister responsible for the Teaching Profession

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 amends the Sustainable Forests (Timber) Act 2004 (SFTA), the Wildlife Act 1975 and the Safety on Public Land Act 2004 (SPLA).

The two key elements to this bill are about increasing public safety and reducing disruptions to lawful timber harvesting and duck hunting activities by unlawful protest activities. Forestry operators and duck hunters should be able to pursue their lawful commercial operations and recreational pursuits without disruption, intimidation or interference and without risks to their safety.

Further, authorised officers should be able to focus on their core role of ensuring compliance with game and forestry regulations, including that environmental and biodiversity standards are adhered to, rather than diverted to managing illegal protest activity.

The Victorian coalition government supports peoples right to protest. This bill preserves that right, so long as such activities do not put anyone's safety at risk or break the law.

Timber harvesting sites are dangerous places. When protesters attempt to prevent duck hunting from taking place, it creates a dangerous situation. To minimise health and safety risks, it is imperative that only those who are authorised to be in such places are there. This bill is for the safety of all:

duck hunters;

timber harvesting operators;

authorised officers;

protesters; and

authorised persons, such as environmental auditors, who are in the vicinity.

The current protester management framework has proved to be limited in deterring both anti-duck-hunting and timber harvesting protesters from disrupting lawful forestry operations and game hunting activities. Just as timber harvesting operators and duck hunters must comply with relevant environmental and wildlife protection provisions, protesters too must not disrupt these legitimate economic and recreational activities.

The changes to penalties and potential restrictions, such as exclusions and court orders, aim to deter those who disrupt lawful forestry operations and duck hunting activities.

First, I shall detail the bill as it relates to the SFTA.

The bill expands the purposes of the SFTA to provide for timber harvesting safety zones and to deter unlawful protest activities that are unsafe and disrupt timber harvesting operations. It is important that addressing these issues is clearly acknowledged in the purposes of the SFTA.

The bill includes a number of new definitions to clarify amendments and additions to the SFTA. The definitions will assist people to understand who is an authorised person and therefore legally allowed to enter a timber harvesting safety zone, as well as terms related to the new sections.

The bill replicates and expands on the sections of the SPLA relating to public safety zones, offences and powers. Rather than have provisions scattered across the 'rulebook' for public safety in timber harvesting operating areas, it makes sense for such sections to be included in the SFTA. The SFTA is the enabling legislation for timber harvesting operations.

The bill provides for timber harvesting safety zones. These zones are akin to public safety zones declared under the SPLA. A timber harvesting safety zone is to be a coupe, any road that is within that coupe and any area of state forest that is within 150 metres from the boundary of that coupe. The bill specifies notice requirements for these zones.

The bill includes offences relating to timber harvesting safety zones:

> it will be an offence to enter or remain in a timber harvesting safety zone if you are not an authorised person;
>
> removing or destroying a barrier or fence that has been erected to prohibit or restrict access to a timber harvesting safety zone is an offence;
>
> allowing a dog to enter a timber harvesting safety zone will be an offence. Furthermore, authorised officers will be empowered to direct a person who is in apparent control of a dog in a timber harvesting safety zone, to remove the dog from the zone;
>
> hindering, interfering or obstructing timber harvesting operations will be an offence;
>
> possessing a prohibited thing in a timber harvesting safety zone, unless you are an authorised person, will be an offence. A prohibited thing is defined in the bill as: a boltcutter; cement or mortar mix; a constructed metal or timber frame; a linked, or a heavy steel chain; and a shackle or joining clip;
>
> further, the bill provides that it will be an offence to intentionally use a prohibited thing to hinder, obstruct or interfere with timber harvesting operations.

The bill empowers a court to make an order excluding an offender from a timber harvesting safety zone or an area of state forest for a period not longer than 12 months. A court is to consider the matters specified in the bill in making such an order. Contravening an exclusion order is a serious offence and the penalty in the bill reflects this.

The bill expands the powers of Department of Environment and Primary Industries authorised officers to seize items. They may seize any item where they believe, on reasonable grounds, that an offence has been, or is being, committed. They may also seize any item where they believe, on reasonable grounds, that an offence is about to be committed.

The bill amends the sections of the SFTA relating to return and forfeiture, to apply where an item considered to be a prohibited thing has been seized.

The bill inserts a new schedule. The schedule lists authorised persons for the purposes of timber harvesting safety zones. Authorised persons include, for example, environmental auditors within the meaning of the Environment Protection Act 1970; a Department of Environment and Primary Industries employee, police, authorised officers, and licence or permit-holders under section 52 of the Forests Act 1958 for certain defined purposes.

The bill is not intended to affect native title rights and interests.

The bill makes consequential amendments to the SPLA. The sections of the SPLA relating to timber harvesting are no longer necessary with the passing of this bill.

The bill also makes some minor amendments to the SFTA to improve the environmental regulatory framework. It includes a new enforcement option called enforceable undertakings. These binding agreements between the offender and the Department of Environment and Primary Industries are already in use by EPA Victoria and are proven as an effective tool to settle a contravention of the law and restore the harm caused to the environment and the community.

The undertakings also implement systemic change within a business or by an individual to prevent future breaches of the law and to therefore protect the environment. The actions in an enforceable undertaking must deliver benefits to a business, industry sector or community that go beyond mere compliance with the law.

The bill also extends the time for bringing proceedings against an alleged offender from the current 12 months to two years, consistent with provisions in the Wildlife Act 1970. This allows more time to collect evidence and prepare briefs for proceedings that relate to incidents in a forest that may be remote and difficult to access and therefore remain undetected for some time. Applying a two-year period will ensure that the Department of Environment and Primary Industries has a better and more effective environmental enforcement regime.

The bill also amends the Wildlife Act 1975.

Duck hunting is a popular recreational activity in Victoria, with 25 000 people currently licensed to hunt ducks. Since the early 1990s, anti-duck-hunting protesters have entered wetlands and physically clashed with duck hunters, competed with hunters for downed birds and attempted to disrupt hunting by standing in the way of hunters and scaring birds away by making noise, wearing highly visible clothing and waving flags.

This is a particularly dangerous situation as firearms are involved and the environments in which duck hunting takes place can be hazardous. This was clearly demonstrated on the opening weekend of the 2011 duck season when a protester was accidentally shot in the face while in a specified hunting area during a prohibited period and narrowly avoided serious injury or death.

The Wildlife Act currently contains three offences that are intended to maintain order and physically separate anti-duck-hunting protesters and hunters on wetlands to ensure their safety, as well as the safety of authorised officers, while minimising the impact on unauthorised peoples freedom of movement, freedom of expression and freedom of assembly. These offences:

> prevent unauthorised persons from entering or remaining in specified hunting areas for periods of heightened hunting activity during the duck hunting season;
>
> prohibit unauthorised persons from approaching within 10 metres of a person who is carrying a firearm or engaged in hunting or taking game birds in specified hunting areas during the duck season; and
>
> prevent people from hindering, harassing, obstructing or interfering with people engaged in hunting or taking game.

Presently, the penalties for failing to comply with these laws are too low and are failing to have any deterrent effect, failing to achieve the desired public safety outcomes, failing to reflect the seriousness of the offence and its possible consequences and failing to allow the courts to impose sentences that are proportionate to the harms. Anti-duck-hunting protesters routinely breach these provisions, putting at risk the safety of protesters, hunters and authorised officers. Therefore the bill will increase the penalty for these three offences to 60 penalty units, reflecting the seriousness of the offence.

Some protesters repeatedly offend. These recidivist offenders are often more aggressive, confrontational, pose the greatest risk to public safety and cause the greatest amount of disorder and disruption. For this reason, the bill will introduce additional instruments with appropriate penalties, including for those who repeatedly offend. The bill will introduce banning notices and exclusion orders to be made in relation to designated hunting areas.

An authorised officer or member of the police force who suspects on reasonable grounds that a person is committing or has committed a specified offence wholly or partly in a designated area may issue the person a notice banning him or her from the designated area or part of the designated area for the remainder of the duck season in which it was issued and only during those periods of heightened hunting activity. It will be an offence to contravene a banning notice.

In addition, the bill will introduce the ability for the courts to make an exclusion order, prohibiting persons from entering the designated area or parts of a designated area for a period of up to 12 months. Within this period, exclusion from the designated area may only apply during any duck hunting season, including up to 24 hours prior to the commencement of these periods. It will be an offence to contravene an exclusion order.

Several minor technical amendments to the Wildlife Act are also proposed.

The bill does not remove a person's ability to protest against duck hunting or timber harvesting. However, it does require that it is done in a lawful, safe and responsible manner.

I commend the bill to the house.

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

Debate adjourned until Thursday, 19 December.

MINERAL RESOURCES (SUSTAINABLE DEVELOPMENT) AMENDMENT BILL 2013

Introduction and first reading

Received from Assembly.

Read first time for Hon. P. R. HALL (Minister for Higher Education and Skills) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. P. R. HALL (Minister for Higher Education and Skills), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the 'charter act'), I make this statement of compatibility with respect to the Mineral Resources (Sustainable Development) Amendment Bill 2013 (the 'bill').

In my opinion, the Mineral Resources (Sustainable Development) Amendment Bill 2013, as introduced to the Legislative Council, is compatible with human rights as set out in the charter act. I base my opinion on the reasons outlined in this statement.

Overview

The Mineral Resources (Sustainable Development) Amendment Bill 2013 amends the Mineral Resources (Sustainable Development) Act 1990 (the 'act'). Its main purpose is to reduce regulatory burden on the minerals and extractive services. It does this by amending the definition of low-impact exploration, amending various licence provisions to ensure consistent licensing processes and amending provisions relating to the work plans which manage social, environmental and economic risks and outcomes.

Human rights issues

The holders of licences, owners and occupiers referred to in this statement may include both individuals and corporations. However, only persons who are human beings have human rights (see ss 3(1) and 6(1) of the charter act). To the extent that this statement refers to persons, it is referring to persons that have human rights.

Privacy and property

Section 13 of the charter act provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with.

Section 20 of the charter act provides that a person must not be deprived of his or her property other than in accordance with law.

Under part 2 of the act, holders of mining or prospecting licences are entitled to carry out mining or prospecting on the land covered by the licence, as well as explore for minerals, construct any facilities specified in the licence (e.g. roads, drains, dams) and do anything else that is incidental to that mining or prospecting.

Clause 21 of the bill will amend s 42 to insert new sub-ss (1)–(5) of the act, which prevent holders of mining or prospecting licences from carrying out work on private land covered by the licence unless:

> they have obtained the written consent of the owners and occupiers of the land affected;
>
> they have made and registered compensation agreements with those owners and occupiers; and
>
> the compensation payable has been calculated in accordance with the act.

However, if the licensee is unable to determine the name and address of the owners and occupiers of the land, the licensee may apply to the department head to have these requirements waived. Should these requirements be waived, this could interfere with a person's rights to privacy and property under the charter act, and the licensee would be then able to carry out work on private land without the consent of the owners and/or occupants of that land.

