PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 22 August 2013

(Extract from book 10)

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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)

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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 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
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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, Ms Hartland, Ms Mikakos, Mrs Millar, Mr O'Brien, Mrs Peulich, #Mr Ramsay and Mr Viney.

Legal and Social Issues References Committee — Ms Crozier, Mr Elasmar, Ms Hartland, 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*): Mr Clark, Ms Hennessy, Mr Merlino, Dr Napthine and Mr Walsh.

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

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

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

Environment and Natural Resources Committee — (*Council*): Mr Koch. (*Assembly*): Mr Bull, Ms Duncan, Mr Pandazopoulos and Ms Wreford.

Family and Community Development Committee — (*Council*): Mrs Coote, Ms Crozier and Mr O'Brien. (*Assembly*): Ms Halfpenny, Mr McGuire and Mr Wakeling.

House Committee — (*Council*): The President (*ex officio*) Mr Drum, Mr Eideh, Mr Finn, Ms Hartland, and Mr P. Davis. (*Assembly*): The Speaker (*ex officio*), Ms Beattie, Ms Campbell, Mrs Fyffe, Ms Thomson, Mr Wakeling and Mr Weller.

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

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

Public Accounts and Estimates Committee — (*Council*): Mr O'Brien and Mr Ondarchie. (*Assembly*): Mr Angus, Ms Hennessey, Mr Morris, Mr Pakula and Mr Scott.

Road Safety Committee — (*Council*): Mr Elsbury. (*Assembly*): Mr Languiller, Mr Perera, Mr Tilley and Mr Thompson.

Rural and Regional Committee — (*Council*): Mr Drum. (*Assembly*): Mr Howard, Mr Katos, Mr Trezise and Mr Weller.

Scrutiny of Acts and Regulations Committee — (*Council*): Mr Dalla-Riva. (*Assembly*): Ms Barker, Ms Campbell, Mr Gidley, Mr Nardella, Dr Sykes and Mr Watt.

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

President: The Hon. B. N. ATKINSON

Deputy President: Mr M. VINEY

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

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

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

Leader of the Opposition:
Mr J. LENDERS

Deputy Leader of the Opposition:
Mr G. JENNINGS

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

Deputy Leader of The Nationals:
Mr D. DRUM

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

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

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THURSDAY, 22 AUGUST 2013

Thursday, 22 August 2013

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

JOINT SITTING OF PARLIAMENT

Legislative Council and Senate vacancies

The PRESIDENT — Order! It is my pleasant duty to advise members of the outcome of the joint sitting last evening in respect of the Legislative Council and Senate vacancies. I have to report that the house met with the Legislative Assembly yesterday:

(1) to choose a person to hold the seat in the Legislative Council rendered vacant by the resignation of Mrs Donna Petrovich and that Mrs Amanda Louise Millar was elected to hold the vacant place in the Legislative Council; and

(2) to choose a person to hold the place in the Senate rendered vacant by the resignation of Senator the Honourable David Ian Feeney and that Mr Mehmet Tillem was chosen to hold the vacant place in the Senate.

NEW MEMBER

Mrs Millar

The PRESIDENT announced the choosing of Mrs Amanda Millar as member for the electoral region of Northern Victoria in place of Mrs Donna Petrovich, resigned.

Mrs Millar introduced and oath of allegiance sworn.

The PRESIDENT — Order! It gives me great pleasure to congratulate you on joining us in the Legislative Council. It is an extraordinary privilege to represent the people of Victoria in this place. This house in particular has some very fine traditions; in fact it was the first house in the Parliament of Victoria. The Legislative Assembly was an afterthought, and continues to be an afterthought!

To guide you in understanding some of our culture and the extraordinary things we do in this place, it is my pleasure to provide you with a copy of our standing orders. No doubt for the rest of this week, apart from your speech, you will be very much engrossed in this information. Congratulations.

PETITIONS

Following petitions presented to house:

Swinburne University of Technology Lilydale campus

To the Legislative Council of Victoria:

The petition of residents of the outer eastern suburbs of Melbourne draws to the attention of the Legislative Council the proposed rezoning and sale of the Lilydale TAFE and university campus, which does not have the support of the local community.

The petitioners therefore request that the Legislative Council of Victoria ensures that the Swinburne facilities remain solely for the educational purposes, and that the land zoning is not changed to facilitate the breaking up of the Swinburne site.

By Mr LEANE (Eastern Metropolitan) (1014 signatures) and Mr SCHEFFER (Eastern Victoria) (579 signatures).

Laid on table.

Ballarat schools

To the Legislative Council of Victoria:

The petition of residents of Victoria draws to the attention of the house that the Napthine government is not providing funds for the maintenance of any schools in Ballarat. The petitioners therefore request that the Legislative Council of Victoria require the Victorian government to provide funds for the maintenance of government schools in Ballarat.

By Ms PULFORD (Western Victoria) (8 signatures).

Laid on table.

Health funding

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the effects of the state government's $616 million cut to Victoria's health system since 2010.

We note that these cuts come despite the state government's election promise to deliver 800 new hospital beds. In particular, these cuts have meant:

1. hospitals across Victoria have had to scale back vital services and close beds;

2. some regional health services and after-hours emergency departments could be forced to close;

3. thousands of Victorian patients are forced to wait for months and even years longer for the surgery that they need.

The petitioners therefore request that the Legislative Council urges the coalition government to immediately restore funding to these essential health services and deliver the promised hospital beds.

By Ms TIERNEY (Western Victoria) (101 signatures).

Laid on table.

Regional and rural roads funding

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the house the Napthine Liberal-Nationals state government's severe lack of funding and resources to maintain regional roads in Victoria. In particular, we note:

1. roads across Victoria have been left to deteriorate since the Liberal-Nationals coalition came to government, with $100 million being cut from roads maintenance in 2012, and 450 staff cut from VicRoads, including many experienced engineers;

2. the government is now playing catch-up to maintain regional roads that have deteriorated thanks to its own neglect, but still fails to provide enough funding for roads maintenance;

3. the $466 million announced this year is still below previous years in 2011–12 of $493 million and 2010–11 of $480 million;

4. over 80 per cent of new roads funding in 2013 from the Napthine government is being spent in Melbourne, and regional road resurfacing targets remain lower than previous years, with only 6.9 million square metres targeted this year, a drop from 11 million square metres in 2011–12.

The petitioners therefore request that the Legislative Council urges the coalition government to immediately reinstate all funding and resources cut from roads maintenance in rural and regional Victoria and guarantee that no further cuts will be made.

By Ms TIERNEY (Western Victoria) (139 signatures).

Laid on table.

Ballarat ambulance services

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council that more patients are waiting longer for an ambulance.

We note that the performance of the ambulance service has fallen since the election of the Liberal government. We particularly note:

1. ambulance response times have increased;

2. Ballarat has been left exposed with paramedic shifts left unfilled.

The petitioners therefore request that the Legislative Council urges the Napthine government to immediately address the failure to provide Ballarat with the continuous coverage of professional paramedic services it needs.

By Ms PULFORD (Western Victoria) (157 signatures).

Laid on table.

DISTINGUISHED VISITORS

The PRESIDENT — Order! I take this opportunity to welcome to the gallery former senators Rod Kemp and Judith Troeth. Both are former federal ministers. It is a great pleasure to have them here today.

PAPERS

Laid on table by Clerk:

Ombudsman — Report on the Investigation into unenforced warrants, August 2013.

Professional Standards Act 2003 — Bar Association of Queensland Scheme, 21 June 2013.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 3 September 2013.

Motion agreed to.

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Membership

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

That Mr Elsbury be discharged from the Legal and Social Issues Legislation Committee and the Legal and Social Issues References Committee and that Mrs Millar be appointed in his place.

Motion agreed to.

MEMBERS STATEMENTS

Australian Regenerative Medicine Institute

Mr SOMYUREK (South Eastern Metropolitan) — Last month I had the pleasure of meeting with Professor Nadia Rosenthal and Professor Peter Currie for a tour of the Australian Regenerative Medicine Institute (ARMI). The Australian Regenerative Medicine Institute is a $153 million medical research centre that was officially opened in April 2009. It is based at Monash University's Clayton campus. At full capacity ARMI will be one of the world's largest regenerative medicine and stem cell research centres. Its scientists focus on unravelling the basic mechanisms of the regenerative process, aiming to eventually enable doctors to prevent, halt and reverse damage to vital organs due to disease, injury or genetic conditions. This work will form the basis of treatments for conditions such as neurodegenerative disorders, diabetes, arthritis and musculoskeletal and cardiovascular diseases.

Bio21 Molecular Science and Biotechnology Institute

Mr SOMYUREK — On another matter, last month I had the pleasure of visiting the University of Melbourne's $140 million Bio21 Molecular Science and Biotechnology Institute. The Bio21 institute is a multidisciplinary research centre specialising in medical, agricultural and environmental biotechnology. It was established by the state Labor government in 2002, and it was officially opened in 2005. The Bio21 institute improves human health and the environment through innovation in biotechnology and related areas. Its work is driven by multidisciplinary research and dynamic interactions with industry. The Bio21 institute is the flagship of the Bio21 Cluster project, which includes 21 member institutions.

Tim Taylor

Hon. P. R. HALL (Minister for Higher Education and Skills) — Australia has a new world champion, a new gold medallist. That gold medallist is not one of our Olympians, is not one of our Paralympians, and is it not even one of our athletes. Our latest world champion gold medallist is a young motor mechanic from central Victoria working at Ararat by the name of Tim Taylor. I want to put on record the fine achievements of Tim, who recently participated for Australia as a Skillaroo in the WorldSkills championships in Leipzig in Germany. Tim was one of 31 people representing Australia, 5 of those coming from Victoria, and Tim was the only one to achieve a gold medal in automotive technology. This is an outstanding example. Tim competed against 40 countries across the world and came out as no. 1.

My heartiest congratulations are extended to Tim and all those who competed in the WorldSkills championships, particularly Victorians Alden Meale, Dayne Ciborowski, Dayne Robinson and Ryan Dahlblom, who joined Tim on that venture. We should be rightfully proud of these young people who represent us and demonstrate to the world their capabilities in the areas of skills training. Australia as a nation was placed 14th out of 41 countries competing. That is a magnificent achievement, and I congratulate Tim and all his fellow competitors and trainers who represented Australia proudly.

Greens agricultural policy

Mr BARBER (Northern Metropolitan) — This is the election where the Liberal-Nationals coalition gave away its long-term natural advantage in representing regional and rural Victoria. To see that you only have to look at the National Farmers Federation election scorecard, which under the category 'Growing Australian agriculture' states:

> For Australian agriculture to grow, the federal government and Parliament need to reprioritise agriculture in recognition of the critical part it will play in Australia's future, and the opportunities of an increased demand for food and fibre.

In this category the Greens got two stars and the Liberal-Nationals coalition got one. That is pretty interesting, I would have thought, given that the state government's plan is to double food and fibre production. The National Farmers Federation sees it differently, and so it is down the line in its scorecard. This might be something to do — —

Honourable members interjecting.

The PRESIDENT — Order! If Mr Finn would like to talk to Mr Ondarchie, there is a vacant space beside him. There is too much noise for the 90-second statements. Mr Barber to continue without assistance.

Mr BARBER — This was on show at last night's candidates debate in the seat of Wannon, where Greens youngster Tim Emanuelle outshone all the other candidates, including Dan Tehan — and this is the Warrnambool *Standard* talking, not me. Dan Tehan was marked down for his negativity and his constant references to the carbon tax, an issue that has moved on. Other star candidates that the Greens have around the state have taken forward the Greens policies under the leadership of Christine Milne — —

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

NAIDOC Week

Mr EIDEH (Western Metropolitan) — During the parliamentary break, together with my colleague Ms Marsha Thomson, the member for Footscray in the Assembly, I had the great pleasure of attending a flag-raising ceremony in Brimbank. This day opened the celebratory NAIDOC Week, which was held across the nation to recognise the contributions of Indigenous Australians. I would like to congratulate the administrators, chair Mr John Watson, Mr Peter Lewinsky and Ms Jane Nathan, in addition to the hardworking council staff who made this special day and activities during the week possible. In addition I would also like to acknowledge the Wurundjeri elder who attended the event, represented many years of wonderful tradition and culture of his people and paid respect to the Kulin nation.

It is personally pleasing to witness the positive steps that Brimbank City Council is taking to continue to foster its relationships with the municipality's Aboriginal and Torres Strait Islander residents. Whilst it is very encouraging to see the wonderful steps that have been taken to improve the lives and living conditions of Indigenous Australians across the country, we as a community need to continue to support these Australians, large numbers of whom unfortunately still live below the poverty line. It is hard to believe that despite advances in education and medicine the life expectancy of Indigenous Australians is significantly lower than that of other Australians.

Brimbank City Council has committed itself to a reconciliation action plan which aims to create a reconciled, active, sustainable and highly connected community with improved lifelong learning, health and wellbeing for all community members. It is plans like this — —

The PRESIDENT — Time!

North Eastern Prayer Breakfast

Mrs KRONBERG (Eastern Metropolitan) — Last Friday in my role as patron of the North Eastern Prayer Breakfast I had the pleasure of celebrating with the faith communities of the area in their coming together for this event for the fifth time. I congratulate the chairman, Pastor Russell Croxford of Doncaster Church of Christ, our team of hardworking committee members, Associate Pastor Hal Grix from Doncaster East Baptist Church, Lydia Tweedie, Sue Lee and Dawn Gubb. The assembly was enthralled by the address of the guest speaker, the esteemed Professor Emeritus Ian Harper, as he set out the melding of his beliefs as a practising Christian and how these beliefs guided him as an economist. As in previous years there was a wonderful response from the community, and many faith groups were represented that day as we shared the morning light. My thanks also go out to our guest artist, Andy Vance, and our charming master of ceremonies, Ray Walker.

National Marriage Day

Mrs KRONBERG — On another matter, I had the privilege of addressing attendees at the National Marriage Day celebration that took place here in Queen's Hall on Tuesday, 13 August. Organised by the Australian Family Association (AFA), the conference heard important, thought-provoking addresses from His Lordship Bishop Peter Elliott, one of the auxiliary bishops of Melbourne's Catholic Church; federal member for Menzies, Kevin Andrews; Dr Augusto Zimmermann of Curtin University in Western Australia; Elder Peter Meurs; and Mr Patrick Byrne. I congratulate the hardworking team at the AFA, especially Gabrielle Walsh and Terri Kelleher.

YMCA Bridge Project

Ms MIKAKOS (Northern Metropolitan) — This morning together with the Assembly members for Tarneit, Keilor and Williamstown, Tim Pallas, Natalie Hutchins and Wade Noonan, I attended the YMCA Bridge Project breakfast. As in previous years, it was a well-attended event. This goes to show the enormous support this program has across the community and in particular the business community and trade unions. As many of the speakers who have successfully completed the program said, this is a life-changing program, which makes it all the more disappointing that this government fails to see its merit, having completely defunded it. It supports young people leaving custody to transition back into the community through mentoring, training and in particular finding a job.

I commend YMCA CEO Peter Burns, Bridge Project manager Mick Cronin, patron Mick Malthouse and all the other participants and supporters of this important program.

Autism Angels

Ms MIKAKOS — On 10 August I had the pleasure of attending the Autism Angels annual dinner dance in Sunshine along with the Assembly members for Keilor and Kororoit, Natalie Hutchins and Marlene Kairouz,

and the federal member for Calwell, Maria Vamvakinou. Autism Angels is a not-for-profit organisation run by a wonderful group of parents who volunteer their time, knowledge and experience in supporting families and children living with autism, particularly in the western suburbs of Melbourne. I congratulate the organisers on a successful event.

Sunshine Hospital children's multidisciplinary assessment

Ms MIKAKOS — On 15 August I attended a rally outside Bernie Finn's electorate office, together with a number of my Labor colleagues, the president of Autism Angels, Christos Havelas, and other affected parents, calling on the government to reopen access to multidisciplinary assessments —

The PRESIDENT — Time!

Ms MIKAKOS — for preschoolers at Sunshine Hospital. Mr Finn needs to do something about this.

The PRESIDENT — Order! Ms Mikakos! As I said yesterday, if I call the 90-second deadline — and I do tend to give members a couple of seconds after that, so I am fairly tolerant — members should sit down and resume their places. I call on Mr Finn, who will obviously comply.

St Albans level crossing

Mr FINN (Western Metropolitan) — Absolutely. It is somewhat of a truism to say Labor neglects Melbourne's west. I doubt there is a single resident of the western suburbs who does not readily accept the fact that the ALP takes us for granted and gives us precious little in return. Labor governments, federal and state, have long treated the people of the west with contempt. The current crowd in Canberra is no exception.

One such example is the performance of the federal member for Maribyrnong, Bill Shorten, known to locals as 'Bull'. Mr Shorten has been playing politics all year with an issue dear to the hearts of those of us who are long-term residents of Melbourne's north-west. The St Albans level crossing issue should have been fixed years ago. In the late 1990s the then Premier, Jeff Kennett, resolved to do just that, but with the demise of his government so too went any hope of a solution. For 11 long years Labor lived up to form and did nothing.

Upon election to government in 2010 the coalition recommitted to removing this dangerous rail crossing. In January this year Mr Shorten stood in front of thousands in St Albans and offered a 50-50 deal between the state and commonwealth to bring the project forward. I accepted on the spot. Amazingly, within days he had backed away; the offer was gone. A few months later Mr Shorten visited St Albans with Deputy Prime Minister Anthony Albanese and made a big song and dance for the cameras. Sadly, when they, and the cameras, departed, there was no new money. The hot air produced by that little encounter had nothing to do with global warming. The Napthine government will build the grade separation at St Albans —

Honourable members interjecting.

The PRESIDENT — Order! Thank you, Mr Finn.

Mr FINN — even as we continue to see proof that Labor just does not care.

The PRESIDENT — Order! Mr Finn! Fifteen minutes, thank you. I called time, and I had already warned Mr Finn. I do not need a chorus of people telling me when the clock stops. I am perfectly capable of doing it myself, and if I fail in that then the clerks help me out.

Mr Finn — On a point of order, President, I apologise if I did not hear you, but as you say, there was a chorus of interjection from across the other side of the chamber, and I genuinely did not hear you.

Mrs Peulich — On the point of order, President, I was not interjecting on that occasion; I was busy transacting some messages. However, I did not hear you make the call either, so if you could just take that into account, it would be appreciated.

The PRESIDENT — Order! I thank Mrs Peulich for her contribution. I have indicated my position on these 90-second statements. Invariably the last few lines that members are trying to squeeze into the 90-second statements are provocative and lead to a fairly unruly house. We have a rule; we have standing orders. The standing orders say it is 30 seconds — 90 seconds; some of us wish it was 30 seconds, but it is 90 seconds. Members are really pushing the envelope on this, and I will not have it. As I said, if I call time, I expect members to comply.

This time Mr Finn will escape; I will be lenient — not because of the point of order, by the way, because I believe I expressed in sufficient volume the requirement that Mr Finn sit down because his time had expired. But as I said, some members are really pushing the envelope, and I am not going to wear it. Mr Finn is lucky.

Transport infrastructure funding

Ms BROAD (Northern Victoria) — Yesterday for the second year in a row the Victorian Auditor-General criticised the Liberal-Nationals state government for its failure to develop a statewide strategy to improve transport. In his report to Parliament the Auditor-General found that the Napthine government's funding for outer suburban roads, including in Northern Victoria, had been cut from $127 million under Labor over two years to around $106 million over three years under the current Liberal-Nationals government. The Auditor-General highlighted key investments funded by Labor, including the extension of the electrified network to Sunbury in my electorate and the regional rail link.

However, Labor understands what families also understand — that is, that more investment is urgently required to improve transport options and reduce congestion. In addition, growing numbers of Victorians are coming to understand that if the Napthine government ploughs ahead with its $8 billion tunnel then other transport projects will not happen, including urgently needed extra V/Line train services on the Seymour line. If the Napthine government and the member for Seymour in the other place, Ms McLeish, are so convinced that their tunnel is the right transport project for Victoria, they should take it to the next election and let all Victorians decide.

Vietnam Veterans Day

Mr O'BRIEN (Western Victoria) — Last Sunday, 18 August, I was honoured to represent the Minister for Veterans' Affairs, the Honourable Hugh Delahunty, at the Geelong Vietnam veterans remembrance day and lay a wreath at the memorial in North Geelong.

As members would agree, our Vietnam veterans deserve our thanks for serving their country during that time of conflict. The date was also the 47th anniversary of the battle of Long Tan.

Increased attendances at these services were reported at the Shrine of Remembrance, as well as in other regional areas, including Horsham. I congratulate all involved at the Geelong and other services.

DE Quarry Solutions

Mr O'BRIEN — On Wednesday, 24 July, I was pleased to announce $150 000 in funding for DE Quarry Solutions, funded through the $10 million Victorian Business Flood Recovery Fund for a new crushing station at its Skipton quarry. Through this project DE Quarry Solutions is investing in a new rock-crushing plant to increase productivity, and I urge all members to visit the plant to gain an appreciation of the importance of the rock-crushing industry to road construction in western Victoria.

Sheepvention

Mr O'BRIEN — I was also delighted to attend Sheepvention with my Heywood-bred electorate officer, Mr Richard Troeth, where we experienced many of the other great features of western Victoria, principally its wool-growing base, which is still succeeding very well and will continue to do so into the future.

I congratulate all involved, including the people involved in the fashion show, notably a very creative second cousin of mine, Jacqui O'Brien. I urge all members to continue to support the woolgrowers of this nation, who have been the backbone of this country for many years and will continue to be so.

Marshall railway station

Ms TIERNEY (Western Victoria) — Last week V/Line staff at the Marshall station were forced to put up signage that threatened motorists who parked on the grass and other areas outside of the car-park bays that their vehicles would be towed away. A section of grass near the car park has also had large wooden poles concreted into it to stop cars parking on the grassed area. Clearly there is a need for more car parking at Marshall station, and in fact there has been a need for an extension of car parking for well over a year now. Increased rain levels and consistent heavy traffic have also seen the entry and exit points of the station car park deteriorate substantially.

The potholes that appeared over a year ago have reappeared, and yet nothing has been done. People use public transport to take the stress of gridlocked traffic out of their commute, but under the Napthine government they have the stress of fighting for a car park, fighting for a seat on the train and fighting with their boss because they are consistently late due to V/Line's poor record. July's performance results show that V/Line has again failed miserably to meet its punctuality target of 92 per cent. In fact it did not even get close.

The Liberal state government promised to address public transport issues in the Geelong area; however, the public transport users that I speak to have to fight for a park at Marshall, South Geelong and Geelong

stations, stand in crowded trains at peak times and consistently explain to their boss why they are late.

Keith Fagg

Mr KOCH (Western Victoria) — I rise to pay tribute to Keith Fagg, the City of Greater Geelong's first directly elected mayor. Due to ill health, and on the advice of his medical practitioner, Keith reluctantly resigned from this key leadership role last week.

Geelong's directly elected mayoral position was sought by the community, and it was endorsed by the then opposition at the 2010 election. Keith was encouraged to stand for Geelong's first directly elected mayor as a member of one of Geelong's oldest and well-respected families.

With support from many in the community, including the *Geelong Advertiser*, Keith took on the challenge and commitment to serve the people of Geelong at local government level. Keith's positive vision for Geelong was well received by the community, and he took up this new role on 27 October 2012 after running a very successful campaign.

During the nearly 10 months of Keith's mayoral term he has enthusiastically embraced the many challenges currently facing Geelong. One of the most significant was Keith's response to both the Ford and the Target announcements of job losses and the way he rallied community leaders to discuss ways of helping those affected in this difficult time.

I take this opportunity to thank Keith for his hard work and for his commitment in serving the community through his leadership in this vital role. Our thoughts are with Keith, his wife, Heather, and his family, and we wish Keith a speedy recovery after his management of many challenging times during his period of office.

