PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 19 September 2013

(Extract from book 12)

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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
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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

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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

CONTENTS

THURSDAY, 19 SEPTEMBER 2013

Thursday, 19 September 2013

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 9.34 a.m. and read the prayer.

CONSUMER UTILITIES ADVOCACY CENTRE

Report 2012–13

Hon. M. J. GUY (Minister for Planning), by leave, presented report.

Laid on table.

RURAL CITY OF WANGARATTA

Inspector of municipal administration report

Hon. M. J. GUY (Minister for Planning), by leave, presented report.

Laid on table.

Report of Mr Bill Scales

Hon. M. J. GUY (Minister for Planning), by leave, presented report.

Laid on table.

OFFICE OF THE PUBLIC ADVOCATE

Report 2012–13

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation), by leave, presented report.

Laid on table.

VICTORIA LAW FOUNDATION

Report 2012–13

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation), by leave, presented report.

Laid on table.

PAPERS

Laid on table by Clerk:

Accident Compensation Conciliation Service — Report, 2012–13.

Barwon Regional Waste Management Group — Minister's report of receipt of 2012–13 report.

Central Murray Regional Waste Management Group — Minister's report of receipt of 2012–13 report.

Commissioner for Law Enforcement Data Security — Report, 2012–13.

Confiscation Act 1997 — Report, 2012–13, from the Chief Commissioner of Police pursuant to section 139A of the Act.

Country Fire Authority — Report, 2012–13.

Desert Fringe Regional Waste Management Group — Minister's report of receipt of 2012–13 report.

Docklands Studios Melbourne Pty Ltd — Report, 2012–13.

East Gippsland Catchment Management Authority — Report, 2012–13.

Emerald Tourist Railway Board — Report, 2012–13.

Environment Protection Authority — Report, 2012–13.

Environment and Primary Industries Department — Report, 2012–13.

Essential Services Commission — Report, 2012–13.

Fed Square Pty Ltd — Report, 2012–13.

Film Victoria — Report, 2012–13.

Forensic Leave Panel — Report, 2012.

Gippsland Regional Waste Management Group — Minister's report of receipt of 2012–13 report.

Glenelg Hopkins Catchment Management Authority — Report, 2012–13.

Goulburn Broken Catchment Management Authority — Report, 2012–13.

Grampians Regional Waste Management Group — Minister's report of receipt of 2012–13 report.

Growth Areas Authority — Report, 2012–13.

Highlands Regional Waste Management Group — Minister's report of receipt of 2012–13 report.

Mallee Catchment Management Authority — Report, 2012–13.

Melbourne and Olympic Parks Trust — Report, 2012–13.

Melbourne Convention and Exhibition Trust — Report, 2012–13.

Metropolitan Fire and Emergency Services Board — Report, 2012–13.

Mildura Regional Waste Management Group — Minister's report of receipt of 2012–13 report.

Murray Valley Wine Grape Industry Development Committee — Minister's report of receipt of 2012–13 report.

North East Regional Waste Management Group — Minister's report of receipt of 2012–13 report.

Northern Victoria Fresh Tomato Industry Development Committee — Minister's report of receipt of 2012–13 report.

Office of the Victorian Privacy Commissioner — Report, 2012–13.

Parks Victoria — Report, 2012–13.

Parliamentary Committees Act 2003 —

Government Response to the Drugs and Crime Prevention Committee's Report into Strategies to Reduce Assaults in Public Places in Victoria.

Government Response to the Education and Training Committee's Report into Agricultural Education and Training.

Government Response to the Rural and Regional Committee's Report into Impact of Food Safety Regulation on Farms and Other Businesses.

Phytogene Pty Ltd — Minister's report of receipt of 2012–13 report.

Police Appeals Board — Report, 2012–13.

Port of Hastings Development Authority — Report, 2012–13.

Port of Melbourne Corporation — Report, 2012–13.

Primary Industries Department — Report, 2012–13.

Public Transport Development Authority — Report, 2012–13.

South West Regional Waste Management Group — Minister's report of receipt of 2012–13 report.

State Electricity Commission of Victoria — Report 2012–13.

State Services Authority — Report, 2012–13.

State Sport Centres Trust — Report, 2012–13.

Sustainability Victoria — Report, 2012–13.

Transport Ticketing Authority — Report, 2012–13.

Trust for Nature (Victoria) — Report, 2012–13.

Victoria Police — Report, 2012–13.

Victorian Civil and Administrative Tribunal — Report, 2012–13.

Victorian Government Purchasing Board — Report, 2012–13.

Victorian Institute of Forensic Mental Health — Report, 2012–13.

Victorian Regional Channels Authority — Report, 2012–13.

Victorian WorkCover Authority — Report, 2012–13.

VITS LanguageLink — Report, 2012–13.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 15 October.

Motion agreed to.

MEMBERS STATEMENTS

Federal election Greens candidates

Ms PENNICUIK (Southern Metropolitan) — I join my colleagues, Colleen Hartland and Greg Barber, in congratulating Adam Bandt on being re-elected as the federal member for Melbourne despite forecasts from pundits who did not seem to notice what a fantastic member for Melbourne he is. Congratulations also to Janet Rice on her election as the Greens' second senator for Victoria. Janet is a founding member of the Victorian Greens and a long-time climate, forest and public transport campaigner. I am also very happy to see that Greens senators Sarah Hanson-Young in South Australia, Scott Ludlam in Western Australia and Peter Whish-Wilson in Tasmania are likely to be returned to the Senate. They have been great advocates for the Greens and for standing up for what matters.

I would like to thank all our dedicated candidates who stood up for what matters in 37 electoral divisions in Victoria and around the country. I would also like to thank Cate Faerhmann in New South Wales, Adam Stone in Queensland, Simon Sheikh in the ACT and Warren H. Williams in the Northern Territory for standing as Greens candidates for the Senate. The Greens had a fantastic electoral platform featuring transport, rural and regional initiatives, education, health, the environment, the clean energy economy, peace and non-violence, tackling poverty, democracy, our food future, public housing, refugees and marriage equality. These are the issues that matter to the people of Australia, and the Greens will keep campaigning on them.

Legislative Council electoral reform

Mr SOMYUREK (South Eastern Metropolitan) — I rise to call on the Napthine government to engage in a bipartisan review of the Legislative Council voting system to preclude the possibility of an undemocratic outcome whereby candidates who receive a minuscule number of votes can be elected to Parliament, as happened in the recent federal election. The recent

federal election demonstrated that previously anonymous and mostly synthetic microparties with only a handful of votes were able to game the voting system through preference flows and win seats in the Senate whilst other parties with substantially more votes missed out.

There are a number of reforms that are worth considering to preclude such undemocratic outcomes from happening in the Victorian Legislative Council. One of the reforms that I believe deserves closer examination is the exclusionary threshold that is in place in a number of jurisdictions around the world.

Federal government

Mr SOMYUREK — On another matter, I am concerned that one of the first acts of the Abbott federal government was the new Minister for Foreign Affairs, Julie Bishop, sacking former Victorian Premier Steve Bracks from his position as Australia's Consul General in New York. Sadly the federal coalition government has decided to embark on petty and vindictive behaviour from day one of its term. This sends a terrible message to the world that the Prime Minister, Mr Abbott, will find it difficult to transform from negative politician to statesman. At the moment the country — —

The PRESIDENT — Order! Thank you, Mr Somyurek.

Federal election results

Hon. D. M. DAVIS (Minister for Health) — I rise today to congratulate a number of new members of the House of Representatives. I was pleased to see Sarah Henderson win the seat of Corangamite at her second attempt. I think she will do a magnificent job of representing that area. Corangamite is a marginal seat but it has a great deal of population growth, and I know she will tackle that issue and the need for services that goes with it. I believe Mr Sukkar, the new member for Deakin, will do a very good job. I know the east–west link will play to the fore in the eastern suburbs of Melbourne. He will go on to represent Deakin very admirably.

I was also pleased to see Jason Wood returned as the member for La Trobe. He did a good job in his previous term representing La Trobe and he will do a good job again. I notice that he has made a commitment to fund and support something I worked on with him in the mid-2000s — that is, a palliative care program at Fernlea House. I see that as a mark of Jason Wood's calibre, and I believe he will do a very good job in the role.

I pay tribute to Sophie Mirabella for the gracious way she has accepted defeat in the seat of Indi and the work she did in the negotiations with the Victorian government for a cardiac catheter lab at Albury-Wodonga. The then federal opposition — now the newly elected government — committed to spending the money on the lab and the capital work and the state government committed to providing the recurrent funding for the lab. I believe that will be a significant outcome for the community of the Hume region in the north-east of the state. In particular I pay tribute to Sophie's commitment and integrity.

The PRESIDENT — Time!

Ben Zocco

Mr TARLAMIS (South Eastern Metropolitan) — I would like to commend my parliamentary intern, Mr Ben Zocco, for his broad ranging and informative report entitled *A Visa to Electoral Engagement.* Ben's report is an analysis of the importance of civics education for secondary students in Victoria and a study and evaluation of the Victorian Electoral Commission's Passport to Democracy program. This program aims to provide an impartial overview of the democratic process and educates students through broad issues-based discussion, making civics education naturally more appealing to younger Victorians, who are more likely to engage with issues that affect them directly.

The report was well structured in building its arguments and conclusions and highlighted the following three recommendations which are worthy of consideration: that the provision of civics education to secondary students in Victoria be considered a priority by both the state government and the Department of Education and Early Childhood Development in order to ensure that young Victorians are able to develop both positive attitudes and perceptions about their important role in Australia's representative democracy; that the Passport to Democracy program be funded by the state government to the extent that it is able to operate in all secondary schools in Victoria; and that the Victorian Electoral Commission's Passport to Democracy program be provided with additional funding to allow it to adequately realign to the new Australian curriculum and for further online and digital resources.

I believe that education on civics and voting must be considered a priority by state governments of all political persuasions. If it is not given the importance it

deserves, that lack of action will only result in the disenfranchisement of future generations of voters.

I take this opportunity to thank Mr Zocco for his report and his valuable work in this area. I also thank the parliamentary library staff and academic supervisors for their ongoing support of the Victorian Parliamentary Internship program, and I extend that thanks to the President for his support for the program.

City of Wyndham community cabinet

Mr ELSBURY (Western Metropolitan) — I look forward to the Victorian coalition cabinet meeting in the city of Wyndham on 7 October and to assisting it to engage with the community at a community forum with the people of the western suburbs. This will be the third regional cabinet since Premier Napthine took up his role, and it is a reflection of the importance of the western suburbs to the prosperity of our state. The west presents many challenges and opportunities for our state, and I am pleased to be able to share the place I call home with my friends in the cabinet.

Federal election Liberal Party candidates

Mr ELSBURY — I take this opportunity to thank the federal candidates who put up their hands to represent the Liberal Party in western suburbs seats. They include Ali Khan, Ted Hatzakortzian, Shilpa Hegde, Nihal Samara, David McConnell, Phil Humphreys and Donna Petrovich, a former member for Northern Victoria Region and for whom we maintain support as counting in the federal seat of McEwen continues.

Deer Park Football Club

Mr ELSBURY — I congratulate the Deer Park Football Club on its victory in the Western Region Football League grand final last weekend. It was a hard-fought game with Spotswood, and it was a genuine contest between two great teams.

Werribee and Williamstown football clubs

Mr ELSBURY — Finally, I congratulate the Werribee and Williamstown football clubs on making the Victorian Football League finals for the second year running. Even though they did not make the grand final, it was a stellar effort from two great western suburbs teams.

The Geelong Project

Ms TIERNEY (Western Victoria) — To say that the Geelong community is passionate about the Geelong Project would be a serious understatement. Headlines in the *Geelong Advertiser* such as 'Don't let our kids down', 'Outrage at cuts to youth program', 'Youth funding cut a tragedy' and 'Project axe blasted' mirror the community's reaction to the Napthine government's decision. That reaction has been made clear also in the significant number of letters and text messages sent in to the *Geelong Advertiser*. An open letter to the Premier signed by 24 community organisations, including a representative from the Greater Geelong Council — the acting Geelong mayor — school principals, G21, community support agencies and health organisations also raised immediate concerns about the decision.

The minister's feeble attempt to justify the decision based on the program not hitting targets is as disgraceful as the decision itself. During the pilot phase of the program 95 young people were engaged and homelessness and school disengagement were identified as a high risk. Of those 95 young people 100 per cent have remained engaged in school, increased engagement or returned to school and 100 per cent have retained or obtained safe sustainable accommodation.

In regard to the government's decision, Associate Professor David Mackenzie of Swinburne University said:

> In more than 20 years involvement in homelessness research and policy, I don't think I have ever come across a government decision that is so obviously bad and destructive of what is an outstanding example of innovation and support for vulnerable young people and their families.

Northern Victoria Region transport infrastructure

Mrs MILLAR (Northern Victoria) — In its desperation Labor has chosen to deliberately mislead residents of Bendigo and northern Victoria. When it comes to transport projects and funding, the Napthine government is delivering to build safer roads, upgrade rail services and create jobs in northern Victoria.

The $4.8 billion regional rail link, combined with the coalition's commitment to purchase 40 new V/Line rail carriages, will increase capacity for an extra Bendigo service in the morning and evening peak periods, bringing services to a total of six in each of the a.m. and p.m. peak periods. Funding of $7.75 million is being allocated to build a new station, with 60 car parking

spaces, at Epsom in 2014. As many would be aware, the coalition here in Victoria and the new coalition government in Canberra are already getting on with the job of building the new, safer Ravenswood interchange. The new Ravenswood interchange will ensure that users of the Calder and the Calder Alternate Highway will no longer have to negotiate one of Victoria's most notorious intersections, something local Labor members failed to do in 11 years in office.

Further on roads, $4 million has been committed in 2013–14 for road restoration work on 11 roads in the northern region as part of the Victorian government's $170 million three-year roads maintenance package. Work includes the restoration of Lancefield-Woodend Road near Newham, sections of the Bendigo-Pyramid Road and the Bridgewater-Maldon Road. This funding comes on top of the $26.8 million spent in northern Victoria repairing and restoring flood-affected roads since January 2011.

Ambulance services

Ms DARVENIZA (Northern Victoria) — As the pay dispute between Ambulance Employees Australia of Victoria and the Victorian government enters its second year, paramedics in northern Victoria continue to deal with staff shortages, fatigue and low morale. Shepparton's paramedics are burning the candle at both ends by working overtime several times a week just to keep ambulances on the road. As many as three to four shifts a week go unfilled, putting pressure on already fatigued paramedics to cover them. The Minister for Health, David Davis, continues to say that there is increased funding in the system, so why are we not seeing any relief in the system?

Shepparton paramedic of five years Russell Hamstead told the *Shepparton News* recently that unfilled shifts were becoming more common and that many staff members felt exhausted by the combination of rostered and overtime hours. Similarly in Wodonga an average of 65 ambulances have sat idle each month of the first half of this year because paramedics could not be found to staff the shifts and put them on the roads.

Ambulance Employees Australia of Victoria Shepparton-Mooroopna branch delegate Paul Almond said the public was being put at risk by having to wait excessive times before an ambulance can reach them. Every time an ambulance shift is left unfilled, people living in regional Victoria are left dangerously exposed without adequate ambulance coverage. It seems that the Liberals and The Nationals would prefer — —

The PRESIDENT — Order! I thank Ms Darveniza. Her time has expired.

Western Victoria Region transport infrastructure

Mr KOCH (Western Victoria) — In its desperation Labor has again chosen to deliberately mislead residents of western Victoria. When it comes to transport projects and funding, the Napthine government is delivering on building safer roads and creating jobs in western Victoria. Train travellers will benefit from the $4.8 billion regional rail link due for completion in 2016. Combined with the Victorian government's commitment to purchase 40 new V/Line carriages, the regional rail link will provide capacity for an extra three Geelong services and an extra Ballarat service in the morning and evening peak periods. Locals will also see the start of construction this year of the $90 million next stage of the Geelong Ring Road, while the $220 million duplication of Princes Highway West between Waurn Ponds and Winchelsea is under way. Further, the $515 million duplication of Princes Highway West between Winchelsea and Colac has been included in the next state and federal roads funding agreement.

As many would be aware, the Victorian government and the new federal coalition government have jointly committed to a $50 million investment over five years to upgrade the Great Ocean Road. This is good for safety, good for tourism and good for jobs. Despite what those opposite may claim, the coalition is getting on with the job of delivering improved transport infrastructure throughout Victoria.

Western Metropolitan Region services and infrastructure

Mr EIDEH (Western Metropolitan) — I was very saddened to hear about yet another life being taken too soon following a delayed ambulance response. I would like to send my condolences to the Sunbury man's family, who I am sure will be at a loss to know how something so terrible could happen in Victoria. This death is the second of this kind in this region, and this government has done nothing to address ambulance response times for those living in Melbourne's outer suburban areas.

My electorate does not house second-rate citizens, yet I feel that I am having to remind this government of this each time I address this house. We deserve ambulances that can reach critically ill patients in time, and we deserve proper infrastructure, including no dangerous level crossings, electrified trains in growth areas, health

services that can cope with the demand and do not have to close wards, and community facilities that foster community engagement for all. This government ignores us and refuses to invest in what we deserve. We do not deserve this, and I hope that this government addresses this problem and stops treating my constituents as second-rate citizens.

Federal election results

Mrs KRONBERG (Eastern Metropolitan) — My contribution today will centre around congratulating the fine members of the House of Representatives whose electorates fall in whole or in part within Eastern Metropolitan Region. Michael Sukkar was triumphant in the seat of Deakin, where we saw a 4 per cent swing send him to Canberra. If we look at the seat of Kooyong, the returning member, Josh Frydenberg, received a 3.93 per cent swing. Unfortunately John Nguyen missed out in Chisholm, but he received a 4.3 per cent swing. Tony Smith in Casey was returned with a 5.59 per cent swing. We are excited about the promotion of Alan Tudge in Aston with a 7.72 per cent swing. In Menzies Kevin Andrews was returned with a 5.96 per cent swing. Jason Wood was returned in La Trobe with a 5.73 per cent swing. Unfortunately Emanuele Cicchiello missed out in Bruce, but he brought home a 5.97 per cent swing. We have everything crossed for Donna Petrovich in McEwen; she is in our prayers on a daily basis. She has already recorded a 9.03 per cent swing.

International Talk Like a Pirate Day

The PRESIDENT — Mr Leane.

Mr LEANE (Eastern Metropolitan) — Thank you, Bucko! 'Bucko' is pirate for 'buddy', and today is International Talk Like a Pirate Day. I thought I had better qualify that before you sit me down, President. International Talk Like a Pirate Day is not just a fun day to talk like a pirate; it is also an important day for childhood cancer support. It raises awareness around childhood cancers and also raises funds for this important cause. Workplaces can participate in Talk Like a Pirate Day and donate funds to this important cause.

It is incumbent upon us all as members of this chamber to promote this cause in the future, so arrgh! That is about the best I can do. Members should check out the website of this cause and send it out to their constituents so that they can support this cause next year. Maybe next year we could plan a bit better, chip in something like $50 and have a day in this chamber where the President affords us the opportunity to talk like pirates in our contributions.

The PRESIDENT — Order! Johnny Depp you are not!

People's Republic of China national day

Mr ONDARCHIE (Northern Metropolitan) — Celebrations will be taking place in Melbourne for Zhongguo Guoqing, the People's Republic of China national day, and the Chinese Moon Festival. On behalf of the Premier, Dr Denis Napthine, I had the opportunity to launch the celebrations last night with the wonderful Chinese community here in Melbourne.

Today we have the opportunity to reflect on, praise and celebrate the great work of the People's Republic of China. I pay tribute to Grandmaster Limm Moon Louey, the function patron of the Chinese Organisations Council Victoria; Mr Arthur Wu, the executive chair of the Chinese Organisations Council Victoria; the new Consul General of the People's Republic of China, Mr Yumin Song — we welcome him to Melbourne; Mr Chin Tan, chairperson of the Victorian Multicultural Commission; Ms Marion Lau, OAM, a People of Australia Ambassador and member of the Victorian Multicultural Commission; Mr Chap Chow, a People of Australia Ambassador; and Mr John So, former Lord Mayor of Melbourne. I thank him for his contribution as well.

I commend the Chinese community of Victoria for its outstanding contribution to the economic prosperity and cultural enrichment of our state. Members of the Chinese community have been active supporters of multiculturalism, they have positively participated in Victorian society and they have been very generous in sharing their cultural traditions with the broader community of Victoria. The Chinese community has a constructive relationship with the Victorian government. I wish all members of that community a very happy moon festival.

Vision Australia Texpo

Ms CROZIER (Southern Metropolitan) — I would like to acknowledge and commend the great work being done by our leading national provider of blindness and low-vision services, Vision Australia, at its recent Texpo 2013. I had the pleasure of representing the Minister for Health, Mr Davis, at the opening of this important annual event. Texpo is organised by Vision Australia in Melbourne and showcases the latest in products and services available to assist people who are blind or have low vision.

Presentations on emerging trends in technology and demonstrations from Vision Australia's key technology suppliers provided support for the at least 1000 people who came through the doors during the two-day event. I joined with them to touch, look at, experiment and play with state-of-the-art technology. This is particularly important for people who have a new disability and might not be sure what technology is available to support them.

We looked at magnifiers, electronic readers and braillers; mobile phones and computer access tools; high-definition magnification; tablet computers, apps, accessibility equipment; and eBooks. I particularly admired a small interactive media product exhibited by Melbourne business Real Thing, which is based in Carlton. I congratulate CEO Nick Howden and his team on its development. Real Thing has been working with RMIT University on this collaborative research and development technology project. The team realised there was potential for speech interactive technology and approached Vision Australia. What they have developed is world leading. It enables you to search, navigate and interact with media content using spoken dialogue. It does not need computer support, and content is downloaded using the 3G mobile network. It is designed for people who are blind or have low vision or a print disability. It is a tremendous tool and will bring great benefits to those people.

CATCHMENT AND LAND PROTECTION AMENDMENT BILL 2013

Second reading

Debate resumed from 5 September; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr LENDERS (Southern Metropolitan) — I rise to speak briefly on this bill. The Labor Party will not be opposing the bill for the reasons outlined by my colleague Mr Helper, the member for Ripon in the Legislative Assembly. This is a fairly simple bill that deals with where responsibility lies for organising the removal of plant and animal pests on roadside reserves. It puts in place a regime under the jurisdiction of the Minister for Agriculture and Food Security as to how to manage that. As is always the case, the only issue would be how much of this is a cost shift onto local government. The Municipal Association of Victoria has had a vigorous discussion with the state government on this matter, and that is an issue for them. As I said, for the reasons outlined by my colleague Mr Helper, we will not be opposing this bill, but we would appreciate greater transparency on how costs are moved around.

Mr BARBER (Northern Metropolitan) — The purpose of this bill is to clarify that municipal councils are responsible for pest animals and noxious weed management on local roadsides. It also gives the Minister for Agriculture and Food Security the power to require municipal councils to prepare roadside pest and weed management plans for regionally prohibited weeds, regionally controlled weeds and established pest animals, which must be approved by the minister. This of course is a difficult issue to grapple with. Councils are responsible for a huge number of roadsides. The numbers of kilometres of roads are greater in small and often financially insecure council in regional areas that are further away from Melbourne, and the resources of councils to manage those roads become even tighter.

Anyone who has read the annual Auditor-General's report on the financial health of local councils in Victoria would know that there is a small handful of councils covering large parts of Victoria that have extraordinary difficulties with their financial viability. At the same time, roads are highly visible. We all drive up and down those highways and country lanes along which pests, plant and animal problems are highly visible.

The third thing that makes this an intractable problem is that by their very nature road verges are very long and linear and therefore there is a huge interface between private land, and sometimes public land, and these long, skinny patches of vegetation or grassy edges. There is an ongoing problem of ground disturbance, the import of weed seeds or the travelling of pest animals along these corridors due to the fact that the roads have many vehicles moving along them and regular works being done on them. In terms of a weed or vegetation management problem, it is hard to imagine a tougher task than maintaining long, linear road verges. There is no doubt whatsoever that we have a significant challenge here, and there is no dispute on that.

Some time ago, in June 2011, a report titled *Roadside weeds and pests — Recommended Responsibilities for Action* was given to the Minister for Agriculture and Food Security by the Roadside Weeds and Pests Working Party. There were a number of representatives on that group, including Bill McArthur, Municipal Association of Victoria president and Golden Plains shire councillor. The report is there for all to read. The issues have been very well canvassed in the report. A number of recommendations, 15 in fact, arose out of the report, including:

> That the Victorian government continue to be responsible for overall coordination …

> That the Victorian government continue to be responsible for on-site management and funding of the control of state-prohibited weeds on all Victorian roadsides …
>
> That road managers be responsible for on-site management of regionally prohibited weeds …
>
> That the Victorian Government, through VicRoads, be responsible for funding the control of regionally prohibited weeds …
>
> That the Victorian government be responsible for funding the control of regionally prohibited weeds on all Victorian municipal roads …
>
> That the Victorian government and a council be responsible for sharing the funding of the control of regionally controlled weeds and rabbits …
>
> That it should be noted that a cost-sharing funding model has been proposed …

This cost-sharing funding model is detailed in appendix B of the report. It even proposes different costs for councils according to whether they are highly stressed due to their financial ratios, as described in the annual Auditor-General report.

I have a question for the minister that I would like him to answer in his response. Is the potential cost-sharing model, as outlined in appendix B of the report to the minister — and I will provide him with a copy of the report when I finish my contribution — the model that the government intends to adopt, because obviously there is no financing attached to this bill; and are the estimates in that model up-to-date, given that more than two years have gone by and we may have already learnt more about the situation with regard to the management of those weeds?

Aside from that one question on which I would like to seek some assurance from the minister, the Greens will support this bill, it having been the product of an open and transparent process where local government is involved. The Greens always speak up in this chamber as to the cost or potential cost shift of any measure onto local government, and in this case we would like to give the government some credit for having engaged with local government before bringing the bill to the house.

Mr RAMSAY (Western Victoria) — I am very pleased to speak on the Catchment and Land Protection Amendment Bill 2013, as I was pleased to speak on the Plant Biosecurity Amendment Bill 2013 earlier in the week. I make mention of that only because, given Mr Viney's contribution, or rant, on that particular bill, I almost felt obliged this morning to come in on my horse, in my moleskins, tweed coat and with my riding crop, and to sit up in the gallery of the chamber overlooking the squattocracy, for whom I am presumably the overlord, so I can speak to this contribution. However, I can assure members that that will not be the case today. I stand here as a member for Western Victoria Region, and perhaps I can suggest to Mr Viney that he should remove that chip from his shoulder so that he can stand taller in the saddle when he has the opportunity — but back to the bill.

I am pleased to have this opportunity to speak on the provisions of the Catchment and Land Protection Amendment Bill. The amendments proposed by the bill will provide clarity around responsibility for the management of noxious weeds and pest animals on roadsides, and provide for the introduction of a roadside weed and pest management plan to be prepared by municipal councils, and make other minor and technical amendments to the act. Further, this bill will assist in widening enforceable programs, thus contributing to an election commitment to improve enforcement.

Roadsides afford weeds and pest animals a ready means to spread, both onto the immediately adjoining land and more widely, which can lead to significant damage to roadsides. Proper management of infestations on roadsides is therefore essential to prevent unacceptable damage to agriculture, infrastructure and the rural environment. To combat the issues affecting roadsides, since 2004 the then Department of Primary Industries, now the Department of Environment and Primary Industries, has provided funding in the form of grants for councils to control weeds and pest animals. However, these programs were voluntary and are not satisfactory for the longer term.

Current responsibilities for control of noxious weeds and established pest animals on municipal roads are unworkably fragmented, with the Secretary of the Department of Environment and Primary Industries, municipal councils and adjoining landowners all sometimes having responsibilities, depending on the category of weed and whether the particular length of roadside land is Crown land or vested in the municipal council.

As Joe Helper, the member for Ripon, mentioned in the second-reading debate of the bill in the Assembly, a bill that he has supported, the issue in having this act amended came about due to the ambiguity caused by the Road Management Act 2004, where there was a lack of understanding about who was responsible for managing roadside weeds and pest animals. In order to find a solution to that ambiguity, a working party was assembled consisting of members from the Victorian Farmers Federation, the Municipal Association of Victoria, three rural councils and the former

departments of primary industries and sustainability and environment to find a longer term solution to uncertainty caused by the Catchment and Land Protection Act 1994 and the Road Management Act 2004.

The working party's recommended approach was that municipal councils should be required to provide some level of weed and rabbit control on roads that they manage, with the extent of works defined by individual local plans and with the intention to consolidate management functions by making the municipal councils solely responsible. This approach has advantages in improved operational efficiency, facilitating local community input and assisting integration with other road management activities. In line with those recommendations the amendments to the act will make municipal councils the landowner of municipal roadsides for the purposes of the Catchment and Land Protection Act 1994, and allow for their responsibility to be limited to the preparation and delivery of a plan for the management of regionally prohibited weeds, regionally controlled weeds and established pest animals on rural municipal roads.

Specifically, the bill amends the Catchment and Land Protection Act 1994 to require, when requested, a municipal council to prepare and submit to the minister a plan for the management of regionally prohibited weeds, regionally controlled weeds and established pest animals on rural municipal roads within the municipal district of that council if the minister declares that the municipal district is one to which the requirement applies.

In 2012 the state government announced that it would commit to $2.6 million, which will be provided through the Department of Planning and Community Development, to assist councils. Funding of a minimum of $5000 per year per council, plus a further amount up to a potential total of $50 000 per council, will be provided on the basis of the number and distance of roads that are managed by that particular council. These amendments apply solely to municipal roads.

This is a show of the government's support for the prevention, eradication and containment of roadside weeds and pest animals. I commend the bill to the house.

Mr SCHEFFER (Eastern Victoria) — The Catchment and Land Protection Amendment Bill 2013 attempts to bring some clarity to the various responsibilities assigned to state and local governments and to landowners over the management of noxious weeds and pest animals on roadsides. As we have heard from Mr Lenders, the opposition is not opposing its passage.

Basically the bill changes the Catchment and Land Protection Act 1994 to make local councils the owners of roadsides but limits their responsibility as owners to putting in place plans for how weeds and pest animals must be managed. Proposed new section 22A inserted by clause 7 of the bill states that the minister may declare an area for which a plan needs to be prepared, and I must say I agree with the former Minister for Agriculture in the previous government, Mr Joe Helper, the member for Ripon in the Assembly, that it might be better and seems simpler to require plans to be prepared for all areas, and where there are no weed and pest animal problems, the plan should simply say that.

I also note that the opposition has indicated that the preparation of a plan of this type, given the range and complexity of prohibited weeds and pest animals, may mean that the requirement that local government must support landowners' programs needs to be better expressed in the legislation. The concern, as I see it, is that the wording of the bill may mean that a local government must support each and every landowner's weed and pest animal program, whereas it seems that the government's intention is probably that the support be confined to programs that are conducted across a broader area of a municipality. Then of course there is the problem that programs that purport to effectively address the spread of weeds and pest animals along roadsides may not be evidence based or effective.

These proposed changes to the legalisation form another of the government's modest micro bills, and the opposition is, as I said, supporting it, but it is worth placing on the record — as has already been touched on by Mr Barber — some of the history and background of this issue. The government acknowledges the work of Mr Helper in establishing the Roadside Weeds and Pest Animals Working Party that conducted the independent review of the management of invasive plants and pest animals along Victoria's roadsides. The 2011 report produced by the working party points out that matters relating to the management of weeds and pest animals are regulated by the substantive act, which this particular bill seeks to amend. But it also points out that provisions for controlling weeds and pest animals are referred to or dealt with in other legislation, such as the Road Management Act 2004, which the minister alluded to in his second-reading speech, and also the Local Government Act 1989.

The working party acknowledged that for some years government departments and the Municipal Association of Victoria have been looking at how to best allocate

responsibility for managing and controlling weeds and pest animals and how to best fund the necessary control activities. I agree with Mr Barber that there needs to be a coherent discussion that is transparent and open and that enables us all to see how the process has been thought through and worked through.

The report and the minister's second-reading speech identify that issues relating to responsibility are unclear, which we know. But what are the appropriate responsibilities and obligations of the Victorian government, of local governments and adjoining landowners? In finding its way through this confusion, the working party drew on the invasive plants and animals policy framework developed during Labor's period in office in order to ensure that whatever the working party recommended was consistent and built upon positive earlier approaches.

The framework itself is an update of the previous 2002 framework. My point is that tackling weeds and pests is an ongoing struggle that successive state governments, local governments and landowners have wrestled with. The present bill is a further step, but its provisions should not be just waved through. I have already placed on record some concerns Labor has noted about practical matters arising from some provisions in clause 7 of the bill.

Landowners across country Victoria absolutely know that controlling weeds and pests is critically important. The invasive plants and animals policy framework points out that Victoria's wealth, wellbeing and biodiversity all depend on the successful reduction of the impact of invasive species. The framework states that it is possible to eradicate newly introduced invasive species, because they have not had time to spread. The longer a species has been present in an area and the more widespread it is, the more difficult it is to contain.