Nonetheless, any deprivation of a person's privacy or property will be lawful and not arbitrary as the department head may only grant such an application if, in his or her opinion, the licensee has made all reasonable efforts to determine the name and address of the owners and occupiers of the land. The department head may also require the licensee to advertise the licensee's intention in a specified edition of a newspaper circulating generally in the area in which the land is situated or post a notice on the land affected stating that the licensee intends to start work on that land.

Further, part 8 of the act sets out the circumstances in which compensation may be payable to the owners and occupiers of private land for any consequential loss or damage that may occur as a result of the mining and prospecting works.

Accordingly, I consider that this clause does not limit ss 13 and 20 of the charter act.

Cultural rights

Section 19(1) of the charter act provides that all persons with a particular cultural, religious, racial or linguistic background must not be denied the right (in community with other persons of that background) to enjoy his or her culture.

Section 19(2) of the charter act provides that Aboriginal persons hold distinct cultural rights and must not be denied the right (with other members of their community) to maintain their distinctive spiritual, material and economic relationship with land and waters and other resources with which they have a connection under traditional laws and customs.

Clauses 23 and 26 of the bill will amend ss 45(1)(a), 47(1)(b) and 47(1)(c) to repeal the existing prohibition of work within 100 metres laterally of, or below, land which is subject to an ongoing protection declaration under the Aboriginal Heritage Act 2006 or any Aboriginal place registered in the Victorian Aboriginal heritage register under that act. These clauses also repeal the existing prohibition of work within 100 metres laterally of, or below, any archaeological site listed on the heritage inventory or registered on the heritage register under the Heritage Act 1995.

The protection of these sites which exists under, respectively, the Aboriginal Heritage Act 2006 and the Heritage Act 1995 will remain as these acts prohibit activities which will, in short, be harmful to these sites. As a consequence, mechanisms for the protection of Aboriginal and non-Aboriginal cultural heritage will continue to operate.

For these reasons, I consider that this clause does not limit s 19 of the charter act.

The Hon. Peter Hall, MLC
Minister for Higher Education and Skills
Minister responsible for the Teaching Profession

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill seeks to further the government's commitment to maintaining an effective and robust regulatory framework for the earth resources sector in Victoria. The earth resources sector, including the mining and extractive industries, is a valuable part of the Victorian economy and provides an important source of economic growth and stability, particularly in regional Victoria.

This bill makes amendments that have arisen from the government response to the recommendations made by the Economic Development and Infrastructure Committee in its report of the *Inquiry into Greenfields Mineral Exploration and Project Development in Victoria*. The bill also makes amendments arising out of the second phase of the review of the Mineral Resources (Sustainable Development) Act 1990.

The bill will require the value of known or potential mineral values, as well as social and economic implications, to be taken into account prior to a decision being made to exempt land from being subject to a licence and thereby preclude it from development. This will provide greater consideration of mineral resources before precluding potentially mineral-rich land from future development.

Rehabilitation bonds are reviewed regularly and reduced rehabilitation bonds apply during the early development stage of a new mining and quarrying project. In order to ensure that any increased bond amount is paid promptly by an authority-holder, the bill will provide for the issuing of a

penalty to a licensee for failure to pay a further rehabilitation bond (namely, an increase in the bond amount). This will ensure that requests for a further rehabilitation bond are complied with.

The bill establishes statutory time frames for the Department of State Development, Business and Innovation to process licence applications, work plan and work plan variation applications. Applications for exploration and prospecting licences will be granted or refused within 90 days from the date of acceptance of the application, subject to applicants submitting all required information. Retention and mining licences will be granted or refused within 120 days from the date of acceptance of the application. In addition, the department must respond to applications for statutory endorsement of work plans and work plan variations within one month.

The bill provides a framework to redirect the regulatory focus of work plan requirements away from lengthy, detailed documentation and towards outcomes to better manage risks. This will ensure that any risks that an operation may present are identified and either eliminated or remediated. It will reduce work plan documentation, and in particular reduce the need for work plan variations.

Currently there is no uniformity between mineral and extractive authority-holders when applying to the Victorian Civil and Administrative Tribunal for review of certain decisions made by the department relating to work plans. There is also no uniformity between mineral and extractive authority-holders in applying for work plan variations where an environment effects statement has been undertaken. The bill introduces more consistent work plan provisions where there is no practical reason for distinguishing between mining and extractive activities. It is important to note that this does not change the current work plan requirements; nor will it impose additional regulatory burden on industry.

To reduce the time and costs that proponents face in the approvals process, the bill replaces the need for a formal grant of a work authority for holders of prospecting and mining licences with a 'checklist' of requirements, as currently exists for exploration and retention licences.

The bill redefines low-impact exploration in terms of its risks and impacts rather the nature of the exploration activity to reduce the need for formal exploration work plans where risks and impacts are low. The effect of the redefinition will be that work plans will no longer be required for much routine exploration work, which may include narrow diameter drilling.

The bill also provides for low-risk small mining operations, carried out on licences less than 5 hectares in area, to be regulated under a code of practice rather than a formal work plan. This will be similar to the current Code of Practice for Small Quarries.

The bill removes redundant references to the Aboriginal Heritage Act 2006 and the Heritage Act 1995 from the Mineral Resources (Sustainable Development) Act 1990 in order to remove duplication of legislative protection of Aboriginal and non-Aboriginal cultural heritage.

Currently, the process for approving work under the Mineral Resources (Sustainable Development) Act 1990 involves the licensee having a work plan and any other necessary consents and approvals, including any rehabilitation bonds. These are all linked to a particular licence. A licensee who progresses from one type of licence to another over the same area is required to seek re-approval for the same activities. This can be a protracted process for licensees. The bill will enable the transfer of work plan approvals and other consents, including rehabilitation bonds, from one licence to another licence held by the same authority-holder over the same area. This will avoid approved work having to be discontinued while approvals are being regained.

To ensure integrity is maintained with existing licence-holders, the bill will give priority to applications made by existing licence-holders for the inclusion of vacated prospecting and small mining licence areas into surrounding exploration, retention or mining licences held by the existing licence-holders.

The amendments in this bill demonstrate the government's commitment to reducing administrative and regulatory burden on industry, while maintaining an effective and robust regulatory framework for the earth resources sector in Victoria.

I commend the bill to the house.

Debate adjourned for Mr MELHEM (Western Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 19 December.

DRUGS, POISONS AND CONTROLLED SUBSTANCES AMENDMENT BILL 2013

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the 'charter act'), I make this statement of compatibility with respect to the Drugs, Poisons and Controlled Substances Amendment Bill 2013.

In my opinion, the Drugs, Poisons and Controlled Substances Amendment Bill 2013, as introduced to the Legislative Council, is compatible with human rights as set out in 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 the Drugs, Poisons and Controlled Substances Act 1981 (DPCS act) to:

extend the definition of 'drug of dependence' to include drug analogues;

include 30 synthetic substances or classes of synthetic substances in the list of drugs of dependence in schedule 11 of the DPCS act;

allow Victoria Police to provide drugs of dependence, poisons or controlled substances, and substances or items used in illicit drug production to external laboratories in Victoria or in other states or the territories, for scientific testing and analysis; and

enable seized bongs, bong components or bong kits seized by Victoria Police in connection with the serving of infringement notices to be forfeited and destroyed in specified circumstances.

Human rights issues

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

Right to property and right to a fair hearing

Section 20 of the charter act provides that a person must not be deprived of his or her property other than in accordance with law. A deprivation of property is permitted if the powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than unclear, are accessible to the public and are formulated precisely.

Section 24(1) of the charter act provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. This right relates to procedural fairness, which is the right of the party to be heard and to respond to allegations made against him or her, and the requirement that the court be unbiased, independent and impartial.

Forfeiture and destruction of seized items if infringement notice served

The DPCS act was amended in 2012 to make it an offence to display a bong, bong component or bong kit at a retail outlet or to sell or commercially supply such an item. Under part VC of the DPCS act, police may seize such items if they have reasonable grounds for suspecting that relevant offences have been committed and may issue infringement notices for applicable offences. Where a court finds a person guilty of a relevant offence, the court may order the forfeiture and destruction of the seized item.

The objective of part 4 of the bill is to allow seized bongs, bong components or bong kits to be forfeited and destroyed not only when so ordered by a court following a finding of guilt, but when an infringement offence is expiated, to prevent the seized items being returned to display, sale or supply.

Part 4 of the bill confines these additional powers of forfeiture and destruction to the expiation of the infringement offence by payment of the infringement penalty, as set out in clause 12. The circumstances in which seized items must otherwise be returned to the person served with the infringement notice are set out in clause 10.

Specifically, clause 10 of the bill provides that police must take reasonable steps to return a seized bong, bong component or bong kit to the person on whom the infringement notice was served in certain circumstances. These are if the police member withdraws the infringement notice without referring the matter to the Magistrates Court, filing the matter in the Children's Court or issuing an official warning; if the Magistrates Court or the Children's Court cancels the infringement notice; or if the Magistrates Court or the Children's Court hears and determines the matter without making an order for forfeiture.

Clause 12 of the bill provides that any bong, bong component or bong kit seized by police in connection with the serving of an infringement notice is forfeited to the Crown if the person served with the infringement notice expiates the offence by payment of the infringement penalty in accordance with the Infringements Act 2006. Under clause 12(3) of the bill, the forfeited item may be destroyed in any manner the minister thinks fit, consistent with existing destruction powers under section 80ZD(2) of the DPCS act.

The forfeiture and destruction of seized bongs, bong components or bong kits amounts to a deprivation of property. However, in my view these rights are not limited. The forfeiture and destruction powers are contained in the bill and are therefore 'lawful' and 'in accordance with law'. The circumstances in which those powers may be exercised are confined, precise and proportionate to the objectives of the bill.

In particular, the bill confines the additional forfeiture and destruction of seized items to instances where the infringement offence is expiated by payment of the infringement penalty. The bill ensures that there is no interference with property where no offence has been committed.

The amendments are proportionate to the important purpose of part 4 of the bill, which is to take seized bongs, bong components and bong kits out of circulation and eliminate the risk of their being returned to display, sale or supply in retail outlets or commercial settings, in breach of the Drugs, Poisons and Controlled Substances Act 1981.

The bill ensures the right to a fair hearing is not limited by requiring police to take reasonable steps to return seized items in specified circumstances where the Magistrates Court or the Children's Court cancels the infringement notice or determines the matter without making a forfeiture order.

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 Drugs, Poisons and Controlled Substances Amendment Bill 2013 amends the Drugs, Poisons and Controlled Substances Act 1981 to ban drug analogues and other synthetic substances or classes of substances as illicit drugs. The bill also confers powers on Victoria Police to seek external scientific testing of drug-related exhibits and samples, and to destroy bongs, bong components or bong kits seized in connection with the serving of infringement notices.

Specifically, these amendments to the Drugs, Poisons and Controlled Substances Act 1981 will:

extend the definition of 'drug of dependence' to include drug analogues;

include 30 new synthetic substances or classes of synthetic substances in the list of drugs of dependence in schedule 11 of the Drugs, Poisons and Controlled Substances Act 1981;

allow Victoria Police to provide drugs of dependence, poisons or controlled substances, and substances or items used in illicit drug production to external laboratories in Victoria or in other states or the territories, for scientific testing and analysis; and

enable bongs, bong components or bong kits seized by police in connection with the serving of infringement notices to be forfeited and destroyed if the infringement offence is expiated.