Moe activity centre

Mr VINEY (Eastern Victoria) — I rise to note that the federal Liberal member for McMillan, Mr Russell Broadbent, has refused to commit to honouring the funding of the Moe activity centre redevelopment, which was funded in this year's federal Labor budget to the tune of $7.5 million. All Mr Broadbent has to do for this project to proceed is to commit to honouring those funds that are in the budget, not to use what I would call weasel words — that he would fight for it. The fight has been had by the community and has been won. The community has collected the signatures of 10 000 people and has had 1500 people at public meetings calling for this project. It was funded initially by the last state Labor government to the tune of $3 million — it was initiated by that government — and it has proceeded. Mr Broadbent's words that he would fight for the funding for this project demonstrates a lack of commitment to the project. It is unfortunate that if an Abbott government were to be elected and this project — which has started — were not funded, it would mean that the central activities district of Moe would remain unfinished in its current condition.

Dr Quintus de Zylva

Mr ONDARCHIE (Northern Metropolitan) — I rise to pay tribute to a stalwart of the Victorian Sri Lankan community, Dr Quintus de Zylva. Dr de Zylva is a practising physician in Melbourne. Immediately after the Asian tsunami of 2004 he had a dream that he could take a team of specialists, including paramedics, nurses and physios, once a year to Sri Lanka and organise medical care for the needy with the collaboration of local medical teams. He established two bases, one in Passikudah, in Batticaloa in the north-east of Sri Lanka, and one in Karapitiya, to provide services for the poor children and adults who do not have the means to get specialised medical care in the local government hospitals.

Dr de Zylva founded the Australia Sri Lanka Medical Aid Team, known as AuSLMAT, and conducts free clinics, providing medical advice and medications. The team also provides much-needed medical equipment, generously donated by hospitals in Australia, by other organisations and by individual donors. AuSLMAT also endeavours to provide educational opportunities and spends time on the lecturing and training of medical staff and students in Sri Lankan hospitals on each visit. Dr Quintus de Zylva has just completed his 25th post-tsunami visit to Sri Lanka with his medical teams, and he is doing wonderful work for people who really need our help. I pay tribute to and warmly acknowledge this fine Victorian.

East–west link

Mr TARLAMIS (South Eastern Metropolitan) — I rise to express my deep concern about the Napthine government's decision to proceed with its $8 billion east–west tunnel project, which leaves taxpayers liable for risks worth hundreds of millions of dollars. This is despite there having been no public consultation and no real business case, with the limited documents that have been released confirming that the project is woefully inadequate and that it will do nothing to address real transport issues. This $8 billion project could very easily end up costing taxpayers much more, given the track record of this government, whose election

commitments so far have already blown out by more than $872 million. The fact remains that the government has no mandate to proceed with this project, and its plans to sign long-term contracts for the tunnel's construction just weeks before the next election involve treating voters with contempt by preventing them from having any say on this massively flawed project.

This project is by no means a panacea, and this government needs to realise it cannot correct its dithering on infrastructure since its election through this project. It will not ease congestion on the Eastern Freeway or on Hoddle Street, and it will do nothing for motorists in other areas of Victoria. It will certainly do nothing to address the infrastructure needs, the need for public transport and the road issues that residents of the south-east face on a daily basis. In fact the only impact it will have on those in the south-east is that it will reduce the amount of money available to spend on schools, hospitals, roads, trains and buses. It means no funding will be available for safety improvements and grade separations at any of the level crossings along the Frankston line, and of course Southland station looks like being consigned to history. If those on the government benches are confident that this is the best project to address the state's transport needs and that it can be delivered without further cuts to health, education and other transport options, they should have the courage to seek a mandate at the next election.

Wyndham Central College

Mr ELSBURY (Western Metropolitan) — Last Wednesday I was pleased to be able to join the Minister for Education, the Honourable Martin Dixon, when he visited Wyndham Central College, formerly the Galvin Park Secondary College, in Werribee. This school is benefitting from a $14 million refurbishment program after 11 years of Labor neglect left the school completely unusable for students, with the ceilings in several classrooms failing in late 2011.

I am surprised, however, that the former assistant principal, who was acting principal of the school while the rot was allowed to set in and when the ceiling collapsed, has now chosen to be the Labor candidate for the federal seat of Lalor. Ms Ryan has experienced firsthand Labor's neglect of our community, but she is ignoring that in her pursuit of political office. I would have expected better from someone who has experienced the impact of Labor's neglect on our community firsthand and fear she will feel nothing but frustration with her Australian Labor Party comrades should she be elected.

The PRESIDENT — Order! I understand Mr Viney wishes to table a petition by leave.

PETITIONS

By leave, following petition presented to house:

Bairnsdale railway line

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the indefinite closure of the Bairnsdale line, and notes that:

1. the Liberal-Nationals government has spent less than 1 per cent of country rail maintenance funding on this line;

2. Premier Denis Napthine has been unwilling or unable to provide the community with a date on when the train will return;

3. closure of the line is causing enormous inconvenience for the people of East Gippsland;

4. extra train carriages mean nothing to East Gippslanders who currently don't have a train at all;

5. the new timetable, effective 28 April 2013, removed any reference to the Bairnsdale service being a train service.

The petitioners therefore request that the Napthine government invests the necessary resources to guarantee a V/Line train service to and from Bairnsdale into the future.

By Mr VINEY (Eastern Victoria) (407 signatures).

Laid on table.

Ordered to be considered next day on motion of Mr VINEY (Eastern Victoria).

INAUGURAL SPEECH

Mrs Millar

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

That the inaugural speech of Mrs Amanda Millar be now heard.

Motion agreed to.

Mrs MILLAR (Northern Victoria) — President, it is both a privilege and an honour to be appointed to represent the people of Northern Victoria Region. I pay tribute to my predecessor in this role, Donna Petrovich, who has made such a significant contribution over her term in Parliament. Donna's achievements and passion in fighting hard for her constituents are notable. I wish her and her family every success into the future.

This diverse and unique region encompasses proud rural and regional cities and communities, including the cities of Bendigo, Benalla, Mildura, Shepparton, Swan Hill, Wangaratta and Wodonga, as well as many celebrated towns across the region. The region includes many areas of iconic beauty in Victoria, including the banks of the Murray River, Lake Eildon and the northern lakes, the Victorian Alps, including Mount Buller, Mount Beauty, Mount Hotham, Falls Creek and the towns of Bright and Harrietville, and the Macedon Ranges, including my own home for the past 14 years, Mount Macedon, which is famed for its private gardens, for being the inspiration of Frederick McCubbin in many of his works and for nearby Hanging Rock. These are renowned and treasured places, and I am deeply honoured to represent the people of this region, who have endured with courage and resilience many tough seasons and natural events, including droughts, bushfires and floods.

Sir Robert Menzies, who was born in Jeparit, noted, 'It is a simple but sometimes forgotten truth that the greatest enemy to present joy and high hopes is the cultivation of retrospective bitterness'. It remains vitally important to continue to meet the future with optimism and resilience and to capitalise on the opportunities looming before us. The people of this region are testament to this.

Victoria, Australia and then the world saw the rise of Black Caviar, the champion mare bred in Nagambie and considered at her retirement to be the best sprinter in the world. She was undefeated in 25 starts. I recently had the privilege of meeting some of the staff from Gilgai Farm, where Black Caviar was bred and where she grew up on a Goulburn Valley property. Black Caviar was then prepared by the Sangsters' Swettenham Stud, which is also in this region. The excitement generated by this champion racehorse, with thousands of Australians flocking to racecourses just to catch a glimpse of this legendary horse, was an experience no-one will ever forget and recalled the famous days of Phar Lap, bringing hope to a nation. Black Caviar captivated the international racing world and remains a testament to the celebrated racing industry in our state and to this region.

This region has before it a bright and bountiful future as new markets emerge and given the abundant natural advantages of the region, but transitioning to this future in the context of intensified global competition and the rate of technological change will continue to require innovation, entrepreneurship and vision. It is the role of government not to dictate that future, but to create the right conditions to enable both individuals and enterprises within this great state to flourish.

In my own background, education has always been the key to innovation and the unlocking of untapped potential. In a speech at Harvard University on 6 September 1943, Sir Winston Churchill said, 'The empires of the future are the empires of the mind'. Some 70 years on, those words still hold the key to addressing the challenges and capitalising on the opportunities of the present age.

I was fortunate to grow up in a family where education was highly valued and was seen as central to success. My paternal grandmother, Kathleen Brady, believed strongly in the power of education as a primary driver of success in life. At the end of World War I, my grandparents married and the couple emigrated from Great Britain to New Zealand and then later moved to Sydney, where their five children were raised amidst the Great Depression and the subsequent world war. My grandmother's five children were university educated at a time when few in our society undertook higher education. Even gender was seen as no barrier to this goal, with my aunt, the family's only daughter, Margaret Brady, being admitted to practice as one of the first female solicitors in New South Wales.

This was the ethos of the family in which my sister, Jane, and I were raised. My father, Peter Brady, an academic in the field of applied chemistry, is a man of great intelligence and immense openness and breadth of mind. Following from his mother's legacy, my father wanted my sister and me to be well educated, but always in the context of following our own passions and interests, for it is only in this way that children can truly pursue excellence and fulfil their potential.

My wonderful mother, Win Brady, was no less a believer in the power of education. Having left school at the age of 15, she had the strength of will to return to night school to complete her matriculation, even with two small children to care for, and then completed a tertiary qualification in welfare studies. My mother worked full time in an administrative role in a career in the arts so that my sister and I could have a quality education. Having a mother who has worked in a professional career throughout her life has taught my sister and I the importance of contributing to our society through work, that barriers are only there if we choose to see them and that hard work, whether paid or voluntary, underlies all achievements in life.

In my own journey it was the University of Melbourne, where I studied as an undergraduate and where I subsequently completed my postgraduate education, which proved transformative. When I was 15 years old my father took me to a university open day, and as I walked across the south lawn towards the Old Arts

Building and the law quad, I instantly set my heart on going to university at Melbourne. At university, I had the privilege of being taught by some of the iconic, intellectual greats of their era: Professor Vincent Buckley, Professor Christopher Wallace-Crabbe and Professor Marion Adams. Through the clubs and societies I also made lifelong friendships which endure to this day.

Politically it was my time in the Melbourne University Liberal Club which remains the single most important period in shaping my political ideas and philosophies. For me, and thousands before and after me, university allowed me to flourish, learn, develop and find my path in life.

The University of Melbourne motto, 'Postera crescam laude', translated as 'To live in the esteem of future generations', continues to shape that institution. The university's current slogan, 'Dream large', is fitting at a time when universities face the challenge of tougher global competition for students and research funding; and of responding to an environment of massive open online courses, or MOOCs, in which student numbers in excess of 200 000 students per subject complete free online education conducted by global discipline leaders in their fields.

The future for universities at this time is both exciting and somewhat uncertain. Integrating the knowledge and learning held in these institutions and engaging more effectively with the community are also issues to be addressed. There is no doubt that the role of universities will be central to addressing the grand challenges that lie ahead of society.

In his work the English educationalist, Sir Ken Robinson, quoted research on divergent thinking based on giving a paperclip to children of various ages and measuring the number of ways in which children could create something new from that paperclip. This research indicated that divergent thinking decreases rapidly from kindergarten-aged children, at which age 98 per cent of children have this capacity, through to teenage years, at which stage children largely struggle to think of more than a few uses for the paperclip. Sir Ken's premise is that children are born with limitless creativity, which over time is reduced by narrowly focused curricula.

John William Gardner wrote:

> When Alexander the Great visited Diogenes and asked whether he could do anything for the famed teacher, Diogenes replied: 'Only stand out of my light'. Perhaps some day we shall know how to heighten creativity. Until then, one of the best things we can do for creative men and women is to stand out of their light.

This calls upon us to continue to question whether our education system acts to enhance or to interfere with all the potential we are given.

The mayor of London, Boris Johnson, who tonight will give his keynote address to open the Melbourne Writers Festival, once remarked, 'I'd like thousands of schools as good as the one I went to, Eton'. It is this kind of optimistic ethos and vision that we also need to bring to education, and with the technological advances available to us and with exceptional and inspirational teachers, it is within our grasp. We need to think big.

The greatest achievers, in science, business, politics and academia, are those who create or make something wholly new — those whose thinking takes us to new places. Everyone who has ever started a business knows this: the need to set yourself apart, to differentiate yourself from the pack, to innovate. To grow our productivity as a state, we cannot have a society of underachievers, and our goal in all fields of endeavour needs to be converting potential into outputs. In short, we need to make, grow, produce and sell things.

Technology and the rate of technological change will remain at the heart of both addressing challenges in all industries and fields and capitalising on our future. In my view, technology offers huge potential to rural and regional Victoria in particular, giving the opportunity to reduce the barriers of distance in an unprecedented way. Where you live is no longer a barrier to the type of education you receive, the specialist medical advice you access and the job you hold. For regional and rural areas, we sit on the cusp of a world in which many can finally choose to live and raise their families in a place of their choosing, with true quality of life, where the vast stars in the night sky can be clearly seen, where the air is fresh and crisp and where community is real and abiding — without compromising their work, their health care and the education their children receive. Technology has shrunk the world, bringing some challenges but much opportunity.

I am encouraged every week to open the *Weekly Times* and read features about new innovation in agriculture. Stories abound of new technology supporting enhanced agricultural productivity, and the Northern Victoria Region is leading the way in bringing cutting-edge practices to farming, including in food production and water management. The opportunity to share and exchange innovative practices is also increasing and needs to be underpinned by strong agricultural, land

management, science and engineering education as a priority in Victoria's higher education system.

Finally, I wish to extend my thanks and appreciation to the many treasured and valued friends with whom I am blessed.

I acknowledge and appreciate the love and dedication of my parents, Peter and Win Brady. I thank my dear sister, Jane McKinna, and her husband, Chas, for their continuing love and friendship. I also thank my husband's family, Graeme and Elaine Millar, for their support, love and kindness.

I cannot begin to acknowledge the support, encouragement and kindness of many in the Liberal Party who I value and thank for their inspiration, friendship and guidance over many years. I thank Minister Wendy Lovell, whom I have known and held in esteem for over 20 years and who is now a valued colleague.

To my Melbourne University Liberal Club friends, Sophie Mirabella, MP, Marc Carden, Kate Shea, Louise Staley, Richard Allsop, Senator Scott Ryan and mentor to us all the Honourable Rod Kemp; to friendships forged in the Melbourne branch, in particular to Tony Snell and Damian Tangey, and for the leadership of the Honourable Fran Bailey, Athol Guy, the Honourable Judith Troeth, Peter McWilliam, Norma Wells, Daryl Williams and Margaret Fitzherbert: I thank all of you and the many others in the party who have been there for me.

I wish to pay tribute on this day and in this place to a special and a dear friend — my Mount Macedon neighbour — Amanda Winter Ferguson, who was born and raised in Benalla and who passed away after a battle with cancer on 8 June 2013 at the age of 44 years. All of Amanda's many friends will attest that she changed the lives of all who knew her, not because of her illness or her undoubted bravery in the face of adversity but because she taught us that we are all capable of so much more than we know or dare to believe. I bear witness today to Amanda's legacy. We can all be more than we know.

To my beloved husband, Rohan Millar, who was born and raised in Kyabram and later Gisborne, you are and have always been the single most important influence on me. Having met through student politics when Rohan was the then president of the Melbourne University Liberal Club, we have shared a long-term commitment to the Liberal Party and to Liberal philosophy. Never afraid to speak out for all that you believe and to act in the cause of right, you possess capability, intelligence and judgement that few can even dream of matching. I highly value being married to someone I both love and admire so very much.

For my children, Hugh and Harriet Millar, I continue to learn the greatest amount from you. Hugh and Harriet bring joy, love, wisdom and happiness to my every waking moment and are my dreams for the future.

As I stand in this place and look up at the cherubs above me representing the youth of Victoria, I reflect on my daughter, Harriet, who constantly reminds me that profound wisdom is to be found in the smallest of people. As Socrates wrote, 'The only true wisdom is in knowing you know nothing'. May we ever be mindful of this.

My son, Hugh, frequently makes the observation that he feels sorry for children who live in Melbourne, with no open space, no trees and nowhere to kick the football except on the roads outside their houses. While I usually respond by saying that Melbourne is well endowed with parklands and the like, I am at the same time proud and concur with him that children are given something unique and something to treasure by growing up in our rural and regional areas. My dream is to enable more children to be able to look through Hugh's eyes and see life in regional Victoria as the envy of all.

In closing I return again to Sir Winston Churchill, who said, 'The empires of the future are the empires of the mind'. We are a part of this empire, and we need to bring our intellect, passion and commitment to answer the grand challenges before our age and to achieve all that lies before us.

I thank the house for the privilege which has been extended to me today.

The PRESIDENT — Order! I take this opportunity to remind members of the science briefing on wind turbines in the Victorian energy mix, which is at lunchtime in the Legislative Council committee room. I understand Mr Finn will be there and is quite excited about all of this.

UNIVERSITY OF BALLARAT AMENDMENT (FEDERATION UNIVERSITY AUSTRALIA) BILL 2013

Second reading

Debate resumed from 27 June; motion of Hon. P. R. HALL (Minister for Higher Education and Skills).

Ms PULFORD (Western Victoria) — I will commence by congratulating Mrs Millar on her inaugural speech following her appointment to this house at a joint sitting of Parliament. By way of a segue I note that our newest member talked about the transformative role that education can play in people's lives. That is very much what the legislation before us is about.

The University of Ballarat Amendment (Federation University Australia) Bill 2013 is before the house for our consideration today. It is quite a straightforward piece of legislation, but what it represents is important and I would like to take the opportunity to make a few comments about that. The bill in essence changes the name of the University of Ballarat to Federation University Australia. It proposes to provide for transitional arrangements during this period of change; it facilitates a six-year period for students who are currently enrolled to confer their degrees in the name of either the University of Ballarat or Federation University Australia and it makes a number of other technical changes and consequential amendments.

As our new member indicated and as many here, hopefully everyone, will agree, education can be an incredibly transformative thing in our lives. That is why education is and always will be the no. 1 priority of members of the Labor Party. Not everyone gets the same start in life; not everyone has the same opportunities, and when it comes to young people in regional Victoria not everyone has the same access to education.

In July 2009 a report was presented to Parliament by the Education and Training Committee. It had conducted an inquiry into geographical differences in the rates of participation in higher education. Members representing regional communities will not be remotely surprised to know there are some stark differences in the rates of participation in higher education by people in regional areas. The committee did some excellent work in trying to nail down what some of these problems were so that solutions could be identified. My colleague Geoff Howard, the member for Ballarat East in the other place, was chair of the committee and in the report he notes:

> The committee … found that the causes of geographic differences in higher education participation rates go beyond the obvious barriers of distance and costs. They also stem from differences in the ambitions and aspirations of students and their families, school completion rates and academic achievement levels. Addressing these differences will require a broad range of interventions, which will give Victorian students both the desire and the tools to achieve in education at the highest level.

It is probably important to note that the committee was doing this work many years into one of the worst droughts Victoria has ever experienced and it heard evidence of students completing year 12 with the requisite marks to get into their chosen course but without the capacity to accept the university's offer. There were some stark differences to be noted and the committee identified some of them.

> In 2007–08, nearly 14 per cent of school leavers in non-metropolitan areas rejected their university offer. This compares to a rejection rate of 8.6 per cent in metropolitan areas and 9.2 per cent in interface areas.

It was not a problem with getting into university; it was a problem of getting to university. This is worth noting in the context of the discussion about the transitions that are occurring and which this bill is helping to facilitate.

The background to the legislation originates from earlier this year. In fact for many years the University of Ballarat has aspired to be a specialist regional tertiary education provider, and in February of this year a joint media release was issued by Monash University and the University of Ballarat indicating that they were joining forces to investigate forming an expanded, regionally focused university. As a result the Monash University campus at Gippsland will be transitioning to become the University of Ballarat. That is why the name 'University of Ballarat' is no longer such a good fit and that is what this bill is seeking to change.

There has been a lot of water under the bridge since then and councillors at both universities have approved the transition. There have been extensive discussions and negotiations with the federal government — not with just one federal government minister either — which has brought us to this point. There are ongoing transitional arrangements because of this legislation, and the transmission of business is scheduled, for want of a better word, to take effect on 1 January 2014. However, there are some scheduling and sequencing issues around things like the transfer of assets and land.

The new entities need to start making marketing and enrolment arrangements for next year. For some people, particularly those who are studying or employed at the Gippsland campus of Monash, this type of transition can create a degree of uncertainty. For people in Ballarat and at University of Ballarat campuses in western Victoria, I expect much of the change will be around the university's name and a redesign of its letterhead. The changes in Gippsland are more significant; the impact on staffing and employment arrangements, course offerings and the like are a little more extensive. Whilst this bill does not dramatically change the operation of either entity, it enables all those other things to occur.

I have indicated to Minister Hall that there are a couple of questions that we would like the government to respond to in the debate or at the committee stage.

Mr Lenders — Is the FU bill going into committee?

Ms PULFORD — Yes, Mr Lenders, the FU bill will go into committee, unless answers are provided to our questions beforehand. There are a couple of issues I would like to explore, and they relate to staff guarantees and support for the business model in Gippsland, particularly around some of the target enrolment growth numbers. There are some questions around consultation throughout the rest of the transition period and the impact on some students.

The Labor Party will not be opposing this legislation. The government has provided us with briefings, and we have had briefings on numerous occasions from the University of Ballarat and representatives of Monash. We are concerned that there is still reason for uncertainty around the arrangements for transition, and perhaps we will have an opportunity to explore those later.

From my perspective the University of Ballarat does a tremendous job in providing a point of entry for young people from right across regional Victoria. Its student cohort does not entirely comprise kids from around Ballarat — far from it. There is a very large on-campus population from right across regional Victoria. Indeed many students from Melbourne go to this fine institution to take up study opportunities.

It is important to stress that we in opposition do not have an enormous amount of confidence in this government's commitment to education. The University of Ballarat is a dual-sector university, and the cuts to TAFE have impacted reasonably dramatically. It would be remiss of me not to comment on that in the context of a debate around education access for kids in regional Victoria. The impact of the TAFE cuts was some $20 million at the University of Ballarat. Around 50 courses ceased at the start of 2013.

Mr Ramsay — What about the $2.5 billion you ripped out of universities?

Ms PULFORD — I invite Mr Ramsay to take up this argument with anyone in Ballarat. He knows the impact this has had in Ballarat. He would be courageous to try to defend it in the streets. Another 20 courses were on the watch list for commencement next year; 15 of those courses will go in 2014. Mr Ramsay may wish to defend the cuts to TAFEs across Victoria, but — —

Mr Ramsay — I'm talking about your cuts — your $2.5 billion cuts to universities.

Ms PULFORD — The Premier is proud of the cuts to TAFEs, but we on the Labor side are horrified because now some courses are more expensive or do not exist, and there are students who cannot afford to be students anymore. There are staff who do not have jobs anymore. If Mr Ramsay wants to make this an exercise in defending the cuts, we would welcome that debate, anytime, anywhere in Victoria.

Mr Ramsay interjected.

Ms PULFORD — Twenty million dollars was cut from TAFE at the University of Ballarat, many courses were cut and many people were left without jobs and without the training opportunities they had in the past. I will resist the temptation to continue arguing with Mr Ramsay about the effect of the TAFE cuts. There have been significant consequences across Victoria as a result of those cuts. Most traumatically, there has been the closure of Swinburne University of Technology's Lilydale campus, Northern Melbourne Institute of TAFE's Greensborough campus, eight campuses and outreach centres and Advance TAFE in East Gippsland.

Mrs Peulich — On a point of order, Acting President, given that Ms Pulford is the lead speaker, it is appropriate for her to have some leeway in responding on behalf of the opposition. However, talking about TAFEs in metropolitan Melbourne when the bill before us relates to the University of Ballarat and rural and regional education providers is stretching that custom. I ask that you bring her back to the bill.

The ACTING PRESIDENT (**Mr Eideh**) — Order! I remind Ms Pulford to come back to the bill, but as she is the lead speaker there is no point of order.

Ms PULFORD — My point is simply this: access to education is important, and closing campuses and shutting courses is the kind of thing that makes it harder for people to participate in education.

The legislation before us today aims to facilitate the changes occurring at Monash Gippsland and the name change at the University of Ballarat, but it would be like ignoring the elephant in the room, given that it is a dual-sector university, not to mention what is going on with the other half of the business, because it has been dramatic.

An honourable member interjected.