The framework is somewhat depressing in that it reminds us of what we already know — that is, that in a sense we are fighting a losing battle against invasive species first introduced by Europeans not only in an active sense with grains and seeds and so forth necessary for the European diet but also, as we remember, as part of acclimatisation programs which deliberately introduced European plants and animals to make this continent feel more like Britain and Europe. Europeans and non-Aboriginal people from all parts of the world who followed the first European settlers from Britain are the ultimate invasive species that has facilitated the destruction of non-indigenous plants and animals that the framework says can never be effectively eradicated.

Besides the impact that weeds and pests have on environmental assets, landowners know that roadside areas facilitate the spread of weeds and pests across the state and have major negative effects on agriculture. Nevertheless, we have a collective responsibility to live with this reality and work for containment to prevent the further spread of these species that may never be eradicated if they take very firm hold.

Where an invasive species has taken hold, the framework takes an assets-based approach — that is, protecting valuable assets against the encroachment of weeds or pest animals by strategic and localised action. The roadside weeds and pest management program, which has been running since 2012 and will run until 2015, is one outcome of the working party. While local government authorities, Landcare groups and landowners welcome the funding capital, frankly there is not enough money for it to be effective. Landcare groups across Gippsland in my region are concerned about weeds and pest animals along roadsides. Local government authorities also share this concern, and they give eradication and control their best shot with the very solid and well-based support of government departments. However, people tell me that while local government authorities generously support their work with advice and limited funds, they are forced to focus on one limited area at a time, and are not able to come back to it for follow-up within a period of three or more years. They tell me, and it is common sense, that regular follow-up is essential if there is going to be any impact, and the money available through the roadside weeds and pest management program — $5000 to a cap of $50 000 — just does not cut it.

One farmer active in Landcare told me that a $7000 allocation enables work to be done on about a hectare, and that doing the job without follow-up is effectively a waste of time and money. Successive governments have addressed these issues, there has been some very good analysis done, the problem of responsibility has been examined and clarified to some extent and there is some money available, but more needs to be done. Local cooperation amongst state government departments, shires, landowners and Landcare groups, which exist by the spadeful across Eastern Victoria Region and across the rest of the state, can deliver some effective results but they need more resources. They need more money.

Hon. P. R. HALL (Minister for Higher Education and Skills) — In reply, I thank members for the indication that they are supporting this bill. It is much appreciated that both the Greens and the opposition have indicated that they will support the bill, and I thank them for that.

Mr Barber raised a matter about the funding arrangements and funding assistance that will be provided to local government and questioned whether the current proposals were similar to or the same as that being proposed in a discussion paper circulated a couple of years ago. He sought some clarification on that particular matter. I can advise that there has been a change in the way the government proposed to provide some funding assistance to councils to implement their new responsibilities under this act.

The new arrangements are, firstly, that the Department of Transport, Planning and Local Infrastructure is administering a funding program of $2.6 million per annum for three years commencing in 2012–13 to assist councils to carry out their new responsibilities. This is a substantial increase on the $1 million per annum provided in the previous three years. All eligible councils will receive base funding of $5000 per year, exclusive of GST. I think in the previous discussion paper that figure was $3000; it is now $5000 per year. Remaining funds will be allocated based on the total number of kilometres of rural roads managed by eligible councils. The maximum funding available per year, including the base allocation, will be capped at $50 000 per year per council. Again, that is an increase on what was being proposed. Previously it was capped at $40 000; it will now be capped at $50 000.

The basis of that allocation is now a more simple one and is based on kilometres of rural roads in the municipalities, whereas previously it was more complex with certain criteria about the state of local councils. It was far more complicated. I am advised that as a result of consultation since that discussion paper this has been agreed to be a much more sensible and generous way of funding councils to carry out their responsibilities.

I hope that answers the question raised by Mr Barber, but if there is still a need for a committee stage, I am happy to oblige. Otherwise, I make those comments in reply and again thank members for their support.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

CHILDREN, YOUTH AND FAMILIES AMENDMENT BILL 2013

Second reading

Debate resumed from 5 September; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

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

Quorum formed.

Ms MIKAKOS (Northern Metropolitan) — I rise to make a contribution on the Children, Youth and Families Amendment Bill 2013. I say at the outset that the Labor opposition is not opposing the bill. The bill proposes to amend the Children, Youth and Families Act 2005 to do a number of things, including to modernise legislative terms to better reflect the commonwealth Family Law Act 1975, to introduce less adversarial trial principles, to encourage the use of less formal court proceedings and to remove the mandatory requirement that children must attend court for matters in the family division of the Children's Court. It also proposes to introduce amendments to the Family Violence Protection Act 2008 and the Personal Safety and Intervention Orders Act 2010 to allow the Children's Court when hearing a child protection matter to also deal with a related intervention order matter.

The bill purports to make reforms with the stated aim of implementing recommendations of the Cummins report on the protection of vulnerable children. However, I point out that to date very few recommendations of the Cummins report have been implemented, and it appears that most of them relate to things such as legislative changes like those contained in this bill rather than those recommendations that would require considerable investment of additional resources by the Napthine government.

This bill is relatively straightforward. It deals largely with technical amendments to terminology. A significant number of clauses in the bill relate to modernising definitions within the act. For example, the term 'access' is replaced with 'contact', 'safe custody' is replaced with 'emergency care', 'dispute resolution conference' is replaced with 'conciliation' and 'take into safe custody' is replaced with 'place in emergency care'.

We on this side of the chamber have no difficulty with modernising language. It is important to have language that reflects contemporary thought and practice in relation to child protection matters, and we have no difficulty with these amendments. I point out, however,

that the bill appears to be far weightier than it actually is. A significant number of clauses in the bill relate only to these changes to definitions.

The bill inserts a guide for the management of child protection proceedings. This guide is intended to encourage less adversarial proceedings. This, however, reflects current practice. The bill also provides that a child is not required to attend court in the family division of the Children's Court unless he or she expresses a wish to attend, the court orders the child to attend or there is another legislative requirement that the child attend. In our view this is an important change. The previous government put in place a number of reforms to ensure that children were not unnecessarily exposed to the adversarial nature of court proceedings, whether in child protection matters or sexual abuse case matters. This amendment is about bringing Victoria into line with most other Australian jurisdictions.

Previously I have expressed a great deal of concern at the fact that the government removed legal representation for very young children involved in child protection matters in the Children's Court. This removal was driven by an attempt to save on Victoria Legal Aid funding. I am concerned that there not be any further diminution of the right of young children to express their views through their lawyers to the court. During the committee stage I will be seeking assurance from the government that there will be opportunities for children to express their views directly to the court and that these particular provisions will not have any negative impact on those entitlements.

The bill also makes amendments to the Personal Safety Intervention Orders Act 2010 and the Family Violence Protection Act 2008 to extend the jurisdiction of the Children's Court to deal with applications for intervention orders when dealing with a related child protection matter. This will allow the Children's Court to look at a child's broader situation, including their family situation, and to ensure that there is consistency in decisions made by different courts. For example, a court may order that a child be allowed to return to live with his or her mother when there is an intervention order in place against the mother's partner, who may have contributed to the cause of the protection proceedings in the first place.

As I said, the bill contains a number of technical and consequential amendments. We on this side of the house are very concerned that there has been little action in respect of the Cummins report. We support making Victoria's vulnerable children a priority, and we support any measures designed to improve their lives. The Cummins report made 90 recommendations in terms of looking at different ways that the lives of vulnerable children could be improved, but to date there has been very little action — a piecemeal approach — in relation to implementing these recommendations. The government has, in effect, cherry picked which of them it wants to implement.

We are looking to the government to take more action to implement these recommendations and to ensure that there is a whole-of-government approach to linking up services that protect our vulnerable children. We look to the government to provide more effective and connected services that ensure a stable and supportive environment for Victoria's vulnerable children.

The other point I wish to make is that, as I have already noted in my contribution, a number of amendments to this bill relate to ensuring that different parts of the legal system talk to each other and that we have a streamlining of provisions as they relate to intervention orders. We see this as an important reform because we take the view that the issue of family violence needs to be looked at in a holistic way. We recognise that in many family violence incidents children will be witnesses to the disputes, and that has a long-term impact on those children. The statistics show that three-quarters of all assaults against women happen in the home and half of all Australian women will experience physical or sexual violence in their lifetime. However, I also point out that a significant number of victims are the women's children who happen to be home at the time of an incident. It is important that the government recognise this fact and put a significant level of resources, effort and energy into tackling the endemic problem of family violence in our society.

That is why I am proud of the legacy and record of Labor in government in terms of targeting this issue. We invested almost $180 million in initiatives to tackle family violence. We funded specialist family violence courts in the Magistrates Court. I was pleased that the Heidelberg Magistrates Court was selected to host one of those specialist family violence courts. We invested in things like behavioural change programs, more emergency housing support and family violence lawyers through community legal centres. I am also proud of the fact that it was the previous government that introduced legislation to define family violence and recognise its terrible effects on both women and children. We also provided additional counselling and 24-hour emergency support for victims.

Together with a former Chief Commissioner of Police, Christine Nixon, we put out a strong message about the need to change the culture in our society and

encouraged women to come forward and report incidents of family violence. I am pleased that the current Chief Commissioner of Police has continued the work started by Christine Nixon when she was chief commissioner by recognising that family violence is a crime which should be responded to by the police as a crime and encouraging victims to come forward and report these matters to the police so that appropriate action can be taken to support these families.

Our dedication to this issue also involved a 10-year plan called A Right to Respect, which was a landmark strategy at the time. I am concerned that when the coalition government came to office it scrapped this plan along with many other significant reforms in this area. I am concerned that the cuts to funding at the Department of Justice, cuts to the experts employed to prevent family violence in our community and cuts to legal aid are all having an impact on the support, resources and services available to family violence victims. The government also axed the Bsafe program, which pioneered the use of emergency SOS alarms in households and helped to prevent family violence in rural areas. All these cuts to funding and programs fly in the face of legislation like this, which purports to provide additional support to vulnerable children who are the victims of family violence.

The government needs to look at this issue. In particular it needs to look at the alarming police statistics that show that family violence crime rates are going through the roof, especially in some parts of the state. There are high rates of family violence reported in some growth area communities. For example, I have had discussions with the City of Whittlesea, which is concerned about the high number of reports of family violence in its community. Of course we welcome women reporting these matters and encourage them to do so, but these high rates of reporting show that there are inadequate supports in place for these families. We need to look at what other measures can be introduced. We know that in these growth area communities there is a high level of mortgage stress and people are commuting for a long time to get to work. There are many factors contributing to a great deal of stress and strain on these households, and we need to identify strategies to deal with the high level of family violence in those communities.

I welcome any public efforts made by the Chief Commissioner of Police and other prominent men in our community to urge people to speak out against family violence. I welcome the efforts made by the *Herald Sun*, the Premier and others who have spoken out about these issues, but it is important to match that rhetoric with action. That is essentially my call on the government today — that it match those important words with action and provide additional support to victims, because without that support they will not report family violence.

I conclude by saying we do not oppose the bill. We support any measures designed to improve the lives of Victoria's vulnerable children. However, to do so we need a lot more than just words; we need actions, such as legislative change. We need resources to be put in place to provide the support these children deserve.

Ms HARTLAND (Western Metropolitan) — This has been an interesting debate, and I thank Ms Mikakos for outlining a lot of the bill's technicalities. The bill updates much of the language in the legislation, and most of that is extremely appropriate. The bill is clearly a response to the Victorian Law Reform Commission report entitled *Protection Applications in the Children's Court — Final Report*, published in 2010. This report was the result of a seven-month inquiry into aspects of Victoria's child protection system. We also have the *Report of the Protecting Victoria's Vulnerable Children Inquiry* from the Honourable Philip Cummins. That was an extremely good inquiry. Everybody knew there were problems in the system but that report clarified what those problems were. Child protection is one of those issues that should be beyond party politics, because it is about children, it is about protection and it is about making things right, and that is what is really important.

While the Greens broadly support the bill, we have some problems with clauses we think have not been clearly written. We have spoken to a number of organisations, and less adversarial trials are clearly supported in the proposals by Anglicare, Berry Street, MacKillop Family Services, the Salvation Army, the Victorian Aboriginal Child Care Agency and the Centre for Excellence in Child and Family Welfare. However, I am concerned about the way some of the clauses are written because they are quite confusing and will make things difficult.

The provisions in new section 215B, which is inserted by clause 11, concern me. Clause 11 sets out the principles for a less adversarial trial. While it has merits, I am concerned about the way the clause is written, in particular paragraph (j), which allows the court to deal with as many aspects of the matter on a single occasion as possible. While that initially sounds good, we might be trying to deal with too many things at the one time because, as we all know, when we are dealing with children things need to be done under more flexible arrangements. Paragraph (k) allows the court, where possible, to deal with a matter without

requiring the parties to attend the court. I am concerned that these provisions will lessen procedural fairness. I can understand that there has been an effort made to increase efficiency, but that might come at a cost with serious matters not being heard, and we should consider whether that is fair.

I also note and support, as recommended by the Law Institute of Victoria, the need to provide education and training to legal professionals practising in the state jurisdiction and to child protection workers to encourage greater understanding of the process involved in the entire child protection matter and to promote a less adversarial process in general.

The main reason I suggest that the legislation needs to be referred to the Legal and Social Issues Legislation Committee for a brief inquiry is to make sure that its language is quite clear. I will give an example. I support clarifying the standard of proof in respect of whether a child has suffered or is likely to suffer significant harm as a result of physical injuries, sexual abuse, emotional or physical harm or harm to the child's physical development as set out in section 162, which is amended by clause 6. However, I believe clause 6 is very poorly worded. It attempts to clarify that the balance of probabilities standard of proof does not apply to the determination of whether a future state of affairs is likely or unlikely. This reflects the test established in the United Kingdom case *Re H (Minors) (Sexual Abuse: Standard of Proof)* [1996] AC 563.

The test needs to be stated clearly and plainly. However, clause 6 uses a double negative and poor wording provides no clarity in relation to the test of the likelihood of harm. This clause needs to be amended. Rather than leaving it to me to attempt to amend it, I think the committee needs to look at it to see how we can quickly make sure we alleviate these problems in the legislation, because we want this legislation to be the best it can possibly be.

As I said earlier, the Greens broadly support the intent of the bill; its modernisation of child protection is a worthy cause. However, I am going to ask that the bill be referred to the Legal and Social Issues Legislation Committee for inquiry, consideration and report by 12 November. It does not need to be subjected to a lengthy process. The bill has four or five clauses that are not written in plain English and could create some confusion in the courts. By referring the bill to that committee, we can rectify that very quickly.

Mr O'BRIEN (Western Victoria) — It is with great pleasure that I rise to make a contribution on the Children, Youth and Families Amendment Bill 2013. I do so with great pride in the work of the Attorney-General, Robert Clark, and the Minister for Community Services, Mary Wooldridge, who worked jointly to ensure that a number of the important recommendations of the Cummins inquiry, which was an important initiative of the government upon its election, were reflected in the bill and speedily implemented.

The significant reforms in this bill are designed to ensure that legal proceedings in child protection matters are less intrusive and less adversarial. This is reflective of a jurisdiction that seeks to place the care and welfare of our children as one of the centrepieces of its consideration, because child protection is one of the core values of our society and an area where we ought to have bipartisan support.

I note also that this work has been an area which one of the next speakers for the government, the Parliamentary Secretary for Families and Community Services, Mrs Coote, has devoted a considerable amount of her parliamentary time to working in. She is at pains to point out the importance of adopting a bipartisan approach to this important area and at times, where relevant, to also acknowledging the pieces of legislation and reforms successfully introduced by the previous government.

In that regard, and in response to the lead speaker for the opposition, Ms Mikakos, I note that she indicated the opposition would not be opposing the bill, but despite invitations from my colleague Mr Ondarchie she would not indicate that the opposition supports the bill — that seemed to be one step too far — let alone embraces it with a bit of bipartisan support in this important area that has been the subject of the Cummins report's recommendations, which ought to be embraced by all sides.

Ms Mikakos subsequently moved on to a number of budgetary matters and tried to contrast the work of her government with the work of ours. I now need to respond to these matters and, unfortunately, set the record straight. In identifying some budgetary commitments her government had made and on which Mrs Coote, the minister and others would congratulate the previous government and not seek to make political points, Ms Mikakos omitted the budgetary considerations and significant reforms that have been announced by the current minister — —

Mrs Coote — Where is Ms Mikakos? If she cares about this, where is she?

Mr O'BRIEN — I am not sure where she is. I put these points on the record, noting that the minister had to do the same in response to the lead speaker for the opposition in the other place. She also was disappointed that references to the extent of the Cummins inquiry's recommendations were made out of context. It is important to remember that whilst this bill implements some of the legislative recommendations of the Cummins inquiry, there are a number of other significant recommendations on budgetary and management issues which have been and are continuing to be implemented within a whole-of-government approach. Quite contrary to the suggestion that we are adopting a piecemeal or cherry-picking approach, we are adopting a whole-of-government approach in a systemic and strategic way to implement these important recommendations. We are not just putting out rhetoric — although that is important in relation to matters such as the 'I swear' campaign, to which I and members of Parliament on all sides have committed — but are backing our commitments with action in terms of dollars.

Briefly, in response to Ms Mikakos's contribution, I will refer to some of these significant investments and allocations that the minister and the government have made. I refer to the budget documents of 2012–13 in which the government outlined an allocation of $336 million — this is in the budget — for vulnerable children and their families. Ms Mikakos was very proud to point out the $180 million her government had allocated to family violence; well, this is $336 million in relation to vulnerable children and their families. We also have an additional $90 million allocation relating to family violence matters. These commitments are there in the budget; they have been budgeted for.

I will outline briefly what some of these commitments include. They include the establishment of a new Children's Court at the Broadmeadows court, using a decentralised model with a range of child facilities and child-friendly approaches, including a greater use of conferencing, less adversarial approaches and a redesigned physical layout for children. The aspects of the Children's Court that were found by the Cummins inquiry to be wanting were in many instances the physical layouts and what were said to be intimidating environments. A number of the inquiry recommendations were directed towards those aspects, as is this bill in that it does not require children to attend court. I will deal with the comments of the Greens on that aspect in a moment.

Another reform is the child protection workforce reform. Within this $336 million budgetary commitment we have allocated more front-line workers with improved skills and support and more senior staff working directly with children. There will also be improved retention and career pathways, which will deliver better outcomes for children in the child protection system.

The other commitments the government has made include a focus on placement stability and therapy, which includes earlier identification and decision making about family reunification prospects for young people in out-of-home care. Then there is a focus on connected services for vulnerable children and their families, since vulnerable children and their families should be seamlessly connected to a range of services to respond to their often complex and diverse needs. That is a whole-of-government approach. That is what was called for, and that is what this government and these ministers are delivering.

There is also the establishment of a commission for children and young people, which is designed to provide a holistic approach but with a singular head of a commission for children and young people. I commend the work of the commissioner; he is very well respected in society and is discharging his responsibilities the best he can. This measure is designed to improve transparency, accountability and oversight in the experiences of and outcomes for vulnerable children, with particular focus on Aboriginal children, as shown by the appointment of a commissioner with special responsibility for vulnerable Aboriginal children and young people.

The items I have mentioned include more detailed budget initiatives, and I ask people to look at the budget or the press release of 3 May, if they have been reading Ms Mikakos's contribution and have been led to the wrong conclusion that the government is not meeting its important rhetoric with action.

Another matter Ms Mikakos raised, and she has raised it frequently in this place, is the issue of family violence reporting and crime statistics. This is an important and sensitive area. I do not believe Ms Mikakos would be so bold as to accuse the government of causing in some way greater family violence; rather, in her contribution she was gracious enough to acknowledge that there has been an increase in reporting.

Family violence unfortunately exists. It has existed for many years, and it may be trending towards increasing, but there is now greater reporting, and that is a sign of greater confidence in the institutions of justice. This means that people who have been in vulnerable situations and the police and community services officers who are responsible for providing early

intervention and support services for vulnerable children and families have confidence in those institutions and feel they can bring matters that have been occurring and which would continue to occur to justice and to the authorities. The increase in reporting in this very significant area is an indication that there is greater faith in the justice and child protection system.

Obviously we would like to see a reduction in family violence as quickly as possible, and therefore a reduction in reporting and ultimately a more harmonious society. That is where this bill aims to take us, but it is better to have crime detected and reported than it is to allow it to go unreported or to allow it to continue to be the scourge that it has been, particularly in relation to offences against families and children, which as we all know can cause damage that lasts for many years.

The bill incorporates a number of recommendations from the Cummins inquiry, including those in regard to less adversarial trials and systems. In doing so it picks up principles modelled on those of the commonwealth Family Law Act 1975 and brings them into the Children, Youth and Families Act 2005 to encourage greater judicial control and management of child protection proceedings. The bill revises provisions relating to alternative dispute resolution in the Children, Youth and Families Act by creating a single facilitative conference model and replaces the term 'dispute resolution conferences' with 'conciliation conferences' to better fit with the model conferencing reforms funded under the 2012–13 state budget that I referred to earlier.

It also modernises the language in the principal act by replacing the term 'safe custody' with 'emergency care' in referring to the removal of children in crisis situations. It replaces the term 'access' with 'contact' in referring to the contact between parents and children who are the subject of protection applications, and it states that children are not required to attend matters in the family division of the Children's Court unless they choose to, the court orders otherwise or the act specifically requires the child to attend.

I will respond to concerns Ms Hartland raised. I commend Ms Hartland for the approach she took at the opening of her contribution as opposed to that of Ms Mikakos, because Ms Hartland did identify the importance of a bipartisan approach. In addressing her concerns my comments will be more of a response to them than a criticism of her for putting them on the record; they are real concerns. Ms Hartland referred to clause 11.

There will an opportunity for the minister to provide further answers in the committee stage. However, the provisions that have been introduced in paragraphs (j) and (k) of new section 215B(1) are designed to increase flexibility, but in no way should they be seen as a means whereby appropriate safeguards of natural justice would be seen to have not been provided. New paragraph (j) states the court may:

> deal with as many aspects of the matter on a single occasion as possible …

Obviously that phrasing 'as possible' is an important discretion that the judges and persons involved in this area would be mindful of in considering those matters that Ms Hartland raised. New paragraph (k) states the court may:

> where possible, deal with the matter without requiring the parties attend Court …

That begins with the phrase 'where possible'. One further matter on that, Ms Hartland said she was concerned to ensure that efficiency does not compromise fairness. In reality what we desire to do here is ensure that by not requiring children to attend court their welfare is placed at the forefront of considerations rather than address a concern about inefficiency.

Ms Hartland addressed the language used in clause 6. This is an important clause that is being inserted into the principal act following concerns raised by Judge Couzens, the president of the Children's Court. He was concerned that without more detail new section 215A would have had the unintended effect of removing what is known as the real possibility test and raise the standard of proof required for the Department of Human Services to prove that a child is in need of protection.

This real possibility test, as acknowledged by Ms Hartland, was set out in a case in the United Kingdom, *Re H (Minors) (Sexual Abuse: Standard of Proof)* [1996] AC 563, and it has been and is applied by the Children's Court to assess whether a future state of affairs is unlikely based on the existence of past facts that have first been proved on the balance of probabilities. Whilst the language may appear to have a double negative, as Ms Hartland has outlined, it is certainly the government's position that the language reflects, as best as language can, this test that is important but difficult to explain quickly, and when one is looking at real possibilities, one does not need to establish a future event on the balance of probabilities. That is the language put forward in the bill. It is certainly intended to reflect that test, as has been stated

in the second-reading speech and confirmed by me now. If Ms Hartland has further questions, I am sure she can take them up in the committee stage.

The final matter I wish to respond to is the suggestion that this bill should be further delayed by being referred to another inquiry. Given the significant work of the Cummins inquiry, and the Victorian Law Reform Commission before that, I think it is acknowledged by all parties that there is a desire for this area to be progressed. The bill before the house is not opposed, and therefore we suggest it should have a speedy passage so these important reforms can be implemented for vulnerable children as quickly as possible. With those words, I commend the bill to the house.

Mrs COOTE (Southern Metropolitan) — It gives me an enormous amount of pleasure to rise to speak on the Children, Youth and Families Amendment Bill 2013. At the outset I would like to commend my colleague David O'Brien for his comprehensive analysis of what this bill does, its importance and the strategy the coalition government is undertaking to protect vulnerable children in our state. The government is showing strategy, direction and thoroughness.

This bill is a collaboration between Attorney-General Robert Clark's department and that of the Minister for Community Services, Mary Wooldridge. Government departments are working cooperatively and actively to make certain that family violence and abuse of vulnerable children is eliminated. This is not going to happen overnight. It is going to take a series of bills such as this one and other actions to make certain that we get the outcome that everybody wants to see, which was acknowledged in the contributions made by Ms Mikakos and Ms Hartland. As Ms Hartland rightly said, we all want vulnerable children in our state to be protected as much as they possibly can be.

Minister Wooldridge was very courageous in asking Justice Philip Cummins to conduct the Protecting Victoria's Vulnerable Children Inquiry. The government did not just commend his report, which we all agree was a very thorough and in-depth report, and well timed. Once the report was tabled, the minister and the then Premier, Ted Baillieu, the member for Hawthorn in the Assembly, immediately accepted all of the recommendations and put funding together to put in place those recommendations. This is the hallmark of our government and the difference between our government and the former government. Not only did we speak about it but we did something about it. We faced the very difficult issues that were raised, and what is more we put the money where it needed to go when it was needed. We have a track record.

The same cross-government approach applies to family violence issues. I know the Attorney-General is particularly passionate about this issue, as are Minister Wooldridge, the Minister for Children and Early Childhood Development, the Minister for Corrections and the Minister for Police and Emergency Services. It is indicative that during 2011–12 the coalition government put $90 million into family violence issues. This was a 20 per cent increase on what was put aside by the former government.

Returning to the bill we are debating in the chamber at the moment, it makes a range of amendments which will make a positive difference for children and their families by reducing unnecessary exposure to the Children's Court and strengthening less adversarial approaches to decision making in the court. It is extremely important to understand just how traumatic a court appearance is for a young child, as it is for many adults.

As an aside, recommendation 48 of the Cummins report called for a formal investigation into non-government institutions' handling of child sex abuse. As we know, the former Premier, Ted Baillieu, commissioned the Family and Community Development Committee to investigate these issues. The committee is ably chaired by my colleague Ms Crozier, with Mr O'Brien, I and members from the lower house also on that committee. We have done some extraordinary work, and our report will be brought down shortly. However, following the release of the Cummins report there was criticism of the establishment of the Victorian inquiry and whether it should have been a royal commission.

I remind the chamber that one of the reasons the Victorian inquiry was not a royal commission was the adversarial nature of a royal commission. We are seeing that at the Royal Commission into Institutional Responses to Child Sexual Abuse that is being rolled out at the moment. It is a very formal, legalistic and adversarial court-type approach. I commend the royal commissioners. They have a huge job ahead of them, and from personal experience I know how challenging much of that will be.

However, the Attorney-General wanted to make certain that very vulnerable Victorians who came to our committee were not intimidated by a court-type process. One of the things the committee did was provide victim support to many of these extremely vulnerable people. The nature of a parliamentary inquiry and as a consequence the questioning we as

parliamentarians did of those people was a much more comfortable arrangement. Victims have told us that in emails, letters and phone calls. We had firsthand experience of how vulnerable people find a court scenario very intimidating.

Returning to this bill, it is important to understand what it will do for children. The Children, Youth and Families Act 2005 sets out attendance requirements for children. Significantly, this bill changes the requirements so vulnerable children do not have to attend court unless they wish to do so or a magistrate orders their attendance. Until now Victoria has been one of only two states requiring children to attend court regardless of their wishes and their best interests. As I said, attending court can be really frightening. I know the courts have done a lot to demystify the court experience for children and for others — children are taken into these courts beforehand to show them what it is like and how it is going to be — but it is still a very adversarial process.

These children are traumatised. They are not children who have come out of grade 6 and had a happy household, school, family network and sporting activities that have supported them; these are very traumatised children. These are children whose families have broken up and who may be there because one parent is fighting another or one parent's partner may have abused them. This is very difficult stuff. It is very difficult for children even to recall what has happened to them without having to deal with all the family dynamics that take place as well as have strangers asking them intimate questions about issues they find it very difficult to talk about. This is a very challenging area. It is important that we get this right so that we do not re-traumatise the children we are trying to help.

I would like to put on the record my praise for Chief Justice Diana Bryant of the Family Court of Australia, who does a phenomenal job under very difficult circumstances. Children do not appear before the Family Court of Australia. The court made that decision for the reasons I have just outlined. It is about time that we did something about this in Victoria, and that is why this bill is before us today.

The proposed changes reflect the broad consensus that children should not attend court unless it is absolutely necessary, and they should be given the option to attend if they wish. This is a real step towards minimising the stress and confusion for abused and neglected children appearing before the Children's Court. A child's right to be appropriately consulted and involved in proceedings which concern them will not change. Lawyers will need to arrange to see children and young people outside court to find out their views and wishes. Because those lawyers have to represent the children's best interests, it is very important for them to spend time with those children to understand exactly what their best interests are. This is about truly listening to children and understanding the difficult set of circumstances they face.

The introduction of less adversarial trial principles, modelled on those in the commonwealth Family Law Act 1975, will encourage and guide more active management and control of child protection court proceedings by the judiciary. This change is aimed at reducing the adversarial nature of proceedings in the court. The principles will encourage the magistrates to directly question parties in the proceedings before the court, order the issues that are being discussed and manage court behaviour as required. These changes will encourage respectful communication between the parties and minimise distress and confusion for the children involved.

It is hard to imagine how difficult it must be for children who have been traumatised to be in an adversarial situation. They have lawyers representing them and their parents and family members — people they love. They must hear each party say things about the other. Children would have very strong feelings towards both parties, so that must be very traumatic. It is essential that we recognise these issues and problems and that these changes be reflected in this bill.

In the 5 minutes I have left there is quite a lot I wish to talk about. I would like to speak about the standard of proof and the dispute resolution provisions, both of which are important. I would also like to talk about personal safety and intervention orders and a whole range of other things. In the time available to me I will give a brief outline of what the amendments in the bill do.

The bill primarily relates to the jurisdiction of the family division of the Children's Court, in particular to less adversarial trials, dispute resolution provisions, language change, children's attendance at court and standard of proof clarification. Other matters included in the bill relate to family violence and personal safety amendments and minor technical changes to the Children's Court criminal division.

I would like to highlight the issue of language change. The language used in this chamber has changed much over time. For example, if we wanted to talk about the Legislative Assembly, we were not allowed to call it the 'Legislative Assembly'; we used to have to talk about it being 'another place'. Thank goodness times

have changed for the better. In a court situation it is really important that clear language be used. The disability sector often puts out reports in plain English. Quite frankly I believe plain English is much easier to read and understand. I think we are moving in the right direction, and it is imperative that we do the same in the courts.

The bill simplifies the dispute resolution provisions by creating a generic conferencing provision and removing the distinct between 'facilitative' and 'advisory'. The bill also introduces the term 'conciliation conference' to replace the previous 'dispute resolution conference' and empowers conference convenors to manage attendance at conferences.

The bill makes certain technical amendments to the Children, Youth and Families Act 2005 to improve the operational efficiency of the criminal division of the Children's Court. The bill also extends the jurisdiction of the Children's Court under the Family Violence Protection Act 2008 and the Personal Safety Intervention Orders Act 2010 to allow the court to deal with adult-related intervention order applications where they are related to child protection proceedings on foot. The Family Violence Protection Act 2008 and the Personal Safety and Intervention Orders Act 2010 will also be amended to allow certain functions assigned to registrars by those acts to be performed by other court personnel. The bill will also correct anomalies relating to the enforcement of certain cost orders made by the Children's Court under both the Family Violence Protection Act 2008 and the Personal Safety and Intervention Orders Act 2010; however, it will not extend the application of cost orders. This clarification is important because these proceedings are stressful and all of these issues only serve to add to that stress and the challenges that the courts must deal with.

The bill simplifies the dispute resolution provisions by creating a generic conferencing provision, removing the distinction between 'facilitative' and 'advisory'. I want to stress that point.

Ms Hartland wants this bill to be sent off to the Legal and Social Issues Legislation Committee. The legislative committees do fantastic work, and it is very important that they continue to do that work; the committee procedure has proved to be a very good and successful one. However, in this case I disagree with Ms Hartland. We want the bill to be passed today so that it can give clarity and direction to the courts. In that way there is no longer any doubt about moving in the direction we have planned, which is to put in place a better procedure for children in our courts. The bill also cares for victims of family violence and clarifies a whole range of other things. I dispute the matters that a legislative committee is going to be able to prove, given that we have had some in-depth reports, as I said before, the Cummins report being one of those.

I hope this bill today will have speedy access through this place. I understand and respect Ms Hartland's concern, but I believe this is not the bill to do that with. That scrutiny has already taken place. This bill is very important and is another step forward in making family violence and violence towards vulnerable children a thing of the past in this state.

Mr ONDARCHIE (Northern Metropolitan) — I rise to speak on the Children, Youth and Families Amendment Bill 2013, which is about protecting Victorian children. Is there no greater calling for us as members of Parliament than to get on with moving legislation to make sure our children are protected? This bill ensures that children who are already marginalised do not have to be dragged through the court system.