I will now address each element of the bill in turn.

Drug analogues and other synthetic substances

The Victorian government is committed to maintaining strong laws against drug dealing and drug use, while supporting drug users to change their behaviour. This commitment is set out in our plan to bring down the alcohol and drug toll, *Reducing the Alcohol and Drug Toll — Victoria's Plan 2013–2017*.

Synthetic drugs pose an ever-increasing challenge for governments, law enforcement agencies and health services. These drugs are designed to mimic the effects of established illicit drugs such as ecstasy, cannabis and LSD. They are frequently marketed as 'legal highs', which contributes to the common perception that they are less harmful than illicit drugs. In fact, these drugs are not approved as safe for human consumption and there is limited knowledge about the health and dependency risks associated with their use.

The market for these drugs is expanding rapidly as drug producers alter the chemical compounds and marketing of these substances, online and in retail outlets, to appeal to consumers and evade drug laws and import restrictions.

The United Nations Office on Drugs and Crime warned in June this year that the use of new psychoactive substances was growing and that concerted action was needed to prevent the manufacture, trafficking and abuse of these substances. A total of 73 new psychoactive substances were reported in 2012 to the European Monitoring Centre for Drugs and Drug Addiction.

The Victorian government is deeply concerned about the rapid emergence of new synthetic drugs, their continuing availability online and in some retail outlets, and anecdotal reports from police and health practitioners about worrying and unpredictable effects on users such as seizures, agitation, increased heart rate and psychosis.

Last year, the Victorian government amended the Drugs, Poisons and Controlled Substances Act 1981 to extend a ban on synthetic cannabinoids and to ban several other synthetic substances.

In this bill we are imposing a ban on all drug analogues and on identified synthetic substances which have emerged since the amendments in 2012.

Drug analogues are synthetic substances that have structural similarities to known illicit drugs. Currently, the definition of 'drug of dependence' in the Drugs, Poisons and Controlled Substances Act 1981 includes 'any form' of a drug of dependence specified in part 1 or part 3 of schedule 11 of the Drugs, Poisons and Controlled Substances Act 1981. The definition states that these forms include a drug's derivatives, salts and isomers, but does not explicitly refer to its analogues.

Part 2 of the bill amends the definition of 'drug of dependence' to include the analogues of the drugs of dependence specified in part 1 or part 3 of schedule 11. The bill provides an extended definition of the term 'analogue', which has been modelled on the analogue clause in the commonwealth Criminal Code Act 1995, with some modifications.

Part 5 of the bill includes 30 new synthetic substances or classes of synthetic substances in the list of drugs of dependence in schedule 11 of the Drugs, Poisons and Controlled Substances Act 1981. The aim of these amendments is to deter the supply and use of these substances by declaring them to be illicit drugs and applying the same serious manufacturing, trafficking and possession offences as apply to the production, supply and possession of other illicit drugs.

These substances have been identified by Victoria Police and include stimulant drugs known to be emerging in Australia and overseas on the 'party' drug scene as substitutes for ecstasy. Other substances in the list include emerging forms of synthetic cannabinoids and synthetic hallucinogens. They include the 'NBOMe' series of drugs, known as 'N Bombs' or 'synthetic LSD', which have been the subject of recent media attention due to their reported potency.

It is widely acknowledged that the synthetic drug market is developing rapidly and that new policy and legislative approaches are necessary if regulatory responses are to keep pace with the market. This bill aims to provide an immediate response to the problem of synthetic substances in Victoria, but there is more work to be done. The Victorian government is working with other Australian jurisdictions on a longer term solution including the development of a national approach to new psychoactive substances.

External scientific testing of drug-related exhibits and samples

The bill inserts new provisions in the Drugs, Poisons and Controlled Substances Act 1981 enabling Victoria Police to supply drugs of dependence, poisons or controlled substances, precursor chemicals and other items used in illicit drug production to appropriately authorised external testing facilities for scientific testing and analysis.

Victoria Police currently has no explicit authority under the Drugs, Poisons and Controlled Substances Act 1981 to supply substances or items seized under that act to laboratories outside of its own forensic services department.

Victoria Police has requested this power so that it can participate in the Enhanced National Intelligence Picture — Illicit Drugs Project (ENIPID), a project being run by the Australian Illicit Drug Data Centre which operates within the Australian Federal Police. In partnership with state and territory jurisdictions, ENIPID obtains illicit drug samples from seizures within the states and territories and uses this domestic sampling to complete the national illicit drug intelligence picture from 'border to street'. Victoria Police has committed to assist with this important project if it can.

Additionally, Victoria Police needs the ability to have substances or items independently analysed by external testing facilities for purposes connected with criminal investigations, substance profiling or research. For example, in light of the emerging growth in analogue-type substances, Victoria Police needs the capacity to have substances analysed in laboratories capable of high-level chemical structural determinations.

Part 3 of the bill amends the Drugs, Poisons and Controlled Substances Act 1981 to enable the Chief Commissioner of Police to declare, by notice published in the *Government Gazette*, facilities to be 'declared testing facilities' and to authorise the supply to those facilities of drugs of dependence, poisons or controlled substances, substances or items used in the production of illicit drugs, or items suspected by police of being any of these things.

The bill specifies that declared testing facilities may be located in Victoria or in other states or the territories, and that the chief commissioner may attach conditions to a declaration regarding the possession, handling and storage of substances or items supplied to the facility.

It is expected that the declared testing facilities will include the forensic science testing facilities of other states and the territories, selected university laboratories, and suitably authorised and equipped private testing facilities. The criteria to be used by Victoria Police to identify appropriate testing facilities will include a facility's competence measured against relevant international standards for the competence of testing and calibration laboratories.

The bill specifies that substances and items may be supplied to declared testing facilities for the purposes of substance profiling, analytical testing or research, and must be returned to Victoria Police unless destroyed in the process of testing, as may sometimes occur with substance samples.

The bill expressly authorises persons employed or engaged by a declared testing facility to possess drugs of dependence or other things supplied by Victoria Police for approved purposes, and enables the chief commissioner to authorise persons to transport substances or items to declared testing facilities and return them to Victoria Police.

The bill further specifies that the chief commissioner must not authorise the supply of a drug of dependence or other thing to a declared testing facility outside Victoria unless satisfied that possession by that facility is permitted by the laws of the jurisdiction in which the facility is located.

Victoria Police applies strict internal standards and procedures to the handling, testing and storage of drug-related exhibits and samples. All matters relating to the movement, handling and security of substances or items to be supplied to declared testing facilities will be detailed in agreements between Victoria Police and the facilities, to ensure that exhibits and samples are stored, handled and managed to the required standards.

Forfeiture of seized bongs if infringement notice served

The bill inserts new provisions in part VC of the Drugs, Poisons and Controlled Substances Act 1981 to enable bongs, bong components and bong kits seized by police in connection with infringement offences to be forfeited and destroyed in specified circumstances.

The Drugs, Poisons and Controlled Substances Act 1981 was amended in 2012 to make it an offence to display a cannabis water pipe (or 'bong'), a bong component or a bong kit at a retail outlet or to sell or commercially supply such an item. Police may seize these items on suspicion that relevant offences have been committed and may issue infringement notices for applicable offences.

When a court finds a person guilty of an offence relating to the display, sale or supply of bongs, bong components or bong kits, the court may order the forfeiture and destruction of the seized item to which the offence relates, but there is no corresponding power to forfeit or destroy an item seized in connection with the serving of an infringement notice.

The objective of the provisions being inserted in the bill is to allow seized bongs, bong components or bong kits to be forfeited and destroyed not only when so ordered by a court following a finding of guilt, but when an infringement offence is expiated. This is to prevent the seized items being returned to display, sale or supply in retail outlets or commercial settings in breach of the Drugs, Poisons and Controlled Substances Act 1981.

Part 4 of the bill amends part VC of the Drugs, Poisons and Controlled Substances Act 1981 to provide that any bong, bong component or bong kit seized by police in connection with the serving of an infringement notice is forfeited to the Crown if the person served with the notice expiates the offence by payment of the infringement penalty. In this way, the bill confines forfeiture to instances where an infringement offence has been committed and expiated. The bill further provides that the forfeited item may be destroyed.

The bill requires Victoria Police to take reasonable steps to return bongs, bong components or bong kits seized in connection with infringement offences in specified circumstances, for example if a police member withdraws the infringement notice without issuing an official warning or referring the matter to the Magistrates Court, or if the Magistrates Court hears and determines the matter without making a forfeiture order.

I commend the bill to the house.

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

Debate adjourned until Thursday, 19 December.

PAPERS

Laid on table by Clerk:

Subordinate Legislation Act 1994 — Legislative Instrument and related documents under section 16B in respect of Victorian Curriculum and Assessment Authority Fees Order of 10 December 2013 made under the Education and Training Reform Act 2006.

Wrongs Act 1958 — Notice of Scale of Fees and Costs for Referrals of Medical Questions to Medical Panels.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 4 February 2014.

Motion agreed to.

QUORUM

Mr KOCH (Western Victoria) — Acting President, I draw your attention to the state of the house.

Quorum formed.

VALEDICTORY STATEMENTS

Mr P. DAVIS (Eastern Victoria) — Thank you, President. I also thank my colleagues for their courtesy in allowing me to make some concluding remarks. Often when I get up in this place to make a speech I do so bearing in mind that there is a major policy difference between the government and the opposition, and if not between them, certainly the Greens. On this occasion unfortunately I am not going to be able to form my speech on the basis of interjections. Anticipating that, I had to — —

Mr Lenders — If you want us to, we're happy to.

Mr P. DAVIS — On that basis I sat in here for quite some time this week and contemplated what inspiration I could gain from the contributions of members in this house. Some of you will see your own imprint on my remarks today, because some of what you have had to say this week has given me inspiration.

We are gathered here in this cathedral of democracy where we witness metaphorical violence in debate and the contest of ideas. This contrasts greatly with the reality of many other people in the world. We change governments, policy and law in an orderly and civil manner while much of the world is in conflict or fleeing conflict as a result of the failure of political order. This is a consequence of inequality in power, influence, income, wealth, education and opportunity. Those inequalities create chaos and disorder.

As a member of Parliament I have had the rare privilege of having doors opened to me that members of the general public do not have opened to them. Last year the President, the Leader of the Opposition in this house, the Clerk and I visited Kenya as part of a process to assist the Kenyan Parliament with democratic reforms. This visit came about because of the Kenyan elections in 2007, after which 1000 people died in riots and 500 000 were displaced from their homes. On our visit we inspected the slums of Nairobi. One million people live there in absolute poverty; they have no power, no water and no sewerage. They have absolutely no hope. But they know that the one thing that will lift their children out of that despair is education.