Ms PULFORD — It has been cruel. The Premier is proud of it, but it has been a dramatic shift and it has impacted on access to education. One of the things the University of Ballarat does particularly well is provide pathways into tertiary education other than straight out of school.

I am conscious of the fact that the legislation is narrow and that it simply seeks to change the university's name, but it is important to consider the context in which this is occurring. It is about facilitating the university's ability to offer educational opportunities to people in Gippsland, I imagine in a way which is slightly different to the way Monash University has done so. There are good opportunities for this to be done well, but I do not have an enormous amount of faith in this government's ability to provide the support education providers need to deliver education services to people across Victoria. In addition to the TAFE cuts, there are the cuts to the Victorian certificate of applied learning, the education maintenance allowance, the School Start bonus and the School Focused Youth Service. Education is Labor's no. 1 priority; it is clearly not the government's no. 1 priority.

There are some questions around the transition that I will take the opportunity to ask the minister in the committee stage. The bill is a straightforward proposition to change the university's name. The things the bill represents — the other discussions, the arrangements with the commonwealth government and the transmission of business arrangements that are not the subject of this legislation — are very much the reasons for the name change. They are significant changes. They are important changes for people in and around Ballarat. The University of Ballarat has an incredibly long and proud history, so for Ballarat traditionalists the name change would not be such a happy moment, but for others it is the opportunity to see the university reach out into new territory and for people in Gippsland it is a bigger change — absolutely. We urge the government to be very careful in the final steps it is taking to effect this change so that people can be confident that the course offerings will be enhanced rather than diminished, so that the people who work at the Gippsland campus can continue to be employed under similar terms to those they had in their employment with Monash University and so that this new entity — this new venture into eastern Victoria for what has been the University of Ballarat — can be viable and financially stable and can succeed without depleting resources in the western part of the state by expanding in the eastern part of the state. However, we can explore some of those issues in committee.

Mrs PEULICH (South Eastern Metropolitan) — I rise to speak on the University of Ballarat Amendment (Federation University Australia) Bill 2013. I welcome the opposition's support for the bill. Before speaking on the bill I digress by congratulating the new member, Mrs Amanda Millar, on a speech that was both intelligent and moving. Ms Pulford picked up on the key theme of the important role that education has played in the life and history of Mrs Millar's family, and in particular the transformative effect of education. In many ways the bill segues very well into that theme.

It is interesting that Ms Pulford and the Labor Party recognise the transformative effect of education but often baulk, stymie, suffocate, obfuscate, stall and drag their heels when it comes to any sort of change that is designed to transform and improve our education system. The education system is not just for itself; it is about improving outcomes for students, the quality of institutions and the quality of learning. Ms Pulford, who has used the opportunity to take a cheap shot by raising a litany of issues — and I am more than happy to debate each and every one of those, as we have over the past 18 months — is actually the traditionalist in this context, because she opposes anything that involves change, even if it is for the better, and she is myopic in her arguments on TAFE cuts.

The Labor Party has to be honest: the reason why some TAFE funding may have moved from the TAFE sector to registered training organisations goes precisely to the reforms that were introduced by Labor in 2009. As soon as you open TAFEs to some sort of competitive neutrality across the private providers and the TAFE sector, it makes absolute sense — your brain will tell you — that invariably some of that funding is going to move from the TAFEs to the registered training organisations, which is exactly what the government intended and exactly what has occurred. However, Ms Pulford is inaccurate and mischievous in linking that to the University of Ballarat, which is going to be renamed Federation University Australia as a result of

the bill. Although it is a dual-sector university, and I have had the opportunity of visiting it, funding for Ballarat TAFE has increased substantially over the last three years and not decreased. Ms Pulford would like to turn back time and have things just as they were. She would deny the need for education to keep pace in order to educate our current and future generations.

Recently I had the privilege of opening the Victorian Information Technology Teachers Association (VITTA) conference, at which the keynote speaker was Bruce Dixon, who is a guru in the area of information technology. The theme of his address, as well as the theme of the conference, was that schools and education institutions must change in order to cater for modern learners. What particularly comes to mind is the call for an urgent need for thought leadership. Mr Dixon also said, 'Let's be bold and invent the future'. That harks back to Mrs Millar's comments and the quote she attributed to Winston Churchill about education building empires of the future. That is what we want to do, and that is what this bill is about. It is a bill that the university called for, and I acknowledge Ms Pulford's recognition of that.

First and foremost the bill changes the name of the university, and secondly, it allows the awarding of degrees to current students to be bestowed in either the name of the University of Ballarat or in the new name of Federation University Australia for a period of six years in order to cater for the period of transition.

I would like to focus on the intent of the new institution, and it goes to the theme that Ms Pulford spoke about. It is not that regional and rural students do not get into university; they do. It is the problem of getting to university. Recently the Economic Development and Infrastructure Committee tabled a report that called for the more flexible delivery of education to rural and remote areas and right around Victoria, because that is what will help us to take advantage of the entrepreneurial opportunities and create an agile business-focused society. I commend the University of Ballarat for its visionary move.

In June the Minister for Higher Education and Skills introduced the legislation to amend the act in order to change the name of the university from 1 January 2014. The chancellor of the University of Ballarat requested amendments to the University of Ballarat Act 2010, and the Victorian coalition government is delighted to support that request. I am informed that recently Senator Kim Carr has written to the minister advising that the federal Labor government also supports the changes. The new name goes to the heart of this being a more broadly and regionally focused university. In addition to the three campuses in Ballarat, the university has campuses in Horsham, Stawell and Ararat and leads a partnership with regional TAFEs delivering a suite of degrees across the breadth of Victoria. Since 1994 the University of Ballarat has evolved from being a small, single-campus higher education provider located exclusively at Mount Helen to being a multisector, multi-campus and multi-location institution. Clearly that is going to be the face of the modern education institution if it is going to provide for the educational needs of our community.

I wish to quote the chancellor of the University of Ballarat, Dr Paul Hemming, to explain the motivation for the move. He said:

> This new name will reflect the partnerships, collaboration and cooperation among a federated network of campuses in regional Victoria … It collectively provides a new and different Australian university that is regional in focus, national in scope and international in reach

I commend the university for its vision.

The bill can also be seen in the broader context of the University of Ballarat and Monash University Gippsland campus coming together to form a more expanded regional university in Victoria. The bill provides an ability for existing Ballarat University students to complete their courses under either the University of Ballarat or Federation University Australia banners, and I know which one I would choose.

The Victorian and commonwealth governments support the amendment and have ticked off on it. The proposal is welcome; it certainly gives students across the state access to a wider range of courses that are tailored to the needs of regional students. These courses will change over time; you cannot stand still. Society is changing, and in order to take advantage of the changes in the internationally impacted global economy we must be entrepreneurial, agile and responsive, not locked into the past practices that the Labor Party wants to shackle us to, because no-one is going to go anywhere if that is the case.

Monash University has made a significant contribution to Gippsland through its Churchill campus over the past 20 years, and the University of Ballarat will obviously build on that foundation. As an alumni of Monash University Clayton campus I have full confidence that the new university is going to be stronger and better as a result of the past involvement. Bringing its special expertise in regional higher education provision, the proposal is in line with the minister's Gippsland tertiary education plan for which he commissioned an expert

panel led by Professor Kwong Lee Dow, which found that expanded course offerings and greater flexibility in entry requirements at the Churchill campus would benefit the Gippsland region.

The recently tabled report by the all-party Economic Development and Infrastructure Committee certainly calls for that. Courses currently taught at Churchill have been accredited by the University of Ballarat so that they can be offered to students commencing in 2014. There are some new courses planned for 2014, including a bachelor of information technology, which the recent VITTA conference emphasised is an employment growth area across absolutely every sphere, so it is great to see this university seizing this opportunity. Courses offered will also include a bachelor of business finance and investment, a master of professional accounting and a master of geomechanics and geohydrology.

Science courses have been redesigned to better support first-year students. Access for regional students has been improved by reducing the emphasis on ATAR scores and by welcoming students from a broader range of alternative pathways. The fact that this is a dual-sector university also assists with that. It is anticipated that nearly all present staff will continue at the new university so that the highest quality will be maintained. The university will open up greater pathways for students to go from vocational training to higher education, particularly with regional TAFEs such as GippsTAFE and Advance TAFE.

With those few words, I note there is a time limitation on our opportunity to speak. I would like to commend this bill and wish for a bright future for the new institution and in particular the many thousands of young people and people of all ages who will undertake its courses in order to better prepare for a future that will require us to be more entrepreneurial, agile, business focused and driven by change, especially in the areas of innovation and technology.

Ms PENNICUIK (Southern Metropolitan) — The University of Ballarat Amendment (Federation University Australia) Bill 2013 before us has a simple purpose, which is to change the name of the University of Ballarat to Federation University Australia, but in doing that it raises quite a number of issues. At the end of the first paragraph of the minister's second-reading speech he says:

> This expansion is reflected in the university's recent announcement, together with Monash University, that the University of Ballarat intends to acquire the Monash Gippsland campus.

Of course that is not mentioned at all in the bill. The Monash University Gippsland campus is not mentioned in the bill, but one of the effects of the expansion of the University of Ballarat is the taking over — if I can use that term — of the Gippsland campus. I will return to the particular implications of that a little later in my contribution, but I will now turn to the purpose of the bill, which is to change the university's name.

I too received a briefing from the minister's staff and departmental staff — who I can see over there in the advisers box — and I thank them for their briefing. In the third paragraph of his second-reading speech the minister says:

> The university's resolution to change its name is the outcome of an extensive consultative and evidence-informed inquiry.

He also says that the university 'considered over 30 different names'. The minister's adviser furnished me with a paper outlining some of the names that were put forward and some of the responses to those names. It is very interesting reading, and some of the comments about the names were quite interesting. I thought I would put on the record my reaction. I am sure that my opinion about the name change will have absolutely no influence on the outcome, but I have to say that I personally find the name Federation University Australia pretty uninspiring. I do not really understand what it means, and I do not know that anybody else knows what it means.

Mrs Peulich — What was your preferred name?

Ms PENNICUIK — I am always loath to take up interjections, Acting President — who is not paying attention to proceedings — but I would also say that having given some thought to it, though not a lot, I was not able to come up with an alternative name. However, I was struck by some of the comments made. People are not identified other than as, for example, 'a former staff member'. One of the comments was that Oxford University would not change its name. Even though Oxford University is located in a small village in England, its reach is far and wide, and it does not need to change its name, so perhaps the name of the University of Ballarat could have stayed as it was. Anyway, we are going to have this name change. Everybody who has read this paper would also understand that there have been some comments made on the acronym of the university's name. People saying it in their heads now might understand why there has been some concern about that, but I presume people will be using the long title rather than the acronym and would not get themselves into trouble.

Mrs Peulich — Only a Greens MP would think of that.

Ms PENNICUIK — I did not think of it, Mrs Peulich; I am reading it from the paper. It was raised by commentators. Ms Pulford actually made passing remarks about it as well, as did the Leader of the Opposition by way of interjection. I do not think the name is very inspiring.

Although changing the university's name is the purpose of the bill, some other issues are also raised. As has already been raised by Ms Pulford, the context is that Ballarat University is dual sector, offers a range of vocational courses and has a number of TAFEs under its umbrella. Ms Pulford was correct in saying the university itself has suffered a $20 million decline in state funding between 2012 and 2014 — these are figures from the university itself — and has cut 50 courses. The university itself has had a decline in state funding. These figures have not been made up by Ms Pulford or me; they have come from the University of Ballarat.

Mrs Peulich interjected.

Ms PENNICUIK — It is vocational education and training at the University of Ballarat; that is right. I am reading the figures from the University of Ballarat.

The ACTING PRESIDENT (**Mr Ramsay**) — Order! Through the Chair!

Mr O'Brien interjected.

Ms PENNICUIK — I hope Mr O'Brien was not reflecting on the Chair.

Fifty courses were cut immediately, with another 17 not going ahead the following year. There was some to and fro on that during Ms Pulford's contribution, and I take the opportunity to say that this involves the market-driven system in TAFE that was put in place by the previous government and continued by this government, so both governments are at fault with regard to the money that has been taken out of the TAFE system and the system that has been put in place, which has resulted in the loss of courses. The response of the current government to the blow-out in vocational education and training (VET) — and Mr Hall and I have gone over this many times in the Parliament — was mainly in the area of the private providers, but the money was taken out of TAFE by this government. Both governments, as I say, are therefore at fault in relation to the crisis in TAFE.

Mrs Peulich interjected.

Ms PENNICUIK — There was a system that did not need fixing, and through these changes and through the introduction of demand-driven funding we have the situation we have in the TAFE sector in Victoria, which is highly regrettable.

I should have begun by welcoming Mrs Amanda Millar to this chamber, so I do so now. I listened carefully to what she said, and she made many comments about education. She was talking about creativity — and she mentioned paperclips. She said — and I was listening very carefully — that as young children we are very creative and then as we all get older we become less creative because of the limitations of the education system. In fact the University of Ballarat makes the comment that it would be good if people could be enrolling in courses for which there are few enrolments, but that is a thing of the past now; we can only dream about that. We are only going to have an education system that is demand driven and where there are a lot of students enrolling and where the courses pay their way economically. Mrs Millar's dream is of not having education limited in that way. That is now a thing of the past; that is what she is saying.

Mrs Peulich interjected.

Ms PENNICUIK — Many learned scholars were quoted in that speech, and they would subscribe to the idea of broad education — education that is not just vocationally based and not just demand based.

Returning to the bill, the bill changes the name of the University of Ballarat to Federation University Australia. In the second-reading speech it was pointed out that that would include the incorporation of the Monash University Gippsland campus under the banner of Federation University Australia. I have consulted on this. There are various views. There are people within the Monash University Gippsland campus who are concerned about the impacts or effects of that move of the campus into Ballarat University. One of the issues that has been raised, of course, is that Monash University is one of the Group of Eight universities and one of the top 100 universities in the world, and the campus at Gippsland will no longer be under the Monash University umbrella but will come under the new Federation University Australia umbrella. Obviously we would all like to see Federation University Australia aspire to becoming one of the top universities in the world, and that would be a great thing for regional Victoria. Other people I have consulted regarding that move have a more optimistic view. Certainly given that it is going to happen, I would say I hope it is a success for the current and future students in both of these institutions.

It does, however, raise some questions, which I have raised with the minister. I have spoken to him about these issues, and he has undertaken to respond to those questions, either in committee, if we take this bill into committee, or by way of response at the end of the second-reading debate. They are important questions. For example, the bill talks about University of Ballarat students being able to have University of Ballarat qualifications if they have already commenced their course under the banner of the University of Ballarat, but it does not make any mention of whether Monash University Gippsland campus students can, if they have commenced a course under the banner of Monash University, have their courses recognised as Monash University courses. Obviously students who enrol under the Federation University Australia banner will be studying under that banner. There are answers to these questions around and about, but I think it is important that as we debate this bill they are put on the record in the Parliament by the minister who has carriage of the bill. Another question goes to what time limit there may be. Under the bill for the University of Ballarat I think it is six years.

With much concern I also wish to hear that no current University of Ballarat or Monash University Gippsland campus staff will lose positions or pay and conditions as a result of the merger of the two institutions. Indeed VET courses have been lost at the University of Ballarat, but hopefully we will see more courses in the fullness of time so that staff will keep their current positions and so that there will be more positions at Federation University Australia. I am very concerned to see that current staff, particularly those of the Monash University Gippsland campus, will continue to have the pay and conditions they have at the moment into the future.

Another important issue that has not yet been raised is student representation at the new university. Currently the Monash University Gippsland Student Union represents and advocates for students. It is an independent student organisation that is recognised at statute 2.7 of Monash University, 'Student association and campus service councils'. The point is that the statute of Monash University recognises the independent organisation representing and advocating for students. In fact most of the major universities across Australia recognise in their statutes the existence of independent student organisations and the way in which they are supported by that university. This is a concern. The student organisation already exists and is funded. I would hope Monash University Gippsland Student Union will transition into being the independent student organisation that is recognised in the statutes of Federation University Australia so that it might continue to represent and advocate for students.

There has not been much mention of students so far. The Greens are particularly supportive of student services, student representation and student advocacy. In her inaugural speech Mrs Millar spoke about the importance of clubs, societies et cetera at university and said that that side of university life is very important. It is important to have independent student unions and student representative bodies to advocate on behalf of students. The situation is made more urgent because the University of Ballarat did have student representation, the University of Ballarat student association, which was wound up in 2010–11. The university has a student senate but it is more of a consultative body and not an independent representative body or advocacy body. It does not provide the types of services that are provided by the Monash University Gippsland Student Union, which include long day care for children. That service is provided for the whole community and not just for the students and staff at the Churchill campus.

This is a very important issue, and I would not like to see it fall between two stools. Similar universities, such as the University of New England in Armidale and other top universities, all have these bodies. If Federation University Australia, as it will come to be known, is modelling itself on these top universities it should also have such a body and codify it in its statutes. These are the issues that come out of this fairly simple, name-changing bill. I have raised them with the minister. I advised him that I was concerned about them. I would like to hear the minister address these issues in either his reply at the end of the second-reading stage or during the committee stage under clause 1.

Mr O'BRIEN (Western Victoria) — I would also like to begin my contribution on this short but important bill by congratulating and commending Mrs Amanda Millar on raising the bar in terms of the inaugural speeches that I have been fortunate enough to witness in this place, and particularly for placing an important emphasis on the high values and importance of education as well as academic learning in a regional setting. Mrs Millar also imparted the philosophy and benefits of raising a family in a regional area. Both of those matters are very important for the institution that was formerly known as the University of Ballarat and will, with the passing of this bill, be known as Federation University Australia.

It is important that we look at our academic institutions in a changing light. To pick up on the paperclip example that Mrs Millar raised in her speech and also

touched upon by Ms Pennicuik, it is important that we have academic institutions that inspire people, particularly when one looks at the opportunities that arise in a wonderful regional setting like Western Victoria Region, which I represent. This institution is located over several campuses, as well as in other places. There are significant opportunities for our children, farmers and tradespeople to become involved in higher education, innovation and entrepreneurship — to pick up on Mrs Peulich's contribution — and to deliver significant practical benefits to themselves and by extension the country.

At a recent seminar in Geelong called Skilling the Bay, which was conducted by the Honourable Peter Hall, Minister for Higher Education and Skills, one important thing I heard was that 65 per cent of children will be involved in jobs that have not yet been invented. Over the past 100 years the challenges that have held back some of our regional areas are principally transport and distance. The internet and electronic learning, as well as a greater appreciation of food security, the importance of our food and fibre industries, other agricultural sectors and mining, have given regional universities and their students the opportunity to lead the country.

Picking up on Mrs Millar's paperclip example once more, I recently heard a phrase that talked about the benefits of youth. It says, 'You are only young once but you can be immature forever'. I would like to alter that to the more academic phrase, 'You are only young once, but you can dream forever'. I think that is very much the essence of what a university education can offer people at all stages of life, including trades and skills.

The University of Ballarat has many significant achievements, and by way of example a graduate was mentioned today in the Parliament by Minister Hall. He recognised the outstanding contribution of a young and successful student, Tim Taylor, who won a gold medal at the 2013 WorldSkills International competition held last week in Germany. I had the pleasure of meeting Mr Taylor again at the send-off convened at the Parliament by Minister Hall. He explained to me that he was looking forward to changes in the automotive sector engineering industry, and he thinks we can lead the world in this area.

My own father is an academic and is still a world leader in innovation in his field. He started out as a farmer rabbiter, worked on roads and then worked his way to university at the age of 28. Everyone can continue to learn and benefit from education.

Changing the title of the bill to include a more generalised area than just Ballarat should help this regional institution fulfil its potential, as was explained in the inspiring words of Mrs Millar. Ms Pennicuik raised a point about the university's new acronym. Other universities in Australia and around the world use the initials 'FU'; they include Flinders University in Adelaide, Fordham University in New York, Fisk University in Tennessee, Fudan University in China, Fukuoka University in Japan, as well as a number of other institutions, including First Union Bank. I understand that market research indicated that the university, which will now be known as Federation University Australia, will be more popularly known as Fed Uni or the Fed. Concern about the acronym will not do anything but cause a bit of academic interest in the matter.

It is worthwhile noting that other names were considered during the extensive consultation process undertaken. It is reported that Menzies university was put up as one of the names. Other names included Barton university, Nellie Melba university, John Flynn university, Eureka university, Henry Lawson university and William Stawell university, all of which would have been fantastic names. However, I think Federation University Australia encompasses appropriate ideals and represents Ballarat's role in achieving federation and democracy, which is well set out at the new Museum of Australian Democracy at Eureka in Ballarat. I commend the university, vice-chancellor David Battersby and others who were involved for their work. I also commend the Minister for Higher Education and Skills for bringing this bill to the house, which also assists with the acquisition of the Monash Gippsland campus. I commend the bill to the house.

Mr RAMSAY (Western Victoria) — I appreciate the opportunity to quickly say a few words about the University of Ballarat Amendment (Federation University Australia) Bill 2013. I have had a very close association with the university and the excellent education delivery it provides, particularly since being elected to this house as a member for Western Victoria Region. The fact that my office is in Ballarat has led me to engage with Ballarat University on a number of occasions about a number of issues. It is very pleasing to see the Victorian government investing in the university and its assets, enabling it to grow, particularly at the Mount Helen and Lydiard Street campuses.

I would like to congratulate the vice-chancellor, David Battersby, who came to my office on many occasions to talk about the prospect of integrating Monash

University Gippsland campus with Ballarat University and perhaps the more sensitive issue in regard to what they would call this now global institution. As my parliamentary colleagues have said, a number of names were considered — 30 names in fact. The university was very mindful of sensitivities around a name change because many Ballarat residents went to the university, including my own sister. I used her as a sounding board when I was consulted by the vice-chancellor about the name change proposal. I think it is always good to have family as a sounding board. My sister had a long and close association with the university and had opinions on some of the names that were mooted, but she agreed that, given the broader focus of the university beyond western Victoria, the word 'federation' provides a national and international focus and is well suited to this consolidation of campuses.

I congratulate the university on its significant stakeholder engagement. It dealt with mayors, political representatives, graduate students, staff and the broader community, in both Gippsland and the western Victoria region, to discuss an appropriate name and how it would be accepted by the broader education communities. I congratulate the university on going methodically through a robust process of engagement with key stakeholders to come to a point where this chamber is now discussing the proposed rebadging of these two consolidated campuses from the University of Ballarat and Monash University Gippsland campus as Federation University Australia.

On that basis, it gives me pleasure to support this amending bill. It is an amendment only; the government did not want to change the principal act for a range of reasons. It is also important to acknowledge that the University of Ballarat was created as a university by the University of Ballarat Act 2010. In 2010 the acts associated with all Victorian universities were re-enacted to enforce similar governance and reporting provisions. The law relating to the University of Ballarat was re-enacted by the principal act. It is important to note that, because it is this that enables us today to move an amendment to the act without actually creating a new act.

In closing I would like to quote David Battersby, vice-chancellor of what is currently called the University of Ballarat, who said on ABC breakfast radio in Ballarat:

> The transition to the name 'Federation University Australia' is a great thing for the university's future.

He was also quoted as saying:

> The benefit for the local community, for the Ballarat community, is we will have, headquartered in Ballarat, a regional university with national and international reach.
>
> The industry, the relationships we have, the great community engagement we have, is not going to change, and if anything it's going to be enhanced by this.

I am very comforted by those words by the vice-chancellor, David Battersby, and on that basis I support this bill.

Mr P. DAVIS (Eastern Victoria) — I am rather pleased to have the opportunity to speak to the University of Ballarat Amendment (Federation University Australia) Bill 2013. It might superficially seem a little strange if my speech were taken in isolation to hear a member representing Eastern Victoria Region talking about the University of Ballarat, but the issue of course is that the trigger for this bill to be in the house is the University of Ballarat acquiring the Monash University Gippsland campus at Churchill. From the commencement of the next academic year it will be the deliverer of nearly all academic courses that have been offered by Monash University in Gippsland.

The reason for the bill is of course that the necessary consideration of the name of the university came into play, albeit that the current situation is not the key driver informing the university of a need to extend the expression of the function, reach and, if you like, market in the tertiary education space of the provision of education services by the existing University of Ballarat. However, it is a trigger to causing a 'drop-dead time line', if you like, that a name change was required, because it would have been entirely inappropriate for the Gippsland community to have an education provider there that was by name, if not intent, focused on Ballarat.