I had had roles as a kindergarten president, a school council member, a school council president, a junior sporting coach, a church leader, and I am now blessed and privileged to serve as chair of the Bully Zero Australia Foundation, I have been involved extensively in children's welfare. I understand all too well how children in these circumstances can feel. After all, many of these kids have been through awful situations, and the last thing they need is to have all their problems aired in a highly public setting. Let us protect our children. This bill allows magistrates to require their attendance in exceptional circumstances, but it sends a very clear message to all those concerned that this is a stressful time for a child and care for them should be maintained at all times.

I have to say to Ms Hartland that I do not support her submission to refer the bill off to a committee. The legislation has been extensively reviewed through the Cummins report. There has been extensive dialogue around it. It is time to get on with it. It is time to protect our children to the next level, and a delay does not help that. We have done enough talking on this. It is time to protect our kids.

It seems, though, that the opposition is not keen to talk about this bill at all. Where are all its speakers today? Where are they in standing up to protect Victoria's children? These are the same opposition members who point out time and again that the process of this house does not allow them enough time to debate bills. They have had adequate opportunity to stand up, be counted and say to Victoria that they are here to protect our

children. Yet they have listed one speaker on this bill today — they should be ashamed. This is unacceptable. Those who come in here and claim they care about Victorians show their disdain for Victorians by not even turning up to speak in support of this bill, and that is our state opposition. It is unacceptable.

I tell you what, Acting Speaker, I had better not hear rhetoric from opposition members today. I had better not hear more disingenuous comment from them today or in future sittings about there not being enough time to debate bills, because they have had adequate opportunity today to stand up to protect Victoria's children — and they have been silent. There has been not a word, not an interjection, not a defence of their lack of support for the legislation today. The state Labor Party should hang its head in shame. While they are running around trying to work out whether it is Billy or Albo, they should be here protecting our kids. One speaker today to protect Victorian children — I tell you what, I had better not see hypocrisy about this, because I will be the first one to interject. Hopefully I will not be the first one to be kicked out as a result, but I will not take that disingenuous behaviour from them anymore.

This bill is primarily concerned with making sure that children are not compulsorily required to attend court proceedings. The reforms that the bill introduces, which have come about through the work of the Attorney-General, Robert Clark, in conjunction with the Minister for Community Services, Mary Wooldridge, will avoid and reduce further stress and trauma for vulnerable children and promote better outcomes by introducing a range of changes to proceedings in the family division of the Children's Court. The reforms will introduce what we will call less adversarial trials, using principles modelled on those in the commonwealth Family Law Act 1975 for child protection proceedings. These changes will strengthen the Children's Court's ability to use less formal court proceedings and will encourage respectful communication between parties and minimise distress and confusion for children.

These are little children. These are children who have enough pressures in their lives with the range of activities that are occurring; we do not need to drag them through this. Again I reiterate the point that one of the highest callings of this Parliament is to protect the next generation, to help them optimise their lives. Whilst I have gone to the point of my surprise about the lack of support and speakers from the opposition, I guess it is disappointment. It is disappointment to come in here and see that opposition members, who say they champion the rights of Victorians, are not here today to support our children.

The reforms will also ensure that children are not required to attend family division hearings unless they choose to or are required by the court. Currently children and young people are required to attend court for child protection proceedings, which can be extremely frightening and confusing for children who are in the middle of a family dilemma or family drama. We drag these kids into unfamiliar surroundings, with people sitting on a bench, often in a room with walnut walls, and all the kids are thinking is, what is this all about? We do not need to do this to kids.

The bill also clarifies the standard of proof required in child protection matters. The Children's Court is required to consider evidence on the balance of probabilities; however, there is a perception that the standard of proof is higher than the balance of probabilities. This bill clarifies that the standard of proof required is the balance of probabilities. It is also going to extend the Children's Court's jurisdiction under the Family Violence Protection Act 2008 and Personal Safety and Intervention Orders Act 2010 to allow the court to issue intervention orders in relation to child protection proceedings that are on foot in the courts.

The amendments proposed in this bill respond to a number of recommendations that have come out of the Protecting Victoria's Vulnerable Children Inquiry, including the very important finding that court is no place for a child or young person.

The current environment of the Children's Court can sometimes add to the trauma and harm experienced by vulnerable children and young people — often people who have been through enough already. These amendments will build on the Napthine coalition government's previous reforms to protect vulnerable children in the legal system. These reforms include a major expansion of the new conferencing model, which enables the protection of children to be resolved through alternative approaches that minimise the need to go to court. This sits alongside the announcement by the coalition government of the development of a new Children's Court facility at Broadmeadows Magistrates Court in my electorate. We have to make these environments, given the circumstances, as comfortable as possible for our kids.

The bill also allows the family division of the Children's Court to be, as I said, less adversarial. It will allow the magistrates to talk directly to individuals about the proceedings, minimising confusion and stress

for the kids involved. Those on the bench will be able to lean forward and talk directly to the kids in a calm, friendly, non-threatening manner. The bill also allows the Children's Court to deal with adult-related intervention order applications where there are related child protection proceedings, allowing for very consistent, very stable and holistic judgements to be made.

There are current definitions which need to be modernised. These include replacing 'access' with 'contact', 'safe custody' with 'emergency care', 'dispute resolution' with 'conciliation' and 'take into safe custody' with 'place in emergency care'. This is about looking after our kids. As I said, the bill clarifies the standard of proof that is required in such matters, giving all parties involved some surety about the conditions they face. This government allocated $336 million in the budget to address the recommendations of the Cummins inquiry across a very wide range of investments.

By this government alone more than $650 million has been invested for vulnerable children and families in this state over three budgets. I thank the Attorney-General and Ms Wooldridge, the Minister for Community Services, for their stewardship and leadership in caring for our kids; they have shown so much more care for our kids than those opposite are showing today. More child protection workers have been put on — —

Mr Viney interjected.

Mr ONDARCHIE — I will pick up the interjection from Mr Viney. Mr Viney said, 'That is outrageous'. Where is the litany of speakers from the state opposition supporting our kids today? Where is the list of members prepared to say, 'We are going to stand up and protect Victoria's children.'? It is simply not there. The talk does not match the walk of the state opposition, and its members should be ashamed.

Mr Leane — Okay, so next time Mr Koch comes in here — —

Mr ONDARCHIE — You should be ashamed. And you come to this place — —

The ACTING PRESIDENT (**Ms Crozier**) — Order! Mr Leane will come to order!

Mr Leane interjected.

The ACTING PRESIDENT (**Ms Crozier**) — Order! That is unacceptable. Mr Leane just absolutely disobeyed the ruling of the chair, and I will be reporting it to the President.

Mr ONDARCHIE — This is the same opposition whose members come in here and carp and moan because there is not enough time to debate bills. They have had ample opportunity to protect children today, and they have chosen not to, because when it comes to protecting bills, for opposition members it is more about Bill or Albo than it is about this bill.

More child protection workers have been put on. Over the past years an additional 89 child protection — —

Mr Leane interjected.

The ACTING PRESIDENT (**Ms Crozier**) — Order! Mr Leane has put his name on the speakers list, and he will have ample opportunity to speak to this bill next. He should refrain from interjecting and allow Mr Ondarchie to continue.

Mr ONDARCHIE — Thank you, Acting Chair. I will not take too long and will let Johnny-come-lately come and have a say about this. More child protection workers have been put on, and over the past few years an additional 89 child protection front-line practitioner positions have been funded.

The amendments made by the bill will strengthen the protection provided to children by providing clear guidance to decision-makers — those who are looking after our children and protecting our children. The changes will increase the standard of proof in child protection matters, as I have discussed already. There is a lot of language modernisation, as I have outlined, and the bill gives a clear message to the courts that children have to be protected — they have to be cared about.

Sadly those opposite have chosen not to do that today. But we will give them their chance, because suddenly they have realised that the walk does not match the talk, and they are thinking, 'We had better say something; we had better get some speakers up on this bill to prove that actually we do care about children'. Quite frankly, the Johnny-come-lately style of politics makes me ill. Why did opposition members not stand up earlier and get behind all this? It is, I suspect, because they think they are doing something more important in their day to day time, and that is choosing who is going to be the federal opposition leader.

It seems to me that the state branch of the Victorian ALP thinks it is more important to work out who is going to sit opposite Tony Abbott than it is to protect our vulnerable children. They should look within and deal with their rhetoric. Quite frankly, it disappoints

me; moreover, it saddens me. It should sadden Victorians that the ALP cares more about its leadership issues than it does about Victorian children. I absolutely commend this bill to the house.

Mr LEANE (Eastern Metropolitan) — Acting President, I apologise to you for my behaviour when you made a ruling on my interjecting earlier.

Here we have a speaker from the government who says that the level of care people in this chamber have for children is commensurate with the number of speakers a party puts on a list to speak on a bill. Let us look at the history since the coalition government came to government. Time after time the Government Whip has come to me and said, 'Shaun, to get business through, we have decided to only put our government lead speakers on the list — we will only have our government lead speakers on every bill so we can knock off our program later in the week'.

When that happens do members of the opposition — and there have been debates on bills about children's safety and health in which this has happened — say that the government does not care about young people? They are just words — amateur hour and words. If this is the best government members can do, then they need to try harder. They are not heroes because they stand up one after another and read the notes the ministers' advisers have given them. They all regurgitate those notes one after another, thinking that they are heroes because they can regurgitate notes that they have not prepared themselves. Doing so does not make them heroes.

Mr Ondarchie — On a point of order, Acting President, on the issue of relevance. I am yet to hear this speaker speak to the bill. I am wondering if you could bring the member back to the bill.

Mr Viney — On the point of order, Acting President, in his speech Mr Ondarchie extensively criticised members of the opposition on exactly the same basis that Mr Leane is using. It is perfectly in order for Mr Leane to respond to the comments made by Mr Ondarchie.

The ACTING PRESIDENT (**Ms Crozier**) — Order! There is no point of order.

Mr LEANE — Government members are not heroes if they all go on a list. That does not mean that they care about children more than anyone else in this chamber. Members over there who have been around for a while would understand and acknowledge that. You are not a hero if you can regurgitate notes prepared for you by an adviser.

I cannot think of anything more amateurish or lame than the last speech we had to endure. If the member wants to keep on with this angle, then next time the Government Whip comes to me and says, 'Shaun, we are only going to have lead speakers on all these bills, and they might contain issues about children, health and disability', I will say to him that we will get up and make long speeches about how government members do not care, because the whip has decided he wants to get through business and reduce the issues to one speaker. If that is the way government members want to go, that is fine.

Government members are not heroes when they regurgitate notes prepared for them by an adviser. They are not heroes when they put on all the dramatics and say, 'We really care'. Doing so makes no difference; they are just words. All it is is words.

Mr Ondarchie interjected.

The ACTING PRESIDENT (**Ms Crozier**) — Order! I ask Mr Leane to tone it down a tad and Mr Ondarchie to cease interjecting.

Mr LEANE — It is just words, it is boring and moronic. If that is the best the member can do, then he needs to think again and speak with some of the members of the chamber on his side who have been around for a while. Before he gets up he might want to speak to his whip about how things operate. The best defence he could make was to talk about having a speakers list for either party, or all three parties. It is an absolute joke.

Mr FINN (Western Metropolitan) — If Mr Leane cared to wander across the chamber, he would note that I have made these notes myself; they have not been prepared by anybody else — but never let the facts get in the way of a good story.

We like to think we live in enlightened times. We like to think that early in the 21st century we are further advanced as human beings than we have ever been. That seems to be the view of the community and the view of academia and society generally. I put it to the house today that if indeed we do live in enlightened times, then we should not need this bill at all; it would not be necessary. That is not to say that I do not support the bill; I very much support the bill and think it is a giant step in the right direction. However, if we lived in enlightened times, we would not need this bill, because we would not have family violence and certainly would not have child abuse.

Perhaps I am fortunate or naive, or perhaps both, but I do not understand the cowardice behind family

violence. I do not understand how any man can hit a woman. That disgusts me deeply to my very being. When it comes to child abuse, I do not believe any penalty is severe enough for those who treat children as playthings or who harm and perhaps even kill little kids.

Over the years I have seen some people, both males and females, who, in the process of marriage break-ups, use children as weapons. I have seen both sides do this. Some people use children to lash out at their former partner, husband or wife. To me, that is despicable in every way, and I hope and pray that the enlightenment I spoke of earlier might come along at some stage, but as yet we have not seen it.

In recent years we have witnessed some extremely distressing incidents. I can think of two that have resulted in the deaths of four children. I think everybody knows the case that I am talking about. For example, I cannot drive across the West Gate Bridge, which obviously I do on a frequent basis, without thinking of the murder of little Darcey Freeman. I cannot emphasise to this house just how much stress it causes me to see that sort of violence and betrayal by a parent of one of their own children.

But of course it is not just about Darcey Freeman. Last night I got back to my lodgings, turned the television on and heard about the case in New South Wales of a woman who had been sent to jail for doing a similar thing. She did not throw her child from a bridge, but assaulted her child and then allowed the child to die. I do not understand how anybody could do that. I do not understand how anybody can hurt kids. I suppose I can understand sometimes a parent might lash out in frustration; doing so is not acceptable, but I can understand that it happens. Having four children at home, I know that they can drive you to drink sometimes.

Mrs Peulich — A drink of water.

Mr FINN — Yes, a drink of water. I see so many instances of children being hurt or murdered, and it mystifies me what sort of a society we have that allows these things to happen.

As Mr Ondarchie said, children must be our first priority — must be! As adults and legislators we have a responsibility first and foremost to protect those who cannot protect themselves, and that is children perhaps more than anybody else, irrespective of how young, small and vulnerable they are. As adults and legislators we have a responsibility to protect children, and I am delighted to say that that is what this bill is all about.

I remember a time — a long time ago now, it seems — when children's welfare always came first. In the public arena, in terms of legislation, attitude and public policy, the welfare of children was always paramount. At some time over the last 30 or 40 years that seems to have lost its impact and faded away. Other groups — noisier groups, lobby groups, groups that perhaps have more political clout — seem to have got in ahead of those we really should be protecting. Over decades we have seen, at both federal and state levels, groups that are using children for their own agendas. It is not on. It has to stop. I am delighted to say that I believe this bill goes a substantial way to changing the attitude of which I speak. It has to stop. We have to return to the attitude that we have as our first responsibility the obligation to protect those who cannot protect themselves, and they are particularly children.

I want to congratulate the Attorney-General, Robert Clark, who is doing a brilliant job in his role, the Minister for Community Services, Mary Wooldridge, who is doing a sensational job as well, and, might I say, Mrs Coote, who is also doing a brilliant job in her role as Parliamentary Secretary for Families and Community Services. I want to congratulate those three people on the work they are doing but particularly for this bill.

For those of us who are not used to the legal system, I know from having had an experience some years ago that going into a court, on either side of the beak, can be and usually is a pretty horrifying experience for adults. I cannot begin to imagine what impact that must have on a frail, innocent, weak child who is faced with the inside of a court and is just not, and cannot be, prepared for what may lie ahead.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Mental health aged-care facilities

Ms MIKAKOS (Northern Metropolitan) — My question is to the Minister for Ageing. As the minister is aware, there are a number of public sector residential mental health aged-care facilities across Victoria. One of those is the Merv Irvine Nursing Home in Bundoora, which is a 30-bed high-care facility. Phillip from Lower Plenty has his 70-year-old wife, Glenys, in this facility because of behavioural problems associated with what he describes as mixed dementia. Phillip's wife was transferred there from a private aged-care facility because, in his own words, 'They couldn't handle her there'. Phillip says, 'People are there because they need a high level of care, and that means higher staff

numbers'. Will the minister provide a guarantee that public sector mental health aged-care facilities will be exempt from his proposed reallocation of aged-care licences as foreshadowed in the 2012–13 budget update?

Hon. D. M. DAVIS (Minister for Ageing) — We are well aware of these questions that come from Ms Mikakos, and they are misplaced, because the government is determined to ensure very high quality aged-care services. As she well knows, the commonwealth government funds and regulates aged care. The state has a number of beds and strongly supports aged care in these ways, but even the Victorian government beds and Victorian government aged-care centres are regulated and funded in large measure by the commonwealth government. From time to time proposals will come forward from aged-care providers to seek greater private involvement. In this chamber we have discussed a number of those examples, and I will reuse one of them to illustrate to the house the way this can work successfully. In the case of Peninsula Health, it was — —

Ms Mikakos — That's not a mental health aged-care facility.

Hon. D. M. DAVIS — Let me be quite clear: in this particular case Peninsula Health was able to negotiate a very good outcome that was in the interests of the people involved and saw new investment go in.

Ms Mikakos — On a point of order, President, I draw your attention to the fact that I have asked the minister a very specific question about mental health aged-care facilities, and he is proceeding to talk about matters that are not relevant to the question at hand. I ask you to bring the minister back to the question I have asked, which is a very specific one about mental health aged care.

Hon. D. M. DAVIS — On the point of order, President, what I am trying to illustrate is a key principle, and that principle is to benefit the people involved and ensure that high standards are maintained and that the net outcomes are advantageous.

The PRESIDENT — Order! I do not uphold the point of order. Whilst Ms Mikakos started off in the preamble to her question with a very specific example, she then posed a very broad question, in my view, the question being about mental health aged care and staffing resources, and she sought to have them protected from changes in the management of facilities; obviously I am paraphrasing. The minister is providing an example of a model that has been pursued within the health system in Victoria that he would argue provided some benefits to people. I think it is quite within order for the minister to provide such an example to the house as part of his answer to what I said was in my view a fairly broad question, notwithstanding the quite specific preamble.

Hon. D. M. DAVIS — My point essentially is that where a health service or a state provider comes forward with a proposal that is in the interests of the residents and that will actually see better accommodation or better services provided, the state government would be prepared to talk to them and seek to ensure that the net benefit was there for people involved. Equally, I am not aware of any specific proposal for the service that the member is talking about. I simply make that point quite clearly but indicate that we are prepared to look at options that come forward where there is benefit, such as perhaps greater capital support or an outcome that is clearly to the advantage of the people in the service.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — I note that the minister in his response has failed to provide such a guarantee that there will not be a privatisation of mental health aged-care facilities. I note that in my conversation with Phillip from Lower Plenty he described to me recent incidents of physical altercations between the residents at this particular facility because of the fact the residents are people who have behavioural issues that require a higher level of supervision by the staff. I ask: does the minister acknowledge that mental health aged-care facilities have unique issues that require a higher staff ratio?

Hon. D. M. DAVIS (Minister for Ageing) — Firstly, I want to be quite clear. I do not want to be verballed by the member, and I do not want her putting words in my mouth. But let me be quite clear: we will not be seeing people disadvantaged, and I acknowledge that there are unique challenges with psychogeriatric services and aged-care services.

Ms Mikakos interjected.

Hon. D. M. DAVIS — Or mental health aged care. Indeed there are specific challenges in terms of the needs of people. The government is very aware of those and would only move in this direction if there were a clear benefit for the people involved.

Austin Health services

Mr ONDARCHIE (Northern Metropolitan) — My question is for the Minister for Health, the Honourable David Davis. I ask: can the minister update the house on recent developments at Austin Health in my electorate?

Hon. D. M. DAVIS (Minister for Health) — I thank Mr Ondarchie for his question and for his ongoing advocacy for Austin Health and health services in the northern suburbs in particular. He will be well aware of the government's pride in its announcement of the $11 million expansion of the Austin short-stay unit. That short-stay unit is going to make a significant difference to the emergency department at the Austin Hospital.

The Austin Hospital is a very important hospital in the inner north. It has one of the largest emergency departments in the metropolitan area, but the previous government failed to make adequate provision for the short-stay unit. We are proud to indicate that $11 million will be allocated for the expansion of the unit. It will deliver an additional 12 beds, bringing the number of beds in the short-stay unit to 20. The Austin emergency department deals with more than 68 000 people who come through its doors every year, so there is opportunity to enable that emergency department to operate more efficiently and deliver better services to the people of the northern suburbs.

I am proud to tell Mr Ondarchie and others in the chamber that I was at the Wellness Walk on Sunday, which was led by Olivia Newton-John. It was a very well attended event. I want to put on record the government's thanks to the traders in Ivanhoe and Olivia Newton-John and her team, who have been such efficient fundraisers. They have been very effective in providing support. The Wellness Walk was extremely well attended, and I hope it will become a permanent fixture in terms of local community fundraising by Olivia and her team.

It is important to note that the state government has contributed massively to the Olivia Newton-John Cancer and Wellness Centre at Austin Health. The $138 million it has provided is a significant funding of the new centre, its important involvement in research and particularly the capacity it will provide for the inner north of our state. Again I put on record my support for what Olivia and her team have done in terms of fundraising and support, noting that this is a partnership between government, the fundraising team and the community. That was typified by the effective work done on the weekend with the support of thousands of people who walked and the thousands of people who attended the events in Ivanhoe. It is an example of the great strengths of Austin Health and of the government's focus on ensuring that we have the best services in this area of Melbourne, including a new short-stay unit.

Mental health aged-care facilities

Ms MIKAKOS (Northern Metropolitan) — My question is again to the Minister for Ageing. I recently visited, with Mr Lenders and Mr Tarlamis, the Mooraleigh Hostel in Bentleigh East, which is a 29-bed low-care facility. It is one of three low-care mental health aged-care facilities in Victoria and is home to many residents who have come from supported residential services and who, I was informed, would struggle to find alternative accommodation. I ask: will the minister provide a guarantee that low-care public sector mental health aged-care facilities such as the Mooraleigh Hostel will be exempt from his proposed reallocation of aged-care places, as foreshadowed in the 2012–13 budget update?

Hon. D. M. DAVIS (Minister for Ageing) — I thank the member for her question and again indicate to her that the government will consider proposals that lead to better outcomes, better services and greater capital support. There are examples where this approach has been successfully applied. The government would talk to any group that came forward from one of our health services and thought a better outcome could be achieved. If a better outcome can be achieved, we will look at that.

I am aware of no specific proposal for the service that Ms Mikakos mentions. I note the importance of mental health aged care and the importance of ensuring that we have very high quality services. As I have indicated to the chamber before, aged care is commonwealth regulated and commonwealth funded in large measure. We are certainly prepared to work with not-for-profits, for example. The example I gave in this chamber just before and have given on a number of occasions is the Peninsula Health step to ensure high-quality care. Higher quality care and better outcomes, if they can be achieved, is what the government would seek.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — I note again that the minister has failed to provide a guarantee that he will rule out privatisation, and I ask: has the minister received any representations from the member for Bentleigh in the Assembly, Elizabeth Miller, indicating that she opposes the privatisation of this

facility — her only local public sector residential aged-care facility?

Hon. D. M. DAVIS (Minister for Ageing) — The member will understand that communications provided to me by local members occur in confidence, and that would apply to communications that Ms Mikakos, a member of the Greens or anyone else provided to me.

Honourable members interjecting.

Hon. D. M. DAVIS — Let me be clear: I do not want to be verballed again by the member. I want to be quite clear that the government would not seek to change the arrangements with any service unless it was satisfied, based on a proposal coming forward from a service, that there was something better being offered — a better capital outcome or a better quality of service. There may well be capacity to do that, but I am aware of no specific proposal in this case. It is a hypothetical that Ms Mikakos is pointing to. The government would be determined to ensure high-quality outcomes and to see that there was a better result in terms of quality and capital.

Swinburne University of Technology Lilydale campus

Mr P. DAVIS (Eastern Victoria) — It is with some pleasure that I direct a question without notice to the Honourable Peter Hall, Minister for Higher Education and Skills. Could the minister advise the house of the current situation with regard to Swinburne University of Technology's Lilydale campus?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Mr Philip Davis for his question, but I must admit that the source of the question is somewhat unexpected. I thought the question might come from someone sitting opposite me rather than somebody sitting beside me, particularly since Mr Leane, among others, has had a lot to say in the media about this. However, he has had precious little to say in the house about it. Let me respond to the question put by Mr Davis, because it is an important one for the government and, I would have thought, an important one for the opposition as well.

Hon. D. M. Davis — On a point of order, President, we have an adviser in the advisers box who is drinking a Red Bull drink. I do not believe it is the normal practice to drink Red Bull in the Legislative Council.

Mr Viney — On the point of order, President, it is appalling that the Leader of the Government would decide to use question time to attempt to embarrass a staff member. He could have easily called me or anyone else over and privately spoken to us, and we would have been happy to assist the government if it were so offended. It is an abuse of the procedures of the house that the Leader of the Government has acted in this way, interrupting his own minister in the middle of answering a question from his own side, in an attempt to make some pathetic point against a staffer of the opposition.

Mr Elsbury — On the point of order, President, I am sure that you will agree that it is a matter of respect regarding the conduct of all persons in this place that the rules and regulations of the house are kept, and it is my understanding that drinking a soft drink or coffee is not in order.

The PRESIDENT — Order! I uphold the point of order in its substance from the point of view that the people who are attending this chamber as advisers or indeed as members of the public are here as a matter of some privilege in terms of being party to the proceedings of the house, and they are expected to conform to certain requirements in the house. Clearly we do not allow members of Parliament to have foodstuffs and beverages other than water in this place, and I would suggest that that position extends to those who attend the Parliament either in the advisers box or as members of the public. I would certainly ask the gentleman involved — I do not know who he is and I do not want to know who he is — to put a lid on the Red Bull until a subsequent time when question time is finished and not to do it again.

Hon. P. R. HALL — I will not be derailed by Red Bull. Let me return to the question. When Swinburne University of Technology announced that it was going to cease the delivery of higher education and vocational training at the Lilydale campus the government immediately took action to seek an alternative provider of education at that facility. We sought expressions of interest from providers. We provided some funding to the Box Hill Institute to do a feasibility study. We engaged in conversations with Swinburne, the local council, community groups and alternative providers. Recently we provided funding to enable someone to develop an education plan for the region and coordinate the efforts to get an alternative provider.

Mr Leane interjected.

The PRESIDENT — Order! Mr Leane has asked questions on this and raised it as an adjournment matter in the past, so presumably he has a significant interest in this issue, and I can understand that. Therefore I do not see why he needs to interject when the minister is providing information on an issue in which Mr Leane has a real interest. If Mr Leane disagrees with the

proposition that the minister puts to the house in his answer, he has other mechanisms to take up by, firstly, taking note of the minister's answer, and secondly, by pursuing it as a general business matter. The incessant interjections are particularly unwarranted in Mr Leane's case, given that the minister is responding to an issue Mr Leane has shown a great deal of interest in over the journey.

Hon. P. R. HALL — Throughout that period of effort a couple of facts have become abundantly clear. I might add that that effort will continue until we achieve an outcome, and the government sees the best outcome as the continued delivery of education from that site, in whole or in part, and I think that is what the community wants as well. First of all, the area of land concerned is 26 hectares in size. It is abundantly clear that no provider is interested in using an area of land that big to deliver education in that area. It is bigger than the whole site of Melbourne University's Parkville campus, which has 45 000 students, and the number of students at the Lilydale campus was at the very most about 5000 students, and some of those were online students.

It has also become very clear that the best prospect of basing a provider of education at that site is in conjunction with a municipal facility there.

Mr Leane interjected.

Hon. P. R. HALL — Mr Leane groans. If he has better solutions and suggestions, let us hear them. There is no single provider that has indicated any sort of interest in delivering education from that site, so let us work with some potential co-located users of that land.

Some people are taking the public position that the government should not allow the sale of any part of that piece of land and that it should be retained for educational purposes forever. Let us look at the implications of that. We do not have to look very far to find some of those people who are advocating that position. They should bear this in mind. No single provider is interested in acquiring the whole site, as I said.

The second thing I want members to consider is the fact that the land titles are held in the name of Swinburne University, not the government. It is not Crown land but is held in the name of Swinburne University. Moreover, the important thing to mention in respect of this issue is that as a minister I do not have the powers legally or through any other means to compel Swinburne University or any other provider to deliver services from that site or any other site in Victoria. Mr Leane and others should take into account that if they got into government, they could not compel any provider to deliver from that site either. I am happy to elaborate on that, and I will come back to talk about it if I have an opportunity.

Supplementary question

Mr P. DAVIS (Eastern Victoria) — I was interested to hear what the minister had to say in full, but we had some interruptions; therefore I will ask a supplementary question. The minister mentioned that he could not compel Swinburne University or any other provider to deliver education and training from the Lilydale site. Could he advise the house why that is the case?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I cannot compel Swinburne or anybody else to deliver education from the Lilydale site or any other site because Labor governments have changed the rules over the years.

Mr Lenders — My point of order, President, goes to relevance. As questions without notice need to be about areas of government administration, if the minister is saying he has no ability to be effective in this area, I put it to you that this is not a question of government administration but a question of opinion, and he should be ruled out of order.

Hon. P. R. HALL — On the point of order, President, universities in this state are governed by statutes of the state of Victoria, and the powers are set out in those statutes. I am commenting about what is in the legislative domain of this Parliament. As such I believe my comment is perfectly relevant and in order.

The PRESIDENT — Order! I do not uphold the point of order on this occasion because I believe the minister is competent to answer this question in respect of the state's jurisdiction with regard to colleges. A line of questions has been put to the minister over a period about why he would not intervene and why he would not stop the closure, and he is explaining to the house now why he cannot intervene. Whilst the legislation might say the minister is unable to act in this matter, the information provided to the house is in order.

Hon. P. R. HALL — In the past, state governments purchased training and could stipulate where that training was delivered from. When we changed to a market-driven system and adopted a Victorian training guarantee, state governments relinquished any power to direct where training was delivered from.

Referring to higher education again, because there is a move to a market-driven system, the commonwealth government — and it was a Labor government that changed higher education funding here — no longer has control over where commonwealth-supported

places in higher education are delivered from. It is a market-driven system in both vocational and higher education. For some, including members of the opposition, to publicly demand that this campus be retained for educational purposes — —

Mr Jennings — On a point of order, President, the ruling you made just recently relied upon your interpretation, which is being explored by the minister, of the literal, legal restrictions on a piece of legislation. The minister is arguing that they are the only matters that are relevant to his decision making and the influence he may bring to bear within the sector. May I suggest to you politely and with respect, President, that the legislative restriction that the minister is implying is a linear restriction on his ability to influence outcomes within his portfolio is not a legal fact and is subject to legal opinion, interpretation and ministerial discretion.

An honourable member — That's not a point of order.

Mr Jennings — It absolutely is a point of order about the difference between the legal interpretation of a piece of legislation, which is a legal opinion, and what might be the ministerial discretion that is available to any minister of the Crown within the legal restraint that relates to their portfolio. On that matter I argue that the minister has more discretion than he indicated to the house.

The PRESIDENT — Order! The point of order is an interesting one. I indicate that I think the minister has been responsive to the question that was put, and the position he puts on what he sees as his powers is obviously relevant to the information the house would receive. It is quite possible that various pieces of legislation might well be challenged from time to time in the courts or other places and interpreted by all sorts of legal luminaries, but the point is that I do not think that in any way impedes a minister from explaining what he or she regards as their position in respect of responsibilities or jurisdiction under a statute. Mr Jennings has put an argument and would be quite entitled to move a motion contesting the minister's proposition to the house today, or we could wait for somebody in the Supreme Court to do their dance of the seven veils. The minister has only 3 seconds remaining.

Hon. P. R. HALL — I note that the opposition's reluctance to allow me to even comment on this matter shows its lack of interest.

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

Royal Women's Hospital neonatal intensive and special care unit

Mr JENNINGS (South Eastern Metropolitan) — My question is for the Minister for Health, a man who has demonstrated his keen eye for detail and his commitment to showing courtesy to the chamber. I ask the minister a question in that spirit. After the minister gave undertakings to me yesterday to provide me and the chamber with supplementary information because he was not able to provide those answers yesterday in relation to when he was notified and when his department was notified about matters, I wrote to him as a matter of courtesy and asked him to furnish me with those details, which he has not done. Could the minister share with the chamber the details he has made a commitment to share with the chamber today?

Hon. D. M. DAVIS (Minister for Health) — I thank the member for his question. I think the point here is that the member did raise questions with me yesterday, and I did undertake to provide information. He subsequently wrote to me late in the day yesterday seeking further information, which is entirely his right to do, and that information will be provided to him in due course. I am aware that the department is doing the work to put together some notes on that which will likely come back to him later today. If he asks for more information, it will take a little more time, but it will certainly be provided.

I can indicate to the house, as I did yesterday, that the matters at the Royal Women Hospital neonatal intensive care unit and the special care unit are important matters, and the government has been very focused on getting a good outcome for the children there. Mr Jennings will be aware that the illness that impacted a number of babies at the Royal Women's is in fact a very common one which occurs in a number of neonatal intensive care units. It is in part related to premature babies, who naturally are a significant group within those neonatal intensive care units. Estimates of the number of cases of this particular illness are around 50 per year in Victoria. It is of uncertain and unknown origin and in part relates to the intestinal blood vessels in neonates. Whether it is associated with infection is unclear.