Earlier this year I had the opportunity to visit South Africa, and I saw the disparate equality in that country. Closer to home is Papua New Guinea. I have had an opportunity as a member of Parliament to visit and gain insight into the democratic order and disorder of that society. We see gangs, known as rascals, that have no regard for law. I have been confronted by such a group with machetes on the Kokoda Track. I can see how the society in which we live is so orderly because of the respect we have for law. It gives me an enormous sense of respect, after all this time in Parliament, to understand the significance of the role of the servants of the people in the parliamentary process.

Earlier this week I listened to one of the most significant speeches I have heard in this place by a member of the current opposition. Mr Brian Tee's speech on the motion of condolence for Nelson Mandela touched a nerve with me. Having visited South Africa earlier this year I now have better insight into apartheid and the failure of democracy. I will touch on that for a moment because I think it is critically important that we value what we have here. Even today there is poverty and inequality in South Africa. The inequality is quite apparent. You do not have to travel far to see it. It is quite evident in the townships on the edges of cities and in the rural communities.

It was interesting to me that in Nelson Mandela's autobiography, *Long Walk to Freedom*, which many people have read and which I understand was a collaborative effort between Mandela and the African National Congress (ANC) leadership to tell a story, Mandela acknowledged that after 50 years of the ANC

having a non-violence policy, he persuaded it to change course in the early 1960s.

That was an act of desperation to change the political dynamic in South Africa. He changed the strategy and he headed the military wing of the ANC. Its charter was to wage acts of violence against the state. Where did that come from? He considered the position they were in at the time, he read Carl von Clausewitz's *On War* — an 18th-century thesis that war is the extension of politics — and for this reason Mandela eschewed the celebrity status given to him. He understood that he had imperfections. While we revere his impact on the world and democracy and inequality, he understood that none of us are perfect.

Having visited Robben Island and had a look at Mandela's cell and the environment there, I can imagine just what a difficult period of his life that was. When he was released from incarceration it was an acknowledgement that they had won — that is, that the struggle had been won — and as a result he was able to find forgiveness for his opponents. I think the expression 'forgiveness' is an incredibly powerful expression. It is about humility and humanity. It is really moving.

It gives me enormous faith in our democratic processes that in my own case I have chosen to conclude my parliamentary service and we have had an orderly transition — that is, following an exhaustive democratic preselection process, which followed my announcement on 10 October that I would resign, the Liberal Party has selected a candidate to replace me. I congratulate the state president, Tony Snell, and the administrative committee for conducting a democratic process to achieve that outcome and select Andrew Ronalds, who is an outstanding young man who will make a great contribution to the Parliament. Without hesitation and without reservation I emphatically endorse Andrew as my successor, and I hope that he has many long years participating in the democratic process in this Parliament. Andrew has a background in business and agriculture, and I am confident he will be a strong advocate for Gippsland and Eastern Victoria Region.

Often when given the opportunity to make a speech like this you feel obliged to make some profound observations. I regret to say that I could not think of any, so I am going to be a little pedestrian and just tell a bit of my story, which might give you some insight into why I am here. Some of you well know that I have a connection with the Parliament. My great-grandfather, George Davis, served in this place from 1888 to 1896, and he died in office. My great-uncle, George Martley Davis, served from 1917 to 1937. He managed not to die in office but unfortunately died six months after he left the Parliament. Let us say I am not going to emulate him; I can guarantee you that.

I suppose I had a political family. I can recall, when I was pre-primary school, my grandmother regaling me with stories about politics in Gippsland. It probably did not mean a great deal to me at the time, but I suspect that was when the seed was sown about participating in democratic processes in life. I joined the Liberal Party not because I became a liberal at all, it was just part of my DNA almost in that having had a lot of discussion within my family when I was a student — I will make an admission here that I do not make very often, that I was reading the *Peking Review* when I was 14 or 15, and the *Thoughts of Chairman Mao* which was very fashionable at the time, as some of you may recall; I am sure Mr Lenders would — then having the debates about Marxist philosophy during secondary school, I managed to convince myself pretty quickly that this was the wrong track and I very quickly managed to get onto the right track. By the time I finished agricultural college I was well and truly committed to a free market view of the world.

I joined the Liberal Party through Young Libs in 1975, and through my association with the Young Liberal movement — I have to make a confession here — I met some outstanding people, including the President, who was a former president in the Young Liberal movement, and indeed the deputy leader of the government in the Assembly, the Honourable Louise Asher, who was a great friend and colleague for all of those years and still is.

I have to acknowledge, as we all do I suspect, that we perform as individuals as a function not just of our genotype — that is, the genes we inherit — but also of the environment in which we grow up. I was very fortunate to have parents who I would describe as typical for the era in a middle-class family, who understood that education was important and sacrificed everything. I did not appreciate it at the time, but I do now. The sacrifices that my parents made to educate four children were significant. Frankly I have no idea how in that environment they managed to put four children through private school and two of us through boarding school. I can only imagine the ongoing sacrifices they made that I appreciate much more now than I did at the time. I certainly had my doubts sometimes about boarding school!

I came into politics probably for a lot of the same reasons that many of us joined the Young Liberals. I was a young bloke from the bush, and there were girls

there, weren't there? That was probably a social question, but it took about a week to work out that the real fun was in the politics, and that led to a participatory process. I got more and more engaged in the rough and tumble of Young Libs and then the senior party. But it was a function of being a farmer that really started to press the buttons.

As a farmer I got caught up by chance in 1983 in what in the farming industry is well known as the 'wide comb dispute'. For my city cousins, when you are shearing sheep there is a handpiece that has a thing called a comb on it. There was a bit of an argument within industrial relations circles about productivity improvements and using a wider comb. I can tell Mr Melhem that the Australian Workers Union (AWU) thought this would be the end of the world, the end of the control of the shearing industry by the AWU, and so opposed it fiercely.

In retrospect it was one of the most bitter and unfortunate industrial disputes in the history of contemporary Australia — that is, in the memories of anybody living. People died, woolsheds were blown up and burnt down, I was threatened and my family was threatened; the whole circus was about industrial violence and intimidation. It was something that really became central to my being. I am going to admit here in the Parliament, although I have avoided doing so publicly ever since, that I carried a gun for six months after that event. To record that as part of my epitaph is a sad statement, but it is a fact. I could not go into a pub for several years without the threat of violence. In this society, when I say that there is respect for law, that sort of intimidation industrially is something that just has to be rubbed out. In my view the Labor Party, as the political leadership of the labour movement, needs to take a stand against violence on the picket lines.

That episode led me to being active in the industrial relations area of the Victorian Farmers Federation. I was caught up with Wally Curran and the meat processing industry as a farmer leader in that sector. I first met Peter Walsh, the current Minister for Agriculture and Food Security, when I was helping him sort out issues around tomato processing. There was an industrial problem, and he was chairman of the Victorian Farmers Federation tomato group.

In 1992 there was another big industrial problem — the Australian Workers Union decided it did not like the idea of weekend shearing being introduced, so there were threats of violence and intimidation. But agripolitics was not just about having a bash against the trade unions; internally it was pretty willing, let me tell you. In the 1980s the export of merino rams was a big issue within the wool industry, and subsequently the biggest fight of all was over the disastrous decisions made by the Wool Council of Australia in respect of the wool reserve price scheme collapse. The only thing I am pleased about in relation to that is that I happened to be on the right side of the argument, but what a disaster it was for the wool industry and woolgrowers. Indeed, my view is that the industry was destroyed by what I would describe as poor judgement by wool industry leaders.

I need to acknowledge some people who played particular roles during that little journey before I came into Parliament and who were incredibly helpful to me. In the farmers federation was Ian McLachlan, who was president of the Wool Council of Australia, then president of the National Farmers Federation and subsequently Australian Minister for Defence; he was a great mentor. I need to recognise his mentoring of me and the great advice he gave me over a long period of time. The late, great Rick Farley, who was executive director of the National Farmers Federation, was very significant in terms of my development.

Along the way Michael Kroger became quite a significant influence because I dealt with Michael on behalf of the farmers in his industrial relations practice. Subsequently — although I will tell that story in more detail in a moment — Michael was very influential in persuading me to put my hand up for Gippsland Province, as it was then, before my preselection. Within the Liberal Party I have had a very close working relationship with Joy Howley and Helen Kroger, both former state presidents. I must acknowledge Tony Snell in this capacity again.

In terms of the story that is most relevant about me coming into Parliament, I will never forget the night I had a phone call from Jim Tehan — and this will segue into a commentary about the whole Tehan family. When I started to put a few notes together for this speech, I noticed how significant the Tehan family from Wappan at Maindample, near Mansfield, had been in my life, without me having really joined the dots. Firstly, the late Jim Tehan Sr, who was very active in agripolitics, was an enormous mentor to me. Jim Tehan Jr, as he is described, though he is now a patriarch — former vice-president of the Liberal Party and vice-president to Michael Kroger — was the person who approached me to contest the preselection for Gippsland Province.

Picture this story. It was approximately 9.30 p.m., mid-week, and I was busy. I was involved in farming and business and was doing some agripolitics along the way; I had a very full life. A phone call came in, and it

was Jim Tehan, saying, 'Philip, we are looking for a good man for Gippsland Province'. The words were 'a good man'. I said, 'I can't think of anybody at the moment'. He said, 'No, we want you to put your hand up'. I said, 'But I am a bit busy'. He then said, 'Marie is in Parliament' — she was of course in opposition at that stage — so I asked how much time it takes. Jim said, and I quote, 'Oh, two to three days a week'!

I thought if I dropped this and that, I could perhaps fit it in. I have to say that Jim was a pretty good salesman, because he actually got me to put my hand up, and history will relate that I ended up serving his late wife, Marie, who was then Minister for Conservation and Land Management, as Parliamentary Secretary for Natural Resources. The Tehan family were very significant mentors to me in many ways.

Other people were too, in interesting ways. I knew Jeff Kennett from the 1970s, because he was the parliamentary Liberal Party's representative in the Young Liberal movement, as some will remember. I think he was the youngest member of the parliamentary party at the time. I got to know Jeff very early on, and he became quite a mentor to me, until I came into Parliament. Then, like all the other newbies, I was thoroughly intimidated by the grand presence of the Premier. That lasted for about 5 minutes, and then I realised he was just acting out his cadet unit, parade ground manner. Having been a warrant officer myself, I knew exactly how that worked, so we got on famously.

There are a couple of people I need to acknowledge. One is an uncle by the name of Milton Bridgland, who many of you would never have heard of, although he was at one stage chairman of the Business Council of Australia, chairman of Imperial Chemical Industries of Australia and New Zealand (ICI), chairman of the ANZ Bank and chairman of Jennings Properties. I remember going to see him for some advice. It was the mid-1980s, and he had an office at the top of what was one of the larger buildings in Melbourne — the ICI building up the street, which has now been dwarfed. As we were talking and he was giving advice to his nephew about what his life story should be, he looked out the window at the back of Parliament House and he said, 'Philip, you would never go and join that rabble down there, would you?'. I thought, 'Gee, okay'. It was really with some relief that years later, after I had probably been in the Parliament for about a decade, I received a very short handwritten note from him that basically said 'well done'. I thought if over that journey he had been persuaded, then perhaps this place does play an important role.