I wish to make a few brief remarks about the notion of Monash University vacating the tertiary education space substantially in Gippsland and the incoming university, Federation University Australia — currently the University of Ballarat — replacing it, from the point of view of provision of tertiary education in Gippsland. I believe this is a profoundly important change in education service delivery for my community of Gippsland that is sorely needed. With no disrespect at all to those from Monash University who over a long period have endeavoured to provide courses to Gippsland students, the reality is that Monash University is a very large institution that does not have a specialist rural education delivery focus, whereas the University of Ballarat clearly does. The University of

Ballarat has over time evolved to deliver education services on a number of different and disparate campuses across Victoria — in fact a multitude of different campuses — and it does so very well.

One of the great problems we have across regional Victoria, particularly across Gippsland, is the low level of, firstly, aspiration towards and, secondly, actuality of tertiary level learning. It is profoundly challenging, as many inquiries and reports on this issue have found, to provide a mechanism to better encourage and enable Gippsland students to go on to tertiary education. I do not think I need to make the case, which is already clearly being made by the University of Ballarat, that it will seek to not just provide a replacement of tertiary education as had been delivered by Monash University but in fact expand and grow the participation rate. I believe that is incredibly important, as I am the parent of children who have reasonably recently graduated from university and I understand their peers and those they have been through school with. There are quite a number of them who found it difficult to meet the challenge of moving to the city for tertiary education, and Monash University in Churchill was not able to provide the courses that they may have aspired to.

I see this as a huge opportunity to fill a void, and I have great expectations. I am really excited about the fact that we will over the medium term see an increase in tertiary level participation from Gippsland students. I strongly support the bill.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I want to start by thanking all of the members for their positive contributions towards debate on this bill. I know that privately, if not publicly, all members here share a great deal of enthusiasm for this change. I note that the opposition's official view was to 'not oppose', but I think that opposition members see some really great benefits here and that the decision to not oppose rather than support was driven by the need to have some of the issues answered, which I will attempt to do now. Thank you to all of those who have contributed positively to this debate.

It is important to put these matters in context in my concluding remarks on this bill, and I reflect on the fact that Ballarat University now has partnership arrangements with six other regional TAFE institutes through which it delivers higher education programs. I mentioned them in my second-reading speech: Advance TAFE, Bendigo TAFE, GippsTAFE, GOTAFE, Sunraysia TAFE and Wodonga TAFE. It is now a fact that students sit at TAFE campuses in Sale and Traralgon in Gippsland and complete higher education degrees under the name of Ballarat University, and that now also happens right across regional Victoria. Consequently that is the driver for the university's change of name.

Ballarat University truly has a regional focus right across Victoria, and therefore the name change to Federation University Australia is appropriate. As has also been mentioned by others, perhaps the catalyst for what the university is already doing has been its proposed acquisition of the Gippsland campus of Monash University, which will mean the university will have a more substantial presence in the Gippsland region.

I will speak about the university's change of name. Ms Pennicuik is uninspired by the name Federation University Australia, but I think it will become Fed Uni in our lexicon rather than Federation University Australia. Forgive me, Acting President, if from here on I refer to the new entity as Fed Uni. Just as we refer to Federation Square as Fed Square, I think 'Fed Uni' will become the words used to describe Federation University Australia.

That being said, I will go through a couple of points and issues raised by speakers during the debate and hopefully address them in a fulsome manner, which may eliminate the need for the bill to go through a committee stage. I also say to members that if they have further questions they wish to ask in committee, I am always happy to answer them.

Ms Pulford made some comments about geographical differences in terms of young people's participation in higher education. I refer to the reference given to this Parliament's Education and Training Committee to conduct an inquiry into geographical differences in the rate at which Victorian students participate in higher education. That reference was given to the committee by a motion moved in this chamber. I was the person who moved that motion and I was a member of the committee, which did some very good work. I appreciate that Geoff Howard, the member for Ballarat East in the Assembly, also did some good work as chair of that committee.

Ms Pulford also made the important observation that Ballarat University serves not only the people of the local region of Ballarat but also broader regional Victoria. For example, several years ago my electorate officer's son went to Ballarat from Traralgon in order to study and complete a degree in human movement, later becoming a physical education teacher. We already have a lot of interchange of students from other parts of regional Victoria who go to Ballarat University. It is also important to acknowledge that Ballarat University

has a Melbourne campus, which provides opportunities not only for Australian students but also for international students. That is a section of the university's business that could well be enhanced by the acquisition of the Monash campus at Gippsland.

I will speak on some of the issues raised by Ms Pulford. In regard to commonwealth approval, I can report to the house that Senator the Honourable Kim Carr, the Minister for Innovation, Industry, Science and Research and Minister for Higher Education, wrote to the chancellors of each of the universities on 16 July indicating the commonwealth's approval. His letter to the chancellor of Ballarat University states:

> I am writing to confirm the Australian government's approval of the transfer, including the agreed transfer of student load from Monash University. I also agree to your proposal to deliver commonwealth-supported places at the Gippsland campus.

He also wrote to Alan Finkel, the chancellor of Monash University, in a similar vein. In respect of the commonwealth approval, that process has been communicated to me via correspondence with each respective chancellor.

There is also a side issue to which I want to respond very quickly — that is, the issue of TAFE funding. Let me indicate to members that, if they go through the annual reports of Ballarat University, they will see that in 2010 Ballarat University received $28.6 million in TAFE financial assistance — that is, government-funded places. In 2012 that had increased to $31.7 million. In talking about cuts to TAFE, I want to make this point: because there is no cap on places being funded, through its TAFE division Ballarat University is now training more people than ever before and has the opportunity to keep building on that load.

In respect of recent local issues about a further 15 courses being cut, as was claimed in one headline, the fact is — and the university clarified this the next day — five courses did not have any student enrolments and another five had fewer than 10 enrolments. There is a point when the viability of delivering such programs has to be assessed. The fact that 15 courses were cut needs further explanation and understanding than a simple headline. I wanted to make that point without going into any great debate.

A number of questions were raised about transition. Both Ms Pulford and Ms Pennicuik raised some matters which they would like to explore, particularly in relation to the impact on staff, students and student union bodies. I will address those matters, and I will also return to the issue of financial support, which Ms Pulford signalled to me as well.

Before I go to that matter, I want to mention another matter in terms of the advantages of financial support. All speakers expressed a fervent hope that further financial support would lead to the expansion of opportunities, which is already happening. Recently Monash and Ballarat universities were the joint recipients of a Regional Partnership Facilitation Fund grant. That grant of $2 million will directly lead to three additional higher education programs being delivered in Gippsland using the Ballarat expertise and three additional higher education programs being delivered in Ballarat using the Gippsland expertise. New programs to be delivered through the university at its Churchill campus are a double bachelor of engineering, mining, and bachelor of engineering, mechanical; a bachelor of engineering technology; and a master of business administration. These three good programs will now be delivered, whereas they would not otherwise have been. In return, initially in Ballarat there will be a bachelor of science in biotechnology, a bachelor of arts in criminal justice and a double bachelor of nursing and bachelor of midwifery. They are the sorts of things we are very keen to assist Fed Uni, the new entity, with in order to develop additional offerings for students in Ballarat and Horsham as well as in Gippsland.

Firstly I wish to speak on the impact these measures will have upon students. The direct advice I have received from Monash University states:

> What would happen to students admitted to a Monash course at the Gippsland campus?
>
> All students admitted to Monash University courses and programs at the Gippsland campus will remain Monash students until they have completed the academic course of study they enrolled in.
>
> All Monash students will be given the opportunity to complete their courses and receive a Monash qualification.
>
> Monash University would ensure an orderly withdrawal of its courses without disadvantaging normal course progressions.

This is important:

> A formal agreement between Monash and Federation University will govern the teaching out of Monash students at the Gippsland campus. Monash University will remain responsible for the quality of the teaching and for student support provided by Federation University. TEQSA will be considering the teach-out agreement in the next few months to ensure that it meets quality standards required.
>
> Higher degree by research students will be able to complete their Monash degrees or may transfer to a research degree offered by the expanded university. They can be

co-supervised by staff from each institution, if that is appropriate.

When will students be consulted/informed?

All Monash students enrolled in award courses at Gippsland have been informed through an email and encouraged to participate in consultation sessions.

In summary, the impact of these reforms will mean that a student currently at the Gippsland campus enrolled in a Monash degree will be able to complete their degree under the Monash banner and, while the teaching may be undertaken by Fed Uni staff, the quality control measures will be oversighted by the Tertiary Education Quality Standards Agency. That is the comment I make about the impact upon students of these changes.

In respect of the impact on and the issues associated with Monash University Gippsland Student Union (MUGSU), I met with representatives of MUGSU on one occasion and I had a telephone conversation on another occasion. I also noted an email yesterday in my inbox requesting some further dialogue. I am happy to accept that request and be ready to consult at any time.

In respect of MUGSU, both universities have given a commitment that funding will be made available so that MUGSU is able to operate and provide student services and activities through 2014. In this regard, both universities will enter into formal agreements with MUGSU, and discussions about this have already commenced. A delegation from MUGSU visited the University of Ballarat on 20 August 2013 and had a very successful set of meetings with senior staff of that university and members of the University of Ballarat student senate.

Federation University Australia is strongly committed to providing a full array of services and activities for its students and has every intention of working closely with MUGSU in this regard, given its long history of engagement with students at the Gippsland campus. I received that formal advice from the vice-chancellor of the University of Ballarat yesterday. That is the comment I make in respect of MUGSU and the student senate.

In respect of the transfer of Monash University staff to Federation University Australia, both universities are obliged to comply with the transfer-of-business provisions under the Fair Work Act 2009, which protects the terms and conditions of employment for current Monash University staff at the Gippsland campus transferring to the Federation University Australia — that is, staff cannot be transferred on inferior terms and conditions of employment. The provisions of the current Monash University enterprise bargaining agreement (EBA) will continue to apply to transferring staff until the Monash EBA is terminated or replaced in accordance with the Fair Work Act 2009. All accrued entitlements, including annual leave, long service leave, sick leave and personal carers leave, which a transferring employee has accrued while working with Monash University will be recognised and transferred to Federation University Australia.

Beginning on Monday, 26 August — next week — a series of detailed information sessions will be provided to outline the procedures for staff transfers, leading up to formal letters of offer being made to eligible staff in late September to transfer to Federation University Australia. Staff will have 21 days to respond to the formal offer to transfer, and confidential individual consultation sessions will be offered to all staff, enabling them to discuss any issue of concern or questions they have. A set of frequently asked questions about the transfer of staff will be available to all staff at the Monash University Gippsland campus on Friday, 23 August 2013. That, again, is advice received from the vice-chancellor of the University of Ballarat, and I have received similar advice from Monash University, Gippsland.

Finally, I want to quickly comment on a foreshadowed issue regarding financial support. This proposal has been backed by a sound business case, and the federal government has indicated that it will monitor the financial aspects of this change. As I said, a business case has been prepared and presented for the consideration of both governments, and we are confident that it stacks up. By way of financial support, the commonwealth government funds higher education places, the state government funds vocational training places and there are no caps on that support, so again we are confident that the university will be able to market the programs it has to offer very successfully right across regional Victoria.

I should note that there will not be any cross-subsidy. I understand that the people at Ballarat may be concerned that there may be a cross-subsidy, and I can assure them that while the university has control of its financial affairs there is no intention to apply a defined cross-subsidy to make the Monash University Gippsland campus financial in its initial stages.

I am running out of time. As I said, if there are further questions, I will be happy to answer them in the committee stage.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Ms PULFORD (Western Victoria) — I thank the minister for addressing in some detail those matters in his reply comments. I have a handful of questions remaining. Is the government able to guarantee that no jobs will be lost in the transmission of business arrangements?

Hon. P. R. HALL (Minister for Higher Education and Skills) — It has already been very clearly said that every single staff member will be offered transition to the new entity.

Ms PULFORD (Western Victoria) — By what date does the minister expect the transfer of buildings and land arrangements to be finalised?

Hon. P. R. HALL (Minister for Higher Education and Skills) — That is a good question. There is a land monitor process currently under way, and we expect that process to be finalised within three or four weeks, certainly in a timely way, to meet the commencement of this legislation on 1 January 2014.

Ms PULFORD (Western Victoria) — The minister indicated that the commonwealth government is responsible for funding university places and the state government is responsible for funding TAFE places. Will the state government be providing any additional financial support to Federation University Australia to facilitate new relationships with the industry and other matters including ongoing consultation to support the transition over the coming months and perhaps year or so?

Hon. P. R. HALL (Minister for Higher Education and Skills) — Ballarat University has already been active in terms of its consultation with communities in Gippsland, and it has met extensively with Advance TAFE, Central Gippsland Institute of TAFE and Gippsland-based organisations. The state government recently provided $4.5 million in total contribution towards two regional partnership facilitation fund grants, which will assist the university greatly in expanding its offerings, as I indicated in my summing up of the second-reading debate.

Ms PENNICUIK (Southern Metropolitan) — I wish to follow up on the minister's answer regarding the establishment of a student union — that is, an independent student representative organisation at Federation University Australia. The answer the minister gave was that there were consultations and some commitment to the end of 2014, which is less than 18 months away. What I am raising is the issue of the establishment of an independent organisation in the statute of the university for ongoing years. Does the minister have any comment in addition to his answer, which did not really go to the question I asked?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I cannot honestly say to Ms Pennicuik that there has been a request to change the statute of the Ballarat University, but I did indicate what I thought was a really positive expression of goodwill on behalf of Ballarat University that recognises the importance of the Monash University Gippsland Student Union and its preparedness to work with it for the delivery of student services and to address students' needs on campus. I look forward to a strong future for the union without being able to give an assurance that statutes of the university will be changed.

Clause agreed to; clauses 2 to 14 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Ventnor planning decision

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Planning. I refer to reports in today's edition of the *Age* that the settlement amount in the Ventnor matter will exceed $3 million. The community, I think, has a right to know exactly how many millions of dollars have been paid out. The minister has previously stated that the settlement of the proceedings is subject to a confidentiality agreement. Will he agree to a variation of that agreement to allow the public to see how much was paid to settle the proceedings?

Hon. M. J. GUY (Minister for Planning) — I guess you can accept conspiratorial questions once, but when they happen every single time I think you just have to shake your head and think, 'How on earth does Mr Tee believe that somehow I am going to roll up to the Supreme Court and declare that it was wrong and that I am going to override it?'. He has a go at me for

overriding councils every so often, or even my departmental advice. Now he wants me to override the Supreme Court. No doubt he will come into this chamber and criticise me for that. I am glad, though, that Mr Tee mentioned supreme courts and settlements, because he might have read the *Australian Financial Review* today about central Dandenong, Little India and a Supreme Court settlement — —

Mr Tee — On a point of order, President, I understand that the matter the minister refers to has been appealed by the government, so it is on foot. I am happy for the minister to continue to talk to these matters that are before the court, but my question is — and it is a point of clarification — will this allow the opposition or any party to interrogate the minister in relation to legal matters that are on foot in future, either in this case or in other matters?

The PRESIDENT — Order! Can Mr Guy provide me with any information in terms of that point of order in respect of the status of those proceedings?

Hon. M. J. GUY — On the point of order, President, Mr Tee asks about an appeal matter from a bungled VicUrban compulsory acquisition around 2006 or so. That issue, where one land-holder, or lessee, has taken VicUrban to the Supreme Court over a bungled compulsory acquisition, means that the state of course is going to appeal it. It has gone to the Court of Appeal. The proceedings have been heard and concluded, and we are now just waiting on a decision. I will point out that I was in no way going to make a comment on the proceedings, given they have been heard and we are simply awaiting a decision.

Mr Tee — Further on the point of order, President, the minister started talking about this matter in terms of settlements and was referring to quantums that may be payable or otherwise out of these proceedings, which does appear to be seeking to impinge upon the determination of this matter by the courts.

The PRESIDENT — Order! Essentially if the proceedings have been completed and therefore there is no likelihood that debate in this place would impact upon those proceedings, I am of the view that it is possible for a minister to refer to a matter and indeed for the opposition to ask questions about that matter, particularly given that the minister has actually opened up this specific one. The questions of sub judice have obviously been evolving in terms of the relationship of the Parliament with the courts to some extent. Again we are perhaps a little bit more tolerant in this place of reference to matters before the courts, provided that such references do not impinge upon the ability of the courts to reach a decision, attempt to unduly influence the proceedings of the court or attempt to, in my view, intimidate or have some impact upon people who might be involved in those proceedings.

That said, I think presiding officers need to be very mindful of the stage a matter has reached before the courts in determining whether the sub judice rule does or does not apply in terms of ruling a matter in or out. On this occasion, as I said, the minister has advised me that the proceedings themselves are finished. He has advised me that we are awaiting a decision on the matter, and I would take the view that at this stage the minister is entitled to refer to the matter, but I would still be inclined to advise the minister that he should perhaps refer to that matter in more general terms than specific terms as a courtesy to the court and to the judgement that will be forthcoming. It is my view that at this point the minister has taken that position in his response.

Mr Tee — On a further point of order, President, the minister is right when he says that the proceedings have been completed, but we are at a crucial stage of the proceedings where the judges are considering what decision or determination they ought to make. Just reflecting on your test, this is precisely the time when events in this chamber might impact on those proceedings, to use your words, or might impact on the ability of the court to reach a decision, because as I said this is a pertinent time when the judges are writing their decision. It might be that the proceedings are finished in terms of submissions, evidence or witnesses, but they have not finished in terms of the judges making their determination.

The PRESIDENT — Order! I thank Mr Tee for the point of order. It is a useful point of order in terms of defining this a little further, and as a Presiding Officer I would have a bit more concern in terms of my attitude towards a matter before the courts if a jury were involved and that jury had yet to provide a determination. I must say that I would doubt that judges of the Supreme Court would spend a great deal of time reflecting on remarks made in this place in terms of reaching their decision. They would take into account the matters that were heard by them before the court and would not be influenced by external matters, be it commentary by the media or indeed commentary in this place. The judges are in a unique position to pursue their determination of a matter.

I am still mindful of the fact that the minister is discussing this in general terms, and I do not believe he is being specific at this point. Notwithstanding that, this is a matter that for all intents and purposes is still before

the court. From my point of view, as I said, if the matter were still being heard by those judges, I would be a lot more concerned than I am given the stage at which, I understand, it is now; Mr Guy has confirmed for me that it is now awaiting determination by the judges. Therefore I think Mr Tee has raised a useful point, and it is helpful to the house and members of the house, but in this instance I do not uphold the point of order as such.

Mr Lenders — On a point of order, President, and not regarding question time now, I ask for your deliberation and response to this at a later date. I note with interest your comments on judges of the Supreme Court paying attention to what we say in this place. I am not debating that, but it does raise the issue we have had for many years as to whether in the committee stage the minister needs to be here or another member can be here. I ask you to take my point of order on notice for a response, because your comment is pertinent to a debate that has been had in this chamber for many years over whether judges actually listen to what we say here, so I invite you to reply to that at a future date. The reason I raise this as a point of order now is that it is a pertinent time to do so.

The PRESIDENT — Order! I thank Mr Lenders for that point of order. I will give some consideration to that matter, but perhaps he and I might have a further discussion on it to assist my understanding of what he is seeking in terms of comment from me.

I point out that there is currently another case that I am aware of where in fact it has been argued strongly by a silk that the second-reading speech should not be considered and matters of committee should not be considered as being of assistance to the courts in terms of determining what the Parliament's position might be on legislation. In other words, the argument that was put in a court recently was that a court should only consider the legislation itself and should not consider any other matters of debate, including second-reading speeches, in terms of the intention of the Parliament. That is something that we have argued previously, and on a number of occasions I have raised the importance of the committee proceedings and the second-reading speech in terms of the interpretation of legislation that the courts might make. That argument is an interesting one. It has been pursued in the case I am aware of, and therefore this matter does need some further consideration in terms of the rights of the house while also considering the separation of powers.

Mr Tee — On a further point of order, President, the other point in relation to this is that there is, as you have rightly pointed out, the need to be cautious when addressing matters that are before the court. One of the issues is that the question that I have asked is quite specific in relation to a confidentiality agreement. One of the considerations would be the relevance of unrelated proceedings that the minister seeks to drag in to answer quite a specific question, so again it would go to the issue of relevance, but also it becomes more germane when the link to these proceedings has not been made out and is quite a spurious link that the minister is trying to make.

The PRESIDENT — Order! The point of order raised by Mr Tee on this occasion does not complicate the issues that we have discussed in terms of the legal status of a matter and the ability of a minister and indeed other members to refer to a matter at some stage before the courts. The matter that this point of order goes to, which is not what Mr Tee described, is whether or not the minister is debating the answer by bringing in evidence from or comment on other proceedings, whereas Mr Tee has asked a specific question about a particular matter. There are greater grounds for me to uphold the point of order at this point in time, but no doubt the minister is pursuing an answer that is apposite to the question and has really referred to this other matter as some parallel position, and it is perhaps context for his answer. I indicate to the minister that he needs to be careful about debating the answer.

Hon. M. J. GUY — For the last 18 months members of the Labor Party have asked me to come into the chamber and answer questions on the Ventnor matter, saying that even though I said it was before the court it could be done. Now members of the Labor Party come in and say, 'Please don't make reference to central Dandenong, because it's before the court'. Their own argument in debate for the last 18 months has been reversed. What has Labor got to hide about central Dandenong? In the question that was asked by Mr Tee — —

Mr Lenders — My point of order, President, relates to the minister debating the answer. He was asked a question on government administration, and what he is doing now is debating the motives of other political parties, which has nothing to do with government administration. I ask you to direct him not to debate the answer.

The PRESIDENT — Order! As I have indicated, under the standing orders debating an answer is not permissible. I think what the minister has been trying to do — he may well be interested in debating the matter too — is draw a parallel between the question that was asked of him in regard to the matter Mr Tee is pursuing and other circumstances of a similar nature. I think he is

trying to provide a parallel that might inform the house. Nonetheless the minister needs to be conscious of my previous comments, not just on this occasion but on other occasions, about debating the matter. To that extent I uphold the point of order.

Hon. M. J. GUY — We have all been involved in debate over the last few minutes, but it is worth noting that the Minister for Planning is 50 per cent of the whole stakeholder of Places Victoria and in this case VicUrban. It is worthwhile noting for reference that the other 50 per cent stakeholder is or was the Treasurer.

I would just say to Mr Tee that perhaps he should not believe everything he reads in the *Age* when it comes to the matter around Ventnor. Yesterday we had the kitchen table discussion. Apparently it is a kitchen table that extends 100 or so kilometres, according to Royce Millar. It is the biggest kitchen table in Melbourne! Maybe Mr Tee should come to the Parliament with facts rather than a three-paragraph *Age* article from a journalist who himself has faced legal issues over the last few months. I would say to Mr Tee that he should be very careful about quoting someone who himself has not necessarily been the most accurate source on these matters, despite my personal briefing.

Mr Lenders — On a point of order, President, again I ask you to bring the member back from debating how government administration in any way includes advising Mr Tee on strategy. It is beyond government administration, and I ask you to direct the minister to stop debating the legislation and come back to government administration, which does not include ministerial advice as to how the opposition should prosecute its case.

The PRESIDENT — Order! Again there is an aspect of debating this matter that the minister is pursuing in his answer. I ask that the minister return to the substance of the question he was asked by Mr Tee.

Hon. M. J. GUY — I acknowledge the point of order raised by Mr Lenders, who was a 50 per cent stakeholder in VicUrban when the current central Dandenong issue arose.

I said on ABC radio yesterday that I was happy to take advice from my department as to whether or not there is an annual reporting process that could give some sort of indicative amount that would not compromise any confidentiality settlements, which have been a feature of both governments — Labor and coalition — over a long period of time in matters like this. The advice that I will seek will go a hell of a lot further than any advice any Labor minister ever sought for any process similar to this.

Questions interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! We have had quite a number of points of order, so I am a bit concerned about other people's timetables in terms of whether or not they are able to remain with us. On this occasion it is my pleasure to welcome to the gallery the representative of Bette Grande in the North Dakota legislature. I am struggling to find her name. I ask Mrs Kronberg to help me. I have a biography without a name.