As I indicated to the chamber yesterday, I was advised about the matter. The Royal Women's, the responsible body in this case, advised the chief health officer on 5 September about the matter — about a number of illnesses — and the chief health officer worked with the Women's through that period. As I indicated to the chamber yesterday, as far as I am aware, given the information provided to me, there have been no

additional cases in the recent period. Parents have been advised. This is an important matter, as the member indicates quite accurately, and I can indicate to him that a letter is in close preparation for him on the matter.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — My supplementary question to the minister is: is it not true that despite the impression the minister gave the chamber yesterday — that a public health notification was not warranted in this instance, even though the minister did subsequently recognise that babies may have been transferred to other locations, therefore potentially providing a public health risk — that there was an intention on the part of the chief health officer to provide a public health notification during the course of last week and that that scheduled announcement was postponed, if in fact not cancelled?

The PRESIDENT — Order! I will allow the minister to answer this one on the basis that this is a matter of some public importance, but I draw Mr Jennings's attention to the fact that this seems to me to be a supplementary question to a question asked yesterday, not a supplementary question to the question he put to the minister today. The question Mr Jennings put to the minister today was whether or not the minister would furnish the information sought yesterday; that was a fairly narrow question. Now Mr Jennings is exploring a matter which is quite outside that in terms of the question put today. I understand the question refers to matters raised yesterday and therefore relies, I suppose, on the memory of members as to what those matters were, but in reality it is not a supplementary question to today's question. However, given the matter of public importance — and I think the minister is prepared to answer — I am prepared to allow the minister to respond on this occasion.

Hon. D. M. DAVIS (Minister for Health) — I am very happy to respond. I can indicate that the chief health officer and her team and the Royal Women's Hospital had many discussions on this matter over a number of days, as you would expect. She convened an incident management team with staff from the department, the Royal Women's Hospital and the microbiological diagnostic unit — the department's reference laboratory. At all times the chief health officer has been able to make whatever professional decisions she was required to make, and the professional decisions are decisions she would advise me and the hospital of. The fact is she is working with the Women's to get the very best outcome. As I indicated to the member yesterday, using an example of an incident involving Jindi cheese by way of illustration, this was not that sort of incident, as I am informed by clinicians and by the chief health officer. As members would expect, I rely on the advice of the chief health officer, and the Women's relied on the advice of the chief health officer. This is a matter where there was close discussion between those groups and the incident team. That is the key point.

The PRESIDENT — Time!

Gaming venues ATM ban

Mrs KRONBERG (Eastern Metropolitan) — It is my pleasure to ask a question without notice of the Minister for Liquor and Gaming Regulation, the Honourable Edward O'Donohue. Can the minister inform the house about the success of the government's ban on ATMs at gaming venues?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I thank Mrs Kronberg for her question and for her interest in this very important issue.

The government is committed to reducing the incidence of problem gambling in our community. That is why the coalition government created the Victorian Responsible Gambling Foundation, and that is why it has resourced the Victorian Responsible Gambling Foundation to the tune of $150 million over four years — that is a 41 per cent increase on comparable funding from the Labor government. This is a great initiative of this coalition government. That is why the Victorian government has brought the regulation of liquor and gambling under the auspices of the Victorian Commission for Gambling and Liquor Regulation, and that is why this coalition government has banned ATMs from gaming venues.

I am pleased to update the house on independent research that was undertaken by Swinburne University of Technology, a report I released a few days ago entitled *Evaluation of the Removal of ATMs from Gaming Venues in Victoria, Australia*. What that independent research says is that the removal of ATMs has been a stunning success. One of the key findings is that because of the government's ATM ban, problem gamblers are spending on average $90 less each time they play electronic gaming machines in pubs and $43 less each time they play them in clubs. In addition, moderate-risk gamblers are spending on average $37 less at hotels and $18 less at clubs. The ban has also proved to be an effective protection measure, with lower risk gamblers spending less time on gaming

machines and curbing their impulsive decisions to gamble.

The report also found that EFTPOS withdrawals were fewer and smaller than previous ATM withdrawals, because EFTPOS was inconvenient and players, problem gamblers in particular, were put off by the face-to-face interaction required as part of an EFTPOS transaction. This is vindicated by the figures in relation to electronic gaming machine expenditure in the last financial year. Spending on electronic gaming machines in the 2012–13 financial year is down by 7 per cent. That is a significant reduction. As I said, this report says that the vast majority of that 7 per cent reduction is a result of reduced spending by problem gamblers.

The government is extremely pleased to see the positive effects the ATM ban has had on problem gambling. It builds on the work and investment of the coalition government through the Victorian Responsible Gambling Foundation. As I said, it is a $150 million commitment over four years and a 41 per cent increase in expenditure compared to the commitment of the Labor government. The removal of ATMs from pubs and clubs was the right thing to do. The government is very proud of its initiative in having done so, and the independent research vindicates that decision.

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

Emergency department safety

Mr JENNINGS (South Eastern Metropolitan) — My question is to the Minister for Health. Recently there have been a series of articles about the incidence of violence and security risks within the emergency departments of Victorian hospitals. In the course of those articles, there was an attribution by the government to expenditure of $21 million to provide support for security on these matters. I understand that the allocation the government has provided is $5.8 million up to this point in time. Can the minister provide clarification on the true figure?

Hon. D. M. DAVIS (Minister for Health) — The government takes violence in our hospitals, in our emergency departments and with respect to paramedics very seriously. I have formed a committee that is chaired by John Mulder, the CEO of Bendigo Health, who is a very experienced CEO. The committee has a broad representation, including representation from the police, and it has a key role in advising how we can make our emergency departments and hospitals safer. I can indicate that prior to the last election there was an intention by the coalition to put protective services officers in emergency departments. We sought advice from the sector, and the sector said that it was not a good idea. In fact Mr Ramsay chaired a committee that looked at that issue very closely, and that committee came back with a bipartisan recommendation, which we adopted, and that was that we not proceed with protective services officers in emergency departments. That is a decision I strongly agree with. It is a wise decision and the wisest way forward.

In its budget last year the government put additional money into supporting our emergency departments and hospitals in terms of seeking to reduce violence and to take measures required. One of the early steps the committee took was to seek an audit of our emergency departments, and what it found was that 19 of those emergency departments in our major public hospitals did not have adequate and modern duress buttons or adequate and modern CCTV. That is the legacy of Mr Jennings and his history, and it is the history of the former Minister for Health, who left 19 of our emergency departments without adequate, modern duress buttons. The first tranche of money from the funding in last year's budget, which will be allocated over a four-year period, is money that was allocated to upgrade those duress buttons and to put CCTV into key locations.

Many of the other recommendations from Mr Ramsay's committee have also been adopted and are being oversighted by that committee chaired by John Mulder. That committee has given us advice about the design of emergency departments, so when a new hospital is built with a new emergency department we know that through proper design principles we can actually get safer lines of sight, better outcomes in terms of reduced violence and protection of our staff.

The fact is that our emergency departments and hospitals should be places of safety for staff, a place of security and tranquillity where people, who are at a vulnerable stage, have confidence that they are not going to be in any way injured, and staff should have the capacity to work in an environment that is safe and secure. The government has made commitments in this area through its allocation of budget money and additional money that is allocated through key examples. My colleague the Minister for Mental Health has also put additional money into this area to ensure that our emergency departments have additional support — —

Honourable members interjecting.

Hon. D. M. DAVIS — I have to say that it is a significant allocation. I do not have the mental health allocation off the top of my head, but it is a very significant allocation to all emergency departments across the state. I can also say that we are spending money on building new hospitals. I see that Mr Drum is nodding as he thinks about Bendigo Hospital, and there is the case of Box Hill and the emergency departments that will be built at the Frankston and Northern hospitals.

The wisdom and advice of that committee in designing a better, safer outcome for our doctors, nurses and indeed for our patients will be to the fore. I can also indicate that other funding has been allocated for improved safety in emergency departments.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — I heard the minister say that the committee chaired by Mr Ramsay discovered that the policy of the incoming government was a failed policy and a flawed policy and the committee rejected the protective services officers going into hospitals, but it did say that the $21 million should be spent. At no stage has the minister identified the allocation that has been made by his government, but as I understand the budget papers, $5.8 million has been allocated. Can the minister give the chamber and the community confidence about when the residual $15.2 million will be allocated for the purposes recommended by Mr Ramsay's committee?

Hon. D. M. DAVIS (Minister for Health) — What I can give the chamber confidence on is that the government takes this issue seriously, and it is allocating far more than $5.8 million. I pointed to the significant allocation to emergency departments from my colleague the Minister for Mental Health, which will make them safer and provide better management. I can indicate another source of funding that is going in very directly via the Rural Capital Support Fund. We have provided additional support to Mr Ramsay's electorate; CCTV cameras were put in at the Portland hospital emergency department, purely for safety, and that was funded out of the Rural Capital Support Fund. It was not part of the allocation to which Mr Jennings has referred. There is much more money than he has alluded to.

The government is determined to get good outcomes because violence and threats in hospitals are not tolerated. It is not right for staff, and it is not right for patients. The history Mr Jennings can point to is where 19 of the major emergency departments did not have modern and adequate duress buttons. That is Daniel Andrews's legacy.

Ashwood Chadstone Gateway project

Mrs COOTE (Southern Metropolitan) — My question is to the Minister for Housing, Wendy Lovell. Can the minister inform the house of any recent social housing elements in eastern Melbourne?

Hon. W. A. LOVELL (Minister for Housing) — I thank the member for her question and interest in social housing in Victoria. I recently had the pleasure of opening the Ashwood Chadstone Gateway project. This is a project that has spanned two governments. It is a partnership with the Port Phillip Housing Association and is the largest housing project ever undertaken with a housing association in Victoria. The Ashwood Chadstone Gateway project will provide 210 community housing units and 72 private homes across six sites. These energy efficient homes will feature solar-boosted hot water, rainwater collection and storage, natural light and ventilation, and energy efficient appliances. This is well-located housing that provides access to public transport, shops and employment opportunities. It provides great outcomes for tenants where they can participate in their community and also in employment opportunities. This project shows how we can create inclusive and diverse communities.

This project was made possible through $71.3 million from the Victorian government and $68.7 million from the Port Phillip Housing Association. I would like to thank the tenants of the estate who invited us into their homes to show us their new apartments and to tell us how proud they were to be living in the Ashwood Chadstone Gateway project.

East–west link

Mr BARBER (Northern Metropolitan) — My question is for the Minister for Planning. The government has already offered compensation packages to buyers of off-the-plan apartments at the Evo development in west Parkville for loss of amenity and property value. The scoping directions for the project note a key risk as being:

> Reduced wellbeing of residents, particularly from vulnerable social groups, who need to relocate or who have diminished access to open space.

The minister is responsible for assessing this project, determining the conditions of the project that may reduce the damage of the project and issuing the permits. How and when will other groups of affected residents find out their eligibility for compensation?

Hon. M. J. GUY (Minister for Planning) — When the government determines that that is necessary there will be an announcement in due course.

Supplementary question

Mr BARBER (Northern Metropolitan) — The government has already compensated one group. A couple of doors down is the Chinese nursing home, which contains people who will be vulnerable to the extra air pollution that will come spewing out of the minister's road tunnel. These are the minister's constituents, and they will continue to be all the way through to the next state election. The minister is possibly looking at a bit of a tree change after that — I do not know. Why will the minister not meet with these people who are going to be so affected by this project? It is clear from his own statements that they will be affected. They want some certainty, rather than waiting until the minister has signed off on permits at the end of the process.

The PRESIDENT — Order! Again, this is not really a supplementary to the substantive question. The substantive question was about whether or not other groups would have access to compensation packages and how they would be advised. The supplementary question, as I understand it, is: will the minister meet with them, which is a very different proposition. Can Mr Barber perhaps assist me?

Mr BARBER — In his answer to my substantive question the minister said that there may or may not be compensation packages available to these groups and that his government would determine that at some future time. People have made requests to meet with the minister on this very issue. I believe it is necessary that the minister do so, so I have asked him whether he will meet with those groups to discuss that very issue to which he responded in his answer to my substantive question.

The PRESIDENT — Order! The specific supplementary question is whether the minister will meet those groups to discuss possible compensation or their eligibility for compensation.

Hon. M. J. GUY (Minister for Planning) — I say to Mr Barber that I am happy to meet with any of my constituents on any matters that affect them, this being one of them. If Mr Barber is referring to people who have contacted my electorate office — the opposition parties obviously have a fascination with my diary movements — he is more than welcome to have a conversation with me about who those people might be.

Mr Barber's supplementary question talked about extra air pollution. It always fascinates me how the Australian Greens seem to think that cars sitting at traffic lights with their engines running, spewing out pollution, is somehow more efficient than a car travelling at 1000 revolutions with its motor running at a third of the energy levels. I find it absolutely astounding that the Australian Greens seem to believe that having cars sitting at traffic lights is more efficient than having a road tunnel.

Sacred Heart Mission

Ms CROZIER (Southern Metropolitan) — My question is to the Minister for Planning, Mr Guy. Can the minister inform the house of what action the state government has taken to assist Sacred Heart Mission in providing valuable community services to Melbourne's southern suburbs and how services such as these are vital to building a compassionate metropolis of the future?

Hon. M. J. GUY (Minister for Planning) — It is important to note that planning for and building a metropolis of the future is not something we should be doing if we are not focusing on people. Recently I had the great pleasure to join the federal member for Melbourne Ports, Mr Danby, and His Grace Archbishop Denis Hart at the opening of the refurbishment of the Sacred Heart Mission dining hall in St Kilda, which has been part-funded by a Victorian government contribution of $400 000 from the Community Support Fund grants. It was an immensely satisfying day. I have pleasure in informing the chamber about that announcement of the government — and the government was part of the events of that day.

One of the key things this government will be focusing on in its new metropolitan planning strategy is it not just about building a city of buildings for the future. It is not just about a planning strategy or land use strategy for the future. It will focus on people and the health of our city, not just the health of our city's open space but the health of the people who live in the city and who will continue to live in the city and those who may live in the city in the future.

I found this an immensely satisfying event. I want to place on the record the government's proud support of the upgrade to the Sacred Heart Mission dining hall. I was there with Mr Danby, Archbishop Hart and the Fox family, which has been so generous, to see that as part of the future that facility will be able to look after so many people in need in Melbourne's southern suburbs. As we go forward with our metropolitan planning strategy rewrite, we will bear in mind that we are building a city for the future that is not just for buildings but importantly is for people.

QUESTIONS ON NOTICE

Answers

Hon. D. M. DAVIS (Minister for Health) — I have answers to the following questions on notice: 9456, 9503, 9505, 9513, 9514 and 9559.

Sitting suspended 12.57 p.m. until 2.03 p.m.

CHILDREN, YOUTH AND FAMILIES AMENDMENT BILL 2013

Second reading

Debate resumed.

Mr FINN (Western Metropolitan) — As I was saying before question time, for a child to front the court process must be a truly horrifying experience, particularly for a child who has been through such a traumatic experience that it has got them there in the first place. That experience may well have involved seeing a parent being assaulted. It may have involved being assaulted themselves. It is not something we should be encouraging to add to the trauma these children have already suffered.

It is a very good thing indeed that the Children, Youth and Families Amendment Bill 2013 is introducing a situation where children — young people — will not have to physically attend the Children's Court. Child protection workers will explain to children what is involved in attending court and ascertain whether they wish to attend. If they choose to attend, the workers will familiarise the children with what will occur on the day. When a child chooses not to attend, child protection workers or delegated case managers will continue to facilitate the child's participation in decision making, and arrangements will be made for the child to give instructions to a lawyer away from the court building where necessary.

This is a giant step in the right direction, and it gets back to what I was saying before about putting the welfare of the child first and foremost in our thinking. I cannot begin to imagine the horrors that must have faced children in the past when they were compelled to attend court in this manner, but I think this bill with the new provisions will make a lot of children's lives a lot better. That has to be a very good thing.

I remember back in 1979 — and yes, my memory does go back that far — my first ever plane trip was to Canberra, which was somewhat of a disappointment I have to say, to attend a conference for the International Year of the Child. Some might remember that Phillip Adams and a few people who were around at that time made a lot of money out of that. However, it had quite an impact at the time, and the slogan for that particular year was 'care for kids'. There was a lot of advertising, a lot of hoopla around the International Year of the Child in 1979, but then it died. It just faded away, and afterwards — I was going to say that we went back to what we had before, but I think we even deteriorated somewhat in our attitudes toward children and young people.

If we are serious about our roles in this Parliament — and I certainly am, I know Mr Leane is and I know everybody on this side of the house is very serious about their responsibilities with regard to this area — then this is a slogan, if I can use that term, that we should all adopt: care for kids. Children must be protected; they need to be protected. They are not capable of protecting themselves in most instances, and it is clearly our responsibility to do so. If we do not protect them, we have failed monumentally. I have to say, at the moment, that in many instances we are failing children and little babies, who are suffering as a result of neglect, abuse or contempt of society. I believe we really have to get our heads around what is necessary to change the attitudes that are prevailing in what is supposedly an enlightened time.

I very warmly welcome the opportunity to support the Children, Youth and Families Amendment Bill 2013. I believe it is a big step in the right direction in assisting children who are going through the court process and who have been through some real difficulties or real trauma. I commend the Attorney-General, the Minister for Community Services and the Parliamentary Secretary for Families and Community Services for bringing this bill before the house. I wish it a speedy passage.

Ms CROZIER (Southern Metropolitan) — I am pleased to be able to rise and speak on the Children, Youth and Families Amendment Bill 2013. As Mr Finn has just articulated, this is a significant bill that will make a difference to many children's lives. I would also like to commend the Attorney-General, Mr Robert Clark, and the Minister for Community Services, Ms Mary Wooldridge, for their work in this area and the attention they have paid to this very necessary reform.

The proposed reforms are based on recommendations not only from the Victorian Law Reform Commission's *Protection Applications in the Children's Court*, but also from the Cummins inquiry into protecting Victoria's vulnerable children, which was conducted when the coalition first came to government. The report was handed down last year, and in that very significant

document there are a number of recommendations that have been taken up in this bill. I will go to that in more detail later.

This bill will enable greater protection of children and ameliorate the traumatic and intimidating experience of our courts for children; this bill has their best interests in mind. As other members have stated, it can be an incredibly intimidating experience for someone to even walk into this place, if they have not experienced such grandeur before, but to go into court as a vulnerable child must be extraordinarily difficult. This bill will enable greater flexibility in the courts and allow children to be involved in less formal and less adversarial court proceedings. In my view this will enable better outcomes for all involved.

As Minister Wooldridge and the Attorney-General said when this legislation was introduced into the Parliament in June, the changes ensure that the court proceedings are less intrusive and less adversarial. In the media release to announce this significant piece of legislation, they stated that the reforms will introduce less adversarial trial principles modelled on those in the commonwealth Family Law Act 1975. That will strengthen the Children's Court's ability to use less formal court proceedings, which will create an environment for children and those representing them with less stress, less confusion and less intimidation.

I am pleased that the government has done a number of things in relation to protecting and supporting Victoria's vulnerable children. One of those things was the establishment of a commission for children and young people. Other steps that the government has taken include focusing on connected services, on vulnerable children and their families, on placement stability and therapy, and on child protection and workforce reform. Workforce reform is a very important and sometimes highly debated topic in this place, but the government has nevertheless looked at reform in this very necessary area. The government has also established a new Children's Court at the Broadmeadows Magistrates Court.

We are trying to create a less stressful and less intimidating court experience as part of an attempt to create a child-friendly legal system. The minister is working to enable that to occur. I think the proposed reforms should be applauded, and I know that many agencies have had input into the development of this bill. Their contributions have been very worthwhile. Also, as I said, I believe the Attorney-General and the Minister for Community Services should be commended for their work on this.

I also wish to commend the Cummins inquiry, particularly the aspects that looked at strengthening the law to protect children and young people. The past approach was outdated and did not reflect the modern world we live in. The recommendations reflect what we do and how today's communities work in the context of all the complexities around vulnerable children.

I believe the realignment of the court processes that this bill will achieve will be a good thing for all the young children who come before our courts. Like other members, I wish this very good piece of legislation a speedy passage through the house.

Mrs KRONBERG (Eastern Metropolitan) — Like my colleagues who have preceded me in this debate, I am very pleased to rise to support and speak to the Children, Youth and Families Amendment Bill 2013. The purpose of this bill is to amend the Children, Youth and Families Act 2005, the Family Violence Protection Act 2008 and the Personal Safety and Intervention Orders Act 2010, ostensibly to improve the experience of children, young people and their families who are involved in child protection and family violence proceedings in the family division of the Children's Court of Victoria. I have some deep feelings about what this bill will do to ameliorate the suffering of children in this state. When asked about the most important role the state could have, no. 1 would have to be responsibility for the protection of children. Everything else is secondary.

Not so long ago I took the opportunity to visit the Australian Childhood Foundation's facility in Mitcham, which has a gallery of forms of expression by children who have been traumatised as a result of family violence and other dark behaviours. In the works they have created we are able to see the results of the full extent of family violence. A lot of publicity is given to the traumatic experiences of children in, for example, refugee camps; one has only to think of the 2 million refugees who are fleeing from war-torn Syria at the moment. We also saw images of the terrible experiences of the children affected by the Bosnian conflict. But the trauma of children who are subjected to family violence ranks up there with the experience of children involved in war. In the gallery at the foundation expressions of the trauma often associated with family court proceedings, which is amplified by the events surrounding family violence, can be seen in the work of children. I recommend that anybody interested should go to the foundation and see some of the manifestations and expressions of the suffering of those children. A picture not only tells a thousand words but also explains and illustrates a thousand miseries.

Once again the government is delivering on its commitments set out in the directions paper *Victoria's Vulnerable Children — Our Shared Responsibility*. It is essential that the legal system be made child friendly and less intimidating. The system is intimidating even for adults and people who are accustomed to practising in it. I have seen many legal practitioners shaking and stammering in front of a magistrate or a judge. The whole process is intimidating for adults, so we can barely imagine what it would be like for children who are often bewildered and traumatised by these proceedings, which ostensibly are meant to alleviate problems and provide a turnaround and some sort of protection for children. For children sucked into the vortex of these proceedings, they could seem to be an extension of the great mysteries of poor behaviour by adults.

The bill strengthens laws to protect children and seeks to find ways to continue to expand and underpin new mechanisms for problem solving. Importantly the bill streamlines processes within court proceedings by tailoring them to the tasks which they are intended to facilitate. It is important to commend the Minister for Community Services and the Attorney-General.

Part of the framework of this bill is based on the adoption of recommendations made in the *Report of the Protecting Victoria's Vulnerable Children Inquiry*, recommendation 42 of which is for clarification of the standard of proof applying in the family division of the Children's Court.

Recommendation 43 is for the modernisation of outdated terms in the Children, Youth and Families Act 2005. We see 'safe custody' amended to 'emergency care', 'alternative dispute resolution' amended to 'conciliation conference' and 'access' to 'contact'.

Recommendation 49 deals with extending the jurisdiction of the Children's Court to hear adult and adult intervention orders where they relate to child protection proceedings.

Recommendation 53 states that children should not be obliged to attend court for child protection matters unless they choose to or unless a court otherwise orders or in those very limited circumstances where the act otherwise provides for them to attend.

Recommendation 57 introduces less adversarial trial principles to the Children, Youth and Families Act for child protection matters.

Finally, in a suite of recommendations adopted through the framework of this bill, recommendation 60 supports the court by updating court conciliation conference provisions in the Children's, Youth and Families Act. It streamlines provisions, updates language and provides for better management of the conference process.

To sum up, we had to recognise that there really were physical and administrative constraints within the Children's Court when hearing these matters. What exacerbated these problems and added to the suffering and trauma of children swept into this vortex was the culture of mistrust, combativeness and disrespect between parents. Some parents may be adults, but it does not mean that they know how to present themselves and understand the light in which and the lens through which their children would be seeing their behaviour.

As we know, some of those behaviours have been exacerbated by and some of the decisions of the Family Court, as we know, have led to horrendous physical reactions outside the court. There have been notorious murders and murder-suicides. It is an extreme and volatile environment, and we must do whatever we can do to reduce the impact on all participants in court proceedings but especially on the children. Their outlook is being framed, and many of them will hold very close to their chest the views that they form. They can be utterly bewildered. Children can be left wondering who they can trust in life, because there are barriers to accessing trust and support, the processes are intimidating and formal, and all the parties are a little self-indulgent.

This bill is an opportunity to look at the adult world through the lens of children as victims. It is a positive way forward, and I commend the bill to the house.

Motion agreed to.

Read second time.

Referral to committee

Ms HARTLAND (Western Metropolitan) — I move:

> That the Children, Youth and Families Amendment Bill 2013 be referred to the Legal and Social Issues Legislation Committee for inquiry, consideration and report by 12 November 2013.

I will speak very briefly on this because I think we have canvassed a great many of the views around the bill in the second-reading debate. The Greens support the bill, but we have concerns that some of the language in it is not clear enough. We have particular concerns about clauses 6, 11 and 12, so I want to make sure that the intention of this important bill is absolutely clear to everyone and that it is worded absolutely clearly.

I have been a bit concerned about the way in which today's debate has been framed, because this bill should not be about politics; we should take a bipartisan approach to a bill that is about protecting incredibly vulnerable children. To do that well, the language in the legislation has to be absolutely clear. That is the reason I have moved that the bill be referred to the Legal and Social Issues Legislation Committee.

Ms MIKAKOS (Northern Metropolitan) — For the record, I state that the Labor opposition has given due deliberation to the referral motion proposed by Ms Hartland. We certainly have some issues that we wish to explore and get some clarification on during the committee stage, but at this stage we are not satisfied that there are questions around the clauses that would justify delaying the passage of the bill. Therefore we will be opposing the Greens party referral motion on this occasion.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — In a similar vein to what was stated by Ms Mikakos and as articulated by Mrs Coote in the second-reading debate, the government will not be supporting the referral motion moved by Ms Hartland. I look forward to exploring the questions members may have during the committee stage of the bill and believe that clarification can be provided through that process.

House divided on motion:

Ayes, 3

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

Noes, 36

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

Motion negatived.

Committed.

Committee

Clause 1

Ms MIKAKOS (Northern Metropolitan) — Before I raise a number of questions I have in relation to clause 1, I note certain comments that were made during the course of the second-reading debate, including by Mr Ondarchie. Unfortunately I was not in the chamber at the time, but it has been reported to me that members of the opposition found the comments extremely offensive. The assertion was made that because a significant number of members of the opposition did not participate in the second-reading debate, somehow we do not have any interest in these issues or in the bill before the house.

For the record I want to make it clear that members of the Labor opposition feel very strongly about these issues and support the protection of vulnerable children. There may well be members of the opposition who have themselves been victims of such circumstances in the past — their family members or people they are associated with may also have been victims — and they would find these claims absolutely outrageous and offensive. I ask members of the government to reflect on that in terms of making those types of assertions in the house in future.

I begin by referring the minister to the second-reading speech in which he made a number of references to the *Report of the Protecting Victoria's Vulnerable Children Inquiry* by Justice Cummins. He referred in particular to a number of recommendations that this bill purports to implement. I acknowledge that the bill seeks to implement recommendations 43, 53, 57 and 49, which I welcome. However, the Cummins report contained a total of 90 recommendations. I ask: can the minister advise the house of how many of those 90 recommendations have to date been implemented in full or in part?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Before I respond to Ms Mikakos, I seek leave for Mr O'Brien to join me at the table.

Leave granted.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — As Ms Mikakos would no doubt be aware, the government has implemented and continues to implement a range of recommendations from the Cummins report. I do not have the precise number of those recommendations. I will have to take the question about the exact number on notice and get back to her.

Ms MIKAKOS (Northern Metropolitan) — I look forward to receiving that advice in due course. I may well have a number of questions that the minister will need to take on notice. As the minister would be aware, this issue has come up during the course of this week. Four months ago one of the minister's colleagues took questions on notice, and we are yet to receive a response from her. In essence I am asking whether the minister can give us a time frame in which he will be able to provide written responses to any question he takes on notice during the course of this committee stage. I think one month would be a more than reasonable time frame in which to provide responses on this issue and others.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — As I said to Ms Mikakos in my response to her first question, I will take the precise number of recommendations on notice. I will get back to her as quickly as I can. As she would appreciate, this is not my bill. But I will take the matter on notice and get back to her at the earliest opportunity.

Ms MIKAKOS (Northern Metropolitan) — I make the point that the President himself indicated during question time earlier this week that he thought 30 days was a reasonable time period as it is consistent with the time period that applies to questions on notice in the standing orders. That is why I nominated a month. I look forward to receiving the minister's response — hopefully in that time period. I will move on.

I refer to the fact that the government, in its restructure of the Department of Human Services (DHS), has reduced the number of DHS staff by 500. The government has made a number of claims over time that front-line staff were not affected and that child protection workers on the front line would not be affected. However, it is clear that front-line DHS staff are now being forced to take on the extra workload being left behind by the so-called back office staff in terms of phone inquiries, court bookings and record keeping. Given that this bill deals with a great number of provisions that relate to court proceedings in the Children's Court, I ask the minister if he can advise what the impact has been of the reduction in the number of DHS staff by 500 in relation to child protection matters, particularly in relation to child protection matters coming before the family division of the Children's Court.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I can confirm for Ms Mikakos that there have been no cuts to or reductions in front-line staff.

Ms MIKAKOS (Northern Metropolitan) — Can the minister confirm that front-line child protection workers have not had to take on additional duties as a result of this restructure?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that as a result of the outcomes of the enterprise bargaining agreement negotiations the duties and responsibilities of some workers have changed, but front-line staff have not been required to take on the additional administrative responsibilities to which Ms Mikakos refers.

Ms MIKAKOS (Northern Metropolitan) — I thank the minister for that advice. I note that clause 1(b) makes amendments to give the Children's Court jurisdiction to hear applications for family violence intervention orders if they are related to child protection proceedings, and I ask: can the minister advise in many instances have Children's Court orders been made that are contrary to the Magistrates Court intervention orders?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that it is a small number. I will get the precise number and come back to Ms Mikakos.

Ms MIKAKOS (Northern Metropolitan) — I thank the minister for giving me that commitment. In relation to the issue of children no longer being required to attend court in relation to child protection matters, I acknowledge that some children as young as five have in the past been required to sit outside the courtroom that is considering their protection proceedings. I make it clear that I acknowledge the need for this reform, but I have some concerns about whether the views of the child will be ascertained and taken into consideration before the Children's Court makes its orders. I note that article 12 of the Convention on the Rights of the Child requires that a child have the right to participate by having their views ascertained and taken into account. I ask the minister: can he give me an assurance that children's views will always be ascertained, as far as that is possible given their level of maturity, in determining child protection matters?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — In response to Ms Mikakos's question I am advised that child protection workers and relevant lawyers will work together to ensure that the instructions of the child are sought.

Ms MIKAKOS (Northern Metropolitan) — In my speech in the second-reading debate I referred to the previous changes — I would not call them reforms —

the government made to remove legal representation from very young children, which I saw as a backward step. Given that very young children may not be legally represented, can the minister give me an assurance that the views of children will be ascertained and taken into consideration by the court?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — One of the benefits of the less adversarial model that this bill seeks to introduce is that it will provide greater scope and opportunity for new and informal ways of engaging with and reflecting the interests of the children concerned. We believe children's interests will be better represented by this model because of the increased flexibility it will deliver.

Ms MIKAKOS (Northern Metropolitan) — In particular in clause 7 the bill refers to a case plan, so I ask the minister: how many children are currently subject to a case plan, and how many case plans does each DHS child protection worker have on average?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — To clarify, are we moving on from clause 1?

Ms MIKAKOS (Northern Metropolitan) — No, we are still on clause 1.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — In response to Ms Mikakos, the caseload of any individual worker and the number of case plans et cetera would be dependent on the complexity of those individual matters. Therefore I cannot give Ms Mikakos a precise figure.

Ms MIKAKOS (Northern Metropolitan) — Is the minister prepared to take that question on notice and come back to me with that advice?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I believe I have answered Ms Mikakos's question. I am happy to give it further consideration in consultation with the appropriate minister, and if there is relevant additional information, I will provide that to Ms Mikakos.

Ms MIKAKOS (Northern Metropolitan) — We might have a whole lot of questions that the minister may refuse to respond to, which would be very disappointing, particularly as Mr Ondarchie came in here earlier and attacked members of the opposition for not having an interest in this bill. Now that we have an opportunity to ask a series of questions about the bill I would certainly be hoping to receive responses to those questions. If the responses are not available, I would be happy for the government to take those matters on notice and respond to them in due course. I will move on to other issues.

The bill makes a number of changes that we have already covered, so I just ask the minister to advise whether this bill will have any impact on the number of cases going to the family division of the Children's Court. Will there be an increase in numbers?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The government does not anticipate a dramatic change in numbers.

Ms MIKAKOS (Northern Metropolitan) — Can the minister advise whether he is anticipating that the number of cases subject to case plans will be in any way affected by the changes in this bill?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The government is not anticipating any significant change.

Ms MIKAKOS (Northern Metropolitan) — In relation to the number of children in out-of-home care, can the minister advise how many children were in out-of-home care in the 2012–13 financial year and whether the government expects that there will be any change in that number as a result of this bill?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that the figure Ms Mikakos seeks will be provided in the annual report, but no significant change in numbers is anticipated as a result of this legislation.