I need to acknowledge that I had great assistance and advice from Sir James Baulderstone, who was, along with others, quite significant in sponsoring me to become a member of Parliament.

I tell the following story to every aspiring candidate I meet. It is useful to note that there are very few members of Parliament who get here on their first attempt. I know there are different systems in place in the Labor Party, but certainly from a parliamentary Liberal Party point of view, most members of Parliament have gone through at least one preselection, and often more, and at least one unsuccessful election. My story is that I have contested two unsuccessful elections. I stood for the Legislative Assembly seat of Gippsland East and for federal seats representing Gippsland. In 1983 I had some prospect of winning the federal seat of Gippsland, but I did not. Therefore I have contested six elections, four of them successfully.

I want to tell this story because there is a moral to it. My great-grandfather contested the Legislative Assembly seat of North Gippsland on six successive occasions unsuccessfully. He stood for the Legislative Council province of Gippsland, and he won it on the first occasion. The moral of the story is to try, try and try again, and if at first you do not succeed, stand for a safer seat! I got it. I had two goes, and then I stood for a safer seat. It is good to have that family history; at least you can learn something from it.

Because I have contested a number of elections I need to acknowledge my electorate council chairmen — regrettably, they have all been men. They were Max Hopper, Frank Malcolm, Frank Stewart, Cleo Saha and Andrew Ronalds. They represent the party as a whole, and all of us in here who represent parties know that it is the volunteers and people behind the scenes who make it happen for us. We are largely here as servants of our party organisations.

I wish to acknowledge and make some comments about the parliamentary leaders under whom I have served. For most of it, members will have to wait and read my memoirs, but I will make some brief comments. I think of working under Jeff Kennett as being a partnership in that I was one of a whole lot of people who were elected when he became Premier. It was a time of immense energy and excitement because the view was that we were going to change the way the state did business. The state was broke, and we had to change the mix. Jeff brought an energy and a leadership that was dynamic. I know there will be policy differences on the other side of the house about some of the things that happened during that era, but substantially when I look back I see that things have not materially changed.

At the margin things have moved around a bit, but largely the economic direction set by the Kennett government has stood the test of time.

I note that in regard to the significant economic profile of the state, including a AAA credit rating with budget surpluses, there will always be debates about who did what to whom, and I am sure the former Treasurer sitting across the chamber, Mr Lenders, would love to jump in and have a bit of a go at this, but broadly I will say that since the 1990s the stewardship that is now reflected under the Napthine government has been significant, measured and balanced.

Denis Napthine became opposition leader at a very difficult time, and bluntly it did not work out, because we had not adjusted to the fact that we were in opposition. I think that was unfortunate, but obviously Denis learnt a lot and grew in his role. But the great respect I have for Denis is that when he lost the leadership in 2002, he did not take his bat and ball and go home; he actually ground it out on the opposition frontbench all of those years. From my experience in the shadow cabinet he was a major voice of balance, reason and logic in nearly every significant policy debate. He came to government, became a minister and of course is now Premier. As a result, Denis has learnt a lot about government and managing people, and in my view he is making an outstanding contribution as Premier.

With Robert Doyle, we went to another term still not having adjusted to the fact that we were in opposition. Robert Doyle had similar problems to Denis within the parliamentary party. Of course, he moved on from the leadership and made a brilliant fist of being Lord Mayor of Melbourne. He demonstrated that he did have the right political skills; he just did not have the right mix at the time to make it work.

I need to pay great credit to Ted Baillieu. I know there will be a lot of revisionism about this, and members will have to wait for the memoir to read about a lot of it, but Ted Baillieu was the one member of the parliamentary Liberal Party who had absolutely no doubt we could win the 2010 election. There are many members of the Liberal Party who had serious doubts, overwhelmingly. There is no question in my mind that the reason we won in 2010 was Ted's own belief that he could win that election. We on this side owe him a great debt for holding true to a strategy that frankly worked, no matter what the doubters had to say. Of course, great credit needs to be paid to people who can lead their parties to victory.

I am going to abridge something that I would love to do, which is to run through the activities I was engaged in during my parliamentary service, including issues relating to natural resource management, the Gippsland Lakes and running a debate against damming Mitchell River. Members of the Liberal Party have never really been able to understand the latter, but I have managed to successfully ward that off numerous times. I have taken a view about sustainable natural resource management, and I have tried to advocate in that area, particularly in relation to issues like the recovery process after the East Gippsland flood emergency in 1998, when we were able to do a lot of land rehabilitation, including a record $62.1 million injection to get the East Gippsland economy going again.

In 1997 we were able to take a position in relation to restructuring catchment management across the state. I was given the poisoned chalice of being asked to resolve the question of a new aquaculture industry in 1996 — the introduction of Pacific oysters. I assumed I was just going to run an inquiry, tick that box and move on to the next project, but I found it absorbing and interesting, and we recommended against the introduction of Pacific oysters because of the environmental damage I witnessed in other jurisdictions. As a result, Victoria is well placed in terms of coastal management in not having the predation of Pacific oysters today.

I have spoken in this place and in my own party room on numerous occasions about bushfire management. I urge the Parliament as a whole to stick with the commitment that all sides of the Parliament have made to implement the recommendations of the 2009 Victorian Bushfires Royal Commission, particularly in relation to fuel reduction, because that is a big threat to bush communities.

During the opposition years I was very involved in campaigns about wild dogs, foxes, rolling gas out to rural communities and introducing a police livestock squad. I was very involved in matters related to the red tape affecting the agriculture industry through PrimeSafe regulations, and more recently I had the opportunity to negotiate the settlement of an agreement that relocated the Melbourne Fish Market to a new site operated by the private sector rather than by the City of Melbourne, which is much more sustainable and will be a testament to my time here.

I enjoyed my time as chair of the Public Accounts and Estimates Committee. It may be a surprise to members that you can chair 54 hours of public hearings on the trot and still enjoy it, even when you have Legislative Assembly members Jill Hennessy, the member for

Altona, and Martin Pakula, the member for Lyndhurst, who must be the two loudest members of the opposition, in your left ear. I used to have tractor deafness, and now I simply have estimates deafness! It was a very interesting period, but I did enjoy that, and we tabled 14 reports in two years.

Whilst I could continue in that vein, it is more important in my remarks today to acknowledge a number of people, specifically my electorate officers and other staff who have been key to my work in this place. In this chamber we all know how much we depend on staff. The public thinks we do it all; for anybody out there watching, MPs are only as good as their staff. We should all be grateful to the electorate staff we have and for the resources the Parliament provides us with to do our jobs. I have particular long-serving electorate staff I wish to single out: the late Ron Yeates, Wendy Reeves and Kevin Balshaw, who many of you will know. Currently Wendy is again with me, and with me also are Heidi, Kellyann and Kate Lancaster, and I thank them all profusely for what they have done for me, noting again that I am only as good as my staff allow me to be.

There are some people in this chamber I wish to particularly acknowledge; they are the people who made it possible for me to pursue some agendas when we were in opposition. John Lenders might not appreciate that he allowed me to pursue some agendas, because he became the target of one for some time, but I need to say that the courtesy Mr Lenders as Leader of the Government showed me as Leader of the Opposition for an extended period was significant, and I will forever be grateful for and will respect that courtesy. We had a relationship of absolute trust, the sort of trust that often only occurs between parliamentary colleagues on the same side. I felt I could have a very frank exchange with the Leader of the Government and have no doubt that he would honour any commitment he made.

Similarly with Peter Hall as Leader of The Nationals — and while I was Leader of the Opposition we were not in coalition with The Nationals — I was able to have a very frank and trusting relationship. Sue Pennicuik, the Greens Whip, and I do not always agree these days, but I did go to a lot of trouble to agree with her often when we were on the same side of the house. Earlier Mr Lenders and I were reflecting upon how things change depending on which side of the house you are sitting. I thank each of those members for their courtesy.

Of course parliamentary staff should not be omitted. My speeches read much better after I have given them because of the work Hansard staff do, and I know we all share that view, so I acknowledge Hansard. I particularly thank the clerks of this place, Wayne Tunnecliffe, Matt Tricarico and Andrew Young; the President's executive assistant, Jess Lalor, who is very helpful to many of us; and all of the attendants, who I will not single out, other than Greg, who has been on my case every day I have been here. I think he precedes me — I am not sure by how much, but he was here when I arrived.

I need to get to the pointy end of this contribution, because you have all been very patient, and I thank you. There are a couple of other people I really need to acknowledge. Firstly, as Leader of the Opposition, I found incredible solace in having the support of my deputy, Andrea Coote, who is a remarkable person with an energy and enthusiasm that I think is unmatched by anybody I have ever met. I just enjoy Andrea's company thoroughly, and I will regret very much not having the opportunity a couple of times each sitting week to go and sit down with her over a cup of tea and analyse the events of the day — as she is so able to do — giving me an insight into things that are a complete mystery to me. Andrea, you have been a great friend and colleague, and I will miss that relationship.

I had a great relationship with Andrea as deputy — as I did with the long-serving whip Graeme Stoney. Graeme, Andrea and I took a view that our role was to work with whatever were the tools we had at the time and do our best. It was about the concept of servant leadership. It was about empowering our team, ensuring that the members of our team were able to fully express their skills within the Parliament and make a contribution. It worked pretty well for most of the time. We did have one total failure, who will be unnamed — it is better not to name him — but by and large it worked very well, and members felt they could take a responsibility in relation to their own area of expertise.

I have already acknowledged Louise Asher, but again through most of my time in the leadership, in the shadow cabinet and indeed in the Parliament, Louise Asher has been a significant player as deputy leader.

I come to some concluding remarks. Margaret Thatcher said:

> It used to be about trying to do something. Now it's about trying to be someone.

To paraphrase that: it is not who you are, it is what you do. I think that is pretty much the philosophy which, without thinking about it, I have tried to apply to my parliamentary and political career over 30 years. It is

about getting things done. I confess I have had some remarkably generous comments made about or to me and notes, letters and cards, and the most powerful comment came from a constituent who wrote, 'Thanks for getting things done'. I think that if all of us take that view about our relationship with our constituents, the constituents at least might think more of us as politicians — as a class.

John Fitzgerald Kennedy in his inaugural speech made a challenge:

> … ask not what your country can do for you — ask what you can do for your country.

Again I urge members of this house and of the Parliament as a whole to take this as an ethos — a credo, if you like — to hold up. It is not about us as politicians; it is about what our communities expect of us.

The Rotary ethos of service above self is very much a reflection of that. I have never seen parliamentary life as a career. In fact I am surprised to still be here after 21 years; I just had not imagined that I would serve such a lengthy period. I have seen it as a vocation of service through Parliament that politics is essentially about serving the community.

I want to turn back to JFK just briefly, because I think there is a lot that we can take hold of by thinking about the past. In 1956 John F. Kennedy published *Profiles in Courage.* There is something poignant I would like to read to you:

> Mothers may still want their favourite sons to grow up to be President, but according to a famous Gallup poll of some years ago, they do not want them to become politicians in the process.