Mrs KRONBERG (Eastern Metropolitan) — Thank you for the opportunity to add to the details you have, President. Representative Bette Grande represents the legislature of the state of North Dakota in the United States, and she is a member of the Republican Party.

The PRESIDENT — Order! My apology for putting your name as the district you represent, but in due course — maybe when we have all left this planet — that may well occur. I extend a warm welcome to you to Melbourne and to this chamber, and I trust that your deliberations with the members of Parliament that you meet will be successful and constructive. Thank you for visiting us.

North Dakota is a wonderful place. I notice that your city is Fargo; *Fargo* is one of my favourite movies.

QUESTIONS WITHOUT NOTICE

Ventnor planning decision

Questions resumed.

Supplementary question

Mr TEE (Eastern Metropolitan) — I want to take up the point that we should not believe everything we read in the *Age*. I suppose it is pertinent to the fact that we just do not know what amount the minister has paid, and that is subject to conjecture. I am looking for a way forward, not for the minister to call in the matter or override the confidentiality agreement. What is clear is that the plaintiffs are willing to disclose the settlement amount, and my question is: will the minister sit down with them, and will he agree to a variation of the confidentiality agreement so that it can be opened up to the extent that would allow the Victorian people to see

how much has been paid as a result of the minister's conduct in these matters?

Hon. M. J. GUY (Minister for Planning) — Speaking of characters from *Fargo*, Mr Tee is fast becoming my diary secretary, because today he wants me to meet people who have taken me to court; yesterday he wanted me to meet Ronald McDonald up here in the gallery. Maybe when he wants me to meet the next Ronald McDonald I will be meeting the Leader of the Opposition later in the week.

If I am going to take someone's advice in this chamber, I am going to take Mr O'Donohue's advice, and not only will I seek advice from my department on how to make this matter more transparent through a public process in an annual report, I will even go so far as to make it retrospective to the years that Mr Tee's party was in government as well.

Cemetery workers industrial action

Mrs PEULICH (South Eastern Metropolitan) — My question without notice is directed to the Minister for Health, Mr David Davis, and I ask: can the minister inform the house about recent industrial unrest at the Southern Metropolitan Cemeteries Trust?

Hon. D. M. DAVIS (Minister for Health) — Members of the chamber will understand that the health portfolio also consists of responsibility for cemeteries. I thank Mrs Peulich for her question, which relates directly to the area she represents. I should say that the Southern Metropolitan Cemeteries Trust is a very important trust, being a very effective — —

Mr Lenders — On a point of order, President, the Minister for Health has previously said that it is inappropriate to comment on any industrial action during a live enterprise bargaining agreement (EBA) process, so I seek through you from him advice as to whether this is a live process and whether the stricture that he previously applied during the Australian Nursing Federation dispute applies to this one.

Mrs Peulich — On the point of order, President, I am asking the question. I think it is really important for the community to understand what the impacts on them will be of this industrial unrest. That is the basis for me asking the question.

Hon. D. M. DAVIS — Yes, it has been my practice not to discuss the precise negotiating details of EBAs, but I have from time to time made it clear that there are matters around EBAs that I will comment on, but not necessarily the exact negotiations.

Mr Jennings interjected.

Hon. D. M. DAVIS — No, Mr Jennings. In fact the matters — —

Mr Jennings — On the point of order!

Hon. D. M. DAVIS — I am; I am responding to your interjections.

The PRESIDENT — Order! Mr Davis does not need to respond to Mr Jennings's interjection. He can just tell me about the point of order.

Hon. D. M. DAVIS — I will from time to time comment on EBAs where asked to do so where it is not a matter about the precise details of negotiation but where there are matters of public importance or matters that impact on the public.

The PRESIDENT — Order! I do not believe it is an area in which I need to intervene or to direct the minister in terms of his response. I simply warn all ministers that if they take a different position on questions of a similar nature that are raised, they do so at their peril. In other words, if any of the ministers were to discuss the processes associated with an EBA, then clearly they would run the risk of impacting adversely on the government position or the employer position on the EBA, and they would also in my view then open themselves up to further questions in that regard. I would permit a range of questions on those matters if they were opened by a minister making comment. That is the case with many other areas of responsibility of ministers, particularly where they comment on matters in the other house.

I do not intend to make a ruling in terms of whether or not this question is in or out; as far as I am concerned it is a legitimate question and the minister is entitled to answer it in whatever way he wishes. However, as I said, ministers — and not just this minister, who I think is particularly mindful of this — need to be aware that if they set foot in new territory, it is in for a penny, in for a pound.

Hon. D. M. DAVIS — President, I accept the general point you made there. Where the minister steps into a new area, that will have relevance for further questioning. But my point here is to indicate to the community the concerns that the government might have about the impact on the community, rather than to talk about the precise matters that might be around a Fair Work Australia or other related EBA negotiation.

I have seen a letter dated 12 August from the Australian Workers Union. It lays out a number of industrial bans

that would impact directly on the community, and I have to say that I am very concerned about those bans. I will read them for the community so it understands what was being proposed, although there has been some further development on this. They include 'an indefinite ban on ledger removals' and 'an indefinite ban on backfilling of graves'.

I am very concerned about those matters, and indicate to the community that the backfilling of graves is critical. I would not want to see an industrial dispute where the gravediggers were prepared to dig a grave, put the coffin in the grave and refuse to backfill it. This would be a significant matter of public safety, and certainly the government would be prepared to intervene in that matter to ensure that community safety and community expectations were met.

That applies equally to the ban that would seek to prevent the removal of ledgers — and for the benefit of the chamber, the ledger is the large stone covering of, perhaps, a family grave.

Mr Jennings interjected.

Hon. D. M. DAVIS — I have certainly made my views known publicly, and I am making them further known now. If the ban were to persist, that would be a concern, because it would mean that if somebody were to die, they would not be able to be buried in their family plot. It would be a significant imposition on people and certainly on families at a very sensitive time, a time of bereavement, to see that either the grave could not be filled after the service or the ledger could not be moved on the family grave. In my view that would be extraordinary. I was certainly prepared to make my view known — —

Mr Jennings — On a point of order, President, despite my interjections I have actually been listening to the minister's answer. My concern is that he is answering a hypothetical question, because he has not drawn attention to any fact that reinforces his rhetoric or his flourish in relation to this matter, and I would like his clarification, facilitated by you, as to whether he is talking about a hypothetical matter or whether this has occurred.

Hon. D. M. DAVIS — On the point of order, President, for the benefit of the chamber I can directly quote from the letter from the Australian Workers Union, which states at points 4 and 5, 'an indefinite ban on ledger — —

Honourable members interjecting.

Hon. D. M. DAVIS — This is not hypothetical; this is a letter that arrived — —

The PRESIDENT — Order! That is enough. I thank Mr Jennings for the point of order. It is my view that in fact the authenticity of the letter has not been challenged. That letter states that this is a possible industrial action that might be pursued by a union in support of its negotiations of an EBA. To that extent I think this does not constitute a hypothetical position. It is in fact valid for the minister to say, 'Okay, this proposition has been put as a possible action by the union'. I do not know whether it is one that it intends to follow through with or whether it has withdrawn that proposition, but certainly the letter at this stage indicates that it was a possible action, and to that extent I do not believe it is hypothetical.

Can I also add in response to the earlier points of order raised that the line of answering that the minister has taken in this regard is quite different to any discussion of the EBA and EBA process. If it is helpful to the chamber, I think what the minister is talking about is implications for the public if industrial action is taken on that EBA. I do not believe he is in any way referring directly to the EBA or to that process of negotiations.

Hon. D. M. DAVIS — I am concerned about the proposed bans that have been put forward. I note that when this became public and the *Herald Sun* carried a story, within hours there was a movement by the union to come to the negotiating table. I think the union went too far in proposing not to backfill graves and not to lift the ledgers on family plots. This was an insensitive step. A number of cultural groups in our community require very swift burials to occur, and it would be quite wrong to leave those burials incomplete.

Honourable members interjecting.

Hon. D. M. DAVIS — Yes, Mr Melhem, your name is on the letter. It is your letterhead from the union — —

Honourable members interjecting.

Hon. D. M. DAVIS — You should walk away from this insensitive step.

Mr Melhem — On a point of order, President, I take offence at Mr Davis bringing my name to an action in which I have not taken part. It must be an old letter. Another point is that he is criticising the union for doing the right thing and going back to the negotiating table. But my main point of order is about using my name from an old letterhead and pretending that I

played a part in this. I would like that comment to be withdrawn.

Hon. D. M. DAVIS — On the point of order, President, it is entirely appropriate for me to note that 12 August is the date of the letter. I have a further letter from 19 August, and both of these show 'Cesar Melhem — Victorian secretary' on the bottom. It may be that the union is short of stationery. That may be it, but the member may like to explain. I know he is still a member of that union, but I do not know his exact involvement.

I do know the letter was signed by Ben Davis, the secretary at the time, but certainly it is on letterhead that has 'Cesar Melhem' listed there. He may wish to explain to the chamber precisely what involvement he has.

Mr Jennings — On a point of order, President, I am confident that you do not need my assistance or guidance in relation to this, but I will make the point of order for the sake of form. Mr Melhem sought a withdrawal from the minister of an imputation. It was clearly the minister's intention to muddy the reputation of Mr Melhem for an action attributed to Mr Melhem that he did not undertake, and Mr Melhem's connection to it is the clearly out-of-date stationery which had no authorisation from Mr Melhem to be distributed. The minister has mischievously tried to misrepresent Mr Melhem's connection to this matter and to muddy his reputation. That is his clear intention, and that is the matter in regard to which Mr Melhem seeks a withdrawal.

The PRESIDENT — Order! I must say that I also had concerns about the reflection on Mr Melhem that was conveyed by the minister in so much as I do not think there is any need for Mr Melhem to explain to the house why somebody else might have used old stationery. It is fairly clear to me that Mr Melhem, whilst he might maintain membership of the union, is not, from my perspective, in any way involved in the workings of the union or in this specific EBA negotiation.

Clearly it would be prudent for Mr Melhem to raise this matter with the union and suggest that it fork out a few dollars for some new stationery. Nonetheless, I think there has been an unwarranted and somewhat unfair reflection on Mr Melhem raised by the minister in referring to the stationery in the way he has, particularly given that the office-bearer who has actually signed this document is clearly a very different person to Mr Melhem and has assumed the title that Mr Melhem might well have had in the past. Clearly the union does not have two people operating at the same time with that title. Mr Melhem is clearly away from that position and in the service of the Parliament, and the signatory is the person who now occupies that position.

Mr Melhem has sought a retraction, and really this is a lineball one, in the sense that I can understand his concern about the matter raised. As I said, I think the imputation was inappropriate as a reflection on Mr Melhem, and I think the minister would have known that this involves the difference between a conspiracy and — I have a word, but I am not going to use it. It involves the difference between a conspiracy and — —

An honourable member — A mess-up!

The PRESIDENT — Order! And a mess-up. I thank the member. In this case I dare say it is a mess-up and not a conspiracy, and I think the minister would be aware of that.

Hon. D. M. DAVIS — Further on the point of order, President, it is my understanding that Mr Melhem may still remain as a director or have an involvement with the board. I am just trying to understand the exact link — —

Honourable members interjecting.

The PRESIDENT — Order! That would have nothing to do with this letter and the context in which Mr Davis raised it and his suggestion that Mr Melhem had an involvement. To bring in a speculative matter like this pertaining to what a member's role might be somewhere is unhelpful. If the minister believes there is a conflict of interest, he might pursue that by other mechanisms within the house rather than raising it at this point.

The member has sought a withdrawal of the comment with respect to the implication that he is still involved in the union and has something to do with the matter on which the minister delivered comment in responding to Mrs Peulich's question about the current enterprise bargaining agreement. I can accept that this was a reflection on the member that I do not think is warranted in the circumstances, so I would therefore seek a withdrawal of that comment.

Hon. D. M. DAVIS — I withdraw.

Supplementary question

Mrs PEULICH (South Eastern Metropolitan) — The matter was raised with me by a member of the

union and also by family members of that particular member, and in particular there were other bans — —

Mr Jennings — That's why you were laughing.

Mrs PEULICH — I was bemused by the phrasing of the question, but I am not bemused by the serious nature of the bans. It is not only the backfilling of the graves; I am also concerned by one of the other proposed actions, which is to not collect rubbish into the future without an end date. I just want the minister to comment on the implications of other proposed bans for not only the workers but also visitors to the graves, families who are obviously regular visitors and so forth, because I certainly am concerned by that.

Mr Lenders — On a point of order, President, the rules of this house are absolutely explicit: questions without notice come from members of Parliament. Mrs Peulich said she was bemused by the wording of the question. I put to you that a member bemused by the wording of a question cannot have written the question herself and therefore is in breach of the standing order saying that a question without notice must come from a member of Parliament. It is not a light matter, because people in the House of Commons have been imprisoned for asking questions on behalf of others. I put to you that this question is out of order because according to the member's own words it was written by somebody else.

Mrs Peulich — On the point of order, President, I was bemused because of the ambiguity of two words I had used and that I was not aware of until I got up to read the question. No-one is perfect.

The PRESIDENT — Order! We have a rich tradition of Dorothy Dixers in any event. Nonetheless, whether or not the original question was generated by Mrs Peulich or by Mrs Peulich with the assistance of staff, the latter would be a common practice of many members — that is, to have members of their staff assist them in drafting speeches, adjournment matters, questions or whatever. I think there is not a problem with that, and as I heard the supplementary question, it had been clearly drafted on foot by Mrs Peulich.

Mr Viney — On a point of order, President, the rules in relation to supplementary questions are quite specific and say that the supplementary question must follow from the original question and the minister's answer or refer to them. I put to you that putting a proposition to a minister and asking the minister to comment on that is not a question and certainly not a supplementary question under the rules of this place.

The PRESIDENT — Order! A member is entitled to seek elucidation or clarification of an answer. I think the subject matter is the same. The circumstances of public inconvenience are being further explored by Mrs Peulich, and that is apposite to the question she originally asked. In that context I am of the view that the supplementary question is in order.

Hon. D. M. DAVIS (Minister for Health) — President, I will attempt to be brief. I thank the member for her further question, noting that there was in fact a rubbish collection ban as part of that letter of 12 August. Since then I have been informed that there have been some meetings between the Australian Workers Union and Southern Metropolitan Cemeteries Trust and that there may be some way forward, and I would welcome that in the community's interest.

I understand that the union may now not be proceeding with its bans on rubbish collection and other matters. I welcome the union backing off from its bans on backfilling graves and lifting ledgers. It shows you what the community is able to do when it speaks out through the newspapers — the union is prepared to back off at that point. I will keep the house updated about progress on this enterprise bargaining agreement.

Ventnor planning decision

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Planning. A previous question I asked some time ago related to the confidentiality agreement and the minister's inability to reveal the level of compensation that was paid. The legal costs paid by taxpayers in this litigation are not subject to any confidentiality agreement. In the interests of public disclosure, will the minister reveal the legal costs incurred to date in these proceedings?

Hon. M. J. GUY (Minister for Planning) — President, you are quite right in what you said before: this chamber has a rich tradition of Dorothy Dixers. I simply say very clearly to Mr Tee that I have said, unlike any other minister — —

Mr Lenders interjected.

Hon. M. J. GUY — Mr Lenders, what have you got to hide about Dandenong? Why are you interjecting? What have you got to hide? Don't you interject against me on legal matters.

Mr Lenders interjected.

Hon. M. J. GUY — What have you got to hide on Dandenong? You were the Treasurer, Mr Lenders. You

are interjecting. If you want to have a debate about Dandenong, Mr Lenders, we will have it.

Mr Tee — On a point of order, President, the minister is debating a different question. I am trying to hear the answer to my question. I ask you to bring him back to the matter at hand.

The PRESIDENT — Order! I remind the house that we are up to question 3. I also indicate that whilst the minister may well be debating at this point — and it certainly seemed to be, to some extent, a private debate between him and Mr Lenders — the fact is that when someone interjects and raises an issue it makes it a lot more difficult to bring a minister back to a particular position. In other words, Mr Guy is actually responding to an interjection by Mr Lenders. I have difficulty in saying to him that an interjection can stand if he is not entitled to respond to that interjection. I would therefore suggest that those who interject might well take that into account before they provoke a minister to take a different line in answering a question to that which the proponent of the original question might well have expected or wanted.

As a courtesy to the house, and given the commitments that members might have over what is usually the luncheon break, I ask that Mr Guy give some consideration to the original question asked by Mr Tee and not be persuaded by interjections to venture into other territory.

Hon. M. J. GUY — That is wise advice, President. I am happy to go and get advice from my department in relation to the matters I outlined in response to the previous question — not just in relation to the Ventnor issue but also in relation to the Windsor Hotel, the boat ramp at Bastion Point, channel deepening, former planning minister Justin Madden versus the federal minister for the environment, former Attorney-General Mr Hulls versus S. B. Partitions, former planning minister Ms Delahunty and the Hilton Hotel, former planning minister Mr Thwaites and the Craigieburn bypass and of course the Labor Party and the Seal Rocks issue in its first term of government.

Supplementary question

Mr TEE (Eastern Metropolitan) — I thank the minister for his answer. My concern is that on some half a dozen occasions now the minister has undertaken to get advice and come back to the chamber, including on 26 June this year, when I asked him a similar but different question in relation to the legal costs incurred up to that date. The minister said on that occasion, as he did just now, that he would get some advice, take the question on notice and come back to the chamber, but he never did. What confidence can the house have that on this occasion the minister will honour his commitment and come back to the house with an answer to my question?

The PRESIDENT — Order! That is marginal as a supplementary question, I have to say.

Hon. M. J. GUY (Minister for Planning) — I simply say that I am going to take some advice from my departmental secretary regarding the list I read before. I have said that for three questions in a row. I tell you what, President, I will go one step further: for good measure I will throw in the legal advice for the Little India case in Dandenong too.

Aviation industry

Hon. R. A. DALLA-RIVA (Eastern Metropolitan) — My question without notice is to Mr Rich-Phillips, the Minister responsible for the Aviation Industry. Can the minister inform the house of any recent investments that cement Victoria as Australia's leading aviation state?

Hon. G. K. RICH-PHILLIPS (Minister responsible for the Aviation Industry) — I thank Mr Dalla-Riva for his question and for his continued interest in the Australian and Victorian aviation and aerospace industry. Victoria has a great story to tell with Boeing Aerostructures at Port Melbourne, which is the largest Boeing manufacturing facility outside North America. It is now engaged in manufacturing leading edge and trailing edge wing components for the 787 Dreamliner — the only facility anywhere in the world that is supplying those components to Boeing's Seattle facility. Victoria has developed a very strong capacity in the composite manufacturing technology for those components going into that program.

Last week I was delighted to join the Premier and Alan Joyce, the chief executive of Qantas, and Jayne Hrdlicka, the chief executive of Jetstar, for the announcement that Jetstar, which is to be the first Australian operator of the 787 Dreamliner, will be basing its 14 aircraft in Victoria. This will lead to a capital investment by the Jetstar Group of around $100 million to support the program and the creation of 100 associated jobs in pilot training, cabin crew training and line and light maintenance on that airframe. This will consolidate Victoria's position as one of the leading locations in the Asia-Pacific region for manufacturing, maintaining and crewing the 787 Dreamliner.

This is a very significant strategic investment for the Victorian aviation and aerospace industry. It underlines our capacity in working with composite technology and highlights the confidence that Qantas and Jetstar have in the Victorian economy and the Victorian aviation and aerospace industry.

Fire services property levy

Ms MIKAKOS (Northern Metropolitan) — My question is to the Minister for Housing. I refer the minister to recent comments in the *Age* of 12 August by the Community Housing Limited state manager, Brett Wake, that his organisation's fire services property levy will increase from about $64 000 to $277 000 due to a reclassification of its properties as commercial rather than residential. In that article Mr Wake was quoted as saying:

> These properties are clearly not commercial; they are there for a social purpose …

In fact the tenants are classified as tenants under the Residential Tenancies Act 1997. I ask the minister: how does the Office of Housing regard the properties operated by Community Housing Limited? Are they commercial or residential?

Hon. W. A. LOVELL (Minister for Housing) — The Victorian government has implemented the Victorian bushfires royal commission recommendation to replace the insurance-based fire services levy with a property-based levy. I am not responsible for the fire services levy, and any specific responses to questions on this matter should be addressed to the Treasurer.

However, I am aware that the Community Housing Federation of Victoria has raised concerns about the classification of community housing properties and how they are affected by the levy. My departmental officers are in discussion with the Community Housing Federation of Victoria to identify the financial implications of the levy for the community housing sector and to consider any appropriate responses to the implications.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — In fact community housing is the minister's responsibility. I point out that in the same *Age* article Mr Wake is quoted as saying:

> … the huge rise in the levy would reduce the organisation's ability to increase its stock of affordable housing and could result in increased rents.

What assurances will the minister give to housing tenants in community housing that they will not see an increase in their rent, nor have maintenance issues delayed, as a result of this government's incompetence in implementing the fire services property levy?

Hon. W. A. LOVELL (Minister for Housing) — The regulation of community housing organisations is not my responsibility either.

Places Victoria

Mr FINN (Western Metropolitan) — My question without notice is to my friend and colleague the Minister for Planning, and I ask: can the minister advise the house what action he has taken to ensure that Places Victoria remains a viable and profitable statutory authority?

Hon. M. J. GUY (Minister for Planning) — I want to thank my friend and colleague Mr Finn for a very good question in relation to Places Victoria. I note that the Minister for Housing, Wendy Lovell, answered well a question there, although bizarrely I am not necessarily sure it was meant to be directed to her. Having said that, I point out in this answer: 18 months of threats and five questions on Ventnor and that is it? I am wondering where Mr Tee has disappeared to. Maybe he has gone the way of this question, as asked by Mr Finn, and that is about fibre to the home and the Aurora development.

I am aware that VicUrban signed off an ambitious plan for an optic fibre network to 8000 homes in the Aurora development in Melbourne's northern suburbs. Signing off on a fibre-into-the-home development sounds very familiar, does it not? Investment in this fibre-to-home initiative was signed off and sealed in 2006. Basically we have found it to be unfunded and indeed unrecoverable because bizarrely no-one is paying for it. It is a promise that could never ever be delivered. It is like the railway line through Epping North that was promised but never delivered. It is like the fully water-sustainable suburb that was meant to be: promised but never delivered. I note that on 11 March 2008 — —

The PRESIDENT — Order! Can the minister help me: are any of those projects Places Victoria projects?

Hon. M. J. GUY — Yes, all of them.

The PRESIDENT — Order! The minister, to continue.

Hon. M. J. GUY — They are all Places Victoria. In fact it is all one project of VicUrban, Places Victoria's forerunner, which is what Mr Finn is asking me about. I

note that on 11 March 2008 a former Minster for Planning, Justin Madden, when I questioned him, said in this chamber that:

> Our sustainability and leading initiatives in VicUrban's development —

in Aurora —

> include … fibre-optic cabling as standard in every home, providing internet access 40 times faster than the norm —

anywhere else —

> in Australia …

In fact not only have we found this project to be unfunded, undeliverable and unrecoverable but it has cost us to the tune of $45 million, signed and sealed by the then Minister for Planning, Rob Hulls. Interestingly I wonder who his legal adviser was at the time. Maybe it was Mr Tee. Was it Mr Tee? It was signed and sealed in 2006. But it gets better. After realising that this promise could not be delivered, as Mr Finn correctly asked me, VicUrban then delivered free mobile phones to every home in the 10th completed estate to compensate for the undelivered scheme. It provided a full subscription to all Foxtel channels to every home. No money was spent on better transport. Instead the Labor government provided adult channels to every home to fund its mistake. Instead of funding buses, Labor was funding porn! I have to say that whoever signed off on those contracts — and of course they were done under former planning minister Rob Hulls — has a lot to answer for.

Not only is this project defunct due to the federal government's proposed national broadband network (NBN), but as every home is supposedly to have NBN connected for a fortune we find a most unique situation — that is, that one Labor government has wasted $45 million of another Labor government's money.