Ms MIKAKOS (Northern Metropolitan) — Can the minister advise how many cases are undertaken each year by conciliation conference, and does he anticipate that the number will increase in response to the changes made by this bill?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I will take on notice Ms Mikakos's question as to the number of cases undertaken each year. In response to her query about whether there will be any change, as per my previous answers, the government does not anticipate any significant change in numbers as a result of this bill.

Ms MIKAKOS (Northern Metropolitan) — Can the minister advise how many children were placed in emergency care in the past financial year and whether he anticipates this number increasing in response to these changes?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised again that there is no anticipation of a change in the number of children in emergency care as a result of this legislation. I will again take on notice Ms Mikakos's query about the number of children placed in emergency care and respond. If Ms Mikakos has an extensive list of questions of this nature, I am happy for her to table them and I will take them on notice and provide a response, or I am happy to continue in this fashion if she prefers.

Ms MIKAKOS (Northern Metropolitan) — I thank the minister. I just have a few more questions on clause 1 and then we will be moving on. We will proceed on that basis. I ask the minister to advise how many search warrants were issued in the financial year 2012–13 as they relate to the provisions in the principal act and whether the government anticipates that number increasing as a result of this bill.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I will take Ms Mikakos's question on notice and respond, but again the government is not anticipating any significant change in the number as a result of this legislation.

Ms MIKAKOS (Northern Metropolitan) — I thank the minister. Can the minister advise of the number of therapeutic treatment placement orders made in the last financial year, 2012–13, and can the government advise whether it is anticipating an increase in that number as a result of this bill?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I will take the first component of Ms Mikakos's question on notice. In relation to the second component, the government is not anticipating any significant change in numbers as a result of this legislation.

Ms MIKAKOS (Northern Metropolitan) — I thank the minister. I do not have too many more. In relation to interim accommodation orders, can the minister advise how many of those were made in the last financial year, 2012–13, and whether he would anticipate that that number would increase in response to this bill?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — My answer is the same as my previous answer: I will take the first component on notice, and the government does not anticipate any significant change in numbers as a result of this legislation.

Ms MIKAKOS (Northern Metropolitan) — In a similar vein, could the minister advise on variations to interim accommodation orders in the past financial year and whether he would anticipate that the number of those would increase in response to this bill?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — As per my previous answer, I will take the first component on notice, and again the government anticipates no significant change as a result of this legislation.

Ms MIKAKOS (Northern Metropolitan) — Can the minister advise how many new interim accommodation orders were made in the past financial year and whether he would anticipate that that number would increase in response to this bill?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I believe I have answered that question. We do not anticipate any significant change.

Ms MIKAKOS (Northern Metropolitan) — That would be for interim accommodation orders as opposed to accommodation orders? Okay. I have covered accommodation orders, interim accommodation orders and variations on accommodation orders. Can the minister advise how many custody to third party orders were made in the last financial year, 2012–13, and whether he would anticipate any increase in response to this bill?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I do not have those figures on hand, but I will take that question on notice. The government does not anticipate any significant change in numbers as a result of this legislation.

Ms MIKAKOS (Northern Metropolitan) — I ask the minister to advise how many supervised custody orders were made in the past financial year, 2012–13, and whether he anticipates there would be an increase in response to this bill?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The government does not anticipate any significant increase or change as a result of this legislation. In relation to the first component of the question, I will take that matter on notice.

Ms MIKAKOS (Northern Metropolitan) — Can the minister advise of the number of custody to secretary orders that were made in the last financial year, 2012–13, and whether he would anticipate an increase in response to this bill?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The government does not anticipate any significant change in numbers as a result

of this legislation. In relation to the first component of Ms Mikakos's question, I will take that on notice.

Ms MIKAKOS (Northern Metropolitan) — We can conclude then that, as I made very clear at the outset, the bill is a technical one that makes a number of technical changes. The government has now advised in relation to a series of provisions in the legislation that it does not anticipate any substantial increase in the volume of child protection orders. That has become apparent from the minister's responses, so I am happy to move on to another clause.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — In response to Ms Mikakos, the government sees this bill as a very important piece of legislation that continues the significant reform process this government has undertaken flowing from the Cummins inquiry. We are absolutely committed to reform in this area, and this is but the latest piece of reform this government has implemented.

Ms MIKAKOS (Northern Metropolitan) — I was not going to ask another question on this clause, but the minister's response has prompted one in my mind. Given that the minister at the outset was not able to advise how many of the Cummins report recommendations have already been implemented in full or in part, can the minister now advise when the community can expect the remainder of the Cummins report's recommendations to be implemented?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — As I advised Ms Mikakos in response to her first question on this matter, the government has either implemented or is well in train to implementing a range of the recommendations flowing from the Cummins inquiry, and we will continue to implement its recommendations as we go forward. As I said to Ms Mikakos in relation to her original question on this matter, I will take on notice the precise number of the recommendations and respond to her.

Clause agreed to; clauses 2 to 5 agreed to.

Clause 6

Ms MIKAKOS (Northern Metropolitan) — Can the minister advise whether the standard of proof to be adopted under clause 6 will make it easier or harder to establish that a child is in need of protection?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The government does not anticipate it will make any change.

Ms MIKAKOS (Northern Metropolitan) — I note that the clause inserts a standard of proof test in new paragraph (a), which refers to the words 'more likely than not to happen', and then in new paragraph (b), 'more unlikely than not to happen'. Can the minister advise how this standard of proof will differ to that which is currently in place?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The standard of proof remains the same. With this new wording we are seeking to clarify that standard of proof.

Ms MIKAKOS (Northern Metropolitan) — Can the minister advise how that standard of proof applies in relation to this part of the act?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The standard of proof is the balance of probabilities.

Ms HARTLAND (Western Metropolitan) — Following on from Ms Mikakos's questions, I have a lot of concerns about clause 6, because it is not very clear. When we talk about the test, it obviously needs to be clearly and plainly stated, but clause 6 uses a double negative. The poor wording does not provide clarity in relationship to the test of likelihood of harm. How is that going to be dealt with, and would the government consider amending this clause so that it is absolutely clear what it is trying to achieve?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The government believes that this is a well-established legal construct. As Ms Hartland is aware, it reflects the test established in the UK case of *Re H (Minors) (Sexual Abuse: Standard of Proof)* [1996] AC 563. The government does not share the concerns Ms Hartland has expressed.

Ms HARTLAND (Western Metropolitan) — If this becomes a problem, and it becomes clear that there are difficulties in understanding what this clause is meant to achieve, how will the government deal with that? I can see a problem in the future when the court is dealing with these cases.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The government does not share the concerns that Ms Hartland has articulated. Without conceding the point she is making, the government is always willing to consider or review legislation after it has passed and becomes law, and that is how it is being applied in a practical sense.

Ms HARTLAND (Western Metropolitan) — Because this clause reflects a test established in the UK

case of *Re H (Minors) (Sexual Abuse: Standard of Proof)* [1996] AC 563, how does this clause make sure that the test is secure and can be carried out? How does the court know that this is the standard?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The explanatory memorandum cites the case Ms Hartland has referred to, so that would obviously form part of the consideration.

Clause agreed to; clauses 7 and 8 agreed to.

Clause 9

Ms MIKAKOS (Northern Metropolitan) — I ask the minister to provide some advice around the standard of proof that would apply in relation to this particular section. I note that the clause refers to the balance of probabilities. I note that Ms Hartland raised some concerns earlier in relation to clause 6 and the wording that was used in the explanatory memorandum, which I have to say I too thought was confusing. Can the minister provide confirmation that the test of the standard of proof will be the balance of probabilities, given that there is in fact a modification to the standard of proof? As I understand it, that applied to clause 6.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — As Ms Mikakos notes, clause 9 repeals section 215(1)(c), and clause 10 inserts new section 215A in relation to the standard of proof. I am advised that the standard of proof remains the same. In addition to what I have just said, new section 215A sets out that the standard of proof in relation to a fact in an application under the principal act in the family division is the balance of probabilities. That just provides greater clarification.

Ms MIKAKOS (Northern Metropolitan) — In a sense the minister is saying that clause 9 needs to be read in the context of clause 10. Whilst it repeals the balance of probabilities standard of proof in section 215(1)(c), it then inserts it as new section 215A, which applies to the whole division of that part of the act. Is that correct?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — My previous answer provides an answer to Ms Mikakos's question.

Ms MIKAKOS (Northern Metropolitan) — I took that to be confirmation of what I asserted; I was trying to be helpful. Essentially what I was seeking earlier was advice as to whether the standard of proof that applies under section 215 and new section 215A is in any way subject to the modification that appears to apply to the standard of proof that applies to section 162, because I noted what is set out in the explanatory memorandum in relation to clause 6, which Ms Hartland was seeking clarification around before. I am asking the minister to advise whether the standard of proof that applies to section 215 is subject to the modification that applies as a result of the court case, *Re H (Minors) (Sexual Abuse: Standard of Proof)* [1996] AC 563.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that the real probability test was set out in the United Kingdom case of *Re H (Minors) (Sexual Abuse: Standard of Proof)* [1996] AC 563, which has been cited before, and is applied by the Children's Court to assess whether a future state of affairs is likely or unlikely based on the existence of past facts which had been proved on the balance of probabilities.

Clause agreed to; clause 10 agreed to.

Clause 11

Ms HARTLAND (Western Metropolitan) — I have some concerns with paragraphs (j) and (k) of new section 215B inserted in the principal act by clause 11 of the bill. Paragraph (j) allows the court to deal with as many aspects of the matter on a single occasion as possible. Paragraph (k) allows the court, where possible, to deal with a matter without requiring the parties to attend court. The question I have is: how will the minister ensure that procedural fairness in respect of new section 215B(j) and new section 215B(k)?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — This will be at the discretion of the magistrate. The magistrate still needs to apply principles of natural justice, which as Ms Hartland would be aware is a well-established principle in the Family Court of Australia, which uses these principles.

Ms HARTLAND (Western Metropolitan) — I have one more question: because this is a change of systems and process, what training will be organised for legal professionals and child protection workers to help them understand the child protection system and this less adversarial style of trials?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I thank Ms Hartland for providing me with advance warning of her questions. I am able to advise the committee that training for child protection workers and the legal profession on the new conferencing model is currently being rolled out across the state. This training will also focus on understanding less adversarial trials. All relevant child protection workers will receive relevant training at the

commencement of their position and this will incorporate the less adversarial trial concept.

Clause agreed to.

Clause 12

Ms MIKAKOS (Northern Metropolitan) — I refer the minister to the explanatory memorandum in respect of this clause, and in particular the last sentence that says:

> Existing requirements for children to attend or be brought before the court or a bail justice for temporary assessment applications and therapeutic treatment applications will be maintained.

Given that this is not explicitly stated in clause 12, can the minister refer me to the sections in the act that will ensure that this in fact will be the case?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — In addition to the explanatory memorandum information cited by Ms Mikakos, which provides some guidance of itself, I am advised that it is implicit in new section 247A, which will be inserted in the principal act by clause 30 of the bill.

Ms HARTLAND (Western Metropolitan) — My question goes somewhat to the question that Ms Mikakos just asked. While the Greens broadly support not requiring children to attend certain family division proceedings in the Children's Court, we are concerned that be enough opportunity for children to give legal instruction. I would like to know how the minister will ensure that lawyers are given ample opportunity to obtain instruction from child clients and that DHS reports are ready in time for a lawyer to obtain instructions from the child.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that a memorandum of understanding is to be prepared which will outline arrangements that will involve and consult with all relevant stakeholders in this space, including DHS, Victoria Legal Aid (VLA), private practitioners and court staff.

Ms HARTLAND (Western Metropolitan) — I thank the minister for his answer. Just a quick follow-up question, what facilities will be provided near the courts so that lawyers can get instructions from children on the day of the court hearing in advance of the commencement of this bill?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — With the passage of this legislation — without pre-empting its final outcome — negotiations with Victoria Legal Aid and other relevant bodies will take place to ensure there is sufficient space for these types of meetings close to the court precinct.

Ms HARTLAND (Western Metropolitan) — Just another quick follow-up, as there have obviously been problems for legal aid recently around funding issues, is there assurance of funding for this so that we know the facilities will be available and fully funded and not subject to change so that suddenly children will have to meet in very awkward places?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The government will be managing this process within the resources at its disposal with the various and relevant agencies, but as I said in response to Ms Hartland's previous question, we will be working closely with VLA and other relevant organisations to provide appropriate and sufficient space for those meetings to take place within the vicinity of the court.

Ms HARTLAND (Western Metropolitan) — I need to follow that up. What exactly does 'within the resources' mean? For children to go through these processes it needs to be a safe, secure location. We need to know that that arrangement is ongoing and not just at the whims of a budget. When the minister talks about 'within the resources', I need more assurance that money, funding, a budget item has been set aside to make sure that this actually happens.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Safe and secure locations will be provided for these activities.

Clause agreed to; clauses 13 to 18 agreed to.

Clause 19

Ms MIKAKOS (Northern Metropolitan) — The list of who can attend a conciliation conference under section 222 of the principal act is exhaustive. New section 222(7)(a), to be inserted by clause 19, states a convenor may 'permit any other person to attend the conference'. I ask the minister to provide me with an example of who 'any other person' may refer to.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The purpose of the particular section to which Ms Mikakos refers is to give a broad discretion to the court.

Ms MIKAKOS (Northern Metropolitan) — Is the minister able to provide a single example? The list in section 222 of the principal act is exhaustive. Can the

minister give a single example as to what type of person that catch-all could include?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The purpose is to give a broad discretion to the court. I am sure as each case is considered on its facts and merits and each individual situation is given consideration by the court, additional appropriate people will be considered by the court and decisions made accordingly. I do not think I can add much more to the answer than that.

Clause agreed to; clauses 20 to 26 agreed to.

Clause 27

Ms MIKAKOS (Northern Metropolitan) — Clause 27 proposes that section 242(4) of the principal act be substituted, so effectively it is being repealed. Currently section 242(4) refers to 'a child of tender years' not being required to appear before the court or a bail justice under this section. Its repeal seems to contradict the intent of other provisions in the bill which means a child will no longer be required to appear before the court; for example, the next clause. I ask the minister why this particular provision is being repealed.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — That specific provision is now redundant given that the provisions of the legislation will no longer mandate the attendance of children at the court.

Clause agreed to; clauses 28 to 82 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

LOCAL GOVERNMENT (RURAL CITY OF WANGARATTA) BILL 2013

Introduction and first reading

Received from Assembly.

Read first time for Hon. M. J. GUY (Minister for Planning) on motion of Hon. E. J. O'Donohue; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. M. J. GUY (Minister for Planning), Hon. E. J. O'Donohue 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 (Rural City of Wangaratta) Bill 2013.

In my opinion, the Local Government (Rural City of Wangaratta) 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 purpose of the Local Government (Rural City of Wangaratta) Bill 2013 (the bill) is to provide for the dismissal of all councillors of the Wangaratta Rural City Council, and their replacement with administrators, until the next scheduled general municipal election in 2016.

The proposed bill implements recommendations of the inspector of municipal administration, Mr Peter Stephenson, who was appointed to monitor governance and conduct matters at the council following persistent reports of serious dysfunction within the council.

In brief, after four months observing at the council, Mr Stephenson found clear evidence of serious misconduct and failures of governance, impacting adversely on both council's decision-making capacity and its working relationship with the chief executive officer and senior executive staff, all of whom subsequently resigned from their positions. Mr Stephenson also noted a range of investigations and proceedings relating to alleged breaches of the Local Government Act 1989, and occupational health and safety legislation, as well as the escalating costs of defending these. He concluded that council had demonstrated an ongoing inability to provide good government and should be removed.

Human rights issues

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

The proposed bill engages one of the human rights provided for in the charter act, as follows:

Section 18: taking part in public life

Section 18 establishes a right for an individual to, without discrimination, participate in the conduct of public affairs, to vote and be elected at state and municipal elections, and to have access to the Victorian public service and public office.

Clause 5 of the bill clearly engages and purports to restrict the right under section 18 of the charter. However, the limitation appears to be reasonable and demonstrably justified in a free and democratic society under section 7(2) of the charter act, which is discussed below:

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

(a) the nature of the right being limited

The right to participate in public affairs is a broad concept, which embraces the exercise of governmental power by all arms of government at all levels. The right to be elected ensures that eligible voters have a free choice of candidates in an election, and as with the right to vote, the right to occupy public office is not conferred on all Victorians; it is limited to eligible persons where the criteria and processes for appointment, promotion, suspension and dismissal are objective, reasonable and non-discriminatory.

(b) the importance of the purpose of the limitation

The purpose of the limitation is to enable the restoration of good government to the Rural City of Wangaratta. Despite the inspector providing intensive support and advice to the council over the past four months, he has reported a profound failure to acknowledge and seriously address entrenched dysfunctional conduct and governance practices.

The serious nature of Mr Stephenson's findings and the loss of confidence in council by the local community as a result, clearly warrant removal of the council as soon as possible. This action ensures and recognises the right of electors to be represented with probity, integrity and accountability, and in the interests of the community rather than competing sectional or personal interests.

Removal of an elected council is a last resort, and undertaken only in exceptional circumstances. It is regrettable that this is one of those very rare cases, but the government has a responsibility to protect communities from misgovernance by their local representatives.

(c) the nature and extent of the limitation

Clauses 5, 6 and 10 purport to limit section 18 of the charter act by dismissing the Wangaratta Rural City Council and providing for the appointment of an administrator or panel of administrators to constitute the council for a period until the council's next scheduled general election in October 2016.

(d) the relationship between the limitation and its purpose

There is a direct relationship between the limitation and the purpose of ensuring that elected councillors properly undertake the duties of their office.

(e) any less restrictive means reasonably available to achieve its purpose

The Local Government Act provides a less restrictive and more immediate measure, namely suspension pursuant to section 219(1) of the act.

However, section 219 is not appropriate in this case because it provides for suspension for a maximum period of 12 months, and for the appointment of only a single administrator, indicating the provision is intended for circumstances in which a short interruption to elected representation will be sufficient to overcome the failures identified; and in which a single person will be able to govern in the council's stead for the limited period of the suspension.

However, as Mr Stephenson's reports clearly demonstrate, the council is fundamentally dysfunctional, and characterised by the continuation of entrenched failures. It is considered that the serious deficiencies at Wangaratta will require a significantly longer period than 12 months so that good government can be restored, and the confidence of the local community can be rebuilt. Further, the appointment of a panel of administrators rather than one individual would provide a structure suited to undertake the extensive necessary reforms.

(f) any other relevant factors

There are no other relevant factors.

Conclusion

I consider that the bill is compatible with the charter act because, although it does limit one human right, the limitation is reasonable and proportionate. The limitation strikes the correct balance by providing persons the right to take part in public life and ensuring councillors perform to appropriate standards of probity, integrity and in the public interest.

Matthew Guy, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation).

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill will dismiss the Wangaratta Rural City Council in response to the advice of Mr Bill Scales, AO, who has reviewed the recommendations made by the inspector of municipal administration, Mr Peter Stephenson, and other advice and information.

Following elections in 2012, there emerged multiple and persistent reports of serious problems at the council relating to both councillor conduct and governance. As a result, on 8 May 2013, I appointed Mr Stephenson to monitor the council in relation to these and related matters.

Mr Stephenson conducted extensive monitoring and examination over the following four months, reporting his findings periodically to me. He recommended in his August 2013 report that the government consider suspending and/or dismissing the councillors of the Rural City of Wangaratta and appointing an administrator or administrators until the next municipal general election scheduled for the fourth Saturday in October 2016.

In his report, Mr Stephenson expressed the strong view that there had been a profound breakdown of both governance and the relationship between councillors and the CEO and executive management. This was compounded by the inability of the majority of councillors to recognise and address the cause, which lay in individuals' profoundly dysfunctional and damaging behaviours. Many of these behaviours have been described in detail in the determination

of a councillor conduct panel, which made a finding of misconduct, and noted a culture of persistently poor behaviour resulting in significant harms.

There is also concerning evidence of bloc voting by a group of councillors following caucusing prior to meetings, without reference to the requirement that all decisions are made impartially, without predetermination and in the best interests of the community.

The Local Government Investigations and Compliance Inspectorate has had cause to investigate multiple complaints relating to councillors, some of which are ongoing. It has referred a large number of breaches of the councillor code of conduct, which are themselves breaches of the Local Government Act 1989, back to the council to be dealt with. The inspectorate has independently concluded that the governance and conduct problems within the current council are unable to be resolved.

Both the inspectorate and Mr Stephenson noted that these failures have imposed on Wangaratta high and escalating costs — not only financial, but also personal in terms of staff health and safety, and individuals' capacity to function effectively in their professional roles. Furthermore, the damage has extended to the reputation of the council, and of local government more generally.

In addition to these reports and tribunal decisions, the government has sought independent advice from Mr Bill Scales, AO, who has longstanding and highly regarded experience in the local government sector. Mr Scales has examined the reports of Mr Stephenson, the advice received from the inspectorate and the councillor conduct panel decision, and has interviewed a number of people with firsthand experience of the issues raised. It is the opinion of Mr Scales that the dysfunction evident at Wangaratta requires the government to intervene to dismiss the council as soon as can practically be achieved.

The government has accepted this advice.

In summary, there has been a profound and systemic failure by the council to provide acceptable standards of government to the municipality of Wangaratta.

In order to restore good government, the bill will replace the council with an administrator or panel of administrators. It is hard to overstate the scale of the task, which will require reforming governance, financial management and occupational health and safety, rebuilding relationships with staff at all levels, and restoring community confidence.

Accordingly, the bill will dismiss the council and provide for its replacement with an administrator or panel of administrators to be appointed by the Governor in Council, to act as the council in every respect for the period until the next municipal elections, scheduled in October 2016. The costs of the administration will be met by the council.

The decision to propose this legislation has been a difficult one. The removal of an elected council is a last resort, exercised only in the most exceptional cases where no appropriate alternative will suffice. Wangaratta Rural City Council is such a case.

The removal of elected councillors is also a limitation of their right to participate in public life. This right is not absolute, and the government is confident that in the present case the limitation on that right is reasonable. These matters are fully addressed in the statement of compatibility.

Finally, the behaviour of the Wangaratta Rural City Council is not regarded as representative of the local government sector in Victoria. The government is confident that most councils govern properly and effectively in the interests of their communities. Local government is the level of government closest to the people and the services they provide are essential to the lives of all Victorians. The community and the Parliament expect the highest standards of governance, probity and representation from their councillors and council staff.

I commend the bill to the house.

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

Debate adjourned until later this day.

SUCCESSION TO THE CROWN (REQUEST) BILL 2013

Second reading

Debate resumed from 5 September; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Ms PULFORD (Western Victoria) — The Succession to the Crown (Request) Bill 2013 before the house today seeks to modernise ever so slightly that which arguably could be modernised much more. In the Victorian Parliament we swear allegiance to the Crown, to the head of the Australian commonwealth, who is our nation's head of state because she is Great Britain's sovereign. This legislation engages questions around our own national identity, because it directly relates to the arrangements for the determination of future heads of state for Australia.

The bill does three reasonably straightforward things and requests the commonwealth to enact under the constitution an act to change the law relating to royal succession and royal marriages. There are three points in particular — that is, there will be no priority for male heirs over female heirs; marriage to a Roman Catholic will no longer disqualify an heir from succession; and the sovereign's consent to marriage will only be required for the first six persons in the line of royal succession, which somewhat truncates that requirement to cover off on the marital choices of the entire extended family.

This legislation has its origins in discussions over many years but perhaps most specifically at the Commonwealth Heads of Government Meeting in 2011. A number of countries agreed to advise the Queen that they wished for a change to the succession

laws to ensure an end to primogeniture in determining the successor to the Queen: Antigua and Barbuda, Australia, the Bahamas, Barbados, Belize, Canada, Granada, Jamaica, New Zealand, Papua New Guinea, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Solomon Islands, Tuvalu and the United Kingdom. This is a debate that is occurring in many corners of the world, and the passage of this bill and the passage of all the other related pieces of legislation in all of those places will ensure that the arrangements determining who is our sovereign are the same as the arrangements that determine the sovereign in the United Kingdom. The bill also makes a number of other minor and consequential amendments. It clarifies treason laws, so that an offence committed against a female heir brings with it the same penalties as an offence against a male heir.

This legislation is not being opposed by the Labor Party in the Victorian upper house today. We support the conditions around succession and royal marriage being updated a little bit to reflect the values of our modern Australian society. For those of us who are big sisters of little brothers, this just makes great sense. Of course this debate took on some urgency when the Duchess of Cambridge announced her pregnancy, and of course the young royal family are to be congratulated on the recent birth, in July, of their son, Prince George of Cambridge. This is very happy news. A baby in any family, safely delivered, is great news.

That baby must now be some four months old, so maybe things are returning ever so slightly to normal in that household. The arrival of a baby is always a really special thing, but it is not a unique thing. However, within a royal household it determines who the Australian head of state will be. On this occasion of course the baby is a boy, so some of the urgency around resolving the current succession laws was overcome. If Prince George had been a little girl, this bill would have perhaps had a more immediate effect.

The commonwealth heads of government determined that this would be an appropriate modernisation: that the discrimination against heirs to the throne marrying Roman Catholics should no longer exist and that the discrimination in favour of little boys over little girls should no longer exist. But of course discrimination does still exist in a number of respects. The ban on Catholics and other non-Protestants becoming sovereign and the requirement for the sovereign to be in communion with the Church of England remain. The requirement that Australia's head of state be part of this hereditary monarchy remains. No-one born in this country can aspire under our current system of government to being the Australian head of state. I am sure some of the monarchists in the chamber will enjoy the opportunity to respond to some of my comments.

There are no amendments, to the best of my knowledge, planned to be circulated during this debate today in the Legislative Council, but a number of amendments have been proposed to similar legislation. I thought members might be interested to learn of some of these. British Labour MP Paul Flynn sought to amend similar succession to the Crown legislation in the UK. His amendments would have had the effect of allowing a child of a monarch who was in a civil union to be heir to the throne even if they did not share the royal bloodline. In the UK marriage laws do not contain the same discrimination that Australian marriage laws do in relation to same-sex couples. This debate will perhaps be resolved — I hope it is resolved — by the very recently elected commonwealth government. An amendment proposed by Tory MP Jacob Rees-Mogg would have allowed a Catholic to become the monarch.

Debate in this area always raises many issues. We have a great deal of work to do on our own constitution in order for our country to truly come of age, but for the time being baby steps are all that are proposed — literally baby steps: baby girl steps and baby boy steps.

This legislation is being debated in the context of the new baby. The birth of a royal baby is important to that family and to our system of government. The birth of any baby is a monumental occasion for any family. Indeed a person who works in my electorate office is expecting the birth of her fourth baby any time now; that will be a momentous occasion for Romy, Chris, Eloise, Pip and Michael. Perhaps this is an opportunity to wish them all well for the new arrival.

I think I will leave my contribution with a quote from a veteran BBC broadcaster Simon McCoy. What he had to say about the royal baby was, 'Plenty more to come from here of course; none of it news'. Whilst a new baby born anywhere is very exciting, the bigger issue at play here is the extent to which it is appropriate for a new baby and a birth line to influence the government of modern Australia.

Ms HARTLAND (Western Metropolitan) — I thank Ms Pulford for that enlightening run-through of the technical details of this bill. I would have to say I was quite shocked when I initially read this bill, because I was thinking, a bill is being introduced in 2013 that says girl children can become monarchs — 2013! It has taken a while to update this. I also find it quite astounding that it is only now that a Catholic can marry a monarch. As someone who was raised as a Catholic, I now feel quite deprived that I was not able

to marry anybody in the royal family. I suspect my overtly republican views may not have sat well with the royal family. But it is all right, I still love my Victor, so I think I will just stick with that one instead — Prince Victor. I will tell him his new name tonight; I think that is quite a good name for him.

I am trying not to be frivolous with this bill, but it is a bit difficult. Rather than debating whether girl children can become the monarch and whether Catholics can marry a monarch, is it not time that we started looking at the whole issue of our constitution and asking when we will become an independent republic and when we can actually stand up for ourselves and have an independent identity as a sovereign country? As much as I think the Queen is a very nice lady and she is obviously a very caring grandmother and great-grandmother, I think it is time we moved on and said, 'We are Australians. This is what we are about', and become a republic. I look forward to the day when we see that legislation debated in the commonwealth and in the federal Parliament, and I think that will be quite a joyous time. I will leave it there, because if I go any further I might start being rude. Anyway, I will go home and tell Prince Victor tonight that he is very lucky — —

Mr Lenders — The Prince Victor!

Ms HARTLAND — I will tell The Prince Victor that he is very lucky that I could not marry anybody in the royal family because I was a Catholic. He will be quite pleased about that.

Mrs MILLAR (Northern Victoria) — The Succession to the Crown (Request) Bill 2013 is a landmark bill in the constitutional history of this state and this nation, and I am immensely proud to speak in this debate. Without doubt this bill is the most significant amendment to the order of succession which has occurred during the lifetime of this Parliament and represents the first significant change to the rules of succession since the Act of Settlement 1701.

The bill calls for uniform national changes to the laws of royal succession, being also consistent with changes to those laws in the United Kingdom. Succession to the throne in each of the realms across the commonwealth is governed by both common law and statute. The constitutional changes proposed under this bill have been consistently agreed to by the leaders of the realms across the Commonwealth of Nations. The bill is based on an approach developed by the Council of Australian Governments, being the cooperative state request and commonwealth consent scheme, relying on section 51(xxxviii) of the Australian constitution, and has been informed by advice from solicitors-general of the Australian jurisdictions.

The bill includes a request to the Australian federal Parliament to enact, under section 51(xxxviii) of the Australian constitution, an act to provide that: succession to the Crown will not depend on gender; marriage to a Roman Catholic will no longer disqualify an heir from succession; and sovereign's consent to marriage will only be required for the first six persons in the line of royal succession. The provisions contained in this bill are both symbolic and practical in nature, making significant changes which reflect our deeply held commitment to the principles of equality and opportunity for all which are shared by those throughout the Commonwealth of Nations.

The bill contains the following significant provisions. Clause 4 of the bill prescribes that the enactment of this legislation, or the subsequent commonwealth legislation, is not intended to affect the existing independent relationship between the sovereign and the state of Victoria. This is an important protection.

Clause 5 is a key provision of this bill and sets out the Victorian Parliament's request to the Australian Parliament under section 51(xxxviii) of the Australian constitution to enact legislation in the terms, or substantially in the terms, set out in schedule 1 to the bill. Schedule 1 to the bill includes the proposed federal legislation to make the changes for Australia. These provisions confirm that the commonwealth's power to enact its law making these changes relies directly on the state request. This approach preserves an important role for the states in facilitating and requesting the changes, which recognises and reinforces Victoria's unique, direct and independent relationship with the Crown.

Proposed section 6 of the new commonwealth act, set out in schedule 1 to the bill, provides that in determining the succession to the Crown, the gender of a person born after 28 October 2011 does not give that person, or that person's descendants, precedence over any other person, whenever born. The date of 28 October 2011 is the date when the 16 commonwealth realms came to this agreement at their meeting in Perth. This is consistent with the equivalent provision in the United Kingdom's Succession to the Crown Act 2013.

The operation of this section is that it ends the system of male-preference primogeniture so that, in the royal succession, older sisters will no longer be overtaken by their younger brothers. It is duly fitting that the proposed change to removing the priority for male heirs comes during the reign of our venerated monarch, Her

Majesty Queen Elizabeth II. The groundswell of public support in favour of this change is in no small measure shaped and supported by the respect and loyalty engendered by Her Majesty. Over her much celebrated 61 years on the throne, Her Majesty has with dignity, grace, strength and wisdom overseen a period of great stability and prosperity.

In contemplating this change, it is duly fitting that the two greatest and longest serving monarchs of our nation during its recent history have both been female. In this great state named in her honour when created as a separate colony in 1851 and in this place with her statue watching over us in Queen's Hall, Queen Victoria — great-great-grandmother to Her Majesty Queen Elizabeth — is duly remembered for her achievements during her remarkable 63-year reign, from 1837 to 1901. During that period, astonishingly Victoria was served by 35 prime ministers across the realms, including 10 in the United Kingdom, and she was still on the throne when our first Prime Minister, Sir Edmund Barton, assumed office. Like that of our own Queen, Victoria's reign saw many politicians come and go, and saw military conflicts and periods of financial turmoil, yet she reigned throughout the period with strength and dignity.

I note that this long-overdue proposed change is not a revolution against the past, but rather an evolution. Against the backdrop of our great female monarchs past and present, this reform will ensure that female heirs to the throne will rank equally with their brothers. It is timely to recognise and celebrate our present and past queens and the contribution they have made to our achievements and greatness as a nation, not in isolation from what has come before us but a due and fitting culmination of all that has been. In the words of T. S. Eliot:

> Time present and time past
> Are both perhaps present in time future,
> And time future contained in time past.

Momentous and symbolic a change as this is, we make it to recognise and celebrate what has been, what is now and what will be in the future.