I think that is true of us today, nearly 60 years on — that is, the respect for politicians as a class and the parliaments of Australia as an institution is at a low ebb and, thinking about that further, that is brought on frankly by us. But if you think about what that really means, are we in a worse position than previous parliaments and politicians? I doubt it. In fact Kennedy goes on to make that point, and he quotes some references to the 20th, 19th and 18th centuries where pejorative remarks were made in exactly the same vein as remarks are made about politicians today. But the point is that people do think of their sons or daughters becoming Prime Minister; they do not really want them to be politicians — and we can change that, or at least you can change that.

The other thing I got from reading Kennedy is this: I have always had huge doubts about my own ability to make a significant contribution in politics or Parliament — or indeed life — but I have doubts about whether or not I have actually achieved things. I conclude that most of us probably do. We come in here, we do the job we are asked to do and we wonder whether we actually make a real difference. This is useful and may be helpful to all of you, and I will think about it a fair bit more after I leave here. I will give a further quote from *Profiles in Courage.* It states:

> John Quincy Adams —

a former President of the United States —

> … held more important offices and participated in more important events than anyone in the history of our nation, as Minister to the Hague, Emissary to England, Minister to Prussia, State Senator, United States Senator, Minister to Russia, Head of the American Mission to negotiate peace with England, Minister to England, Secretary of State, President of the United States and member of the House of Representatives. He figured, in one capacity or another, in the American Revolution, the War of 1812 and the prelude to the Civil War.

But with that towards the end of his life he wrote:

> … that his 'whole life has been a succession of disappointments. I can scarcely recollect a single instance of success in anything that I ever undertook'.

For those of us who are obviously operating at a slightly different level from John Quincy Adams, it is a great lesson that, when you have doubts about whether or not you are actually making a difference, it is good and healthy because it will drive you to strive harder to make a difference subsequently.

I do not particularly study US presidents, but some of them are quite interesting. By way of explanation I say this: I think it is hard to distil your own values without looking for somebody who has written it much more succinctly than you can. Between the ages of 12 and 16 years George Washington copied out a list entitled 'Rules of civility and decent behaviour in company and conversation'. Rule 56 of 110 is:

> Associate yourself with men of good quality if you esteem your own reputation; for 'tis better to be alone than in bad company.

In other words, hold fast to your values. It does not matter if all around you are taking a different road; if you believe that you know your way, hold fast to your values. That certainly has been part of my standard operating procedure.

I decided that I would conclude with something that my friend, colleague and sometime apprentice David O'Brien handed me today — a copy of my maiden speech. I had not read it since I made it. I thought that I

could have saved a lot of preparation by simply rereading my maiden speech and not telling anyone, but I have had a look and I am going to refer to it. But before I do so, I need to refer to Martin Luther King to give a context.

In his final speech, 'I have been to the mountaintop', he talked about having seen the promised land. The context of this is of course that his struggles in the US were about where the black community was going in terms of equality, and he talked about seeing the promised land. I have seen the promised land, and to me the promised land is the Victorian high country. I have certainly been to the mountaintop, and I am heading out there as soon as I can.

But before I conclude I want to read two excerpts from my maiden speech, and I again thank David O'Brien for this, because I would not have thought to do it if he had not drawn it to my attention. I said:

> I cannot adequately express my sincere appreciation of the many people who worked so hard to ensure the success of my campaign.

I have to say 'campaigns' — plural, many. I continued:

> Honourable members will appreciate that there are too many to mention individually. However, I am bound to single out one — Elizabeth, my wife.

And I do so again today. Those of us who have an established, conventional family are fortunate, and I am doubly fortunate that it has survived the 21 years of absence largely. A country member's life is easier than the life of a country member's family, and I am incredibly grateful to Elizabeth for her support for all of that time. I could not be here without her support. I went on:

> Elizabeth has willingly and unselfishly shouldered many responsibilities that are rightfully mine and it is with her support that I have the opportunity to take this place in the Parliament, and I thank her for it.

In conclusion I said:

> My family have lived and worked in Gippsland since 1860. My daughters, Penelope and Annabelle, will grow up there alongside the children of the men and women who farm, fish, mine, cultivate the forests, or run the flats, motels and caravan parks of our growing tourist industry. I have no new dream to set before my daughters; I am no Martin Luther King; I offer them just what I offer you.
>
> I offer them the resurgence of an old dream, the dream of the pioneers who developed Gippsland and made it a great region, the dream that if they were self-sufficient, tried hard, obeyed the law and worked hard they and their families would be rewarded for their efforts. Gippsland has been ignored by governments for too long. I promise that all of my efforts, industry and best judgement will go into ensuring that Gippsland will not be ignored by the coalition government.

Finally, I say that it has been an honour and a privilege to serve as a member for the former Gippsland Province and then Eastern Victoria Region for the past 21 years, and I have had the opportunity to meet some remarkable people over that time, including members of this house. I thank you, and I thank Elizabeth and my daughters, Penny and Annabelle, for their support for all of that time. Thank you very much.

Honourable members applauded.

Hon. D. M. DAVIS (Minister for Health) — On behalf of the parliamentary Liberal Party I record our thanks and gratitude to Philip Davis for his remarkable contribution over 21 years, between 1992 and 2013. I am not going to make a long speech, but I want to record a couple of high points in his career, much of which I have observed — I was also a candidate in 1992; I was not successful, but I was elected in 1996.

As parliamentary secretary I think it is true to say he can take great credit for significant protections and steps in agriculture. He has contributed an enormous amount of time and hard work, and I thank him on behalf of the Liberal Party but also on behalf of Victorians. That is something for which he can take great credit. I am glad he made those remarks about his family, particularly his wife, Elizabeth, because I know her to have been an amazing backstop for him.

Philip Davis's successor, Andrew Ronalds, will make a great contribution, and with his business background will make a significant contribution.

There are a couple of other points that I think are important to mention. His warning, amongst others, in the period leading up to 1999 as part of a party task force stands in my mind as of great significance. With respect to his long campaign on matters around the protection of our natural heritage, particularly issues around bushfires and fuel reduction, I am very happy to concede and to indicate that he picked the right way and can take great credit for the tireless work he put in to see a change in community perceptions and perceptions in Parliament about how we manage our natural estate. That is something on which he has made a difference and can take significant credit for.

Philip Davis's views and principles are clear on many economic and social issues. They are very similar to mine on many occasions, but he has stuck fast to them, and that is important. His contribution flows from that period in 1992 when he was elected to this Parliament and joined Mark Birrell, a former minister and member

for East Yarra Province in this place, and Rob Knowles, a former minister and member for Ballarat Province in this place, and others. It was a different time, but there are many things that remain the same. He can take great credit from his period in Parliament, and I wholeheartedly thank him for it.

Mr LENDERS (Southern Metropolitan) — I am delighted to make a few comments about Philip Davis. I had never met Philip Davis until I came into this place, or if I had it had been passing in Queens Hall as often happens with members of Parliament. After the Labor Party had elected me as its leader in this place I recall Philip Davis seeking a meeting. It was a hot summer's day. I did not know much about Philip, so I prudently read his inaugural speech — and I know some people have read it — and I thought it was interesting.

I met this man who came in and expressed strong views. He was determined, he was informed and he had worked out what we were proposing to do in a policy setting in this place. He had worked out a bit about me, and he wanted to have a dialogue. It is interesting that there was very little on which we agreed. We both had East Gippsland farming backgrounds, but there was not much more other than that we were both MPs. However, I found over the months and years that I worked with Philip — and we worked across the chamber for more than five years — that he was a person I could work with.

I was listening to Philip's speech earlier on, and in my own mind I rebutted many of the propositions he put forward, but I thought that this was not the occasion to do it and nor will I do it now. I found at every single juncture that we would have our differences, and while we would not try to seek commonality — on some issues obviously we would, particularly in a hung Parliament as opposed to an unhung Parliament — there was an effort to work out where we were coming from, where he was coming from and if there was a way to find the middle ground.

We served together a lot, whether it was as part of discussions as leaders or whether it was as members of the Standing Orders Committee of this place. The Standing Orders Committee does not sound like a particularly exciting thing to many people, but for me it was a very good forum in which to have a discussion about where we saw this chamber, this institution, this house of review. Some of the best discussions I had with Philip were about where we could find commonality in where we thought this institution should go. It was not just Philip and me; there was a whole committee, but we are talking about Philip today and I am just reflecting on his role in trying to find that next step to where the institution could go. I reflect on his comments on democracy, on the house, on how people see us, on what our role is and on what models we can be. He had very firm views on those issues, and it was a delight to work with him.

There are a couple of parting comments I would like to make about Philip Davis. One is that leaving at a time of your own choosing is dignified, and Philip has done that. I guess most of us in politics wonder when that time will be. He has made his contribution and has decided it is time to go. As I said, he is determined, informed and has strong convictions.

I found the debates we had in this place interesting. There were big policy debates over cattle in the high country. We came from diametrically opposed sides of the debate, and he never convinced me nor my side of the house, but it was interesting to hear him express his love of the high country and his knowledge of many of the individuals who were involved. He mentioned Graeme Stoney in particular in his discussions. Graeme is a former member of this place and a friend and colleague of Philip's who shared that passion. Philip tried some fairly unusual parliamentary tactics, like dividing on first readings, but he felt very strongly about these issues and that was the sign of the man. He had formed views, he was informed and he contested those views very strongly.

Today is Philip Davis's day and not a day for me to talk about Philip Davis, but the final thing I will say is that I tried, I pried, I used every possible opportunity to get information on what was happening in the Liberal Party from Philip Davis, and despite 5½ years of effort, I did not get a skerrick. I got lots of views about The Nationals, the Greens, the Democratic Labor Party, the Labor Party and others, but I never got a skerrick of information from him about the Liberal Party.

Philip mentioned those memoirs earlier today. I will look forward to getting out of those what I never got out of the man. I wish him well in his retirement. It has been great working with him. He is a man with a strong mind. He gave me a lot of grief when he was the shadow education minister while I was the minister, but I have always appreciated his strong mind and the fact that he is a man of his word. If he says he will do something, he does it. He will be missed.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I welcome the opportunity to say something about a person who has become a good friend of mine and a colleague — Philip Davis. Amongst all of his parliamentary colleagues I have

probably had more opportunity than anybody else to observe Philip in both his parliamentary duties and in his electorate duties, given we share an electorate. Over a period of 21 years I have certainly got to know him very well and got to learn the way in which he operates very well too. He has become a person I admire.

President, you and I have probably heard more speeches made by Philip than anybody else both in this chamber and outside it. I have written down a few adjectives to describe the variation in his speeches. Sometimes I have heard him being very aggressive, he has been very analytical and logical, he has been profound, he has been engaging and he has been entertaining — and that has been well evidenced by the attention he captured in the speech he gave here today. I do not think I saw anybody take their eyes off him as he addressed us. At times he has also been very long and loud in his speeches; they have been very varied.