Peninsula Health aged-care facility

Ms MIKAKOS (Northern Metropolitan) — My question is for the Minister for Ageing. Did the minister's office or department in any way instruct Peninsula Health management to deny Mr Tarlamis and me entry into its aged-care facilities last week?

Hon. D. M. DAVIS (Minister for Ageing) — Not to my knowledge.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — The minister says 'Not to my knowledge'. It is not a clear-cut response because it may well have occurred. I think it is important that he make inquiries to establish whether that has in fact occurred. I ask the minister: will he take active steps through his department to ensure that I am not denied entry to any other public sector aged-care facility in the future?

Hon. D. M. DAVIS (Minister for Ageing) — As I understand it, at state facilities there is an orderly process that should operate, and members of Parliament obviously have links with and from time to time visit a whole manner of health and other facilities in their particular areas. No doubt that procedure of notifying should occur so that people know about visits and are able to operate in a sensible way.

Ms Mikakos — They were notified.

Hon. D. M. DAVIS — Ms Mikakos is asking about a general approach, and I am indicating that I would expect from time to time that members of Parliament on both sides of the house would visit a whole range of facilities, whether they be hospitals, health services or so forth. I might reflect on my time in opposition where under the previous government I was never allowed to hold a press conference on the land owned by any health service or aged-care service — —

Mr Jennings — Is that different now?

Hon. D. M. DAVIS — I am just indicating that that was always something that I was cautious to comply with and work through sensibly.

The PRESIDENT — Order! I thank the minister.

Regional and rural higher education

Mrs MILLAR (Northern Victoria) — Can the Minister for Higher Education and Skills update the house on recent initiatives by the coalition government to support regional Victorians in participating in higher levels of education?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I am delighted and honoured to have the first question from Mrs Amanda Millar, particularly as she has demonstrated already in a very brief time in this house an interest in education matters. Like other members, I was most impressed with her inaugural speech today — and learnt much from it, I might add. I was particularly impressed when she said that technology has shrunk the world and that technology can be used to overcome the barriers of geography; indeed it can. I look forward to working with Mrs Millar in greater detail on some of the technology

that we are developing to deliver higher education programs in regional Victoria.

There are also other ways of doing that, and through our Regional Partnerships Facilitation Fund we are able to facilitate a lot of extra higher education programs being delivered to regional students. I might add quickly that it is a $20 million fund that is part of the $1 billion Regional Growth Fund that the Napthine government has in place, and there has now been a distribution of that funding, with 14 out of 15 projects already announced. The last one I will announce next week when cabinet visits Bendigo, because it is in the Loddon Mallee region. I am also delighted to say that these 15 projects have been spread across the regions: Gippsland has six projects, Hume has seven, Barwon-south western has five, Grampians has five and Loddon Mallee has six. There is a very even distribution of those programs.

The programs have led, I might add, to more than 2500 regional Victorians being able to be enrolled in courses during the four-year funding program of this particular grant period — 2500 students who would probably otherwise have had to move to Melbourne to participate in their education. The programs has also covered areas of need in regional Victoria — areas like community health and nursing, early childhood and tertiary education, food and dairy manufacturing, engineering, veterinary technology, business, hospitality and tourism, agricultural science and land conservation. It is a really impressive range of relevant programs for students in regional Victoria.

The Regional Partnerships Facilitation Fund has been one of the highlights I have had the pleasure of working on with the Minister for Regional and Rural Development. Importantly, though, so many students — we estimate 10 000 over 10 years — will be direct beneficiaries of this marvellous program.

Firefighter compensation

Ms HARTLAND (Western Metropolitan) — My question is to the Assistant Treasurer, the Honourable Gordon Rich-Phillips, who is the minister responsible for WorkCover. The government's argument for not progressing with presumptive legislation for firefighters has been based on information that has not yet been released. I am aware of documents that relate to science, actuarial assessments and the costings. I am aware that the Institute for Safety, Compensation and Recovery Research (ISCRR) conducted an evidence review, also referred to as the 'medical opinion final version from ISCRR', and that the actuarial assessment and cost estimates were done by both the Country Fire Authority and WorkCover. My question is: will the minister make public all relevant documents relating to science and costs that have informed the government's position on this matter?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I thank Ms Hartland for her question about presumptive legislation for firefighters. I would like to say up-front that the Victorian government values the role that our firefighters play in our community, whether they be volunteer firefighters — there are around 35 000 volunteer firefighters in Victoria — or the around 2500 paid firefighters with the Metropolitan Fire Brigade, the Department of Environment and Primary Industries or other agencies. The Victorian government values the role those firefighters play in our community. Likewise, the Victorian government believes that firefighters who contract cancer as a consequence of their work as firefighters should be compensated and are entitled to be compensated.

We already have mechanisms in place in Victoria to provide that compensation. In the case of paid firefighters, we have the Victorian WorkCover scheme. As in the case of any workplace injury, an employed firefighter seeking compensation for an injury is entitled to access that compensation through the WorkCover scheme. In the case of a volunteer firefighter covered by the Country Fire Authority Act 1958, they are entitled to a mirror scheme of compensation, similar to that provided under the WorkCover scheme.

What the Victorian government has announced this week is that it will make that process of accessing compensation easier for our firefighters through the formation of the firefighters assessment panel. This will ensure that there is a common access point for both volunteer firefighters and paid firefighters and that those firefighters have access to the medical specialists who have the particular knowledge and expertise of a scientific and medical background with respect to the relationship between cancers and firefighting activity so that those claims can be dealt with expeditiously and consistently across both groups.

Ms Hartland raises the issue of presumptive legislation, a change to the Accident Compensation Act 1985 and a consequential change to the regime that applies to volunteer firefighters. The Victorian government has been quite clear in saying that it is not ruling out and has not ruled out considering presumptive legislation, but in order to introduce presumptive legislation it needs medical and scientific evidence that demonstrates

the causal relationship between certain cancers and firefighting activity.

It is a sad reality that cancer is very prevalent in the Victorian community. Around 30 000 Victorians are diagnosed every year with various types of cancer, so it is not easy or straightforward to say, 'Because you have cancer and you were a firefighter, that cancer was caused by firefighting'. Through the schemes we have in place and through the firefighters assessment panel, each case will be considered on its merits and each application for compensation will be considered on its merits, and we believe that that is an appropriate way to move forward.

Ms Hartland raised the issue of medical and scientific evidence. I say to Ms Hartland that she has received a number of documents under the Freedom of Information Act 1982 from the Victorian WorkCover Authority and that the medical and scientific evidence exists in the public domain. Ms Hartland would be well aware of those various publications. The Victorian government is not closing off the path to presumptive legislation. We look forward to seeing further medical and scientific evidence of the causal relationship between cancers and firefighting come forward, and we will evaluate that as it does.

Supplementary question

Ms HARTLAND (Western Metropolitan) — I did receive quite a large number of documents two weeks ago, which I am now appealing because my own assessment is that about half of them are missing. There is no evidence in there as to how the government has made those assessments; there are a great many documents missing.

I asked a very simple question today about when it would be that the government would actually release the documents that have assisted in informing its position on presumptive legislation. I do not have those documents at the moment; the government clearly does. I am asking when they will be released. It is not a difficult question.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I say to Ms Hartland on her supplementary question that she has received various documents under FOI released through the WorkCover scheme. She says she is appealing the decision on the release of some documents, and that process of appeal through the FOI process will take its course.

Avoca Children's and Family Centre

Mr RAMSAY (Western Victoria) — It gives me great pleasure to raise a question without notice for the Minister for Children and Early Childhood Development. Can the minister inform the house of any developments that will impact learning opportunities for children in Avoca?

Hon. W. A. LOVELL (Minister for Children and Early Childhood Development) — I thank the member for his question and his ongoing interest in early childhood facilities in his electorate of Western Victoria Region. I am delighted to inform the house that last week, together with Mr Ramsay, I officially opened the new Avoca Children's and Family Centre. I acknowledge the strong advocacy of Mr Ramsay, Mr Koch and Mr O'Brien towards getting the grants for that centre. I also acknowledge the strong advocacy of the federal member, Dan Tehan, the member for Wannon. These four members were very strong in their advocacy for the shire of Pyrenees and for the need for children's services in the Avoca community.

The new centre is a multipurpose facility designed to deliver integrated children's services as well as a suite of community services to meet the needs of a growing population in Avoca. The new service will bring together not only kindergarten but also a new family day care centre. It brings together maternal and child health services, consulting rooms, a toy library, a playgroup area and specially designed family-friendly community spaces for meetings and a range of activities.

This new centre will build a stronger and more integrated early years service system and improve access to services in the Avoca community. It will also provide facilities essential to a growing population, ensuring that the town is attractive to young families. It will provide high-quality multipurpose social infrastructure for the Avoca community.

The centre has been made possible through $1 320 000 from the Victorian state government, $150 000 from the Pyrenees Shire Council and $60 000 from the Avoca Community Bank. A further $25 000 was raised by the committee of management. As I do at all openings, in acknowledging the committee of management I acknowledged the hard work that went into raising that $25 000.

Parents in Victoria put an enormous amount into early childhood facilities, largely because early childhood services grew from a push from parents to have those facilities in the 1940s. They have retained community

management of many of those facilities, but they value the early childhood facilities and they raise an enormous amount of money and put in an enormous amount of work in managing them.

This centre is a wonderful example of what can be achieved in early childhood services. It is also a great example of what is being achieved because of our more than $93 million in grants that we have put into early childhood services since coming to government. I know that this centre will be appreciated and valued by the children and families of Avoca for many years to come.

I must say that the opening was also another wonderful opportunity for us to get Mr Ramsay on a slide and get a great photograph. He has been photographed on the slide in Avoca twice now, and it makes a great visual. The children were most amused to see such a big man on the slide.

Sitting suspended 1.16 p.m. until 2.18 p.m.

NATIONAL PARKS AMENDMENT (LEASING POWERS AND OTHER MATTERS) BILL 2013

Second reading

Debate resumed from 27 June; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Ms PULFORD (Western Victoria) — I would like to state at the outset that the Labor Party will be opposing the National Parks Amendment (Leasing Powers and Other Matters) Bill 2013. From time to time there is legislation in this place that involves the long-term legacy that is part of our responsibilities as legislators in this place. This bill is one of those. Our national parks have been treasured by Victorians over many generations, and it is incumbent upon us to ensure that future generations also have the opportunity to treasure them.

This legislation raises the question of how as policy-makers we can support nature-based tourism in Victoria, and I expect that government members will attempt to make the case that this bill is a good thing for nature-based tourism. Members of the opposition beg to differ. We think the government is using this legislation as a blunt instrument to facilitate private investment and development in our national parks and that it puts at risk the asset that nature-based tourism has at its foundation.

There is a fine balance in supporting nature-based tourism. Tourism is a rapidly growing global industry that has not existed for long in the way we know it. It is a relatively new industry with enormous growth potential in new markets in Asia, and domestic tourism is also an important part of the tourism industry mix. Tourism Victoria is currently focusing its campaign efforts on intrastate tourism to encourage people to travel from one part of the state to another.

I am fortunate enough to have some of the most beautiful parts of Victoria in my electorate. All our families are proud of us when we are elected to serve in this place. My dad was particularly chuffed when I was elected to represent Western Victoria Region, an area that has within it both the Grampians and the Great Ocean Road. He thought that was pretty cool. I am inclined to agree; I also think it is pretty cool. We have some wonderful assets that it is incumbent upon us to protect. Some of these areas are places where I spend time whenever the opportunity presents itself, and I am concerned that what the government is proposing to do under this legislation is going too far.

This bill amends the National Parks Act 1975 and allows for leases to be granted in most areas of national parks. It extends the current 50-year leases to 99-year leases in some areas, including Point Nepean and Mount Buffalo national parks and Arthurs Seat State Park. The government has released guidelines around how it envisages this arrangement will work, and this has only fuelled our concerns. Public consultation is limited. That is an emerging theme with the government on all manner of things, and this bill is no exception. There is no formal means by which community feedback can be incorporated into the final decision making, and we think the arrangements for the management of development proposals and actual developments is woefully insufficient.

This legislation provides for leases of up to 99 years in length, which in effect gives control of these areas to private operators. Instead of being areas that are available to all Victorians, they become areas that are available to Victorians who can pay for access. I very much appreciate the need for high-yield overnight visitation as an important part of nature-based tourism, but I think there is plenty of opportunity for this to happen adjacent to our parks rather than in our parks. As I indicated, the process for approval is streamlined. There is limited opportunity for public comment, and we believe this bill, if passed by the Parliament, in effect hangs a ‘For sale’ sign out on our national parks.

Examples that government members provide during the debate will no doubt be of developments outside of national parks. The government has frequently cited the development at Cradle Mountain. This development is outside of the park. I am concerned that if these

pristine, beautiful and special places are undermined by inappropriate development, the towns that support visitation to those communities will have their very wellbeing put at risk. I am also concerned because this government is not one that can be trusted to manage our national parks in relation to development or more generally. This government's record on protecting our natural environment is appalling. The climate change deniers have been let out of the cupboard. There has been a free-for-all approach to firewood collection. The cows-in-parks fiasco, which was something else altogether — —

Mr Finn — I was never in the cupboard! What are you talking about?

Ms PULFORD — I stand corrected. It is true; Mr Finn has always been a proud climate change denier. His consistency is to be acknowledged — and nothing more than acknowledged.

Before the 2010 state election the then Baillieu opposition presented a different picture of its environmental credentials. We had support from both sides of the house for the introduction of renewable energy and emissions targets. After the election its colours changed quite dramatically; these things were described by senior members of the coalition government as 'aspirational targets' and the like. This legislation, if passed by the Parliament, will put Victoria out of step with the rest of Australia and other countries with which we compete for the nature-based tourism dollar. This is not a trend occurring anywhere else in the world. If members do not believe me, let me cite some eminent Victorians who have had a little to say about this in recent days.

Mr P. Davis — You read the *Age*, too, did you?

Ms PULFORD — It was a public letter. I read a variety of newspapers. This letter was not written by people at the *Age* nor is it something I have any authorship of. This is a letter signed by a number of signatories: Professor Graham Brown, AM; Professor Michael Buxton; Professor Peter Doherty, AC; Mrs Alicia Fogarty; Justice John Fogarty, AM; the Honourable David Harper, AM, QC; Professor Barry Jones, AO; John Landy, AC, CVO, MBE; Dr Margaret Leggatt, AM; Dr Mick Lumb, OAM; Duncan Malcolm, AM, JP; Professor Rob Moodie; Sir Gus Nossal, AC, CBE; Lady Lyn Nossal; Professor Margot Prior, AO; Dimity Reed, AM; Don Saunders, PSM; Dr Helen Sykes, AM; Associate Professor Geoff Wescott; Professor David Yencken, AO; and Professor Spencer Zifcak.

In this letter regarding the legislation we are considering, these eminent Victorians said:

> The most insidious of these intrusive uses are the proposals of the Victorian government to lease areas within our national parks for up to 99 years to encourage commercial development by private corporations.
>
> In reality a 99-year lease transfers ownership of a public asset, something we all own and can share, to a private benefit enjoyed by the privileged few.
>
> …
>
> A 99-year lease would essentially remove land from the park and transfer tenure and management to the private sector. Currently such an action can only occur by a decision of the Parliament to pass an amendment to the National Parks Act.

With this legislation today we are abrogating that responsibility and that right. The letter goes on to say:

> We cannot understand why the government would wish to pursue high-risk policies that threaten the security of our national parks when low-risk, attractive development could be encouraged in outstanding locations just outside our national parks.

These are the words of highly respected Victorians. I believe they reflect the views of the vast majority of the public.

I think the government has this wrong. There are other ways to support nature-based tourism, which is an important area of current and potential employment across Victoria. This government has exceptionally poor form on environmental management — it cannot be trusted on this — and the bill does it all wrong. It will put at risk an asset that we all have a responsibility to look after for future generations. That is why the Labor Party will oppose the bill today.

Hon. R. A. DALLA-RIVA (Eastern Metropolitan) — I am pleased, on behalf of the government, to make a contribution to the debate on the National Parks Amendment (Leasing Powers and Other Matters) Bill 2013. The government has been committed to providing for private sector investment and longer term leases in national parks. The bill is part of the government's efforts to allow more people to enjoy our world-class natural tourism attractions. Through the Minister for Tourism and Major Events we are committed to developing regional tourism in Victoria, and we recognise the important role that nature-based tourism can play in this. The government's position is that Victoria's appeal as a nature-based tourism destination can be enhanced through encouraging sensible and sensitive investment in national parks.

The bill forms part of the implementation of the government's response to the Victorian Competition and Efficiency Commission report *Unlocking Victorian Tourism — An Inquiry into Victoria's Tourism Industry*.

The bill will enable leases and associated licences to be granted for terms of up to 99 years for significant, high-quality nature-based tourism investments in parks under the National Parks Act 1975. Allowing for longer term leases will provide certainty and a greater incentive to develop innovative, high-quality proposals in our national parks. It will also make Victoria competitive with those other states that provide for longer term leases.

The bill also includes measures to ensure that any lease granted reflects the government's commitment to sensible and sensitive investments in parks under the National Parks Act, including specifying those areas in parks where leases will not be granted. It is important to note that 37 per cent of the area under the National Parks Act will not be available for leasing. The bill requires that lease purposes be consistent with the objectives of the National Parks Act. It also requires that any lease or licence issued must include conditions that prevent or minimise any adverse impacts on the park and its features. It requires consultation with the National Parks Advisory Council prior to the granting of a lease and requires public consultation where longer term leases are proposed.

It is important to note that the Minister for Environment and Climate Change has already released guidelines for tourism investment opportunities in national parks. These guidelines include clear principles that will ensure a transparent and stringent assessment process for all proposals.

The bill makes consequential amendments to the leasing and licensing powers in existing provisions applying to the quarantine station in the Point Nepean National Park, the Mount Buffalo Chalet in the Mount Buffalo National Park and the land in the Arthurs Seat State Park that may be used for a chairlift and associated visitor facilities. The government's vision for the Point Nepean National Park and the historic quarantine station is one of a vibrant and unique destination used by locals, the broader Victorian public and national and international visitors well into the future. This year the government announced a $7 million investment in the Mount Buffalo Chalet to refurbish the original building and provide a day visitor centre and potentially a cafe.

This is about strengthening the regulation-making head of power in the National Parks Act. The bill strengthens and modernises this power in the act in relation to three matters. It creates an offence whereby the owner of an animal found in a park against regulations will be guilty of an offence. It sets aside areas of parks for particular purposes and grants or revokes permits relating to particular activities in parks. It also exempts persons or things from any of the provisions of the regulations. The amended powers will be able to be used when new regulations are made to replace the 2003 park regulations.

This is an important continuation of the coalition government's position on national parks, and it will provide all Victorians, as well as people from interstate and overseas, with the opportunity to share in our national parks in a considered and mindful way. We welcome the bill before the chamber and its passage through this house.

Mr BARBER (Northern Metropolitan) — This bill represents another part of this government's all-out assault on Victoria's environment, which in many cases it is undertaking purely on an ideological basis. Here we have an example where national parks are to be converted somehow into some sort of merchantable commodity, when the economics, the environmental science and public opinion are asking, 'Why would you do it?'. But this government continues undaunted, in particular by offering private developers 99-year leases over national park land. That is effectively a lifetime; it spans generations.

We have had debates in this chamber before about coalmines in national parks in which we were told that something established by the Parliament 50 years ago could not be changed and in fact the coalmine licensee in question was to be allowed another 50 years of coalmining in the middle of a national park. Here we are seemingly giving the minister power to make decisions at the stroke of a pen, with minimal control around them, about some of our most precious natural areas that will go on beyond many parliaments and into the future, and even across generations into the future. Even the report they produced with the Victorian Competition and Efficiency Commission, which they claim justifies their initiative — —

Mr P. Davis — Who is 'they'?

Mr BARBER — The government. The report does not say what the government says it says, and does not in fact recommend development in national parks as the best course of action. The report states:

> First, in general, the best course is to develop tourism ventures outside the boundaries of a national park.

We have heard very little from the government about what it intends to do in that area to ensure we have good tourism facilities that showcase our natural assets. Instead it is rushing forward with this legislation and with a set of shaky and meaningless guidelines, and as far as we know there is no actual proposal on the horizon.

The bill has been called a betrayal of public trust. In an open letter to the Premier this week, and in an accompanying article, a group of eminent Australians said:

> National parks have not been set aside for grazing by cattle, logging, prospecting, hunting or commercial development. These activities, to be permitted in national parks in several states, are incompatible with fundamental reasons for creating them — protecting our natural and cultural heritage.

I would add: to ensure that natural and cultural heritage exists forever and is a continuing source of inspiration and wonderment to all of us who want to visit the national parks and the many generations who will come after us. This sort of cheap commercialisation that the government is heading towards — and we saw some of the Liberals' efforts last time they were in government — is a really clear statement of values to Victorians about where the government puts our national parks. It puts them with everybody else and with everything else. If you cannot make a buck out of it, it is not worth talking about. We can add to that the cutting of resources to the parks service that the government has engaged in with rounds of redundancies and more under way as we speak. When we see Parks Victoria's annual report, which is due out shortly, we will see exactly how much the government has been stripping away from those whose job it is to protect these parks and ensure they are there forever.

The bill runs contrary to the international rejection of private developments in national parks. Professor Ralf Buckley tells us in an article he provided for *Park Watch*, which is the journal of the Victorian National Parks Association, a group that has been in Victoria since the 1960s and has fought battles not only to create national parks but to protect them ever since, that:

> In most of the world, tourist accommodation and commercial tourism hubs are in gateway areas outside the parks themselves, and all activities in protected areas are controlled by the park management agency.
>
> This approach works well even in very heavily visited parks, such as those of India and China.
>
> …
>
> There are more than 20 000 national parks worldwide. Less than 1 per cent have any kind of private tourism infrastructure; and most of those either predate park establishment or are on pre-existing enclaves of private land.

It makes you wonder: which developers are lining up to build Club Med Grampians or the Hilton on the Prom? I do not believe there are any, because they can see the very practical obstacles to any significant private development in a national park. The first and most obvious one would be bushfire safety. We have brought in some extraordinarily tough measures around development as a result of the 2009 Victorian Bushfires Royal Commission and the tragedy that occurred at that time. Many people in different municipalities across Victoria are now finding that their developments in some cases are completely banned by the rules, and yet this government wants to tell us that it will approve the development of significant residential capacity in the very heart of a national park. There is not only the difficulty posed by the development itself but also associated issues of fire protection, fire safety, evacuation plans and the rest, never mind the difficulties that other infrastructure such as road access, sewage treatment, energy, waste removal, space for people's cars and all the rest of it.

The guidelines put forward by the government are the same guidelines that are meant to be referred to before the minister makes a decision under this bill tell us basically nothing. Whether you are a developer or a park lover wanting to know what this means for a particular development in a national park, the guidelines do not tell you anything; the guidelines just give you a checklist of the sorts of things you would be looking at if you were going to do a development. They do not say what is on and what is off, what is in and what is out. They are meaningless.

Then there is the fact that these developments will inevitably compete with other tourism operators in the area. Around all our great national parks, from the Grampians to the Great Ocean Road, right through eastern Victoria and up in the north-east, there are many great choices for accommodation, and typically they are run by small, even family-owned businesses. I do not think they want to have their march stolen by a private development in a national park with all the attendant difficulties and costs to the public, and no doubt needing extraordinarily favourable commercial terms to get off the ground in the first place.

The last time the Liberal-Nationals were in government they dabbled in a bit of private development in national parks, back when they were running a whole series of mad scientist experiments to see how many different public functions could be privatised, corporatised or

sold off. This is far from being a level playing field approach to development. It is almost a form of radical wealth redistribution. Every time these guys are in charge of government they start taking public assets and trying to work out how they can flog them off to someone with connections at the top end of Collins Street or the bottom end of Spring Street. The luxury lodges at Wilsons Promontory were met with huge opposition from thousands of Victorians; many of them, I am sure, would have been at the Liberal end of the spectrum as well. The Seal Rocks debacle resulted in $55 million of public money being paid out by the state government in damages. The government points to examples of development in parks like Cradle Mountain and Lake St Clair in Tasmania, which I have visited. None of those are on the scale allowed by the legislation that the government wants us to support today. If that was what the government was talking about, then it would be in the bill, it would be in the guidelines and it would constrain the minister rather than giving the minister virtually unlimited power.