Proposed section 7 of the new commonwealth act provides that a person will not be disqualified from succeeding to the Crown or from being the sovereign due to their marriage to a Roman Catholic. This provision will amend the Act of Settlement and the Bill of Rights to remove the exclusion from the order of succession those who 'marry a papist'. This remedies laws forged in the aftermath of nearly two centuries of religious conflict in England, Scotland and Ireland, reflecting the preoccupations of the time, but which sit uncomfortably with modern notions of equality for all and religious freedom. As has been noted as part of the wider debate on these changes, the sovereign is currently able to marry a Hindu, a Jew, a Buddhist or an atheist, but only marriage to a Roman Catholic continues to affect the order of succession. The time is well overdue to remove this arcane provision which discriminates against people on the basis of their religion.

Proposed section 9 of the new commonwealth act repeals the Royal Marriages Act 1772 initiated during the reign of George III as he sought to control the marriages of some of his children. Under the 1772 act any descendent of George II must seek the reigning monarch's consent before marrying, without which their marriage is void. That law is clearly now impractical, these descendants now numbering into the thousands, many of whom would have no awareness of their lineage back to George II. This bill proposes to limit the requirement to those closest to the throne — the first six individuals in the line of succession — without which consent they would lose their place in the order of succession. The proposed federal legislation provides that marriages void under the Royal Marriages Act 1772 on the basis that the consent of the sovereign was not obtained prior to the marriage are to be treated as never having been void, subject to certain conditions. This applies for all purposes except those relating to the succession to the Crown.

Proposed section 12 of the new commonwealth act confirms that the commonwealth legislation may be expressly or impliedly repealed or amended only at the request or with the concurrence of all state parliaments.

Finally, the bill also makes necessary consequential amendments to the Victorian Crimes Act 1958 and the Imperial Acts Application Act 1980. In Australia the constitutional monarchy system of government has continued to deliver confidence, security and stability to our governments, both state and federal. No other form of government has so effectively achieved this level of success and stability.

This bill embodies the doctrine of parliamentary sovereignty, noting the important and longstanding principle that Parliament will determine the order of succession and not the will of the monarch from time to time. Our parliamentary predecessors at Westminster fought for this sovereignty. The legislation being amended in 2013 has its roots in the English civil war and the battles for supremacy between Charles I and Parliament. The current bill reflects the primacy of Parliament, which has been a part of our constitutional fabric since 1688 when Parliament invited William and

Mary to jointly assume the throne in the Glorious Revolution. This bill continues the proud tradition of government by constitutional monarchy, but will ensure that it is responsive and able to adapt to reflect contemporary values. I commend the bill to the house.

Mr ELSBURY (Western Metropolitan) — It is with great pleasure that I rise to speak on the Succession to the Crown (Request) Bill 2013. During this debate we have heard across the chamber a few snide comments made during a speech or some tittering going on amongst the Greens or maybe even a can of Red Bull being brought into the chamber. In the other place we had the absolute disgrace of the Leader of the Opposition refusing to obey the Chair, showing the absolute — —

Mr Lenders — On a point of order, Acting President, this is a bill which, according to the Speaker, deserves respect, and to date the speakers in this second-reading debate have stuck to the issue of succession to the throne. Now the member speaking is talking about contemporary activity in the Legislative Assembly. If he wishes to make the debate about those things, he is welcome, but I would ask you to bring him back to the debate, which is a narrow debate about succession to the throne, not about the Legislative Assembly.

Mr Finn — On the point of order, Acting President, I was listening to Mr Elsbury — —

Mrs Peulich — Intently.

Mr Finn — Intently; indeed I was, Mrs Peulich. I was of the view that Mr Elsbury was making a point with regard to this bill but was cut off mid-sentence by the point of order of Mr Lenders. My very respectful suggestion would be that Mr Elsbury might be allowed to complete his sentence, and we might be able to make a judgement as to whether or not he is referring to the bill.

The ACTING PRESIDENT (**Mr Ramsay**) — Order! I do not uphold the point of order, but I caution Mr Elsbury. I think he was straying somewhat away from the bill at hand. I ask him to refine his comments to the bill.

Mr ELSBURY — Certainly the bill is about institutions that we hold dear. The constitutional monarchy affords us great stability, a stability that many nations do not get to enjoy. The Queen, or to use her full title, Elizabeth the Second, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth, is not an interventionist monarch. Her Majesty is very comfortable with the nations of the commonwealth of which she is head of state making their own decisions using their various chosen forms of elected governments.

There are 16 nations for which Her Majesty is the sovereign, and they are — and I apologise for any mispronunciations as I am not a worldly man; I have not travelled to all of these places — Antigua and Barbuda, Australia, The Bahamas, Barbados, Belize, Canada, Grenada, Jamaica, New Zealand, Papua New Guinea, St Christopher and Nevis, St Lucia, St Vincent and the Grenadines, Solomon Islands, Tuvalu and, last but not least, the United Kingdom. Certainly these nations have no issue about their identity. They know who they are, and I feel strongly that we as Australians and Victorians are very capable of feeling pride about our nation and our state.

Indeed the interest and pride I saw when the Queen and Prince Philip visited Melbourne in 2011 was a fantastic display of support for our monarchy. As part of the commonwealth of Australia, the state of Victoria recognises Her Majesty Queen Elizabeth II as our head of state, the Governor being her representative in Victoria. We have enjoyed over 60 magnificent years of Queen Elizabeth's reign. Her Diamond Jubilee in 2012 was a time of great celebration of a woman who has devoted herself to the service of the Commonwealth of Nations, a body of 54 independent nations which were either once part of the former British Empire or have chosen to join this international organisation.

Like any other person, Her Majesty has had great triumphs and suffered many personal tragedies. Along the way many of her loyal subjects have taken that journey with her, and even those who have only taken a glancing interest have also taken that journey. Her Majesty's life and the respect she commands continue to draw people's interest. As a respected figure on the world stage Her Majesty still possesses great strength of will to promote the interests of her realm. Queen or cleaner, billionaire or dole recipient, pilot or bus driver, there is one reality we must all face — that is, our mortality. The day will come when either Queen Elizabeth will abdicate her position on the throne or the commonwealth will mourn the loss of a great leader due to her passing.

The bill deals with the inevitable reality that we all die, and Her Majesty as a person will one day, if her religious belief system is correct, leave this material world and enter the kingdom of heaven. With this bill we are seeking that the Parliament of the Commonwealth of Australia make changes to the law

relating to royal succession and royal marriages, which is in its power under section 51(xxxviii) of the Australian Constitution. This bill seeks federal legislation to reflect the United Kingdom Succession to the Crown Act 2013 and the repeal of the Royal Marriages Act 1772 of Great Britain. The Victorian Crimes Act 1958 and the Imperial Acts Application Act 1980 are also amended as part of this bill.

The changes we seek relate to the gender of a direct descendant of Her Majesty and restrictions placed upon the religious beliefs of a person marrying into the royal family — in this instance the exclusion of children from the succession as a result of a union between a member of the royal family and a person of the Roman Catholic faith.

Firstly, I will go to the question of gender. The current order of succession gives priority for a male heir. For example, if His Royal Highness Prince Charles had been born a girl, Prince Andrew would have been the next in line to the throne, but as both his children are female, we would have one day been looking forward to Queen Beatrice. This is not the case, and as the line follows, His Royal Highness Prince Charles, Prince of Wales, will be the next King of Australia, followed by His Royal Highness Prince William, the Duke of Cambridge, and then His Royal Highness Prince George of Cambridge.

As it is, for my expected lifetime and as a member of Parliament, hopefully over a very long and active service to the people of the western suburbs, it is almost certain that Her Majesty Queen Elizabeth II will be the only Queen to whom I swear allegiance. This legislation, however, seeks to remove the qualification of male succession, leaving the way open for any firstborn child of either gender in the line of succession to take the throne. This applies to any person in the line of succession born after 28 October 2011, that being the date that the 16 commonwealth realms agreed to remove the gender requirement. This would mean that, apart from an absolute calamity occurring to the current line of succession, a future child born to Prince George of Cambridge — although very young at the moment — will take on the role of monarch, no matter their gender.

We are told good conversation does not include discussion of sex, politics or religion. I have just covered politics and sex in this bill, so I will move on to religion. These changes remove the requirement that the children of people of Roman Catholic faith be excluded from succession if they marry into the royal family. Until King Henry VIII's very well-known decision to separate from the Church of Rome, thereby establishing the Church of England, the kings of England had always been Catholic. Succession was key to the play of history as King Henry VIII's desire for a male heir drove his conversion of England to Protestant Christianity.

It is understandable that a time of great upheaval and instability followed in the decades after King Henry VIII's death and the subsequent passing of King Edward VI at the age of 15. This was based on religious politics as the newly formed Church of England attempted to stave off the Roman Catholic Church. Lady Jane Grey was made Heir Presumptive before she was executed. Queen Mary I then took up the role as Catholic monarch in conjunction with Philip of Spain. Four and a half years later, on Mary's death, the Protestant Queen Elizabeth I was crowned. Further turmoil was to come with the establishment of the Commonwealth of England under Oliver Cromwell. The turmoil caused by different monarchs of different religions persecuting and exacting revenge against those they disagreed with caused much pain for the people of England, Ireland and Scotland.

We are fortunate that the events of over 400 years ago do not impact heavily upon us today. Marriages that transcend sectarian bounds, such as mine and that of my parents, are common. Indeed marriages crossing religious and ethnic lines are a beautiful way for society to show its maturity and demonstrate improvement in the respect afforded to all people. Removing the provision precluding succession to the throne of a person whose parent is Roman Catholic reflects equality — something we value highly in this modern age.

These amendments show the continuing evolution of our monarchy. The idea of a woman being sovereign was once unthinkable, as evidenced by the deposition of Empress Matilda in 1141. She was never crowned; the throne was claimed by Stephen of Blois. Resistance to Queen Mary I, reigning in her own right, brought Stephen of Spain into the picture. Queen Elizabeth I suffered as a result of her gender. Queen Victoria also dealt with issues of gender bias but proved herself arguably the most capable monarch of all time.

Change might come slowly, but this institution is vital to our system of government. It has been the source of stability for our nation. I support these changes as they reflect the changes already made by the British Parliament in relation to succession and because religious restriction and the requirement to have a male heir is out of step with modern society. I support this bill as I believe the changes it makes will ensure the

ongoing relevance of the monarchy to Australia and, importantly, Victoria. God save the Queen.

Debate adjourned on motion of Mr ONDARCHIE (Northern Metropolitan).

Debate adjourned until later this day.

LOCAL GOVERNMENT (RURAL CITY OF WANGARATTA) BILL 2013

Second reading

Debate resumed from earlier this day; motion of Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation).

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to make a contribution on this bill, which has progressed hastily. The opposition does not oppose the hasty progression of this bill. The Wangaratta Rural City Council has had a very sad 12 months. There have been a number of reports about what was at the heart of the demise of this council and about inappropriate intervention in it. Such intervention, including that of the now former federal member for Indi, Ms Mirabella, has seen the stability of the council come under attack.

Ms Mirabella championed the election of the new councillors who came in and quickly overturned the existing council. The involvement of Ms Mirabella, as a Liberal MP at that time, was a matter of great concern to the local community. Ms Mirabella not only intervened in council activities but she used her parliamentary letterhead to write to councillors in quite inappropriate terms. That led to correspondence in which she made very serious allegations. That correspondence led to the threat of legal proceedings against Ms Mirabella on the basis that she had accused councillors of running a protection racket. She had accused them of being evil. She had tried to impose her views in terms of what the council and councillors should do in terms of the council strategy around the use of rural land.

What we have seen and what the community saw with Ms Mirabella's intervention in the council was quite appalling and certainly very concerning in terms of the impact of her attempts to influence the council and councillors. As I said, that was a matter of considerable controversy in the local community, and I suspect that it weighed on the minds of community members when they voted at the recent federal election. The level of intervention, the inflammatory language and the attempt to directly influence the council were all matters that received considerable local press, and they were also the subject of quite a bit of discussion in the local community. As I said, I am sure it was a factor in how people exercised their votes for that seat in the federal election.

It is interesting to note that Ms Mirabella had one friend in this whole unfortunate saga — a friend who happened to be in the Victorian Parliament, who waited until after the federal election before she acted — the Minister for Local Government, Mrs Powell. Our concern is that the timing of the minister's decision — the delay in her actions — may have been influenced by the fact that Ms Mirabella was up for re-election. In the end, as we have seen from the outcome of that election, it did not make any difference. People had a look at the issues for themselves and they made their own views — their judgement of Ms Mirabella's conduct — known through the ballot box. It is a salutary lesson for those involved in this matter.

With those few words, as I said, the opposition will not be opposing the bill. We have done what we can to facilitate its quick passage through both the Assembly and this chamber.

Mr BARBER (Northern Metropolitan) — To follow on from what Mr Tee just said, it seems that the government wanted to table a few pages of reports on the Rural City of Wangaratta Council in the morning and sack the council in the afternoon. At the very least we need to spend some time working out exactly why the Parliament is so willing to take this action.

Let us start with the Constitution Act 1975. Section 74A says:

> (1) Local government is a distinct and essential tier of government consisting of democratically elected Councils having the functions and powers that the Parliament considers are necessary to ensure the peace, order and good government of each municipal district.
>
> (1A) Subject to section 74B, each Council —
>
> (a) is responsible for the governance of the area designated by its municipal boundaries; and
>
> (b) is constituted by democratically elected Councillors as the governing body which is —
>
> (i) accountable for its decisions and actions; and
>
> (ii) responsible for ensuring good governance; and
>
> (c) includes an administration which —
>
> (i) implements the decisions of the Council; and
>
> (ii) facilitates the performance of the duties and functions of the Council.

Anyone who reads that section of the constitution would assume that it means democracy is an essential element of our local councils. It turns out that it is an optional extra. For those of us who have been around a bit longer, we had a debate — —

Mr Elsbury interjected.

Mr BARBER — You are no threat to me in that respect, Mr Elsbury.

We saw the instance of Brimbank City Council; the previous government determined that it had to go despite the voters having done a pretty good job of getting rid of the bad eggs by the time we even saw the various reports on the council. Then some years later there was another bill to continue the denial of democracy to the citizens of Brimbank. Not only is sacking a local council a hell of a good way for a state government to distract people from its own internal problems, but it is hard to let go of this practice once you have started doing it. Here we are again. There will be no democracy for years in not 1 but 2 of the 79 councils in Victoria.

We went through an exercise of trying to get constitutional recognition of local government at the federal level. It was the precipitous Prime Minister Rudd who stopped that referendum going ahead, but before that the people on the Liberal-Nationals side of the chamber, both here and at the federal level, did everything in their power to wreck that particular referendum. Why did they want to wreck it? Because it was wreckable. Their style of politics — —

Honourable members interjecting.

Mr BARBER — It has toned down in the last 10 days. Their style of politics is that if you can stop the other guy from doing something, that is a victory regardless of the merits of the measure.

Let us actually read what the measure says. Under the heading 'Financial assistance to states and local government bodies', section 96 of the federal constitution says:

> During a period of 10 years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State …

The proposal was to add the words:

> or to any local government body formed by a law of a state …

That was it. It concerned the ability for the federal government to give money to a local council. It did not stop this mob organising amongst themselves some full-page spreads in various newspapers saying that this would make councils unsackable, that every bad egg that had ever been pinged with anything under the Victorian local government act would somehow gain immunity from this measure. That is not to mention your long caravan of right-wing nutters who came out and said, 'If this passes' — and this brochure turned up in my old man's letterbox — 'local governments will be able to implement sharia law'.

An honourable member interjected.

Mr BARBER — Did you see that one? It went around. So be it.

An honourable member interjected.

Mr BARBER — It is your mob that is in power now. Now that you are in government, those people — —

An honourable member interjected.

Mr BARBER — It is going to come back in a minute to the standards of the sort of person who is fit and proper to serve in elected office. That is the standard we are going to be measuring this by as we move on to the bill.

The purpose of the bill is to sack the Wangaratta council and there will be no elections for three years, unless of course the government brings in another bill like the government did with Brimbank, and citizens in that area, according to this government — —

Mr Finn interjected.

Mr BARBER — They will breathe a sigh of relief, just like Mr Finn said in relation to Brimbank council. He said that they were all going to be cheering about it. This bill, as I said, is based on a number of reports that were tabled this morning, but is apparently the result of a report by an inspector of municipal administration who has been in place for three months.

I want to say that I have no doubt that there are a number of staff members at Wangaratta Rural City Council who have suffered quite considerably from stress-related issues as a result of some of this behaviour. I am not questioning in any way the issues that staff have suffered in that area. Those claims have been considered by WorkCover and a number of other bodies and there is no question that the issues that staff

have suffered and the consequences for their mental health are real and legitimate.

However, balanced against that is this proposal to sack the council and remove democratic governance from the area for a period of three years. Apparently in between these two quite negative alternatives there is nothing. There is no middle ground, there is no possibility, there is no further stay of execution, there is no further mechanism that can be brought to bear. When we read the reports we will put that question to the test.

An inspector of municipal administration has been in place for three months. He is a gentleman by the name of Peter Stephenson, a former City of Darebin councillor, if I have got the same bloke. I think he was the mayor at around the same time that I was mayor of Yarra, in 2002–03. I do not doubt that he is a good person and I do not dispute the veracity of any of the things he has said. But what he has provided is a report with his own recommendation. Now we have to decide whether we think the matters he describes are definitely hanging offences that would lead to not only a few badly behaved councillors but in fact all councillors being sacked with no opportunity in the next three years to run for council, and citizens of the area being denied a democratic voice on the very important services that councils deliver, none more so than Wangaratta Rural City Council.

Early in the document, in relation to Mr Stephenson's appointment, it says:

> Further, the council had engaged an independent industrial relations consultant to assess a number of staff complaints that they have been bullied by a councillor. The resignation of Cr Lisa McInerney and the taking of sick leave by several senior staff — including the CEO — occurred on or about the date of my appointment, adding to the sense of disorder at the council.

So we have bullying by a councillor and a councillor resigning as a result of, apparently, the same bullying.

We also read in the report — and since I have limited time I have to paraphrase and skip through it — that the Rural City of Wangaratta is currently governed by an inexperienced council with only two councillors, Cr Parisotto and Cr Joyce having served previously. It seems to me as if a black mark against members of this council is that they are inexperienced — that is, they are new. I have seen many councils where a complete booting out of the last mob and the bringing in of a new, fresh team was exactly what the council needed.

Citizens certainly saw that in this case. The assumption behind all this, however, is that the voters got it wrong when they voted for this group and that this has to be corrected by the Minister for Local Government and by the Parliament. It may be useful context that these are new and inexperienced councillors, but it is not necessarily a black mark against them.

We also read that:

> Many members of the public have also taken the opportunity to meet with me —

that is, with the municipal inspector —

> including a delegation of nine former mayors and councillors.

We will hear a number of instances of this. It sounds as if the municipal inspector heard a whole range of complaints from a whole range of people about their council. That in itself is not unusual. The inspector also writes:

> In performing my role I have from time to time sought advice from the Local Government Investigations and Compliance Inspectorate and Local Government Victoria.

He refers to this mysterious group, the Local Government Investigations and Compliance Inspectorate. It is not like another watchdog with a statutory basis. Theoretically its head can report to the public servants within the local government department and through them to the minister. Its reports are not made public as a matter of course. The Ombudsman, in a report tabled yesterday, said he had been made aware that this body was to be rolled into the office of the Ombudsman but that he was still waiting to hear the time line as to when that will occur.

We went over this and gave our views on this body and how it had conducted itself in the past when we talked about the Brimbank City Council. In the absence of any real transparency in relation to what the body does and how it does it, it is very hard to conclude it is doing a good job, and I have had plenty of instances reported to me where I think it is doing an extremely poor job. It would be very timely if this government could get cracking and pass the functions of this body to the Ombudsman as foreshadowed by those opposite. The Ombudsman himself is now saying he does not know when that is going to happen and that he has no time line on it, nor does he have any real indication of whether he will be given extra resources in order to do the job of this body.

The reason this is important is that we now hear — according to the same monitor's report — that a number of investigations are continuing in relation to the Wangaratta council. These include a number of matters I referred to the local government inspectorate

relating to possible infringements by councillors against sections 76D and 76E of the Local Government Act 1989. One of the black marks against this council is that a number of matters — we do not know how many, and we do not know in relation to how many councillors — have been referred to the local government inspectorate as possible breaches of the Local Government Act. I say: get cracking and investigate them. If a councillor has breached a section of that act, get them charged and get them knocked off.

Sections 76D and 76E are extremely serious sections of the act relating to misuse of position, improper direction and improper influence of council staff by councillors. In previous years the Greens have advocated strongly and eventually successfully for penalties to be attached to these serious offences. Now if someone has breached section 76D, they are liable for up to five years jail. Members know — as I have said this many times in this chamber before — that we do not have a comparable statutory offence for members of state Parliament. We have a possible use of a common-law offence which is known as misconduct in public office, and I will say no more about that as it relates to matters involving an MP of this place which are now before the courts. We need to have concurrently, however — and the Greens have advocated for this before — a similar offence applicable to MPs who misuse their position.

It is also argued in this document that there may have been multiple breaches of a code of conduct promulgated for the council under the Local Government Act. As I have said before, the code of conduct for MPs is about five dot points and is so loose that it is almost impossible to actually breach the thing or to prove a breach, and yet — —

Mrs Peulich interjected.

Mr BARBER — I am exactly on point.

Mrs Peulich interjected.

Mr BARBER — I am exactly on point, Mrs Peulich — that is, by what standard do we judge ourselves, and by what standard do we judge local councillors? There are some MPs in Mrs Peulich's party who are lunatics. There are people in the Liberal Party who I would say in political terms are lunatics, not just because I disagree with their politics and not just because I disagree with their policies but because the personal conduct of these people in state and federal parliaments is over the top relative to how any normal person conducts themselves. After all, Australia is a fairly moderate, middle-of-the-road country.

Honourable members interjecting.

Mr BARBER — Are we naming names, Acting President? If so, I would say there are some MPs in the Labor and Liberal parties who are only there because they were on their party's tickets; they certainly did not pass any tests as individuals in terms of being moderate, reasonable, well-behaved, high-functioning people.

Honourable members interjecting.

Mr BARBER — And it continues.

I understand from Cr Julian Fidge that there are also at least two matters involving allegations against the CEO and senior members of the council administration, which Cr Fidge has referred to the Independent Broad-based Anti-corruption Commission. I am not aware of the progress of these matters. I do not want to get Ms Pennicuik going on the subject of the Independent Broad-based Anti-corruption Commission, suffice it to say who knows what will ever happen to those allegations or what relevance they will have. However, since Cr Julian Fidge turns out to be one of the main offenders, according to former councillor Peter Stephenson, we can safely say that is a matter for the Independent Broad-based Anti-corruption Commission, and it should not be used as the basis for throwing all the babies out with the bathwater at a council that was elected only fairly recently.

There is some discussion here about a councillor conduct panel, which Cr Fidge was required to go through. He attacked the findings of the panel during radio, television and newspaper interviews and has lodged a stay of proceedings on the two-month suspension handed out to him by the councillor conduct panel; therefore he is actually not under suspension. Cr O'Brien raised a series of questions related to the councillor conduct panel that were directed at the acting CEO and acting directors, and this led our municipal inspector, Mr Stephenson, to conclude that neither of them particularly agreed with the findings of the councillor conduct panel.

I have said before in this place and elsewhere that because of the way this councillor conduct panel process has been set up by the former government it is not really likely to raise the standards of governance, nor is it likely to resolve these kinds of problems. In fact the fault in that policy process is clear, and it is that even if you do go through a councillor conduct process, you can appeal the findings at the Victorian Civil and Administrative Tribunal anyway.

There are some discussions here about a number of external stakeholder groups affected by the ban on staff attending meetings with councillors. Some have not

met for some time. There is discussion that perhaps one councillor has not been going to meetings of the regional waste management board, possibly the same one the government intends to abolish by amalgamation anyway; I am not too sure. A dispute between Cr Fidge and Cr Atkins is subject to an external mediation. Apparently Cr Fidge refused to accept an apology and demanded an external mediator. In regard to this, Mr Stephenson said, 'In my view, this is abuse of process for political point-scoring and to no real end'.

There is a claim that a lack of direction from council has led to delays in converting a number of strategic planning processes, including the rural land strategy. In Mr Stephenson's report there is a section headed 'Failure to provide leadership', which states:

> The highly publicised council dysfunction, including attacks by councillors on business groups, has caused a loss of business confidence in the municipality.

This may have impacted on sponsorship for some events and led to a failure to meet project milestones for a number of projects funded by Regional Development Victoria. If this is seriously a list of offences that can cause a council to be sacked, then many other councils at many times could come under this same threat.

One part of Mr Stephenson's report is quite concerning. It says that expenditure in a whole range of areas arising out of the various bullying, conduct and council officer stress leave issues has added up to a considerable amount of money — over $1 million — which for a small council like that is very burdensome. That is definitely evidence that someone down there does not really have a grip on the situation. But the Greens are arguing that that still leaves us in the position that there is something in between the weak mechanisms that have been used so far and sacking a council. From my experience and my time in this place, it appears that with both the Labor and Liberal parties there is no in-between.

A bill we should have in this Parliament as a matter of urgency — it has been urgent for many years — is one that would create some serious mechanisms that can be brought to bear against councillors who seriously breach the act and its various instruments. We do not have that bill, and we will not be getting it. We are just sweeping this particular problem under the carpet and deferring it for another three years. As with Brimbank council, there will be no answer from the Labor or Liberal parties as to when this particular set of issues will be resolved. Some concern has been expressed here today that some of the same people might run for council again. That argument is being used to extend Brimbank council's term in the wilderness indefinitely, although the government keeps coming back and setting new deadlines for itself through this Parliament.

Mr Finn — How about talking to the people of Brimbank?

Mr BARBER — I had a democratically elected Greens councillor on Brimbank council. She was selected by the people of Brimbank, and she was not found guilty of any offence, but not long after she was elected she was sacked by the government.

Mr Stephenson's report has a section headed 'Failure to advocate for and promote proposals that are in the best interests of the local community, fostering cohesion' which says various people have said they do not think the council is moving with sufficient 'substance and strategic foresight within the new council plan'. Recently we have heard a bit from the current Minister for Local Government about the failure to advocate for and promote proposals that are in the best interests of the local community. She has her sights on Yarra City Council, which is advocating in the best interests of its community against the east–west road tunnel. Is that going to be a sackable offence? The minister has already demanded that the council provide information using a little-used section of the act that I think is currently being abused to ask it about expenditures it has been making — it is transparent in any case — to advocate for the best interests of its community. The nature of this particular judgement depends on which side you are sitting on.

Returning to Cr Fidge and his code of conduct, Mr Stephenson's report states:

> Like the code of conduct document itself, however, policies do not guarantee adherence to behaviours. For example, despite signing the current code of conduct, Councillor Fidge has stated he will not be bound by it.

What use is it? What will the government do about that provision of the act? Today, nothing. There is a notice of motion from Cr Fidge to terminate the employment of the chief executive officer. So far only he and one other councillor have been named, although two councillors have been named as the subjects of bullying, and Cr Fidge wants to sack the CEO. Can you believe it, Acting President? It is not the first time that a council has expressed that view or even moved such a notice of motion.

Where has Mr Ramsay gone? There he is — out of his place. I have left my copy of an issue of the *Colac Herald* from last week in my office, which contains an article describing how Mr Ramsay wrote to the

Minister for Local Government asking for an inquiry into the CEO of Colac Otway Shire Council.

Mr Ramsay — I didn't ask for that. Check your facts.

Mr BARBER — I will check the *Colac Herald*. In any case, when we get to the adjournment I will ask the Minister for Local Government to table the correspondence from Mr Ramsay so that we can all be clear about what the CEO over at the Colac Otway Shire Council has done to offend Mr Ramsay. Apparently it is something to do with blocking his access to councillors in some way.

Mr Ramsay — Come and talk to me; I'll tell you all about it.

Mr BARBER — It is in the paper. It is between Mr Ramsay and the minister, and it is between him and the *Colac Herald*. I would be happy to read his correspondence, and I would be happy to read about the terrible governance program. It is not the first time that the man he succeeded, Mr Vogels, has taken a swing at the Colac Otway Shire Council. What was it? His buddy did not get elected to the council, so he decided to take the whole council down. Acting President, you can understand why the Greens are asking questions about this bill, including: where does it end and who is next in its sights?

I want to reiterate that I am not making light of the situation of the staff members who have obviously suffered considerably due to workplace stress and bullying issues at the council. I am simply putting the question as to what more could have been done by the government, either through the levers it already has or through changes to the act to prevent this situation.

In a briefing earlier from the minister, and I appreciated her time, I learnt that an acting CEO is in place. From what I know of that gentleman he is no slouch; he is a tough cookie. I read in the report that he has an acting central management team around him and that he is setting out some rules by which councillors get to engage with those council staff. It is correct practice by an acting CEO, particularly in instances like this, to limit councillors' access to junior staff where the councillors have proved themselves incapable of behaving professionally.

I do not see anything wrong with an acting CEO deciding to centralise the flow of information from themselves to councillors. Interacting with junior staff is a privilege to be earnt by councillors. Perhaps in a small country council things are a bit different. People are a bit more used to dealing with each other, seeing each other down the main street and the rest of it. Clearly it is a serious issue if the acting CEO felt he needed to restrict access in this way. However, all CEOs and all councils see it differently in terms of who should have access directly to information from junior council staff.

The report reaches a conclusion and summarises these various issues. It says there was a failure on the part of councillors to adhere to the councillors code of conduct. I have already compared and contrasted that code with the MPs code of conduct, which is extremely weak and allows the type of behaviour, detailed on the face of it here, to occur at almost every question time. To any of us who have ever turned around and seen the gallery full of young schoolchildren during question time, the look of absolute horror on their faces at the way MPs behave is a sight to behold. It shows, better than anything, how clearly the standards of behaviour that are maintained in this place — I am referring more to the other place, Acting President — are out of step and out of touch. Kids come in here and people who see question time on TV say, 'Those people are a pack of idiots'. That is what they say when they see MPs cavorting in question time. If we sum up all the allegations in this report, they add up to that our councillors are a pack of idiots. The report suggests the community in Wangaratta thinks the councillors are a pack of idiots.

The report refers to bloc voting. That issue has been raised before in relation to Darebin City Council. Both in the time preceding and the time post Mr Stephenson's time at Darebin, he would have been aware of some of the history of that period. Block voting at Darebin was broken by an election held last year. The report notes:

> the continued desire by a number of councillors to pursue personal agendas ….
>
> …
>
> the continuing failure to respond to the concerns of the community, including senior business representatives —

there seems to be an emphasis on what the business community thinks of the local council —

> on matters that are critical to the future of the city and the region …

This was the judgement of the municipal inspector, but it is for us here today to form our own judgement. As I said, we have been asked to do that in the course of one day on the basis of a report that we first saw this morning. By the way, this report alludes to earlier reports that none of us have seen. It also alludes to the

aforementioned investigations, which none of us are privy to. On top of that, in the form of, let us say, added quality assurance, there is a two-page letter from Mr Scales, who has read Mr Stephenson's report and some of the others. When I addressed one or two of the Brimbank City Council bills that we have had in this place, I gave my view as to whether I thought Mr Scales's particular view of local government aligned with mine. The fact that Mr Scales read these reports and agrees with them is not something I am adding particular weight to when it comes to my voting on this bill.

The Greens have been very consistent on this subject. We have pushed for a number of law reforms to the Local Government Act 1989 to raise the standard of governance and the ability of the law to support that over many years. We have raised it to a standard that is much higher than this Parliament has yet been willing to raise itself to — and things are not getting any better on that score as we stand here today. We have been consistent in supporting the necessity of having democratically elected local councils in place to continue delivering essential services. We were consistent when we voted on the Brimbank bill in saying that there should be an early return to democracy in that area. We predicted that once the government sacked the council, on the arguments that it used to do so, that there would be no time in the future when this government or any future government on the same argument would be willing to reinstate it. Apparently there is no voting in Brimbank City Council until the Labor Party fixes its internal politics. That was the argument that Mr Finn and Mrs Peulich and all the rest of them brought back in in 2008.

I have not inquired into the political party membership of the councillors at Wangaratta. These reports tell us pretty much everything else about what they have been up to lately; it would not be an unfair question to ask whether they are members of any political party. But we have been asked to sack the council for another three years until some benchmark is achieved, which is until some group of baddies have apparently departed town or been found guilty or sworn that they will never run for council again. We are saying, 'Once Wangaratta has effectively been depoliticised you can have elections back. When we have thoroughly depoliticised you, then you can have elections back'.

It is a bit like a properly elected mayor who was going to politicise the Greater Geelong City Council and get rid of all the horrible, nasty politics that was happening in that council by electing someone who would be a good guy 'because we chose him'. Geelong will be back in the game in a month or two. Because there was no provision in the government's bill, as we noted at the time, for any kind of countback, the whole of the Geelong polity will have to go back to elect themselves a new popularly elected mayor.

In line with our consistency the Greens are going to propose an amendment today that does the same thing that happened in a previous round — that is, to change the proposal for the elections from being held in three years time to being held in one year's time and putting it on the government to actually address the problems that it says exist. I do not know how you do that without having an elected council. The government may think it is at the end of its tether with the elected council, but I do not know how it will do it without having an elected council. Apparently you can just kick the can down the road and hope something somehow changes and then realign the council with the whole cycle of Victorian council elections.