Philip started his speech today by indicating that he was not going to make any profound observations, yet his speech was littered throughout with profound observations, and I think there is much for all of us to take away from what he said. As I think Mr Lenders indicated, Philip has been a very formidable debater. One of the memories I will take from his contribution to this Parliament is the way in which he engaged directly in debate. While many of us come in here with an idea of what we want to say, the best of Philip Davis was when he stood up here, having observed and listened to those on the other side of the chamber, to rebut, attack and take the debate to the people on the opposite side. It is a remarkable strength of his in terms of his personal abilities, and in terms of lasting impressions it is something I will take from him.

Philip has also given us some profound comments and quotations. People will know I am not a person who regularly offers such a means of conveying a view or opinion in speeches. I usually speak from the heart — sometimes Mr Lenders might call it the 'Hall mantra'. They are my own observations rather than those of others. But there is one quote, and I do not even know who the author is. It is something that sits in front of me on my desk at the moment. It says, 'It's a waste of opportunity to be and not to do'. I think Philip really gave us that message today — that is, that as a member of Parliament you have that opportunity. You are somebody who has a rare opportunity and you should do something about it and make the most of that opportunity. I think Philip has made the most of that opportunity. It is also instructive that the comment that gave him the most enjoyment was a thankyou letter from a constituent for all he has done for the electorate. Philip has achieved a lot during the course of his 21 years, and he and his family should be proud of that.

Finally, I want to say that Jim Tehan was looking for a good man for Gippsland Province; they were the words Philip gave us in his speech. Jim Tehan did find a good man for Gippsland Province, and I am sure Philip has upheld every ideal and request that Jim Tehan asked of him. Philip has been a good representative of Gippsland Province and Eastern Victoria Region, and it has been a privilege to serve alongside him over those 21 years in both the Parliament and as a representative of Eastern Victoria Region.

I am also looking forward very much to your memoirs, because I know you pull no punches, and therefore those memoirs will sit on the shelf alongside *Long Walk to Freedom*, which you cited, and the J. F. Kennedy autobiography. I am sure yours will be just as enjoyable. You deserve to enjoy the life beyond Parliament. and I am sure you will do that in conjunction with Liz and your family. I wish you all the best and thank you for a job well done, my friend.

Mr BARBER (Northern Metropolitan) — I would like to tell members what I can of what I know about Mr Philip Davis, and of course that only relates to the third trimester of his parliamentary career — that is, the last seven years that my colleagues Ms Hartland Ms Pennicuik and I have been here. I will never forget the look on Mr Davis's face at his first meeting with the three newly sprouted Greens who came into the Parliament to meet him as the Leader of the Opposition in this place. In the three parliaments since that time things have changed a lot for Mr Davis. In the first Parliament under the Bracks government the Liberal Party had control of this place; in the second Parliament the Labor Party had control; and in the third Parliament that he was about to face — well, who knew? It was as if the little green men and women had landed and said, 'Take us to the Leader of the Opposition'. It was the look on his face, and some day he might tell me about the look on our faces. It could be that the last time he saw a similar look was looking down the gun sight at a rabbit in the spotlight he was about to shoot. We were very new and he was very experienced.

What my colleagues Ms Hartland and Ms Pennicuik particularly want me to note — and Mr Davis already raised this — is the word 'trust'. The degree of trust that was required between Mr Lenders, Mr Hall, Mr Davis and Ms Pennicuik — as our negotiator on matters of parliamentary procedure but also on individual bits of legislation and other motions before the Parliament on behalf of Ms Hartland and myself — was absolutely essential in order for the Parliament to

get on and do its very important business. Members in this place who have arrived during this Parliament may not have seen or understood the modus operandi as it was at that time. Things are a little different now. During that period it was not only the legislation and other matters that were going through here but there were, I think, four very significant conscience votes that arose for various reasons. In the absence of the usual party discipline and party block voting, again things were very different in this place, and the three Greens played various roles in those matters. That necessity of trust was really put to a very good test amongst all of us, but particularly by Mr Philip Davis in his role.

Mr Davis is a parliamentarian in all senses of the word. It does not mean simply that he is a member of Parliament, but he is also a practitioner of the methods of Parliament. In a third sense he is a supporter of the ideas behind Parliament. In the sometimes shallow way we are reported on here he has been described as a bit of an operator, but that is not the league he is in; he is in a much higher league. He is no LBJ — that is a private joke — but he has definitely developed a league of his own in this place, which some of us aspire to. Sometimes his technique is that of a rugby front row forward; at other times he is like an Oxford professor of philosophy giving a seminar.

We are all interested in watching his techniques and style, but in terms of putting forward his case I think he may have saved his best speech for last. Amongst all this he has taken time to teach me about how things operate and can operate around here. He did that simply as a generous gift to someone with whom on other things he might have found a lot of disagreement but, in response to his main thesis, I think we here in this place — and speaking personally in the case of myself and Mr Davis — agree on more than we disagree. On this whole protecting the environment thing we are going to have to do a bit more work. There have been the beginnings of an exchange of views about what it is we value about the environment, but the necessary changes that might need to be made in order to protect those values is something we have only just begun to explore.

I am going to miss seeing Mr Davis run out of that office to come down here in anticipation of what he is going to come into this place and do next. I wanted to have a fire pole installed for him, so that he could get here even faster. That has been one of the pleasures of my time in Parliament, which I am now no longer going to have. On behalf of the three Greens, we very sincerely salute him for his service to his community over this whole period and thank him for the way he has acted and the relationship he has had with us in our short time in this place.

The PRESIDENT — Order! I have had the opportunity of serving with Philip over the entire period of his service to the Parliament and people of Victoria. It has been an outstanding contribution, and I congratulate you on behalf of all the other members of the Parliament here, and in fact in both houses, for the contribution you have made. As I said, it has been outstanding. You have mentored a great many people in this place as well as having made a contribution of significance in your own right. I just make the comment that you should not be a stranger to this place. Having been here for 21 years, I am sure that Mrs Coote will be available for cups of coffee —

Mrs Peulich — Tea.

The PRESIDENT — Or tea on the occasions that you are able to come up to the big smoke again and share your stories of the high country. I understand that the Leader of the Government, as a further mark of respect, intends to adjourn the Parliament for seven weeks.

Honourable members interjecting.

The PRESIDENT — It did occur to me during the eulogies that you are a very fortunate man to have heard them all, because most of us do not get that opportunity.

ADJOURNMENT

Hon. W. A. LOVELL (Minister for Housing) — I move:

That the house do now adjourn.

Holden job losses

Ms TIERNEY (Western Victoria) — My adjournment matter this afternoon is for the Premier, and it relates to the 1300 jobs that will be lost as a result of Holden's decision to cease production in 2017. With the significant job losses announced over the past 12 months in general manufacturing and vehicle manufacturing in particular, the action I seek is for the Premier to provide a clear plan as to how he and his government intend to ensure that thousands of retrenched blue-collar workers will gain genuinely secure, full-time employment.

I am particularly concerned that the majority of people who are losing jobs in vehicle manufacturing are those who do not have a trade or profession. They are

semi-skilled workers who do not have a certificate. It is going to be incredibly difficult for them to find employment. Thousands of these workers are job ready and will continue to flood the jobs market over the coming months, but when Ford and Holden close, a huge bottleneck will occur.

A hands-on approach is critical. Every single worker needs to have high-quality, intensive individual case management into new employment. We also need to have a system in place where money that is designed to assist retrenched vehicle workers in gaining employment is clearly expended on those very workers and not diverted to other activities. Any structures or committees at a state or local level that are set up to oversee any plan to deal with this issue must not have people on them — whether they be Liberal-Nationals coalition appointments or bureaucrats — who do not have the interests of vehicle workers front and centre.

We cannot tolerate situations where vehicle worker representatives have to battle and reprosecute guidelines to ensure that money designed to assist vehicle workers is not hijacked to other interests. This is the current case in Geelong, where Ford workers continue to battle to have funds prioritised for their skill needs and future employment. I seek the Premier's urgent attention not just in terms of rectifying the situation and making sure that there is a proper, planned approach to dealing with large numbers of retrenched workers but also that he look at the current case in Geelong in relation to Ford workers.

Children's services national quality framework

Ms MIKAKOS (Northern Metropolitan) — My matter this evening is for the Minister for Children and Early Childhood Development, and I am pleased she is in the house. The matter I wish to raise relates to the recent media release put out on 3 December by the federal Assistant Minister for Education, Sussan Ley, and the Parliamentary Secretary to the Prime Minister, Josh Frydenberg, in which Minister Ley has referred to proposed changes to the national quality framework legislation. The media release specifically states that:

> … federal, state and territory governments had all agreed to streamline … national quality framework … legislation following …

the recent Standing Council on School Education and Early Childhood meeting held on 29 November.

While the minister's media release is very sketchy on the details of these changes, the communiqué available from that meeting says:

> Changes to the national regulations will be developed as quickly as practicable, and relate to a range of operational matters including supervisor certificates, staffing requirements for early childhood teachers, short-term replacement of absent educators, fencing and safety glass requirements at centres and first aid requirements on school sites.

Organisations such as Community Child Care are concerned about any relaxation of the staff-to-child ratios and what this will mean for the wellbeing and education of children. The organisation's media release of 4 December describes chairperson Dr Anne Kennedy as saying that 'community-based child-care centres know that the wellbeing and education of children depends on having enough qualified educators with them at all times'. Early Learning Association Australia is also concerned that there should be no diminution of the quality of education and care provided to children.

Data released by the Australian Children's Education and Care Quality Authority on 6 November shows that 77 per cent of Victoria's child-care services have been assessed as meeting or exceeding the national quality standards. We should not lose the gains we have made just because we are doing well by comparison with other states around Australia.

I call on the minister to stand up against the winding back of these important reforms introduced by the federal Labor government and the Brumby state government and to indicate to the house and to the early childhood sector that she will commit Victoria to retaining the original ratios and the original time line.

Melton community health centre

Mr MELHEM (Western Metropolitan) — My adjournment matter is directed to the Minister for Health, the Honourable David Davis. It is in regard to the construction of a new community health centre in Melton. The action I seek is for funding to be brought forward for the health centre to be built.

Recent correspondence from the City of Melton addressed to the Premier of Victoria indicates that the council is facing major challenges in keeping up with the infrastructure required to support growth in the areas of health, education, transport and community facilities. Despite years of planning and the state government's purchase of a vacant block of land adjacent to Melton Health in Barries Road for the construction of the new health-care centre, it appears that no funding has yet been provided. It is unacceptable that currently Melton Community Health Service operates from the former shire office building,

which is old, undersized, inadequate and non-functional.

Melton Community Health Service is there to work with individuals, communities and organisations to enhance the health, independence and wellbeing of diverse and the most vulnerable community members, with a particular focus on ensuring access for those with — or at risk of — the poorest health status and those most in need. Unfortunately, due to inadequate facilities, those in need of health assistance are most disadvantaged.

I call on the government to provide funding for a community health centre. I ask the minister to make this an urgent priority for the people of Melton.

Penshurst Football Netball Club

Mr O'BRIEN (Western Victoria) — My adjournment matter is for the Minister for Sport and Recreation, the Honourable Hugh Delahunty. It is an important matter which I have raised in other contexts before. I ask him to visit Penshurst Football Netball Club to consider its situation in relation to assistance for coaching as well as for the development of policies and procedures in relation to the running of that successful club.