Of course down there at Cradle Mountain the main visitors centre, car park and accommodation are actually outside the park. The development within the park consists of just huts and basic amenities, and we already have those in Victorian parks. Of course the private tours to those facilities are very cost prohibitive for a lot of people: $3000 over six days of walking in some cases. If the government were serious about this, we would see some serious consideration given to what is needed by way of infrastructure and planning rules, outside of and adjacent to Victoria's important national parks.

More rules being put in place would in fact create more certainty for private developers who wanted to know that they could do a sensitive development, attract a premium for that on private land adjoining a park and then not have their views and amenities spoilt by the next property developer who comes along and builds the Taj Mahal. I would say that at least Corangamite Shire Council has been proactive in this area, in that it has looked at its tourism and natural assets and identified certain areas that have now been made available for those sorts of developments.

It is not surprising then that some at the big end of town see a national park as an asset that they could benefit from. It has actually been the Tourism and Transport Forum, the business council, the big end of town, the resort operators, the airlines and the rest of them that have been pushing this along relentlessly, and the government, picking up on the latest trendy idea, has decided to bring in this legislation.

As I noted, the government is talking up this form of private development at the same time as it is slashing investment in national parks. Even some of the existing facilities within our national parks could do with some serious capital investment to make them true showcases. I was down at Cape Otway lighthouse, which is a commercial lease operating within the Great Otway National Park, and there are some beautiful heritage assets there. It is run by a private operator, who I have also met, and I have to say that if that facility had some public dollars put behind it, it could in fact be a major showcase for what has happened on that section of the coast throughout European and pre-European history, and it is an absolutely fascinating story.

If that facility were developed as an educational and interpretive centre, you would be able to go down there and learn about the pre-European history and the people who lived along that coast. You would be able to learn about their early interactions with the first European arrivals, the lives of those who lived on that coast in European times before the lighthouse was developed, the history of the lighthouse itself, the shipwrecks and all the rest of it. However, what we are talking about there is more of a sort of living museum approach, and that is not the kind of pitch that this government is going to be receiving from international developers. They are going to be interested in room bed nights, lettable square metres and retail sales.

We are missing a great opportunity here because this government and previous governments have refused to invest in actually telling the story that goes with the beauty of an area like Cape Otway. If government members think extending the lease from 50 years to 99 years is going to magically make that happen, they are kidding themselves. Around the world, and even in Victoria, a tiny proportion of the income for parks services comes from private fees, leases and the like. You are never going to get anywhere near making national parks run at a profit. That is not what they are for. It is not what they are intended for and it is not what Victorians want from their parks, so you have to wonder what it is that the government really is trying to achieve here.

Inevitably, of course, whatever might be pitched to us up-front, private developments are going to expand beyond their initial scope, because once a facility is in place with high fixed costs, then the solution to profitability is always going to be to add more bedrooms, and of course that incrementalism will be argued as being no big deal with the precedent of the existing facilities.

As I said, existing local businesses on the fringe of national parks could be under threat, and the inadequacy of the guidelines being put forward to go with this bill is quite obvious. It is not just me saying this but also a group of eminent Victorians, who have written a letter to the *Age*. The response has been that the letter was published full page on Monday of this week, and it includes names such as Professor Spencer Zifcak, Professor David Yencken, Sir Gus Nossal, Professor Rob Moodie and Duncan Malcolm, who I think is someone whose opinion the government has sought in the past in relation to these matters. It also includes John Landy, the former Governor — possibly the fastest and greenest Governor we have ever had or ever will have — as well as Professor Barry Jones, Professor Peter Doherty, Professor Michael Buxton, Professor Graham Brown and so on and so forth.

In the letter they even quoted Bill Borthwick, the Liberal MP, who was Victoria's first Minister for Conservation and who himself held grave fears about commercialising our national parks. In 1992 he said:

> The Americans all know that they made that dreadful mistake years and years ago of allowing concessionaires in and taking over. I implore, whether it be Liberal or Labor government in the future, don't fall for the fast-buck concessionaires within national parks.

There is a fantastic TV series that I have been watching about the American national parks, called *The National Parks — America's Best Idea*. America created what I think was the world's first national park; this idea was immediately picked up and followed by the world's second national park, which was Royal National Park in Sydney, which I spent a good part of my childhood running around in, I am here to tell you, when I lived in that outer end of the Sutherland shire where the rail line and trains stop. I spent a good part of my primary school years running wild.

National parks are a great idea, an idea so good most people take them for granted, but I am here to tell the government that public opinion on this one is a sleeping giant and that if the government moves the way this bill suggests it is moving, it is going to suffer an almighty public backlash. That is a shame, because there is an important need for good infrastructure and accommodation as well as nature-based experiences in our amazing hinterland.

I have spent a bit of time down along the Great Ocean Road and on the south-west coast recently. The Twelve Apostles, for example, and in some ways the even more sublimely beautiful Bay of Islands, are almost being loved to death by the number of people going down there. I think millions of people are visiting now, and the vast majority of their travel is car and bus based. It is kind of sad to think that people jump on a bus in Melbourne, tear all the way down to the Twelve Apostles, jump out barely long enough for the usual swagman's lunch, as they used to call it — the smoke, the look around and the visit to the toilet — before they are back on the bus and back in Melbourne at the end of the day. It would be so much better for local tourism if those stays were extended to overnight stays, with people starting to spend some serious time and money there. There is just no way, however, that that park can continue to receive the sort of growth in visitor numbers it is having and still allow that section of the Great Ocean Road to be clogged up with cars parked for miles along all the scenic sites.

Mrs Coote interjected.

Mr BARBER — That is not to mention the huge number of buses as well. Mrs Coote has a very good point. The Great Ocean Road is just getting hammered by the vehicle movements, and all the facilities — car parks, toilets — all the way along are also getting hammered by the sheer number of people visiting by car. That is because the public transport is manifestly inadequate. I have been on that bus that runs from Apollo Bay to Warrnambool several days a week, once a day at most. Down there we absolutely need a seven-day-a-week bus service that runs more often than once a day during high seasons, depending on demand.

I dropped in on the local tourist centre manager down there, and he showed me an email request he had had just that morning from a Frenchman who was coming to the Great Ocean Road and said he wanted to be able to get off the bus at Johanna Beach, walk a few days along the Great Ocean Walk and then go back to where he had come from by road, pick up his bags and continue on with his journey. He wanted to know whether he could please have some advice as to the best transport linkage he could use to do that. In fact it is completely impossible to do that. There is a bus that runs only a few days a week and only once a day on those days. It would not take much to have a daily bus in both directions — and one that would run probably twice or even three times a day, depending on summer demand — which would allow you to jump on and off, visit different attractions and stay overnight, knowing that if you wake up the next morning and say, 'You know what? I just want to get out of here', you can do that, because there is a bus, or that if you wake up the next morning and say, 'I want to stay here for another three days', you can do that, because the transport is flexible enough.

In other national parks around the world, bus travel within the national park area is quite common and well provided. Even in Denali National Park and Preserve, right up there in Alaska, during the high season there are buses back and forth on the main road that traverses the park, and you can take your pick, jump on and off and move from one camp site to the next and one trail head to the next without having to give much thought to it at all. Of course this government and a whole series of governments are not even looking at this concept. I will be going to the next election promising to address that particular critical need on that Apollo Bay to Warrnambool section of the Great Ocean Road. That would open up a whole series of different options, including walking and cycling.

I see that there is a proposal for an extended walking and cycling path all the way from Camperdown to Timboon and along that section of the Great Ocean Road as well. I am glad to see Parks Victoria getting on board and participating with that community-led project. That would allow one of our most sublime pieces of coast, which is backed only by a very narrow strip of public land, to be accessed by more and more people, who are clearly coming, ready or not, and it would do it in a way that did not effectively turn that whole section of road into a giant traffic jam during peak times. Public transport and the role of the Department of Transport need to be integrally linked with the development of nature-based tourism.

The Minister for Tourism and Major Events, Ms Asher, says, 'We want to encourage more people into bike touring'. That strategy would be great, except for the fact that the V/Line rules say, 'We may or may not let you bring your bike on board; it's at the discretion of the conductor'. That is not much use if you and your five mates have rocked up for your long weekend holiday, all your accommodation is pre-booked and your routes are timed to the nearest hour only to turn up to be told by some V/Line official, 'Sorry, you're not coming'. In fact it needs to be reversed. If that part of the tourism strategy is to work at all — and it is a great opportunity for low-impact tourism in many parts of Victoria — V/Line will need to get some better rules and guidelines. All these agencies need to work together in an integrated fashion. There are no short cuts; there is no magic pool of funds.

Take a look at the Auditor-General's report tabled yesterday on privately run water infrastructure, the conclusion being that the water boards looking at those long-term leases or private-public partnership arrangements have taken their eyes off the ball. They do not even worry about non-performance if it does not impact on their operations too much. It will be even more the case with critical and high-profile public assets like leaseholds within national parks, of which there are, as we know, already a handful.

This is being driven by the big end of town through the economic rationalist Victorian Competition and Efficiency Commission and then bowled up on a crusade by the tourism minister, who should have been shouted down by the environment minister, but he does not say much at all really in defence of the natural world. With absolutely no idea of what the government might be leading us into, we are asked to vote for this bill. The Greens will not be writing that blank cheque; we are the guardians of natural assets in Victoria, not just for our own enjoyment but for every generation we can imagine into the future. These short-term commercialisms are really unworthy when put up against the inestimable value of those key assets that have been given national park status.

Mrs COOTE (Southern Metropolitan) — I will resist the temptation to answer Mr Barber's comments straightaway, but I will come to them. Firstly I would like to talk about the background to this bill. It is a great pleasure to speak on national parks. As members know, it is a long-term passion of mine. The National Parks Amendment (Leasing Powers and Other Matters) Bill 2013 is the bill before us today. Members would be well aware of what the bill seeks to achieve after it was well publicised and commented on in the media in May this year. This bill will allow 99-year leases to be granted over certain areas of a national park so long as the purposes of the leases are consistent with the National Parks Act 1975.

The bill complements the Victorian government's commitment to making it easier for people to be in our national parks and areas of natural beauty. The foundation of this bill was a Victorian Competition and Efficiency Commission (VCEC) report. In September 2010 the Brumby government directed VCEC to hold an inquiry into Victorian tourism. The inquiry's report findings and conclusions specifically noted that there were a lack of facilities in and near national parks. That makes it very difficult for people to visit these parks. While in most cases it is possible to locate tourist facilities outside the national parks, VCEC noted that there are some instances where it is better for them to be in the national park itself. The report recommended that the restriction on private sector investment in infrastructure in Victorian national parks be removed.

Critics of VCEC would have everyone believe that there was an open slather development across all tranches of parkland. Nothing could be further from the truth. In fact in his second-reading speech the Minister

for Environment and Climate Change, Mr Ryan Smith, recommended that we allow sensible and sensitive developments in national parks, provided they complement environmental heritage and other values and generate a net public benefit. This bill will not lead to open slather development; it will lead to sensible and sensitive developments that will complement environmental heritage and other values.

It is very important to remember what tourism does for this state, and national parks are an important element of tourism in Victoria. Our national and state parks contribute to our economy by attracting tourists. We heard Mr Barber talk about the numbers of tourists who are going to the fabulous parks that include the Twelve Apostles — of which I think there are only eight left — the Cape Otway Lighthouse and other areas.

Tourists also have different experiences in different parks around our state. For example, they may go to Croajingolong National Park, which is in Mr Philip Davis's electorate, for a very remote park experience. It is well managed by Parks Victoria. People who want to do hiking and camping without seeing a raft of other people, such as the tourism buses that Mr Barber spoke about on the Great Ocean Road, can have a very special experience. Other people want a different type of experience altogether, and it is very important that we understand that.

It is very interesting to note that about 16 per cent of the state of Victoria is made up of national parks. Although there are a number of visitors to national parks every year, it is very interesting to look at the type of experience these people have. A large number of people go only 1 kilometre into any park. I am not talking about the metropolitan parks here; I am talking about the national parks. They go a very short way into the park. For example, on the Great Ocean Road there is Maits Rest, which is a boardwalk put up by the then Minister for Conservation and Environment, the Honourable Mark Birrell. He was a very good minister indeed.

Mr P. Davis — Outstanding.

Mrs COOTE — Outstanding, as Mr Davis says. He recognised that many people do not want to have a full day with a full backpack type of experience, like you would get at Croajingolong. They want to be able to enjoy the natural beauty in close proximity to car parks, toilets and other amenities. Maits Rest is a boardwalk through beautiful natural forests, and it is a very popular site with visitors.

Not many people go right into Hattah-Kulkyne, which is in the Mallee. It is an enormous park, beautiful in its own way, but very few people go into the heart of parks like it. Not everyone wants to do that. We must be very mindful about what it is we are protecting and what it is that people want to do. Should we go back to the old Greens adage of 'Lock up the parks, throw away the key. Let them be out there for nobody to use. We want the parks but we don't want anybody to use them'? That is very outdated rhetoric.

In fact much of Mr Barber's contribution was emotional rhetoric from the 1970s. If members were listening very closely to Mr Barber, they would have heard him refer to a 1960s report. The 1960s was probably the highlight of the Greens movement. It is probably the time they ache for, as it was so successful for them. They have gone downhill ever since.

Mr Barber — I was two!

Mrs COOTE — There you are. Once Mr Barber hit the scene it went downhill from there. The reality is that this type of old-fashioned, outdated, emotional rhetoric is exactly that. The bill before us today gives certainty to the people who love our parks and who want other people to come into our parks to enjoy the experience, to add to the economy and to make sure that the surrounding towns are enhanced by the tourist experience. That is what this bill is about.

Let me just talk about tourism. For the 2011–12 financial year the gross contribution of tourism to gross state product (GSP) was $19.1 billion, and the share of GSP was 5.8 per cent. It provided employment for up to 201 000 Victorians. This bill will increase our tourism potential and visitor numbers to our national and state parks, and as such I highly commend it.

I know these parks. Mr Barber is aware, as is Ms Pennicuik, that I know about and have been in parks across this state. I was an inaugural member of the Parks Victoria board, and we achieved an extraordinary amount. I take total umbrage to Mr Barber's comments about this bill being like a mad scientific experiment, because nothing can be further from the truth. I would like to remind him about what was actually happening at the Wilsons Promontory National Park at that time, and I am quite certain he was one of those people who was out there on the beach with a beach towel saying, 'Hands off the Prom'. You still see some old cars driving round with 'Hands off our Prom' stickers on the back of them.

The reality is that there are a number of scenarios at Wilsons Promontory. It has a camping ground that

people go to every year, and although there is a ballot for those places, the same people used to get the same camping spot every year, which is quite remarkable. I know the minister is aware of this issue. Wilsons Promontory also has an area with upmarket cabins and they are hugely successful with high occupancy rates — not all people want to go camping. Mr Barber has to understand that not everybody wants to traipse in with a backpack and the children trailing behind; that is not an experience everybody wants to have. If we want our parks to be major tourist attractions for a whole plethora of people — international, interstate and Victorian visitors — we have to broaden the experience for all comers. One of the important things we are missing out on in this state is the type of development we are speaking about.

I was overwhelmed by Mr Barber's response to this bill. At one stage during his very long contribution he talked about developers. If one listened to him very carefully, you would think Mr Barber was in cahoots with the developers. He was out there saying, 'What were the developers doing?'. He was trying to paint an economic case, but it was not a very good case, and I am sure the developers would be the first to tell him that. However, there are people who recognise that development is an important aspect for our state, and it is going to be a great contributor to the state's economy.

I know this is going to be a long debate. Mr Philip Davis has a lot to say in his contribution. Although I could say a great deal more, in conclusion I remind the chamber that the bill originated as a result of the Victorian Competition and Efficiency Commission inquiry. It recommended that private development be allowed in national parks where development is clearly not detrimental to the area, complementing the value of the area. These developments will make it easier for all people to access and enjoy Victoria's national parks. There will be an experience for everyone. With the 99-year leases there will be certainty for developers and certainty for people who want to operate businesses in these areas.

Mr LEANE (Eastern Metropolitan) — I support the opposition's position on the National Parks Amendment (Leasing Powers and Other Matters) Bill 2013. We oppose 100 per cent any sort of loosening of development regulations in national parks. It is actually the opposite of what national parks are all about. I find it very strange that a government would bring in legislation to that end, but I suppose with this government we should not be too surprised.

We just have to look back at its passionate position about putting cows into a national park. Government members said they had a mandate because it was an election pledge, and that was fair enough. However, the passion they had to get those cows into the national park was nothing near the passion the government had for things like its mandate to build a rail line to Doncaster or increase the number of new beds in hospitals by 800, both of which are yet to happen. The passion the government had around cows in a national park was quite strange, It went to great lengths to maintain that position and protest against federal government rulings. The money spent on court cases on behalf of the cows was absolutely amazing, but the cows had to settle for grass in a farm paddock rather than grass in a national park. I suppose the cows may have been the only victims in the plan to put them in the national park not coming to fruition. As I said, everyone was aghast at the position of the coalition government.

This bill is even stranger, in that the government wants to see a loosening of development constraints in national parks. When you take into account the percentage of tourist accommodation developments in national parks across the world, the figure is minute, and a lot of those buildings existed before those areas were declared as national parks. The opposition will never support the premise of this bill. If we have our way, in the future we will change anything that is put into place, because we believe national parks should not be touched or developed. They should be left as they are for future generations, just as we have been able to enjoy them in the past.

Mr P. DAVIS (Eastern Victoria) — It is a delight to acknowledge the Leader of the Opposition in the chamber this afternoon during this debate, because of course it is the Leader of the Opposition who, as Leader of the Government and more particularly as Treasurer in the Brumby government, was the instigator of this legislation. I would like to attribute credit where it is due. The reality is that on 23 September 2010 Mr John Lenders, the then Treasurer, handed the Victorian Competition and Efficiency Commission (VCEC) the terms of reference for an inquiry into how to deal with regulatory barriers to the development of the tourism industry. Indeed he included a reference to opportunities to improve the management of state assets to better meet the needs of the tourism industry, without compromising their primary management objective.

That inquiry, which I think was a valuable inquiry, actually built on a lot of work that went on from the late 1990s. I pay credit particularly to a former member of this house, Mr Graeme Stoney, who was the inaugural chair of the Victorian government rail trails committee and who did some great work developing rail trails with

community organisations. That work led to the development of the Victorian Trails Co-ordinating Committee, which was chaired as I recall by the then parliamentary secretary for the environment after the election of the Bracks government and was auspiced by Parks Victoria.

Coming out of that was a trail strategy for the period 2005–10, but the important work that was done was the 2002 sustainable recreation and tourism policy, followed by the 2008–12 Victoria's nature-based tourism strategy, which was in a sense the genesis of the inquiry by VCEC that was instigated by Mr Lenders, who should be given all the credit that he is due. The report was tabled in June 2011. The inquiry found that, as expressed on the 'Key messages' summary page:

> Features of the regulation and management of public land, especially national parks, further impede private investment in tourism.

It particularly said in relation to this issue:

> The commission recommends government remove the prohibition on private development of tourist facilities in national parks where they complement environmental, heritage and other values, and generate a net public benefit. Such a change would complement reforms to land use planning. While most tourist facilities can be located outside national parks, for a small number of facilities that meet the required environmental credentials the park is a superior location.

That was the summary. In closer detail, recommendation 4.1 of VCEC states:

> That the Victorian government remove regulatory obstacles to private sector investment in tourism infrastructure in Victoria's national parks so that from 1 January 2012 private sector investment is permitted and businesses are allowed to:
>
> > propose sensible and sensitive developments in national parks provided they complement environmental, heritage and other values and generate and net public benefit;
> >
> > lease land within a national park for this development, provided they meet a set of guidelines and agree to a standard operating contract that includes incentives for the conservation and biodiversity protection of the national park …

My point in reading that into the record is to ensure that we have a coherent narrative about how it is that this legislation is before the Parliament. This legislation is here because of a bipartisan view about developing tourism in regional Victoria and particularly ensuring that visitors can maximise their experience of our national parks. There can be a tendency in this place for members to say, 'I know more about this than you' or 'I love national parks more than you'. What I can say is that there is a real passion around our national parks, which I share. I have to say I welcome it. It is a great thing that the contest of ideas in this place around national parks is what it is, but I want to put some perspective around my initial remarks, which obviously will be limited given the time.

I was looking through some Bushwalking Victoria newsletters. In the July edition of *Bushwalking News Victoria*, the new president of Bushwalking Victoria, Tony Walker, said in his first president's column:

> We need to tell the world why bushwalking is a good thing to do. Bushwalking has a lot of things going for it that are obvious to us but which the wider community doesn't really 'get'. We know it's healthy, fun, socially positive, promotes wellbeing and combats depression. You can do it at any age, and (mostly) whenever you like. It is inclusive — virtually everybody in Victoria can participate. It has also a lot of positive 'doesn'ts'. It doesn't need sportsgrounds, elaborate infrastructure, it doesn't involve fixed commitments to a competition or league, and it doesn't require expensive equipment.
>
> In a society where obesity is an ongoing and ever growing problem, bushwalking is a great way of improving lifestyle.
>
> But bushwalking has a peculiarly mixed image in Australia. For many people, it is seen as being out in the wilderness for 10 days, carrying a huge pack with a group of elderly men with check shirts, beards and of dubious hygiene!
>
> The fact that most bushwalking is done through day walks, in our beautiful parks and reserves and within 150 kilometres of Melbourne or one of Victoria's regional centres is not well enough known.

Tony Walker made, in my opinion, a thoughtful contribution to the context for bushwalking. He went on to say in the August newsletter:

> Some things have changed a great deal in Victoria over the last 40 years. There is greatly increased pressure on our tracks and trails, not only from bushwalkers and from the familiar groups like horseriders, orienteers and four-wheel drivers, but also from relatively new forms of users such as mountain bikers, trail bikers and power walkers. We now have to share trails that were never designed to be shared, and have to compete for access with active, well-resourced trail-user groups.
>
> At the same time, there is increasing pressure for a more commercial approach to walking — new private groups and facilities targeting international and interstate 'walking tourists'. This is a worldwide phenomenon — many of us are walking tourists ourselves when we visit Europe, North America or, increasingly, Asia.
>
> …
>
> It is now very apparent to all that we have to consider ourselves as part of a larger bushwalking community. It is unreasonable and unrealistic to expect the Victorian government, through its land managers, to focus its planning on the needs of 6500 Bushwalking Victoria club and individual members, when it is well known that there are over

> 200 000 people in Victoria consider themselves to be bushwalkers and large numbers of other trail users.

He further goes on:

> A good example of the kinds of issue we are now dealing with, comes from the Victoria government's initiative to promote commercial opportunities in national parks. Bushwalking Victoria has already written to the relevant minister setting out clearly and forcefully what we as bushwalkers feel about this issue.

And he goes on to elaborate what bushwalkers feel:

> Our view is that we do not oppose all commercial activities in national parks — to do so would be hypocritical given that many of us walk in other countries using commercial huts and facilities in national parks. The Milford and Routeburn tracks in New Zealand are good examples of how commercial activities can be sensitively managed. The commercial huts there are very carefully controlled through the Department of Conservation … The huts are unobtrusive, ecologically sensitive, and most carefully positioned and managed. The result is an internationally attractive walking experience people cross the world to enjoy. Can we honestly justify saying we don't want that in Victoria while we ourselves use those very facilities in New Zealand and elsewhere?
>
> But at the same time, we oppose most strongly, the kind of crass tourist developments that would lead to eyesores or environmentally damaging developments in sensitive areas such as the Alps, and compromise the natural values of the area … Any commercial operator must be prepared to demonstrate why they must be inside rather than adjacent to a national park, and be held rigorously accountable for any environmental degradation associated with their activities.

In concluding that extract, which is rather lengthy — and I apologise because it means I cannot make as much of a substantive contribution as I would wish — frankly, I think it sums up for all of us what this legislation is about. It is not, as has been posited by some on the other side, about gross, intrusive, large-scale, large-footprint commercial development; it is about limited and appropriate development for the circumstances. I for one can put my hand up and say I would be forcefully and vigorously opposed — I cannot say it any more strongly — to the crass proposals that Mr Barber referred to when he implied, or inferred, that this policy is being driven by the big end of town.