I am well aware that the government is not going to support the amendment. I would be interested to hear in response to my amendment government members' description of the problem, their proposed course of action to fix it and when it is they believe the problem will be fixed so that the essential democracy recognised in our constitution — but unfortunately not yet recognised in our federal constitution — can be restored.

Mrs PEULICH (South Eastern Metropolitan) — I rise to contribute to the debate on the Local Government (Rural City of Wangaratta) Bill 2013, which was debated in the lower house earlier today. I do not think Mr Barber mentioned that it was the Labor Party that wanted the bill debated forthwith, to which the government agreed. It was not our intention to see it through in one day, but given the will of the chamber and the Parliament we will certainly accommodate that given the gravity of the issues at hand.

Before I comment on the decision that was taken, as announced by the Minister for Local Government on behalf of the government, and the matters that led up to it, I want to comment on some of the matters raised by Mr Barber and Mr Tee. Mr Tee, in his usual way, cut corners and used this opportunity to make some cheap and personal attacks on the former federal member for Indi, Sophie Mirabella. He made allegations which have certainly not been mentioned in any of the dispatches that I have read or any of the reports that have been tabled in Parliament. For all I know they could be a figment of his imagination.

I would suggest, however, that Mr Tee and members of the Labor Party are certainly not averse to a tad of

intervention in local government themselves, especially given that their party rules demand that Labor Party caucuses, where there are more than three Labor members of a council, on the council agenda. This is in direct contravention of the Local Government Act 1989, which requires that council agenda business is approached in an impartial way and without one's mind being made up. I will not comment much further on Mr Tee's contribution because I do not really think there was much substance to it.

However, I would like to spend some time responding to some of Mr Barber's comments. I will not dismiss all of them because Mr Barber made some points that I do not disagree with. We do not agree on the resolutions or on all of the matters, but we do share some concerns. Mr Barber and I have a concern, as I know the Minister for Local Government and the government also have a concern, about the state of local government and in particular the need to strengthen and improve its governance, accountability framework and transparency.

Out of deference to and respect for the fact that it is a layer of government to which people are elected by their respective communities the minister has very rarely taken a heavy-handed approach to local government. The minister has worked assiduously behind the scenes to put in place a reform of the sector that will hopefully lead to a cultural change and force local government to operate more professionally, with more accountability and with a greater degree of transparency. I commend the minister on instigating the review of the local government election that will be chaired by Petro Georgiou. The work that she has been trialling will be introduced into the local government sector, including key performance indicators or a framework for performance reporting, so that communities across Victoria will be able to compare the performance of their councils with similar councils.

I would also like to commend the government on its integrity regime, which is still evolving; it is not yet fully implemented and is still being rolled out. The introduction of an Independent Broad-based Anti-corruption Commission will obviously have an implication for local government as well. Mr Barber rightly comments on the local government inspectorate. I must say there have been many examples where I wished the local government inspectorate had been more robust and speedy in dealing with some complaints, whether it was simply to investigate and dismiss them, or whether it was to investigate the claims and, if substantiated, take some action on them. I do not dismiss Mr Barber's comments on that issue. The only way to strengthen the governance and performance of local government is to clean it up. In the meantime of course, while these measures have been put in place and a lot of detailed work has been done by the minister and the government, this situation has emerged with the Wangaratta Rural City Council. The minister has been forced to use her powers to take action, given the breadth of evidence that has been sighted, something of which, regrettably, Mr Barber is very dismissive of, which I think is unfair. Mr Barber was also dismissive of Bill Scales, who was the author of one of the reports. Given the reputation and the credentials of the man, I believe that is a little ungracious of Mr Barber as well.

I will not dismiss Mr Barber's overall concerns and interest in strengthening local council governance. There is a lot to be done. Hopefully the election review will generate some recommendations for further reform, and the framework for accountability, once implemented, will also see the sector improve. It is really all about getting good outcomes for the community and making sure that all councillors act with integrity and with the best interests of their communities in mind, without the backroom wheeling and dealing that so often in the past has typified — and maybe still typifies — local government, which I think diminishes it.

Looking at the reasons for this bill, basically it dismisses the Wangaratta Rural City Council. These decisions are never taken lightly. I know the minister has a history of local government involvement. As I said, she has worked very productively with local government, with the exception of opposing the federal referendum on local government. I commend her on taking that position. Of course had that referendum been held and been successful and those measures been put in place, the action the minister is taking here through this legislation would not be possible. If local government were autonomous, the state government would not have the ability to take action of this sort. I think it is imperative that we put things into context. The bill dismisses the Wangaratta Rural City Council and provides for the appointment of an administrator or a panel of administrators for the Rural City of Wangaratta.

What action has the minister taken to try to avoid this scenario and the action this bill facilitates? There is a summary in a press release issued yesterday by the Honourable Jeanette Powell, Minister for Local Government. In it she outlines some of the actions that have been taken by the coalition government. It says the government had:

> appointed probity auditor Bill Scales, AO, to oversee an investigation into bullying allegations in January;
>
> requested the council to review and adopt a new councillor code of conduct in April;
>
> held a meeting with mayor Cr Rozi Parisotto and the minister in May;
>
> consulted with the MAV on what assistance, guidance and advice the sector's peak body could provide the struggling council and mayor in April;
>
> appointed an inspector of municipal administration, Peter Stephenson, to provide advice and guidance to the council to address its challenges in May; and
>
> commissioned a Local Government Investigations and Compliance Inspectorate investigation into 77 separate complaints of alleged breaches of the Local Government Act 1989 over the last 11 months.

Each one of those actions may have had shortcomings in itself, but cumulatively I think the evidence is very strong and has left the government with few options but to take the direction the minister has taken.

However, that is not to say that the Local Government Act 1989 does not need improving; it does need improving. There are provisions that do not carry penalties. For that reason I surmise that the office of the local government inspectorate from time to time — again I am surmising — does not take action to prosecute because there are no penalties enshrined in the act. Certainly I believe that if there are breaches of the Local Government Act, there ought to be some penalties. If there are individual councillors in breach of the act and if you have a strong and robust regime, it ought to be possible to bring each breach forward and deal with it — of course the councillor responsible has to wear the odium. In the meantime, as the minister is working to reform a sector that has been manipulated, taken for granted and allowed to turn a blind eye to misconduct, with which she is trying to come to terms, she has no alternative but to act and to do what she is doing through this bill.

The reason this action has been taken is outlined in two reports that have been tabled in Parliament, so there is nothing surreptitious about it. The first is a review of reports and documents and the provision of advice, dated 17 September 2013, by Bill Scales, AO. He reviewed a wide range of reports into the activities of the council, not a single report but a wide range. The second is the report of the inspector of municipal administration dated 20 August 2013. I have skimmed through those reports quickly. It certainly appears that both documents reveal and confirm that this is a dysfunctional council, regrettably, despite the best efforts of the local community to turn over a new leaf. I do note — and I am not sure if it is relevant here — that postal voting in local government elections does lead to a turnover of 48 per cent of elected councillors, so there is certainly a loss of corporate memory.

It can sometimes take time for a new council to get its feet under the table, to learn the ropes and understand what its role is and also how to deal with staff. Councillors need to understand that you cannot go in and run the operations of the council; that is the job of the chief executive officer. The role of councillors is predominantly a role of scrutiny and advocacy.

Mr Stephenson's report, which has also been tabled, calls for a suspension or dismissal of the council, and his report discloses what he calls 'a serious breakdown in working relationships between councillors' and between councillors and council staff. Sometimes council staff can be a little too resilient to the view of a democratically elected council, but when you take into consideration all the evidence that is before us and the councillors' inability to take advice and act on legal advice that was given to them, especially given the volume of resources devoted to legal advice and legal action, you would think that this council has not helped itself. That is certainly to be regretted.

What Mr Stephenson's report also demonstrates, or discloses, is an incapacity and unwillingness of councillors to change. He stated that the conduct of a number of councillors was characterised by hostility. He refers to behaviour that can only be seen as acrimonious and claims that there is a denigration of staff and colleagues. I understand that frustration can sometimes brim over, but nonetheless it is never acceptable to denigrate staff or bully them.

Mr Stephenson also stated that amongst colleagues there is 'a lack of mutual respect and goodwill' and a failure by council to provide a safe workplace for their employees. He also noted:

> The council has been given ample advice, time and opportunity to rectify its deficiencies.

Mr Barber's contribution was not a fair appraisal of measures the government had introduced to try to avoid the action that has been taken in the form of this bill and the dismissal of the council.

Mr Scales also recommended that the government dismiss the council as soon as it could practically be achieved, and here we are today. Both Mr Scales and Mr Stephenson provided advice that in their opinion the current councillors were not able to sensibly and constructively implement a process of restructuring and reform. Everyone can make a mistake, and everyone

can get on the wrong tram, but once that is brought to light and professional advice, guidance and support is given to help address those deficiencies and issues of concern, that should be taken on board. Clearly, this has not occurred.

Furthermore, Mr Scales has said the current council is unlikely to be able to:

> effectively and efficiently govern the municipality under any form of revised management structure.

Mr Stephenson provided the council, both individually and collectively, with advice on how to effectively govern and manage relationships between councillors and between councillors and council staff. Despite three months of advice, the councillors have not taken any remedial action as advised The advice to government is that the only way to ensure governance at Wangaratta is to remove the councillors. This bill is a last resort. A demonstrable record of actions have been taken by the minister, in various shapes and forms, to try to produce change and have these matters addressed, but this has not been possible.

Mr Stephenson stated:

> A break in electoral representation will send a clear message that a continuing and serious failure to provide good governance is unacceptable.

I commend the bill to the house.

Mr DRUM (Northern Victoria) — I too take the opportunity to talk to the Local Government (Rural City of Wangaratta) Bill 2013. We need to acknowledge that this has been a measure of last resort. For a number of months this government, through the minister, the inspectorate and the council appointee, has been working as hard as it could and doing everything it could to get some sort of functionality back into the Rural City of Wangaratta, to try to get the council operating in a manner that would be akin to what the people of Wangaratta would expect. However, when reports have come in from government members and particularly from the Minister for Local Government, Mrs Jeanette Powell — who has a long and proud history of working with local government — the evidence has been simply overwhelming. This decision was the only decision available to Minister Powell, and it demonstrates the strong leadership that is expected of her in her role.

Quite simply, it is sad that we have the actions of some effectively tarnishing the reputation of the whole, because I know some of the councillors at the Rural City of Wangaratta, and I can acknowledge that mayor Rozi Parisotto and Ms Tammy Atkins are fine councillors. In my opinion they are fully committed to their roles as councillors, and they will be caught up in all of this because the entire council has to be removed.

The community is suffering to a great degree; the consequences of the turmoil at council are being borne out now. The city is losing major events. It is unable to attract regional grand finals. It is unable to attract the jazz festival. All these things are drivers of economic growth. With this happening, it is the people of Wangaratta who are losing out. When the city has to spend over $800 000 on redundancies and payouts to terminate employment because staff are unable to work with council, then it is the people of Wangaratta who lose out. No government can stand by and let this type of behaviour go on indefinitely.

The consequences are going to keep stacking up. There are projects where this government would normally have partnered up with the Rural City of Wangaratta — because the government partners up with nearly every shire in country Victoria through the Regional Growth Fund — but it cannot because all projects are falling way behind. Milestones are unable to be reached on a regular basis. The funding for these partnering projects is going to be withheld. Again, that is good governance, as we need to make sure that this type of inaction and dysfunction is brought to an end.

Something that has become one of the most important issues — paramount, in fact — is the inability of the Rural City of Wangaratta to provide a safe workplace. It is paramount that any government body is able to provide a safe workplace. If that city is not able to do that, then we do not have any option but to dismiss the council and install the administrators.

We have had codes of conduct that have been signed by councillors, then we have had those same councillors openly declare that they are not going to be bound by the terms of the code of conduct they have just signed. Effectively, as Mrs Peulich has said, when it is all boiled down, each of these issues may be able to be overlooked in isolation — perhaps you could turn a blind eye to one or the other — but when you see the issues stacked up, recurring time after time, it is inexcusable.

I visited this council approximately three months ago, and at that stage there was one senior manager who was still working. I visited on a Wednesday, and he was the only one of four senior managers who was working at the time; the others were off on stress leave. That was on a Wednesday, and on the following Friday that senior manager had a doctor's appointment, and he has not been back to work since.

On behalf of the people of the shire of Wangaratta we have been forced into this action. The minister has done everything she possibly could have done to try to get some functionality back into this council. Unfortunately we have been unable to do it through the normal procedures, and we have been forced to take this extraordinary step. However, I think the people of Wangaratta will see these actions for what they are. I understand that this has already been met in a positive light because the people are sick of this type of behaviour from their elected representatives.

Without going on any further, I want to congratulate the minister for taking this step. I am sure that we will get the administrators in there as soon as possible, get this place up and running and get these projects, which are currently in a state of lull, going again. We need to get them operating, get these milestones checked off, put the 'Open for business' sign back on the rural city of Wangaratta, make sure that work is continuing and get this place charged up again. It is a dynamic city and it deserves better than it has had in the last 18 months. I am hoping that with this significant action and with the introduction of the administrators we will get Wangaratta up and working again and we will get some confidence, which has been sadly lacking while this sordid process has been dragging on, back in the business community.

We need to make sure that this happens as quickly as possible. We are rolling up our sleeves to get this city back working as quickly as we possibly can so that it continues to build on the fantastic reputation it has developed over many years. Wangaratta is an amazing place, it has amazing amenities and it deserves much better. I am sure that once the administrators are in we will get this council working to its optimum level again. We will start to be able to partner up, projects will get rolling again and we will be able to build on the great legacy that has been developed in that city over a number of years. I commend the bill, and I commend the minister's actions. I think this is an opportunity for a fresh start and to really get this city up and going again.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Mr BARBER (Northern Metropolitan) — The Greens supported the bill at the second reading and we will support it at the third reading, regardless of the fate of the amendment we will be moving under clause 10. It is deeply regrettable that there are not more effective mechanisms in the act to deal with individual councillors — and, as far as I have heard, in this case there have been two at most — who ignore the requirements of the Local Government Act 1989 and its instruments. I hope that we will see reform of the act with regard to those levers.

Unfortunately what we are doing today in relation to the community of Wangaratta is kicking the can down the road. We are getting rid of the messy political bit of the council's operations, and then, according to the likes of Mr Drum, the whole council will take off and start performing again. Many fine words have been spoken about the government's great commitment to governance, but in fact councils are sacked in Victoria in the way dysfunctional cleaning contractors are sacked.

We are doing this on the basis of what we are told is three months of work by Mr Stephenson, during which he gave the council advice, but apparently nothing has worked, so the council is to be sacked for three years. There is a hint that the misuse of office or improper direction of council staff has been alleged and may be being investigated. Apparently the federal Treasurer has told the Clean Energy Finance Corporation that it has to shut itself down against its own legislation, but that is not considered to be improper direction of a government agency; there is a legal dispute raging about that as I stand here.

However, the most damaging part of this, and the broader public policy issue that we have, which is the reason my amendment is necessary, is that what this shows — and we have seen it before in relation to Brimbank and noted it in some reports in relation to Darebin council, and it has probably happened at other councils of which I am not aware — is that one or two bad eggs on a council who feel they are not getting their own way can throw a complete tantrum, drag the council into the muck, the result of which is that the whole council is sacked, including people who in this instance appear to be very good and committed councillors. If we give the ratbags that incentive, as they had in Brimbank and they now have in Wangaratta, we are going to see more of this.

Any political grouping that does not have the numbers on a council or does not get the policies it wants through council will simply need to throw enough mud around that a series of allegations can arise that a council is dysfunctional and bring that whole council down, thus achieving that group's political objective. There are some political forces out there — and I have

seen them in operation — which, if they cannot control something, seek to destroy it. It is a time-honoured tactic, and the more times we use this basis as a reason for sacking a council, the more incentive we are giving those sorts of political bomb-throwers to behave badly. I do not believe the government has come up with an answer to how it will prevent this sort of situation from arising in the future and, I would warn, such situations escalating and becoming more frequent.

For that reason the Greens will move an amendment which requires that at the end of 12 months new elections be held, because the government has not been able to explain to me what it is going to do in the next three years to stop the same group of people coming back and exhibiting the same set of behaviours, should they be re-elected, as they may well be. What is it that that group can do in three years that apparently cannot be done in one? In the case of Brimbank, the time frame is stretching even longer than that. That is the rationale for the Greens amendment, and I hope members of the Council will support it.

Clause agreed to; clauses 2 to 9 agreed to.

Clause 10

The ACTING PRESIDENT (**Mr Elasmar**) — Order! I invite Mr Barber to move his amendment 1, which is a test for his amendments 2 and 3.

Mr BARBER (Northern Metropolitan) — I concur with that, Acting President. I move:

1. Clause 10, line 24, omit "2016" and insert "2014".

Hon. M. J. GUY (Minister for Planning) — I note that Mr Barber has been quite consistent in terms of the amendment that he has moved, although the government does not agree with it, and also a previous amendment he moved, I think, when a matter came up in the previous Parliament in relation to the Brimbank council. I acknowledge the fact that Mr Barber is being consistent with a point of view that he has espoused before. The government's point of view is that we need the time to ensure that the concerns he raises about ensuring that the council gets back to a more functional stage are played out over a period of time to the 2016 elections. The government believes it would be beneficial to have that council then brought into line with the standard timing for other local government elections around Victoria, and that would be the time in keeping with what is in the bill today.

Mr TEE (Eastern Metropolitan) — The opposition will not be supporting the amendment. We think it is important that the elections occur as soon as possible. I think 'as soon as possible' means allowing the clean-out of the council, as it were, but our concern is that if you have an election in 12 months and you are then required to have another election two years later, that is unfair on the community and on those councillors who get elected in 12 months.

Ms Pennicuik interjected.

Mr TEE — I will not be provoked by Ms Pennicuik's interjection. A better approach is to give the interim measures an opportunity to be bedded down and then for the council to continue in the same cycle as all the other councils and have the election in 2016. We do not think it is an extraordinary period of time in all the circumstances. We will not be supporting the amendment.

Committee divided on amendment:

Ayes, 3

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

Noes, 36

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

Amendment negatived.

Clause agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

RADIATION 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. M. J. Guy; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. D. M. DAVIS (Minister for Health), Hon. M. J. Guy tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, I make this statement of compatibility with respect to the Radiation Amendment Bill 2013.

In my opinion, the radiation bill 2013, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The purpose of the bill is to implement new security obligations for companies or organisations that possess or transport high consequence radioactive material within Victoria. The bill will also require management licence holders to confirm the identities of certain persons with access to high consequence sealed sources or high consequence groups of sealed sources.

The bill will also ban the operation of commercial tanning units in Victoria.

Human rights issues

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

Right to privacy (section 13)

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

An interference with privacy will not be unlawful where it is permitted by law, and the legislative provision is precise and appropriately circumscribed. The requirement that interferences with privacy not be 'arbitrary' requires that interferences must be reasonable in the circumstances and that the restrictions on privacy are in accordance with the objectives of the charter.

The bill will require persons to prove their identity before they may use, access or transport certain kinds of high consequence sealed sources. It will be possible for a person without such a permit to use, transport or have access to certain kinds of high consequence sealed sources if they are accompanied by a person who has proved their identity or if they are subject to sufficient surveillance.

Accordingly, the bill engages the right to privacy. In particular, proposed new section 23A creates an offence for a management licence holder to direct, request or allow a person to use a high consequence sealed source that is in the possession or control of the licence-holder knowing that the licence-holder has not verified the identity of the person using an identification document. A person will not commit an offence under this proposed new section if they use the high consequence sealed source while accompanied by a person whose identity has been verified by the management licence holder.

Proposed section 23B creates an offence for a management licence holder to direct, request or allow a person to transport a high consequence sealed source or high consequence group of sealed sources that are in the possession or control of the licence-holder knowing that the licence-holder has not verified the identity of the person using an identification document. A person will not commit an offence under this proposed new section if they transport the high consequence sealed source or high consequence group of sealed sources while accompanied by a person whose identity has been verified by the management licence holder.

Proposed section 23C creates an offence for a management licence holder to direct, request or allow a person to access a high consequence sealed source or a high consequence group of sealed sources that the licence-holder possesses or controls knowing that the licence-holder has not verified the identity of the person using an identification document. A person will not commit an offence under this section if they access the high consequence sealed source or high consequence group of sealed sources whilst accompanied by a person whose identity has been verified, or if subject to surveillance at all times.

'Access' in the bill is taken to mean having the means to unlock a building, room, container, tank, vehicle or any other thing or place in which a high consequence sealed source is situated.

'Surveillance' in the bill is taken to include recorded surveillance by any of the following:

(a) a monitored closed-circuit television camera;

(b) a motion sensor camera;

(c) anti-stay behind detection and alarms based on motion detection; or

(d) any other measure prescribed in the regulations.

The bill stipulates that verification of identity is to be achieved by sighting documents which are evidence of identity and are also prescribed. It is also intended that the manner in which the verification of identity is conducted will be prescribed. For example, the management licence holder will be required to keep an identity check record which will record the name of the person and the documents sighted.

The bill will also insert new requirements into the act for management licence applications. The bill will amend section 39(b) and 41(b) of the act to require applications for radiation practices in relation to high consequence sealed sources or high consequence groups of sealed sources to include evidence of the applicant's identity. Similar requirements will be inserted into section 66(2) of the act in

relation to applications to vary management licences which authorise possession or transportation of a high consequence sealed source or high consequence groups of sealed sources.

These clauses engage the right to privacy as they require individuals to provide evidence of their identity by producing copies of personal documents such as passports, birth certificates and drivers licences. These personal documents will be sighted by management licence holders, which mean that personal information will be disclosed. Copies of the personal documents will also be sent to the Department of Health when applications for management licences (or variations of such licences) are made. This means that the Department of Health will be collecting personal information.

However, whilst these clauses engage the right to privacy, they do not limit the right. This is because the interference with privacy is neither unlawful nor arbitrary. The bill specifically details the precise circumstances in which these interferences with privacy are permitted. The circumstances are reasonably limited to the context of the workplace where high consequence sealed sources are involved. The need to protect public health and the community at large from misuse of certain radioactive materials justifies the compulsory disclosure of personal information in this instance.

The right to be presumed innocent — section 25(1)

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proven guilty according to law. This right provides that the burden of establishing a defendant's guilt is borne by the prosecuting authority.

The bill introduces a new part 5A into the act which includes the offences in relation to approved assessors. Proposed section 36C states that a person must not issue a security compliance certificate in relation to a security plan or a transport security plan unless they hold an assessor's approval that is in force. An offence under this proposed section will be an indictable offence with a penalty of 60 penalty units. Proposed section 36D makes it an offence for a person to directly or indirectly represent that they are an approved assessor unless they are an approved assessor. This offence attracts a penalty of 60 penalty units.

The proposed offences place a legal burden of proof on the defendant by requiring them to prove, on the balance of probabilities, the relevant defence. In doing so, the provisions may be considered to limit the right to be presumed innocent. However, in my opinion, any limitation on the right is reasonable and demonstrably justified in a free and democratic society having regard to the factors set out in section 7(2) of the charter act.

2. Consideration of reasonable limitations

In my opinion, the inclusion of a reverse onus in the proposed new offences is a proportionate means of achieving a legitimate aim. Whilst the provisions arguably limit the right to be presumed innocent, the limitation is justifiable because the conduct in the offences poses a grave danger to public health or safety.

Impersonating an approved assessor or issuing a security compliance certificate without the requisite approval could result in significant harm to the public. The role of an approved assessor is to ensure that security plans meet the security standards that have been set by the secretary. If this role is not performed in the proper manner, high consequence sealed sources could be subject to inferior security plans, leading to increased security risks.

There is a further argument that the limitation on the right to be presumed innocent is not unreasonable in this instance. That is, the burden in the proposed offences relates to facts which are readily provable by the defendant as matters within their own knowledge. For example, the proposed offence of impersonating an approved assessor would not be made out if the defendant can prove that they are, indeed, an approved assessor. Accordingly, the defendant possesses the requisite knowledge to establish the defence, and it is not unduly onerous for them to give sufficient evidence to discharge the burden placed upon them. In light of the serious consequences of the behaviour that the offences seek to prevent, this achieves an appropriate balance of all interests.

Conclusion

I consider the bill is compatible with the charter because whilst the bill engages the right to privacy, it does not limit the right. Similarly, whilst two of the proposed new offences may limit the right to be presumed innocent, that limitation is reasonable and demonstrably justified in a free and democratic society.

Hon. David Davis, MP
Minister for Health

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. M. J. GUY (Minister for Planning).

Hon. M. J. GUY (Minister for Planning) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill will amend the Radiation Act 2005. The purpose of the act is to protect the health and safety of persons and the environment from the harmful effects of radiation. It is essentially a licensing framework to properly authorise the conduct of radiation practices and the use of radiation sources which include X-ray units, radioactive material and commercial tanning units.

Radiation has brought tremendous benefits to our society primarily through great advances in the use of ionising radiation in medicine whether to help diagnose disease or as therapy for illnesses such as cancer. It is also used extensively in dental practices, veterinary medicine and across many different types of industry. There are however harmful effects associated with radiation and it is for this reason that it is closely regulated in this state and indeed across Australia and internationally.

The purpose of this bill is twofold.

Firstly, it is to amend the act to give effect to a government decision to ban commercial tanning units from the end of 2014. I note with sadness that it is almost exactly six years since Clare Oliver lost her battle with melanoma after

bringing the issue of the risks associated with solariums to the attention of many Australians.

Victoria commenced regulation of solaria in February 2008, but four years later it was recognised by the government that more needed to be done.

The government's announcement to ban commercial tanning units was preceded by a long consultation process on the draft skin cancer prevention framework 2012–2017, undertaken from July to September 2012, during which 211 submissions were received. I note that these submissions included one from the Victorian Cooperative Oncology Group, a membership body of health professionals supported by Cancer Council Victoria, co-signed by 161 health professionals calling for a ban on commercial tanning units.

The government noted that of all cancers, skin cancer represents one of the most significant cost burdens on our health system and impacts on the health of Victorians.

The clear weight of medical evidence supported a ban on solaria.

As a result of this information, the Victorian government concluded that the necessary course of action was to ban commercial tanning units in Victoria effective 31 December 2014. This decision is in line with similar provisions announced in New South Wales and South Australia.

The announcement of the timing of the ban has given businesses the time required to diversify their services or develop alternatives to UV tanning.

The banning of commercial tanning units will, over time, contribute to reducing the incidence of the most deadly form of skin cancer, melanoma.

Now I will turn to the second purpose of this bill, which is to amend the act to improve physical security for high consequence radioactive material to reduce the likelihood of unauthorised access, theft and subsequent misuse of the material by terrorists.

Historically, the focus of radiation safety legislation has been confined to issues of safety to protect workers, the public and the environment from the harmful effects of radiation.

However, governments across the world have identified the need to ensure that potentially hazardous radioactive sources are secured to ensure they cannot be misused by those with malicious intent.

In 2007 the Council of Australian Governments agreed to implement the recommendations from the review contained in the report of the regulation and control of radiological material. One of these recommendations related to jurisdictions implementing the 'Code of practice for the security of radioactive sources' published by the Australian Radiation Protection and Nuclear Safety Agency in 2007.

This code describes a set of requirements for those wishing to possess or transport high consequence radioactive material. In particular, it requires verification of identity of persons with certain types of access to the material and the development and implementation of security plans to better protect the sources from unauthorised access. These security plans would cover the risk associated with the practice such as when the sources are in storage, use and during transport.

Victoria has already given effect to this code in January 2010 through changes to conditions on radiation management licences held by companies and other organisations authorised to possess or transport high consequence radioactive material, but changes to the act are now required to fully implement the code and provide certainty for the organisations involved.

Victoria will be the third Australian jurisdiction to legislate the requirements of the code.

This part of the bill builds on the current licensing system in the act and so it does not seek to create undue impacts on business as a whole.

If the bill was already in place as law, it would only affect around 36 organisations. This is equivalent to only about 1.5 per cent of the total number of organisations licensed to undertake radiation practices in Victoria.

These are the licence-holders currently authorised to possess or transport high consequence radioactive material. These are the organisations with the largest and most significant radioactive sources. They are used across industry and in medicine.

These sources are described in the bill as 'high consequence sealed sources'. They are used in diverse areas ranging from cancer therapy through to industrial radiography of pipes and welds and in industry and medicine to sterilise articles.

The bill seeks to strengthen the act by amendment of an existing provision relating to the construction of what are described as radiation facilities. A radiation facility is intended to be prescribed in future regulations to include a facility where high consequence sealed sources are to be housed. Construction of these types of facilities is a relatively rare occurrence. This provision is intended to ensure that new facilities or proposals to convert an existing building to house high consequence sealed sources are designed with both safety and security in mind.

The bill will require those who are already authorised to possess or transport high consequence sealed sources, as well as those who wish to acquire or transport the sources, to develop security plans; to have those plans assessed and approved by what is described in the bill as an 'approved assessor'.

It will also require that the licence-holder complies with that plan through the implementation of the security measures described in the plan. Assessors, who will be approved by the Secretary of the Department of Health (the secretary), will issue a security certificate of compliance when satisfied that the security plan or transport security plan meets the requirements of the act.

The bill will also require that the management licence holder must update the security plan or the transport security plan if there has been a significant change in the operations, or the environment, in which the radiation practice involving the high consequence sealed source is conducted.

The secretary will be able to specify security standards which will need to be reflected in the plan. The standards to which the sources will need to be protected will depend on the security category of the source and the current security threat level — i.e. the risk of terrorist activity.

New obligations are proposed in the bill to create a requirement for a management licence holder to verify the identity of a person before allowing access to, use or transport of a high consequence sealed source.

The bill will add additional enforcement tools to the act in the form of powers to issue an improvement notice or a prohibition notice. It will also make explicit the ability of the secretary to disclose information relating to licences to the Victoria Police, Australian Security Intelligence Organisation and other Australian security intelligence agencies.

The bulk of the proposed changes are to come into force on a date to be proclaimed, but it should be noted that is intended to allow existing licence-holders time to comply with the new requirements. In particular, the key obligations for existing management licence holders of developing a security plan or transport security plan, having it approved by an approved security assessor and implementing the plan will not take effect until 12 months from the date that the bill is made into law in the case of security plans and 6 months from the date that the bill is made into law for transport security plans.

I commend the bill to the house.

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

Debate adjourned until Thursday, 26 September.

SUPERANNUATION LEGISLATION AMENDMENT BILL 2013

Introduction and first reading

Received from Assembly.

Read first time for Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) on motion of Hon. M. J. Guy; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. G. K. RICH-PHILLIPS (Assistant Treasurer), Hon. M. J. Guy 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 Superannuation Legislation 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 will amend the acts governing Victorian public sector superannuation schemes to:

amend the Emergency Services Superannuation Act 1986 (ESSA), Transport Superannuation Act 1988 (TSA), and the State Superannuation Act 1988 (SSA) to introduce 'binding death nominations' for Victoria's lump sum defined benefit schemes;

amend the Parliamentary Salaries and Superannuation Act 1968 (PSSA) and the ESSA to roll the Parliamentary Contributory Superannuation Fund (PCSF) into the Emergency Services Superannuation Scheme (ESSS);

amend the ESSA, SSA, TSA, and the State Employees Retirement Benefits Act 1979 (SERB) to allow former members to make retrospective disability claims for up to six years after the cessation of their employment;

amend the ESSA to provide that the CEO of ESSSuper is to be appointed by the Emergency Services Superannuation Board (the board), under the ESSA subject to the approval of the minister;

amend the ESSA to allow Emergency Services Defined Benefit Scheme (ESDB scheme) members to cease membership upon attaining age 65;

amend the ESSA to provide that a member of the board may resign by way of written notice to the relevant minister rather than by way of formal written notice to the Governor in Council; and amend the SERB to allow defined benefits to accrue beyond the age of 65.

Human rights issues

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

The amendment introducing binding death nominations will further protect a member's right to privacy, thereby having a positive impact in relation to section 13 of the charter act — that is, if a binding death nomination is in place there is no need for the board to inquire into a member's family affairs to determine who is entitled to a death benefit.

The amendment in relation to retrospective disability claims has an impact with regard to section 8 of the charter act (equality before the law), as it reduces discrimination on the grounds of disability. There is a positive impact for members of the ESDB scheme as they will be able to make a retrospective disability claim for the first time.

The amendment allowing members of the ESDB scheme to cease membership from age 65 is potentially incompatible with section 8 of the charter act as it may be considered to discriminate on the basis of age.

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

The imposition of a six-year limitation on any retrospective disability claims limits a person's right to equality before the law as it potentially discriminates on the basis of disability. However, the limit is justified as it is consistent with other limitation periods imposed on other actions in Victorian law (for example the Limitation of Actions Act 1958). In addition imposing a limitation period on retrospective claims is considered necessary in order to:

a. provide some certainty for the schemes' employer sponsors (otherwise employers can never be certain that their liabilities have been fully extinguished); and

b. reduce the time spent investigating and assessing such claims, particularly where claims are lodged many years after the individual has left the scheme.

The amendment allowing members of the ESDB scheme to cease membership from age 65 is a justifiable limitation on section 8 of the charter act. Allowing members to cease membership of the scheme at any age may jeopardise the financial viability of the scheme due to the significant cost involved.