By indulgence, I thank Philip Davis for his kind words. We all just witnessed a significant speech, and we started the week witnessing another significant speech from Mr Tee in relation to Mr Mandela. To summarise my analysis of Mr Davis's speech and the matter I am raising, all politics is local. One should always understand one's local community. In Mr Davis's case it is Gippsland — references to which were littered through his maiden speech and many of his other speeches — and in my instance I feel no shame about the extent to which I raise matters involving the Penshurst community. Although I do not permanently reside there — I have frequently come and gone throughout my life — I know I will end my days there.

I recently had the honour of receiving the coach's award from the reserves coach for the side, which I am sure had nothing to do with my frequent praise for the club — in fact it may have been an inducement to retire. But I thank Tim Robertson for that award, and I thank my previous coaches, because coaching football in these small towns is a significant commitment. I would like to put on the record — and again this harks back to the great speeches that Philip Davis has made — the values of Penshurst Football Netball Club. The club exists to provide an enjoyable and successful sporting and social environment with a commitment to strong family and community values.

In my very short acceptance speech I said these words:

> This football-netball club is the greatest institution I have been involved in.

I still say that because in those smaller, struggling communities in particular to have the level of volunteerism that is necessary to run a successful football club — to have those training manuals and to keep those young kids directed into healthy activities — is a remarkable achievement. I would like someone to do the statistics, but I can bet members to a dollar that the level of sporting participation is the highest in those small rural towns all across western Victoria and in the areas that Minister Delahunty visits, as sport holds them together.

There is an acute shortage of young people in those towns. I urge the minister to help Penshurst and to help these communities with these sporting aids.

Healesville freeway reservation

Mr TEE (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Roads, Mr Terry Mulder, and it relates to the Healesville freeway reservation in my electorate. Specifically, in the lead-up to the last election the Liberal Party promised to preserve this important open space. It promised to preserve the corridor as public parkland, but shortly after it was elected it went through a process and announced that it would sell off the last chunks of the freeway reserve. Just recently the government has put out three concept plans for the reserve, and all of them involve the substantial sale of at least half of the reserve.

The government has given the community until 23 December to respond to those three proposals. This time frame is woefully inadequate. This reserve is a major part of the lifestyle of many people in those communities. It has a large number of diverse uses, including for sporting facilities. The Nadrasca community farm is also a part of it. Many in the community use it for walking and other recreational activities. The time available is woefully inadequate.

The local council has also identified that the time frame will not allow it to go through its process, which it believes will take it until mid-February. Indeed the council has written to the minister seeking an extension of time to put in its submission, and I think that has been granted. The council also seeks that the minister offer an assurance that the preferred structure plan will

be subject to a further period of consultation in early 2014, given the inadequate process plan for consultation about the concept plans. I support the council's call. It is just not appropriate to have a community consultation process completed two days before Christmas. There will be a structure plan. I urge the minister to ensure that consultation arises from those concept plans.

Cairnlea land rezoning

Mr EIDEH (Western Metropolitan) — My adjournment matter is for the Minister for Planning, Matthew Guy. I rise to speak on a very important issue, which affects over 9000 people who reside in a beautiful suburb in my electorate, Cairnlea. It is near Ballarat Road, Station Street and the Western Ring Road, covering an area approximately 2 kilometres by 2.5 kilometres. It is 17 kilometres from the Melbourne CBD. One resident told me that he slept in his car for nearly two days so he could put in a bid to purchase a residential block when land parcels were put on the market for development. I have heard this from many residents. You may ask why these hardworking men and women, the majority of whom are post-war migrants living in surrounding areas like Sunshine, St Albans, Braybrook and Deer Park, wish to live in Cairnlea. The land was not cheap yet they came.

The answer is very simple: Cairnlea offers open spaces, playgrounds, sugar gum trees standing tall and proud, lakes, walking paths, accessibility to a railway station, a major public hospital, schools and a boutique shopping centre. People were told that 30 per cent of the space would remain open and that a nine-hole golf course would be developed at the estate. In other words, this was to be an estate where they could build their dream homes and raise their families with pride. All of that is about to be turned on its head.

In an obvious cash grab the Napthine government, together with the administrators of Brimbank City Council, is now proposing that a concrete jungle be built on the main gateway to Cairnlea. Who is supposedly supervising this project? Places Victoria, overseen by the Minister for Planning. I ask that the minister listen and respond to the people concerned. He must not allow Places Victoria to act as a cowboy. Cairnlea may be in the west, but it is not in the Wild West. My concern is that overnight the authority changed its proposal from 'industrial' to 'mixed commercial use', while failing to fully inform the residents of what that actually means.

I refer to correspondence received from Places Victoria dated 28 November and circulated very selectively. It is as clear as mud. Is it saying that a brothel or a strip club can be permitted to operate in that area? It uses the example of University Hill in Bundoora. I can assure the minister that the residents of Cairnlea do not want or need a development like University Hill. I am prepared to copy this letter and circulate it to all members, who I am sure will read it during the Christmas break and give me some clarification by the time Parliament resumes in 2014.

However, the residents of Cairnlea cannot wait that long; they demand answers from the minister. I therefore ask that the Minister for Planning instruct Places Victoria to restart the community consultation process on this project, give a written guarantee to all residents that the stipulated 30 per cent of parkland and open space for Cairnlea will be honoured, stop the destruction of the magnificent sugar gum trees and conduct a study on the impact the suggested proposal will have on the Cairnlea Primary School and Cairnlea kindergartens.

Palace Theatre development

Ms PENNICUIK (Southern Metropolitan) — My adjournment matter is for the attention of the Minister for Planning, Mr Guy, and it regards the Palace Theatre in Bourke Street. I note that during question time Mr Tee asked the minister about mandatory height controls in Bourke Street, which is a matter I have also discussed with the minister. Today representatives from the Save the Palace Theatre group attended question time. My adjournment matter is on a similar issue. I note that the minister, in his answer to the question asked today, said that he is looking at mandatory height controls with the Melbourne City Council, but I know he could put controls in place at any time. The minister mentioned the agent-of-change principle, which is another issue that I have raised in this Parliament, and it was the subject of an article by Patrick Donovan from Music Victoria published in the *Age* recently.

The Palace Theatre was previously known as Brennan's Amphitheatre, the Apollo Theatre, St James Theatre, the Metro Theatre and the Metro Nightclub. It has hosted many types of visual, spoken and musical theatre for more than 100 years. It has been used as a theatre and a cinema. In fact the mother of a dear friend of mine worked as an usherette at the Palace Theatre when it was a cinema in the 1950s.

It is now a live music venue that is loved by many in Melbourne and interstate. It holds approximately 1800 people. It is a great venue for medium-sized international acts in particular. It is a place that I, as a music fan, have gone to many times. Being lost in the

discussion about height controls is the issue of the interior of the Palace Theatre, which is absolutely gorgeous. Whenever you go in there to listen to music, you find yourself looking around at the interior. That sometimes gets lost in the discussions. As a theatre it is a rare example, and its cultural significance should not be lost.

I notice that the council is doing a heritage study in Bourke Street, and my request to the minister, in addition to the idea of mandatory height controls, is that he consider putting a moratorium on any major development in Bourke Street until the heritage study is completed. I also request that he consider assisting the Melbourne City Council with the cost of undertaking that heritage study of the Bourke Street precinct, which, if it is done properly, will be quite expensive. I ask the minister to follow up those actions, if he could, without delay.

Responses

Hon. W. A. LOVELL (Minister for Housing) — I have one written response, to an adjournment debate matter raised by Ms Darveniza on 16 April.

A further seven matters were raised during the adjournment debate tonight. The first matter was raised by Ms Tierney for the attention of the Premier regarding General Motors Holden's decision to cease manufacturing in Australia. I will pass that on to the Premier.

The second matter was raised by Ms Mikakos for my attention and concerned a press release from the ministerial council by federal Assistant Minister for Education, Sussan Ley, and also a further press release from Community Child Care Victoria. The press release from Community Child Care Victoria was wrong, and I have asked my department to discuss that with them. There was no discussion about a reduction of ratios at the ministerial council. Of course when any new system comes in there are sometimes things that are overly bureaucratic, create red tape and could be refined. Those were the only discussions at the council, and we will work towards that. Victoria has already stated that we will not consider any amendments that reduce quality or safety. I am seen by the sector as being a champion for quality early childhood programs, and I will continue to be that way. Many in the sector have thanked me for that, including Dr Anne Kennedy.

Ms Mikakos interjected.

Hon. W. A. LOVELL — There are no changes to ratios. I have already said that.

Mr Melhem raised a matter for the Minister for Health regarding a community health centre in Melton. I will pass that on to the minister.

Mr O'Brien raised a matter for the Minister for Sport and Recreation and asked him to visit Penshurst Football Netball Club to provide assistance for coaching. I am sure Penshurst Football Netball Club will be very happy to host the Minister for Sport and Recreation, who is a former Essendon Football Club champion. I am sure he will be able to pass on a lot of tips and assist the club with its needs.

Mr Tee raised a matter for the Minister for Roads regarding the Healesville freeway reservation.

Mr Eideh raised a matter for the Minister for Planning regarding land sales in Cairnlea.

Ms Pennicuik raised a matter for the Minister for Planning regarding the Palace Theatre in Bourke Street. I think the Minister for Planning responded particularly well to that issue in question time, but I will pass that matter on to him for a further response to Ms Pennicuik.

I will pass all of those matters on to the ministers concerned, and I wish everybody a merry Christmas and a happy New Year. I will see everybody in February.

Christmas felicitations

The PRESIDENT — Order! I would like to make a couple of remarks before we adjourn. I am sure many members would join with me in wishing Jessica Lalor and Matt Pattison well for their wedding at the end of this month. Jessica was mentioned in Mr Philip Davis's contribution this afternoon, and I know she has contact with a range of members of this place. Her work is appreciated by all. Contrary to my advice she is about to embark on a new phase of her life by marrying Matt Pattison. We wish her well.

On behalf of all the members of this house I take this opportunity to express appreciation to the staff of the Parliament for their work throughout this year. We are well served by the clerks and the attendants of this place as well as by people from Hansard, the library, the dining rooms, buildings and maintenance, parliamentary services and so forth. I take this opportunity on behalf of members of Parliament to wish all of our staff a safe and happy Christmas and New Year period. When I go to primary schools just before holidays I often say to the kids, 'I don't want to see any of you back with broken limbs or with plaster on your arm because of some skateboard accident'. I

say that to all the staff as well. I hope they have a safe and happy Christmas, and I look forward to 2014. It will be an interesting year, as are all years, but especially given it is an election year.

I also take this opportunity to offer my best wishes to the members of this house. I thank them, particularly the acting chairs and the leaders of the respective parties, for the work they have done in making sure that the business of this house has been conducted to a high standard in an adversarial Parliament. I thank people for respecting some of the ways I have tried to bring that standard up to a slightly higher level in this place. I wish you all well. The house stands adjourned.

House adjourned 6.16 p.m. until Tuesday, 4 February 2014.