Conclusion

I consider the bill compatible with the charter act.

Hon. Gordon Rich-Phillips, MLC
Assistant Treasurer

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. M. J. GUY (Minister for Planning).

Hon. M. J. GUY (Minister for Planning) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Superannuation Legislation Amendment Bill 2013 delivers on the government's commitment to wind up the Parliamentary Contributory Superannuation Fund (referred to hereafter as the PCSF) as a stand-alone fund. The assets and liabilities of the PCSF will be rolled into the Emergency Services Superannuation Scheme. The Parliamentary Trustee which currently oversees the PCSF will be abolished. All decisions regarding the PCSF will be made by the Emergency Services Superannuation Board.

In 2004, the PCSF was closed to new members. There are now only 59 contributory members (contributors) and this figure will reduce further over time. Given a number of fixed expenses, the cost per active member is relatively high. Rolling the PCSF into the Emergency Services Superannuation Scheme will deliver savings in administration costs.

The PCSF is currently fully funded and, similar to existing arrangements, the bill contains provisions for additional funds to be paid into the Emergency Services Superannuation Scheme from consolidated revenue if the actuary determines there are insufficient funds to pay PCSF benefits. This ensures that PCSF benefits will not be cross-subsidised by other members of the Emergency Services Superannuation Scheme.

The bill will permit members of the Emergency Services Defined Benefit Scheme and members of SSF lump sum schemes to make 'binding death nominations'. The Transport Superannuation Act 1968, the Emergency Services Superannuation Act 1968 and the State Superannuation Act 1988 will be amended to facilitate this.

Binding death nominations help facilitate members' estate planning arrangements by allowing members to designate who receives their superannuation benefit on their death. The proposal will not alter the quantum of benefits available to any class of dependants. That is, binding death nominations will not result in higher total benefit payments by the schemes. Where a valid binding death nomination is in place, any dependants who are not included in the binding death nomination will not have a claim to a benefit.

Binding death nominations are currently available to members of the ESSPLAN accumulation scheme. Consistent with the binding death nominations for ESSPLAN, the proposed binding death nominations will be structured to be consistent with commonwealth superannuation law. Amongst other things, commonwealth laws limit who can be nominated in a binding death nomination and require that the nominations be updated every three years.

The bill will allow members of both the Emergency Services Defined Benefit Scheme and the SSF to make retrospective disability claims for up to a maximum of six years after they cease employment.

A retrospective disability claim arises where a person, who has ceased employment and has already received a retirement or resignation benefit, subsequently claims a disability benefit on the basis that they were permanently disabled when they ceased employment. For a retrospective disability claim to be successful the applicant must establish, to the satisfaction of the board, that they were permanently disabled at the time they left the scheme. Note that, it is not sufficient to merely establish that at the time of leaving the scheme the member was suffering from a medical condition which has subsequently resulted in disablement.

The bill amends the relevant acts to provide members of both the SSF and the Emergency Services Defined Benefit Scheme with a right to lodge a disability claim within six years of ceasing employment. The six-year period will only apply to SSF members who cease employment after the amendments commence. The six-year limitation period is consistent with other limitation periods imposed on other actions in Victorian law (for example, the Limitation of Actions Act 1958).

The bill corrects two anomalies created by the Superannuation Legislation Amendment Act 2010.

Firstly, it amends the Emergency Services Superannuation Act 1986 to allow members of the Emergency Services Defined Benefit Scheme to cease membership of the scheme upon turning 65 should they choose to do so. This corrects the anomaly created by the Superannuation Legislation Amendment Act 2010.

Secondly, it amends the State Employees Retirement Benefit Act 1979 to allow defined benefits to accrue beyond the age of 65.

The bill amends the Emergency Services Superannuation Act 1986 to provide that the chief executive officer is appointed by the board, under that act, subject to the approval of the minister, with the terms and conditions set by the board and approved by the minister. This is similar to the current provision, in that the minister retains a role in the appointment process. However, it simplifies the process and it brings it into line with the arrangements which exist for other entities such as the Transport Accident Commission, the Treasury Corporation of Victoria and the Rural Finance Corporation.

Finally, the bill amends the Emergency Services Superannuation Act 1986 such that the Governor is not

required to note a resignation of a member of the board. Members of the board seeking to resign from the board will only be required to advise the responsible minister in writing. This is consistent with the practice of several other government boards and will streamline the resignation and appointment process for board members.

I commend the bill to the house.

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

Debate adjourned until Thursday, 26 September.

CONSUMER AFFAIRS LEGISLATION AMENDMENT BILL 2013

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

Hon. M. J. GUY (Minister for Planning) 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 Consumer Affairs Legislation Amendment Bill 2013.

In my opinion, the Consumer Affairs Legislation Amendment 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 bill will amend a range of consumer acts, and amend the Interpretation of Legislation Act 1984, to clarify and improve their operation and to correct a number of minor and technical errors.

Human rights issues

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

The bill does not raise any human rights issues.

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

As the bill does not raise any human rights issues, it does not limit any human rights and therefore it is not necessary to consider section 7(2) of the charter act.

Conclusion

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

Hon. Matthew Guy, MP
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. M. J. GUY (Minister for Planning).

Hon. M. J. GUY (Minister for Planning) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill illustrates the government's ongoing commitment to review and improve the consumer protection framework in Victoria. The bill amends several consumer acts to clarify and improve their operation and to correct technical errors. The bill also makes minor amendments to the Interpretation of Legislation Act 1984.

The bill will amend the Associations Incorporation Reform Act 2012 to clarify the operation of a transitional provision in clause 9 of schedule 4 of the act. The Associations Incorporation Reform Act changes the name of the office of 'public officer', which existed under repealed Associations Incorporation Act 1981, to 'secretary'. The act also provides that an incorporated association must appoint a person as the secretary at their first general meeting following the commencement of the act on 26 November 2012. The secretary has a range of obligations under the act.

Clause 9(1) of schedule 4 provides that while they are operating under their old rules, the public officer of an incorporated association appointed under those rules is deemed to be the secretary of the incorporated association for the purposes of the act.

Clause 9(1) of schedule 4 as originally enacted assumed that a public officer would always be appointed under the rules of an incorporated association. However, not all incorporated associations provided for the appointment of their public officer in their rules.

The amendment to clause 9(1) of schedule 4 will ensure that a public officer, whether appointed under the rules of an incorporated association or appointed under a process outside of the rules, will be deemed to be the secretary for the purposes of the act.

To ensure that the actions of all public officers acting as secretary under clause 9(1) are valid and will always have been valid, this amendment will have retrospective effect from the date of commencement of the Associations Incorporation Reform Act 2012 on 26 November 2012.

The bill will also correct two minor technical errors in the act.

The bill will amend the Australian Consumer Law and Fair Trading Act 2012 to provide that product safety instruments issued under the Australian Consumer Law (Victoria) are not legislative instruments for the purposes of the Subordinate Legislation Act 1994 and will therefore not need to comply with Subordinate Legislation Act requirements for the making of legislative instruments.

Product safety instruments include interim and permanent ban notices, compulsory recall notices and product safety standards. Obligations under the Subordinate Legislation Act for making legislative instruments may include a requirement for public consultation, human rights certificates, a regulatory impact statement or a certificate of exemption from the requirement to prepare a regulatory impact statement.

The time required to comply with Subordinate Legislation Act requirements may jeopardise public safety by delaying the issue of an urgent product safety order. This is a practical amendment to ensure that product safety instruments can be issued in a timely manner to protect the health and wellbeing of Victorian consumers and their families.

The bill will also amend the Australian Consumer Law and Fair Trading Act 2012 to align the value of the threshold for a motor car to be treated as a 'high value' uncollected good with the threshold under the act for a motor car to be treated as a 'low value' uncollected good.

The bill will amend the Estate Agents Act 1980 to enable a criminal record check that is required for a person to be appointed as an estate agent's representative to be conducted by either the commissioner of police or an accredited CrimTrac agency. This should make the process of appointment more efficient and relieve the demand on Victoria Police to conduct record checks thereby enabling police resources to be directed to other priorities.

The bill will also make minor and technical amendments to section 5 of the Estate Agents Act.

The bill will amend the Co-operatives National Law Application Act 2013 to enable model rules to be prescribed for government guarantee cooperatives which are unique to Victoria.

Under the Co-operatives National Law scheme, model rules for different classes of cooperative will be made under national regulations which will apply in Victoria. However, the national regulations will not prescribe model rules that address the specific needs of government guarantee cooperatives.

There are currently 116 government guarantee cooperatives in Victoria. This amendment will be of assistance to volunteer parent groups that typically comprise the membership of government guarantee cooperatives which are commonly established to support the provision of school buildings and facilities.

Part 4A of the Residential Tenancies Act 1997 regulates long-term owner-renter arrangements in communal park environments, commonly known as 'residential parks'. Under these arrangements, the landlord is referred to as the 'site owner' and the tenant as the 'site tenant'.

Since the commencement of part 4A in 2011, new parks must offer a minimum five-year fixed-term agreement. However, old or pre-existing parks may have site tenants on periodic agreements. The bill will amend the Residential Tenancies Act to align the rights of site owners and site tenants, whether the site tenant is on a periodic site agreement or a fixed-term site agreement.

Specifically, the prohibition on issuing a notice to vacate to a fixed-term site tenant in retaliation to them exercising or seeking to exercise their rights under the act or their site agreement will be extended to also apply to site tenants on periodic agreements.

The act will also be amended so that a site owner may issue a 365-day 'no reason' notice to vacate to a site tenant, whether or not they are on a fixed-term or a periodic site agreement. Currently, this option is only available in respect of a site tenant on a fixed-term agreement.

Section 289A was inserted into the Residential Tenancies Act in 2010 to provide for at least 45 days notice to vacate to be given to residents of a rooming house by a person who is not the rooming house owner where:

> the owner of the building, who is not the rooming house operator, leases the building to another person;
>
> the building is then used (by that lessee or someone else) to operate a rooming house; and
>
> the agreement under which the rooming house operator is occupying the building comes to an end — whether by a notice terminating their lease, by consent, or by abandonment.

However, in a recent decision, VCAT interpreted section 289A as giving the building owner or landlord a choice between serving the 45-day notice on rooming house residents or taking possession earlier by relying on other rights under the act. The bill will amend section 289A to remove this ambiguity.

The amendment to section 289A makes it clear that, if the building owner or head lessee, as the case may be, does not wish to take over operation of the rooming house, they must give the rooming house residents 45 days notice to vacate — or such longer period as may be provided in the notice terminating the agreement under which the rooming house operator was occupying the building.

The bill also makes a consequential amendment to section 330 of the act so that VCAT may not make a possession order in respect of the premises unless it is satisfied that any resident entitled to receive notice under section 289A has been given the required notice.

The bill will also amend section 333 of the act which provides for the contents of a possession order. The effect of the amendment to section 333 is that where a possession order is to be issued in the case of a building in respect of which notice has been given to rooming house residents under section 289A, the possession order must include the day by which the residents must vacate the building.

The bill will also make minor amendments to the Interpretation of Legislation Act 1984 to provisions that contain definitions for the purposes of various national legislative schemes to which Victoria is a party.

I commend the bill to the house.

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

Debate adjourned until Thursday, 26 September.

ADJOURNMENT

Hon. M. J. GUY (Minister for Planning) — I move:

That the house do now adjourn.

Office of Living Victoria green paper

Mr LENDERS (Southern Metropolitan) — The adjournment matter I raise tonight is for the attention for the Minister for Water, Peter Walsh, and it relates to the government's establishment of the Office of Living Victoria. The Office of Living Victoria has a green paper out for public consultation at the moment. I welcome the consultation phase of a green paper because water is a big issue. It has been part of a big political debate in the past, and going forward we need to have evidence-based research, so I welcome a green paper going out.

I attended one of the forums held by the Office of Living Victoria in Oakleigh, which is a suburb in my electorate. It was interesting; there were five people from the Office of Living Victoria along with consultants taking notes on what the nine citizens who attended came to talk about. I observed a fair amount of platitude-like comment, but that was fine. Consultation was going on, and the note takers were duly writing down everything that we nine citizens had to say.

The basis of the work of the Office of Living Victoria is a series of reviews that are currently happening. I hope the policies underpinning the green paper will be subject to peer review before the paper moves to the white paper stage. The action I seek of the minister is that he allow the Office of Living Victoria green paper material to be peer reviewed and that he ensure that the reports of those peer reviews are made public and presented to the Parliament.

Shire of Colac Otway chief executive officer

Mr BARBER (Northern Metropolitan) — My adjournment matter is for the Minister for Local Government and relates to a report in the *Colac Herald* on Friday, 30 August 2013, headed 'MP demands inquiry into shire CEO'. The report says:

> A state MP has demanded an official investigation into Colac Otway Shire Council's chief, Rob Small, accusing him of treating councillors unfairly.
>
> Member for western Victoria Simon Ramsay has written to local government minister Jeanette Powell to ask the Victorian Ombudsman to investigate Mr Small.

Mr Ramsay interjected.

Mr BARBER — If the information here is reliable. The article continues:

> Mr Ramsay said he was 'very disturbed' when Mr Small admitted he failed to pass on advice to Cr Chris Smith about attending a meeting Mr Ramsay had organised to discuss salinity overlays.
>
> 'I've been disappointed in Mr Small and the way he has, I believe, failed in his judicial duties to treat all councillors equitably and fairly' …

Surely that is a misquote. If Mr Ramsay said that, he would have said 'fiduciary duties'; however, I am not sure that is the correct way to describe the CEO of a council. The article goes on to quote Mr Ramsay:

> 'The way he was briefing some councillors and not others is not appropriate'.

From the Minister for Local Government I seek firstly a copy of Mr Ramsay's correspondence, if that is the document containing the allegations. I seek secondly an explanation from the minister as to how she intends to progress this matter. At the moment the smoking gun is, apparently, that one councillor was not included in the cc list of an email that was sent. The article says:

> Mr Small advised councillors not to attend the meeting with salinity experts, citing a concern that the meeting could exert 'undue influence' on councillors.

Mr Ramsay — You wouldn't have a brother-in-law who's a little bit close to Mr Small, would you?

Mr BARBER — Do you want to bring my family into it? Are we starting to bring families into it now? The article again quotes Mr Ramsay:

> 'There was no influence from my part that Rob Small sort of indicated. That certainly was not the case', Mr Ramsay said.
>
> 'I felt that I was doing the right thing on behalf of land-holders'.

For the context of the minister, when Brimbank City Council got itself into a bit of trouble a while ago and a municipal inspector was appointed, one of the things put into that council's councillor code of conduct was that councillors had to keep a register of all contacts by local MPs making representations to them as local councillors. If that needed to be monitored at Brimbank, it does not surprise me that local councillors who received direct representations from Mr Ramsay — —

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

Caroline Chisholm Society

Mr FINN (Western Metropolitan) — I raise a matter for the Minister for Community Services, the Honourable Mary Wooldridge. It concerns an organisation which has been active in the western suburbs of Melbourne for a very long time — for as long as I can remember and probably a little bit longer as well. That organisation is the Caroline Chisholm Society, which provides support for women who are having difficult pregnancies and also provides support for those women after they have had their children. It is an organisation which over a 40-year or maybe even 50-year period has contributed significantly to supporting mothers and babies in the western suburbs. Each year it supports approximately 1500 to 2000 clients, depending on its funding at any given time. It has about 100 volunteers and revenue of about $1.3 million.

For all that time the service has been provided from a very old house in Park Street, Moonee Ponds. Recently the society sold that house because it just was not up to the task. It was unsuitable for a modern welfare organisation. In fact it stopped the staff from meeting increased demand and it was not suitable for hosting groups. It had no natural reception area, and clients and donors did not know if the house was open. There was a whole range of issues around that particular building. The society has purchased a building in Mount Alexander Road, Moonee Ponds, obviously to keep up the service that is necessary. There is also a branch of the organisation in Caroline Springs and one in Shepparton, but for the moment I will refer to just the Moonee Ponds branch.

Obviously support is needed in order for the new facilities to go ahead and be up to scratch. At this time the society is actively seeking support from many members of the community and indeed from the government. I know that a lot of people in the western suburbs and the Essendon area in particular are very fond of the Caroline Chisholm Society and contribute to the ongoing costs of the organisation, but a shift of this nature requires a great deal more money than comes in via the normal donor scheme that the society may have. I ask the minister to take into consideration the work the Caroline Chisholm Society does and also that it needs money and to direct officers in her department to give active consideration to what assistance can be given to the Caroline Chisholm Society.

National Centre for Farmer Health

Ms TIERNEY (Western Victoria) — My adjournment matter this evening is for the Minister for Health, David Davis, and it is in relation to funding for the National Centre for Farmer Health. As I understand it, Ms Pulford raised this matter earlier this week, and that was not the first time that it has been raised in this chamber. The centre is based in Hamilton, where a number of programs are run that deal with farmer health and farmer safety, and it is a nationally acclaimed centre in the work that it does in that sector.

The minister's position on funding for the National Centre for Farmer Health has been that the federal government, not the state government, should be the primary source of funding for the centre. The minister lobbied the federal Labor government to provide the shortfall created by the Napthine coalition government. Now that there has been a change of government at the federal level, I seek from the minister a written outline of what he has done and what he will do to secure this very important funding from the newly elected federal government.

This is a matter of urgency. The National Centre for Farmer Health has already had to lay off a number of staff, including support staff, and that will continue if the people at the centre do not see any hope on the horizon. I urge the minister to do whatever he can with as much vigour as he used to pursue this matter with the previous government so that the centre can get on with doing the very important work it does in terms of protecting farmer health and farmer safety and the groundbreaking work it does in the agricultural sector.

Landmate program

Mr RAMSAY (Western Victoria) — My adjournment matter is for the Minister for Corrections, the Honourable Edward O'Donohue. I must commend the minister on his management of his portfolio and the significant investment his department is making in extending prison capacity in the state, but it is the prisoners themselves, or more specifically the Landmate program, that I wish to raise with the minister.

Mr O'Donohue's predecessor as Minister for Corrections, Andrew McIntosh, the member for Kew in the Assembly, saw fit to extend the Landmate program and provide ongoing funding of $200 000 per year. The program has provided many benefits to local communities and land-holders over time, with teams of prisoners from the Beechworth, Ararat and Langi Kal Kal correctional facilities going out into the community

to carry out environmental and agricultural work. I believe it is an important part of the rehabilitation of the prisoners who participate.

However, the action I request from the minister is in response to the aftermath of the Dereel fires, in which 1200 hectares, 124 properties, 6 homes and 20 structures were burnt. At the time I sought, through then Minister McIntosh, that the Landmate program be used to help with the clean-up and restoration of the affected areas. To the minister's credit, the Department of Justice was requested to work with the Golden Plains Shire Council to utilise a workforce of prisoners from the Hopkins Correctional Centre and Langi Kal Kal Prison. The action I request from the minister is for him to join me and inspect for himself the work in progress with the restoration of public spaces around the Dereel area and discuss with key stakeholders the merits of this program.

Manufacturing sector employment

Mr SOMYUREK (South Eastern Metropolitan) — I raise a matter for the attention of the Minister for Manufacturing, Mr David Hodgett, concerning manufacturing employment figures released today by the Australian Bureau of Statistics. The bureau released its quarterly sectoral employment figures today, and I am afraid the news continues to be grim for Victorian manufacturing sector workers and the 25 000 Victorian manufacturing businesses.

Total manufacturing employment fell by 7.8 per cent over the 12-month period from August 2012 to August this year, from 284 200 to 308 100. Full-time manufacturing employment fell by 5.5 per cent and part-time employment by 19.6 per cent over the same period. Part-time employment came in at 40 200 in August this year versus 50 000 in August 2012, a loss of 9800 jobs. There were 244 000 full-time jobs reported in the August 2013 quarter compared with 258 100 in August 2012. That represents a loss of 14 100 full-time manufacturing jobs. Adding the full-time and part-time jobs together brings the total number of Victorian manufacturing jobs lost in the last year to 23 900.

I turn now to the total number of Australian manufacturing jobs lost in the last year. The total number of manufacturing jobs in August this year was 921 400, compared with 963 900 in August last year. That is a decrease of approximately 42 000, or 4.4 per cent. We can see from these figures that of the 42 400 jobs lost nationally, half — 24 000 — came from Victoria. In my electorate of South Eastern Metropolitan Region total manufacturing employment fell by 10.9 per cent over the 12-month period to August 2013 — that is, 37 600 compared to 42 200 — —

The PRESIDENT — Time! Did Mr Somyurek get to a point?

Mr Somyurek — There was going to be one, but I ran out of time.

The PRESIDENT — Order! I think Mr Somyurek foiled himself because he made a setpiece speech. It involved a lot of statistics that I am not sure came off the top of his head. The result is that he did not get to make the final point, and therefore, sadly, I must rule his item out of contention.

Albert Park Lake master plan

Ms CROZIER (Southern Metropolitan) — My adjournment matter is for the Minister for Environment and Climate Change, Ryan Smith. In my electorate of Southern Metropolitan Region I am very fortunate to have a number of significant — Mr Lenders is in the chamber; I beg his pardon, it is his electorate as well — parklands and waterways that our community and indeed all Victorians have the opportunity to use on a regular basis. On Monday Mrs Coote, who is also a member for Southern Metropolitan Region, and I had a briefing from Parks Victoria in relation to some issues around Albert Park Lake, which is an iconic part of the Southern Metropolitan Region. It has been a parkland since 1876, and it is a significant waterway that hosts a number of well-known activities that are conducted on a regular basis around the parkland.

What the Parks Victoria representatives were speaking to us about was looking at the future use of the parkland in terms of a master plan. There were many aspects of it that they went through with us, and they raised some very good issues with us. The areas they were speaking to us about included how the parklands and the various clubs that are associated with Albert Park Lake could be better utilised, the issues of resource sustainability and biodiversity — all sorts of elements that surround the sustainability of the park and the lake itself — and then the amenity surrounding the lake, including the roads, the golf course and, as I said, those various events.

I am sure the minister is aware of the many events that occur in the area, but what I would like him to understand is what Parks Victoria has in mind in relation to the long-term viability and further utilisation of this wonderful space. I ask him to come down to Albert Park Lake so that he can understand the amenity

itself in greater detail and perhaps meet with me, Mrs Coote and others to understand all the components of that amenity, which is enjoyed by members of the Southern Metropolitan Region and indeed all Victorians.

Mallee Family Care

Ms PULFORD (Western Victoria) — The matter I wish to raise this evening is for the attention of the Attorney-General in his capacity as the minister responsible for the Equal Opportunity Act 2010. It relates to correspondence sent from management to staff at Mallee Family Care following Mallee Family Care employees being asked to assist with the completion of a contract for Mildura Print Solutions. The correspondence describes the conscientious objectors in inflammatory and intimidating terms, such as 'morally bankrupt' and 'culprit'.

The correspondence says:

> So my message at this stage is very simple.
>
> If you are so unhappy in your relationship at Mallee Family Care and your politics are more important than our clients and you are prepared to denigrate the place that provides life opportunities for vulnerable members of our community and supports your development, please go and find a place where you believe your values are more attuned to your personal priorities.
>
> You have not only insulted your organisation, you have effectively attacked your colleagues.
>
> We simply do not need someone with your values connected to Mallee Family Care!

I ask that the Attorney-General consider this correspondence and its suggestion that staff at Mallee Family Care who may not share the political beliefs of management or who are conscientious objectors should leave the organisation, and that the Attorney-General consider whether this constitutes a breach of the Equal Opportunity Act, in particular the prohibition of discrimination based on political belief, and advise me accordingly.

Royal Exhibition Building

Mr TEE (Eastern Metropolitan) — My adjournment matter is for the Minister for Planning. I am pleased that he is in the chamber this evening; he might be able to respond directly. It relates to the Royal Exhibition Building, which received world heritage listing in July 2004. As we know, the exhibition building, completed in 1880, is an important part of our history. It was a celebration of Marvellous Melbourne, which at that time was probably one of the richest cities in the world. It was a celebration of its status and elegance as one of the world's great cities. It was also where in 1880 we celebrated the Melbourne International Exhibition. It is also, as we know, where our first Parliament met, so it is an important part of our history.

Under the Heritage Act 1995 heritage listing requires a management plan, and a process for the development of a management plan was completed in September 2011. Under section 62T of the Heritage Act the Minister for Planning is then responsible for approving that plan. Some two years later that plan is yet to be approved by the planning minister. The concern here is twofold. Firstly, there is concern about neglect of the building and the encroachment of development on the site. For example, the Cancer Council Victoria building on the corner of Rathdowne and Victoria streets has been sold, and the concern is that there might be development on that site which is inappropriate for the status and standing of the exhibition building. We are also wasting an opportunity, because with a proper management plan we could showcase this building to local and overseas visitors and school students.

As I said, it has been more than two years since a management plan was developed, and I urge the minister to exercise his powers under the act to ensure that there is a proper management plan in place. In doing so I urge him to have a look at what Sydney has done with the Opera House, which has a very detailed and effective management plan. There is concern as to why nothing has been done two years after the completion of the management plan, and I urge the minister to progress this issue as soon as possible.

Shire of Mornington Peninsula kindergartens

Ms MIKAKOS (Northern Metropolitan) — My matter this evening is for the Minister for Children and Early Childhood Development. I raise this matter after being contacted by a parent living in the Mornington Peninsula shire who has raised concerns with me about the changes the shire is putting in place in relation to its centralised registration system for kindergarten enrolment. I understand that the Shire of Mornington Peninsula conducted a review of its enrolment system after being requested to do so by the Department of Education and Early Childhood Development to comply with human rights obligations to put in place non-discriminatory practices.

The current system is age based, and the shire is moving towards a lottery-based system. I do not have difficulty with that, because it is important to put in place a system that does not favour older children and discriminate against younger children in terms of

kindergarten enrolments. However, the concern this parent has raised with me is that in moving from the system that will apply in 2013–14 to the new system to apply from 2015 the inadvertent result may be that children who miss out on four-year-old kindergarten next year may well miss out on four-year-old kindergarten again in 2015.

My understanding is that the policy that has been put in place by the council does not have regard to a number of priority categories that have been recommended in the Municipal Association of Victoria document entitled *A Framework and Resource Guide for Managing a Central Registrations Process for Kindergarten Places.* I understand that document was developed with the assistance and input of the Department of Education and Early Childhood Development. It talks about giving priority to vulnerable children who are at risk of abuse or neglect, Indigenous children and children with developmental delays. The document also refers to other criteria as being desirable, such as residential proximity and siblings having attended the same kindergarten. My understanding is that those issues around proximity and siblings attending the same kindergarten are not included in the council's policy document on how it allocates places at the kindergarten. I ask the minister to direct her department to work with the Mornington Peninsula Shire Council to ensure that children in that shire do not miss out on kindergarten places in 2015.

Regional and rural ambulance charge

Ms DARVENIZA (Northern Victoria) — I wish to raise a matter for the attention of the Minister for Health, David Davis, concerning Ambulance Victoria's charging some regional and rural patients $12 a minute for the time they spend sitting in an ambulance queued outside a busy hospital emergency department. What is shameful about it is that uninsured people in rural and regional areas are being billed for the increasingly long waits that paramedics endure before they can off-load their patients at an accident and emergency department at a hospital.

I know the minister is aware of Leonie Ingle, who became the face of this issue when she was left to pay a $2636 ambulance bill. In an *Age* article a spokesperson from the minister's department, referring to the cost of ambulance coverage, is reported as saying, 'The government had halved membership costs and there should be no excuse for not having one'. However, I can tell the minister that $80.60 is very hard to find for some families. Ambulance Victoria's policy is to charge those rural and regional patients who do not have ambulance coverage an attendance fee of $986.74, plus $11.95 per minute for care and an additional $1.16 for every kilometre travelled. Metropolitan patients without ambulance cover pay a flat fee of $990.41 for emergency transport. In the rural and regional areas of this state, and indeed in my electorate, the kilometres travelled can very quickly become significant.

The specific action that I seek from the minister is that the ongoing review of Ambulance Victoria's fee structure ensures a fair billing arrangement for emergency transport of patients in rural and regional areas. It is shameful that country patients are disadvantaged because of their geographic location. It is unacceptable and once again shows a blatant disregard for issues relating to those residents of rural and regional areas. They are being punished for a health system from which the Liberal-Nationals coalition government continues to cut funds. I call on the Minister for Health as a matter of urgency to look into this review and ensure that there are fairer billing arrangements for people in rural and regional Victoria.

Swinburne University of Technology Lilydale campus

Mr LEANE (Eastern Metropolitan) — My adjournment matter is for the Minister for Planning, Mr Guy, and it concerns an action that may soon be coming across his desk — that is, a rezoning application for the land on which the former Swinburne University buildings sit. I understand at the moment the land is zoned as being for education. Given what members may have heard in the chamber today, there is a good chance that the land on which at least one of these buildings sits may need to be rezoned — and I am happy to be corrected by the minister if I am wrong — to become commercial — —

Hon. M. J. Guy interjected.

Mr LEANE — Yes, the Lilydale TAFE buildings may need to be rezoned to be commercial in order for the Yarra Ranges Shire Council officers to move into one of them. The action I seek from the minister is to consult — and I would be happy to facilitate it — with some people who believe those buildings should be kept for education purposes and not be used for the council to move its officers into. I hope when he is consulting he listens to opinions in addition to that of representatives of the Shire of Yarra Ranges, because I think it is quite biased towards them moving into those buildings, improving their view and having a dedicated car park for the CEO.

These buildings have a rich history as far as previous Liberal governments go and a previous Liberal MP,

who was a previous member for Warrandyte, Mr Phil Honeywood. If I can touch on a few of his *Hansard* excerpts, I note that when he was in opposition Mr Honeywood said:

> … as a new member of Parliament, a number of students and their parents came to visit me and told me they were sick and tired of having to spend half the day travelling on public transport to La Trobe or Monash universities to participate in higher education.

That is the situation people in the outer east have now. Mr Honeywood took up that campaign, and after a number of years he was actually successful. When legislation was brought forward for those higher education buildings to come to be used at Lilydale in the outer east, Mr Honeywood said:

> Tonight is a joyous occasion because the people in the outer east of Melbourne have a chance to access higher education. I am proud to be involved with this bill. I have stood in shopping centres in the outer east of Melbourne collecting signatures from constituents petitioning —

for this higher education centre. I understand he tabled approximately 6000 signatures on one occasion to get this facility to fruition. I therefore ask the minister to take into account the legacy Mr Honeywood left and to speak to people about how they would like to keep that legacy in place.

Responses

Hon. M. J. GUY (Minister for Planning) — Mr Lenders has raised an issue for Peter Walsh, the Minister for Water, in relation to the Office of Living Victoria, and I will seek a written reply for Mr Lenders on that matter.

Greg Barber has raised a matter for Jeanette Powell, the Minister for Local Government, in relation to some issues with a shire in the south-west of Victoria. I will seek a written reply on those matters.

Bernie Finn has raised a matter directed to Mary Wooldridge, the Minister for Community Services, for the Caroline Chisholm Society, and again I will seek for that to be replied to in writing.

Ms Tierney has raised a matter for the Minister for Health, David Davis, in relation to the National Centre for Farmer Health, in relation to which — I think as she said — Ms Pulford had raised a similar matter the other night. I will seek for there to be a written response to her on that.

Mr Ramsay raised a matter for Ed O'Donohue, the Minister for Corrections, which I think was in relation to land programs for prisoners around Dereel, and I will seek a written reply to Mr Ramsay on that matter.

Ms Crozier has an issue for the Minister for Environment and Climate Change, Ryan Smith, relating to parkland usage in the southern suburbs, on which I will seek a written reply.

Ms Pulford raised a matter for the Attorney-General, Robert Clark, in relation to the Equal Opportunity Act 2010, and I will seek a written reply on her concerns.

Mr Tee raised an issue for me in relation to the heritage management plan for the Royal Exhibition Building. I guess it should be noted that there had not been one under the previous government, but there is one with me that has not come to me. I will chase it up with Heritage Victoria as to its absolute status in terms of where it is and give Mr Tee a proper written reply so that he knows the full time lines.

Ms Mikakos has raised a matter for the Minister for Children and Early Childhood Development, Wendy Lovell, in relation to Mornington Peninsula Shire Council issues, and she will get a written response from Minister Lovell on that matter.

Ms Darveniza has raised a matter for the Minister for Health, David Davis, in relation to Ambulance Victoria and the $12 per minute charges, which I think were raised in question time. I think it is fair to say Mr Davis was quite straight to the point and factual when he said that those charges had not changed from what they had been under the previous government, but irrespective of that I will seek a written reply to her concerns and have Mr Davis reply to her.

Mr Leane raised a pretty straightforward matter for me in relation to Swinburne University of Technology land at Lilydale and the need for consultation with locals before any rezoning takes place. I am more than happy to talk to Mr Leane about that matter; if he seeks a written reply, I will get it to him, and if he does not, I will happily oblige otherwise.

I have two written responses, one to an adjournment matter raised by Mr Melhem on 22 August and one by Mr Elsbury on 4 September.

The PRESIDENT — Order! The house stands adjourned.

House adjourned 6.19 p.m. until Tuesday, 15 October.