This approach is about developing regional tourism in a manner that is sympathetic to the values of our national parks. Every other state in Australia, as well as the Northern Territory and New Zealand, already allows tourism development in national parks. My observation is that in South Africa national park concessions for private investment work exceptionally well. A balance of both public and private investment enables visits to the wonderful national parks in South Africa to be extraordinary experiences. Of course the parks there are different from those in Australia. For example, people who travel to Africa learn quickly that one does not want to get out of one's vehicle and go walking, because they might be something's breakfast. It is important to note that as national parks have been established in South Africa a range of accommodation options have been made available, from camping within a government-controlled reserve to huts that are government owned to high-end tourist concessions, which frankly are invisible to most people because they are well placed, well designed and ensure the protection of environmental assets.

I want to speak further about the principles that have been set out by the minister. On 31 March he put out a media release on guidelines to unlock Victoria's nature-based tourism. The guiding principles for doing so are set out in *Tourism Investment Opportunities of Significance in National Parks*, and it is important to put them on the record. The document states:

> In considering proposals for tourism investment opportunities in national parks, the following high-level principles will be applied:
>
> Principle 1: Tourism investment opportunities will be allowed which are sensible and sensitive to their setting and which support broader visitor enjoyment of national parks.
>
> Principle 2: Tourism investment opportunities must be determined as the highest and best use of the area of national park proposed for use. That is, proposals must provide the greatest public benefit. The greatest net public benefit will be determined by considering:
>
> environmental outcomes — the primary purpose of national parks is the preservation and protection of the natural environment (a legislative objective)
>
> social outcomes — parks are also for the use and enjoyment of the public (a legislative objective), requiring appropriately managed access and facilities in specific areas
>
> economic outcomes — proposals may include broader economic benefits for the region, which may have an impact on determining the greatest benefit.
>
> Principle 3: Investment opportunities must be consistent with the legislative objectives and purpose of national parks and have regard to applicable management plans.
>
> Principle 4: Investment opportunities must take account of associated risks and give regard to any risk management plans for the proposed settings, for example bushfire and climate variability.
>
> Principle 5: Tourism facilities must be established and managed in an ecologically sustainable manner, must minimise impact on Aboriginal cultural and historic heritage and must contribute to the maintenance and enhancement of national park values.

> Principle 6: Access to national parks by Aboriginal enterprises for tourism operations should be encouraged.
>
> Principle 7: Lease durations granted for private tourism investment proposals will be commensurate to the level of capital investment, rate of return on investment and level of environmental and social outcomes delivered.
>
> Principle 8: The approval process should not compromise the intellectual property of the proponent.
>
> Demonstrating compliance with these principles is an integral part of the approval process for investment and in securing ministerial approval.

This proposal is not new; it has evolved under the guidance of successive governments, some of the members of which sit on the other side of the house. It is important to regional Victoria and important to all those who love our national parks, but it is particularly important to people who are not able to spend 10 days walking across vast areas of national park carrying a heavy pack with tents, food and all the other ancillary equipment. I enjoy that aspect of remote perambulation. I am a keen bushwalker, but I understand not everybody is, and there are many people who could share the experience that I have had by being accommodated in huts in our national parks.

House divided on motion:

Ayes, 19

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

Noes, 17

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

Pairs

Rich-Phillips, Mr	Jennings, Mr

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

PRODUCTION OF DOCUMENTS

The Clerk — I have received a letter dated 22 August from the Minister for Planning:

> I refer to the Legislative Council's resolution of 12 December 2012, seeking the production of a copy of all public submissions received by the former Department of Planning and Community Development, in relation to the reformed zones for Victoria planning zones review.
>
> I refer to my letter of 25 June 2013 advising that the Victorian state government would endeavour to respond as soon as possible.
>
> I now wish to advise you that the reformed zones are to be implemented shortly. The Victorian state government's response to the order will be provided as soon as that process has been completed.

BAIL AMENDMENT BILL 2013

Second reading

Debate resumed from 27 June; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Ms MIKAKOS (Northern Metropolitan) — I rise to speak today on the Bail Amendment Bill 2013 and note that the Labor opposition will not be opposing the bill. Bail is a long-established practice in our judicial system; however, it is not well understood in the community. As noted in the Victorian Law Reform Commission's *Review of the Bail Act* final report, there are some people who find it difficult to separate the concepts of bail and sentencing — specifically, that the presumption of innocence applies when bail decisions are made because the accused person is yet to be tried.

The report pointed out that courts only make a small number of bail decisions and that most people are bailed by police, who make more than 90 per cent of bail decisions. This is also not widely understood in the community. Bail applications are only heard by the Magistrates Court if police do not grant bail, and applications can also be heard by a bail justice who is a volunteer layperson who hears applications for bail when police have refused bail and a court is not open. As most decisions are made by bail justices, it is important that the Bail Act 1977 is easy to understand and apply. That is why the former Labor government amended the act in 2010 to clarify the purposes of imposing bail conditions and the kinds of conditions

that could be imposed, while retaining the discretion of the bail justice to have regard to the individual circumstances of each case.

As members would be well aware, the coalition in the lead-up to the 2010 election made a number of fairly explicit commitments about what it would do about bail when in government. These commitments, contained in a media release dated 5 July 2010, promised tougher penalties for those who re-offend while on bail; clearer and stronger bail conditions, including electronic monitoring; making sure police, bail justices and courts know the prior history of the bail applicant; and an end to bail shopping. However, this bill fails to deliver on all but the first of these promises. It does not provide for clearer and stronger bail conditions, as promised, but instead clause 4 effectively codifies a whole range of key and commonly imposed bail conditions and lists them in legislation.

Under the current act, a court that is considering the release of an accused on bail may impose a condition or conditions on that person to reduce the likelihood that they may fail to reappear in court and surrender into custody at the time and place of the hearing or trial, commit an offence whilst on bail, endanger the safety or welfare of members of the public or interfere with witnesses or otherwise obstruct the course of justice in any matter before the court. There is no limit on what conditions can be imposed and no list from which those conditions are drawn. Clause 4 of this bill now just records these conditions in statute.

One of the coalition's pre-election promises was that electronic monitoring would be one of these conditions, but it fails to appear in this list. Despite the catch-all provision under proposed section 5(2A)(k) to allow a court to impose 'any other condition that the court considers appropriate to impose in relation to the conduct of the accused', electronic monitoring is not a specifically precluded condition.

The coalition also promised to make sure that police, bail justices and the courts know the prior history of bail applicants and to put an end to bail shopping. One would think that this is such a common-sense approach it would already be in effect — and it is. It has always been the case that where bail has previously been refused or revoked, any further application for bail or application to vary bail is heard by the same judge or magistrate who previously heard the application if it is reasonably practicable to do so.

In terms of the bill promising to ensure that the police and prosecution have adequate notice of any further applications for bail or applications to vary bail conditions before the hearing, there is nothing in this bill that will provide police, bail justices or courts with any further details about the history of accused persons in those situations. Despite the coalition's strong words in opposition stating that it will put an end to 'abuses that have grown unchecked under John Brumby', for all intents and purposes this bill legislates for already existing practice.

The bill seeks to make it an offence to contravene any bail condition imposed by a court and to commit an indictable offence whilst on bail. The penalty for this will be 30 penalty units or three months imprisonment. This provision does not apply, however, to contraventions of a conduct condition requiring the accused to participate in bail support services, which include medical treatments, counselling or behaviour change programs. Under the new section any jail sentence imposed is proposed to be served cumulatively or consecutively alongside any sentence related to the offence committed whilst on bail unless the court directs otherwise. This provision does not apply to certain young offenders and children, where it is existing practice, unless the court directs otherwise, that sentences be served concurrently or 'at the same time'.

Along with creating this new offence the bill seeks to impose a new infringement notice regime whereby police may issue an on-the-spot infringement notice and penalty to a person an officer has reason to believe has contravened any bail condition imposed on them. The infringement penalty proposed is 1 penalty unit, or $144.36.

In his second-reading speech the Attorney-General noted that this infringement system is intended to be used for minor contraventions such as reporting late to police, but there is no evidence of that in the bill. Jesuit Social Services highlighted that the bill has the potential to further criminalise young people and could result in a teenager being charged for something as minor as being 5 minutes late for a curfew. I hope the infringement system is used as the Attorney-General intends it to be used and that we do not see vulnerable young people charged for such minor offences.

Youthlaw has also expressed concern about this issue and is wary of the disproportionate effect this legislation will have on young people as a total demographic. There is research that shows that young people receive more bail conditions than adults and that the conditions, such as curfews, are more welfare based and therefore more likely to be breached. There is the concern that young people will incur more fines for minor contraventions of bail, which many may not have

the capacity to pay. This will no doubt further clog up the infringement system.

As was pointed out by Youthlaw, this appears to be a move towards the model currently used in New South Wales, where police regularly arrest young people for what would be referred to as behavioural or welfare-based minor breaches of bail. This has resulted in a serious overcrowding of young people in juvenile detention facilities, with young people being placed on remand while waiting for their bail hearing. We are yet to see this government doing more to support these young people to comply with their bail conditions.

Under the act the criteria used by police, bail justices and courts when deciding whether or not to release children on bail are the same as those used for adults. The Attorney-General noted that the consideration of available alternatives to prosecution, such as police cautioning or diversion options, could be considered by police where the accused is a child. He further noted that the government was examining whether there are opportunities to improve pre-sentence diversion for young people, including for bail offences. These sentiments, however, appear to be just that: sentiments.

The government is yet to respond to its diversion discussion paper, released in August last year. There was no funding in the budget for any new initiatives in this space. Stakeholders have expressed their disappointment at the government's lack of action in this area. I have previously raised this issue by way of an adjournment matter with the Minister for Community Services.

In all, with this bill the government has fallen short of delivering what it promised before the 2010 election. It has chosen to go down the window-dressing path, delivering on only a very small part of an election commitment. Labor will not be opposing this bill, but it sees it as just the beginning of further reforms.

Mr O'BRIEN (Western Victoria) — It is with great pleasure that I rise to make a contribution on the Bail Amendment Act 2013. This is an important piece of legislation. It is another significant bill that this government has brought to the chamber after receiving the mandate of the Victorian people to implement its significant and wide-ranging law and order reforms, across a range of legislative areas and practices, that are designed to increase community safety, respect for law and order, truth in sentencing and compliance with conditions, such as bail conditions. The bill contains a number of reforms which implement the majority of the coalition's election commitments in relation to bail law reform. These include a number of amendments which will enable the Bail Act 1977 to be amended to list key and commonly imposed bail conditions, make it an offence to contravene certain bail conditions, make it an offence to commit an indictable offence whilst on bail, require further bail applications to be heard by the same magistrate or judge who heard the previous application if it is reasonably practical to do so and generally require an accused to give the informant and the prosecutor written notice of further applications for bail or applications for variations of bail conditions three days before the hearing of the application.

It is important to note that the government has not rushed these amendments into the Parliament on election; rather, it has consulted quite widely over the development of the detail of the bill. Facilitated by the Department of Justice, there were targeted consultations with the children's, county, magistrates and supreme courts; Victoria Legal Aid; the Office Of Public Prosecutions Victoria; Victoria Police; Corrections Victoria and other relevant government departments, including the Department of Human Services, the Department of Health and the Department of Primary Industries. The important set of reforms that has been brought in as a result of those consultations implements the majority of the coalition's election commitments, as I said.

It is important to put the first series of amendments — those in relation to bail conditions — into context. The Bail Act 1977 does not currently list the specific conditions that may be imposed upon the conduct of an accused whilst on bail. The bill will insert into the Bail Act the following list of conditions that may be imposed on an accused person's conduct, none of which are mandatory and none of which limit the most important power — that is, the court's power to have the flexibility to impose any other condition that it considers appropriate in relation to the conduct of the accused. The specific conditions that are listed include reporting to a police station, residing at a particular address and complying with a curfew imposing times at which the accused must be at his or her place of residence, which is not to exceed 12 hours within a 24-hour period, in order to prevent a de facto return to the legal fiction of home detention. Other conditions that can be imposed include a restriction on the accused contacting specified persons or classes of persons, the surrender of the accused's passport, attendance at and participation in a bail support service and compliance with geographical exclusion zones, being places or areas the accused must not visit or may only visit at specified times.

Other conditions include that the accused must not drive a motor vehicle or carry passengers when driving

a motor vehicle and that the accused must not consume alcohol or use a drug of dependence within the meaning of the Drugs, Poisons and Controlled Substances Act 1981 without lawful authorisation under that act. Another condition is that the accused comply with any existing intervention orders, and as I said, there is the general condition that the court can impose any other condition that it considers appropriate in relation to the conduct of the accused. It needs to be emphasised that the list is non-exhaustive. It is designed to allow flexibility. Therefore within the parameters of section 5 of the principal act, decision-makers may continue to tailor conditions that are appropriate to the circumstances of a particular case, which is important.

Among the other significant reforms the bill introduces in relation to bail conditions are, in particular, the provisions that allow a person to be charged with an offence of contravening a bail condition. That is important in terms of ensuring that there is compliance with and respect for the bail conditions not only as a condition of release but also as involving a separate, chargeable offence in its own right. The bill makes it an offence for an accused person to contravene a bail condition relating to his or her conduct. The offence does not apply to the contravention of a condition to attend or participate in a bail support service — that is, a service provided to assist an accused to comply with his or her bail undertaking, such as treatment for substance abuse. The maximum penalty for the offence is a fine of 30 penalty units or three months imprisonment. The bill also gives police the power to issue infringement notices to accused persons who contravene a bail condition and gives fisheries officers the power to issue infringement notices to accused people on bail for offences against the Fisheries Act 1995 who contravene a bail condition.

In relation to people suffering from substance abuse, it is important to note that the bill is accompanied by a number of significant programs that the government has provided to ensure that people who have particular substance difficulties get the appropriate departmental treatment and are not disproportionately targeted in this regime. That is why that specific exemption exists in relation to conditions relating to a bail support service, which as I said is designed to assist people to comply with their bail undertakings. An example of the support programs available is the court integrated services program (CISP). The government is committed to such programs and invested in them in the 2011–12 budget. For example, it provided $22 million over four years for CISP and $1.1 million over four years to expand the intensive bail supervision program. This is in addition to a number of other significant investments the government has made in relation to the capacity of the prison system. Those investments have been made in several budgets but in particular in the 2012–13 budget, in which the government committed to fund the building of a new 500-bed adult prison at Ravenhall and also to provide additional capacity. These budgetary commitments have been well outlined by the Minister for Corrections, Mr O'Donohue, who is in the house.

Another significant matter the bill addresses that is worth mentioning is in relation to the issue of bail shopping, which has been a concern. I certainly would not comment on existing members of the judiciary, magistrates et cetera, but there has been a concern that the integrity of Victoria's bail system may be undermined, and this bill seeks to guard against bail shopping and other abuses such as unjustified repeat bail applications. It does this by requiring an accused to give the informant and the prosecutor at least three days written notice before the hearing of a further application for bail, and after refusal of bail by a court or an application to vary the conditions of bail, and obviously it is designed that where reasonably practicable to do so the bill will require the further applications for bail to be heard by the same judge or magistrate who heard the previous bail application. With this proper notice it will also ensure that the prosecution is in a better position to oppose further bail applications or applications to vary bail conditions where appropriate.

It is also possible for the court and parties to agree to waive the three-day notice period or dispense with the notice requirement if satisfied that the circumstances of the case justify hearing the application sooner and the matter can be heard and determined adequately despite limited notice or lack of notice. So, as I said, the parties can agree to waive the three-day period. With those comments, I commend the minister again on this and the other matters he has been attending to in his portfolio. I commend the bill to the house.

Ms PENNICUIK (Southern Metropolitan) — One could say that the Bail Amendment Bill 2013 does not make very significant amendments to the Bail Act 1977, or you could see it the other way — that the amendments are quite significant and in fact may raise more problems than they actually solve.

It is worth going back to basics. In her contribution Ms Mikakos mentioned that members of the general public, who are not so familiar with the legislation on the statute book, do sometimes confuse the concepts of bail, sentencing and parole. They can get the three mixed up. This has happened in the context of the recent public discussions about some horrendous offences committed by violent offenders who have

been at large either on parole or on bail, or both. There is one particular case we have had before us, and tragic circumstances have resulted from that. I take the opportunity to say that my heart goes out to the families of the victims of those offenders, because nothing can be worse than to lose a loved one in the circumstances of a violent homicide and any other injuries that may be suffered by that victim. I am sure that is something that the families can never recover from.

We need to bear that in mind, as I do, when we are looking at the bills before us regarding the issues of sentencing, bail and parole. We have had a number of them before us in the last couple of years, and I note that there are more coming down the line. I am not sure that any of the bills related to sentencing, parole or bail that we have had before us are actually going to make the community a safer place. The fact is that we are never going to be able to totally eliminate the risk of offenders who have been released on bail, on parole or after their sentence has been fully served subsequently reoffending. I do not like to hear members of Parliament say that any of the bills before us are going to result in the elimination of that risk, because they will not. Hopefully, as we look at the legislation as we go forward, the risks can be minimised, and they should be, but claims cannot be made that they will be altogether eliminated.

The Bail Amendment Bill 2013 makes amendments to bail laws. Earlier in the year I spoke briefly about the history of bail, and I would like to go back to that. Before I do that, I note that bail is not the same as parole. Parole may be granted to a person who is incarcerated, and parole means that a person is let out of the prison system before the completion of their sentence, usually with conditions imposed, and that person is then supervised to make sure they comply with those conditions. Bail is or is not granted to a person who is alleged to have committed an offence but who has not been convicted of that offence. For all intents and purposes that person is innocent until proven otherwise by a court. Many people who come before the courts and apply for bail are first offenders. Some are not first offenders and some are. It is worth saying that thousands of people are granted bail every year. Thousands of people come before a magistrate or a bail justice and are granted bail every year, with or without conditions and with or without sureties. Happily very few of them, having been granted bail, go on to commit violent offences.

The history of bail in the Westminster system is that in medieval England sheriffs had the authority to release or hold suspected criminals, and sheriffs would often exploit that system for their own gain. If you could pay the sheriff then you got bail, and if you could not then you did not get bail. That is how it worked. The Statute of Westminster 1275 limited the discretion of sheriffs with respect to bail, and although sheriffs still had the authority to fix the amount of bail required, the statute stipulated which crimes were applicable and which were not.

As I mentioned earlier in the year, on 7 February, it was established that the bones that were found in a Leicester car park were in fact those of King Richard III, who was killed at the Battle of Bosworth, coincidentally, on 22 August 1485, exactly 528 years ago today. It was Richard III in his one and only Parliament in 1483 who introduced the system of bail as we know it, because he did not think it was appropriate for offenders who had committed small crimes to be deprived of their liberty or have their properties seized before trial, which was the practice at the time. Even later, in the early 17th century, Charles II ordered noblemen to issue him loans, and those who refused were imprisoned. I have read a bit about that history. Five of those prisoners filed habeas corpus petitions arguing that they should not be held indefinitely without trial or bail. In the Petition of Right 1628, the Parliament argued that the King had flouted the Magna Carta by imprisoning people without just cause. Without going into a great history lesson, that then formed the basis of the bail laws throughout the Westminster system and in the United States.

The situation under the current Bail Act 1977, under section 4(2), is that bail should be granted unless the court believes the offender will fail to appear, will commit an offence, will endanger the public, will interfere with the witness or will obstruct justice in another way. Under section 4(3) the court must have regard to the seriousness of the offence, the history of any previous grants of bail, the strength of evidence, the attitude of the victim and any conditions that may be imposed. Section 4(4) outlines circumstances where bail should be refused. Section 5 sets out the conditions of bail, which are that the offender must appear, that there could be conditions set to bail or not, and that there could be a surety attached to the bail or not.

Section 5(4) of the principal act states that bail conditions should not be more onerous than necessary and should be reasonable. Section 24 outlines that police or a protective services officer can arrest a person on bail on the belief that a person has breached or is likely to breach a bail condition or other conditions. That person can be arrested under section 24(3) and taken back to court, and a bail justice or the court can revoke the bail such that the person is

then held in remand or released on the original undertakings or new undertakings.

The purpose of going through the situation as it is at the moment is to note that there are already consequences for the breach of bail. If it is a small or technical breach, the arresting police have the discretion to issue a caution or a warning or to arrest the person and take them back to court, whereby the court and, if practical, the original bail justice or magistrate would hear the application for the revocation of bail based on the evidence before them. That is already the practice, but it is to be codified in the bill. There are already consequences for breaching bail, particularly being held in remand and losing the right not to be in custody. That would focus the minds of most offenders.

The Bail Amendment Bill 2013 inserts a list of conditions about the conduct of an accused that a bail decision-maker may impose, including reporting to a police station, residing at a particular address, the surrendering of the accused's passport, attendance and participation at a bail service, that the accused not drive a motor vehicle or carry passengers or any other condition that the court considers appropriate to impose in relation to the conduct of the accused. The list is not exhaustive. Ms Mikakos noted that these bail conditions are already commonly attached to bail and have been for a long time.

Clause 5 of the bill inserts a provision that, where it is reasonably practicable to do so, a bail application is to be heard by a court constituted by the same judge or magistrate who heard the previous application for bail. I note that this is the usual practice, so the bill codifies the usual practice.

Clauses 6 and 7 insert new sections into the act to provide that an applicant must give three days written notice of a further application for bail or for a variation of the conditions of bail to the informant or the Director of Public Prosecutions unless circumstances apply to justify the application being heard earlier or the court is able to hear and determine the case adequately despite the limited notice. Mr O'Brien pointed out that this is to prevent bail shopping, but the current practice is for the same magistrate to hear the case if it is reasonably possible. I am not convinced that bail shopping is the problem it is made out to be by the government.

The main provisions in the bill insert new offences under clause 8. New section 30A makes it an offence to contravene any of the bail conditions without a reasonable excuse. The maximum penalty attached to the offence is 30 penalty units or three months imprisonment. The offence of being without a reasonable excuse places an evidential burden on the accused — that is, the accused has to provide the evidence that they have a reasonable excuse. However, the prosecution retains the legal burden of disproving the issue beyond reasonable doubt. It is worth noting that the subsection does not apply to the contravention of a conduct condition requiring the accused to attend and participate in bail support services, which include medical treatment, counselling or treatment for substance abuse or other behaviour.

Clause 8 also inserts new section 30B, which makes it an offence to commit an indictable offence whilst on bail, interestingly with the same penalty of 30 penalty units or three months imprisonment as the previous offence inserted by new section 30A. The conduct conditions can include such things as needing to report to police, residing at a particular address, not driving a motor vehicle, not going to a certain geographical area or complying with a curfew, for example. It is interesting that the same penalties apply to that offence as apply to committing an indictable offence under the Crimes Act 1958, including serious offences such as theft. It is curious that both offences have the same penalties attached to them.

There are various views about creating an offence for breaching bail. The Attorney-General has said in his second-reading speech and elsewhere that this offence exists in other Australian jurisdictions. My research has discovered that it exists in one, being Queensland. It is an offence to fail to appear in New South Wales and perhaps in other jurisdictions. The whole reason for attaching conditions to bail, as well as the reasons why people may not be granted bail, is that there is a risk that they will not appear at the court to answer the offence for which they have been bailed. That is an important consideration, and it is an offence in some jurisdictions not to appear. But in terms of the other conditions, it is not an offence not to comply with bail conditions, so this is quite a significant change to the Bail Act 1977.

The Victorian Law Reform Commission conducted an inquiry into the Bail Act in 2007. It released a comprehensive report, as you would expect from the Victorian Law Reform Commission, in which it makes 157 recommendations, one of which was not to make breach of bail conditions a criminal offence. Its first recommendation was that the Bail Act 1977 should be repealed and its regulations replaced by a new principal act and new regulations. The recommendations look at simplifying the language and making clear how the bail system works, particularly to offenders but also to victims and others in the community. There were quite a lot of recommendations in regard to the Department

of Justice and the police. None of these recommendations appear in the bill.

The report also goes on to talk a lot about supporting people to comply with their bail conditions, and this is something that has been raised particularly by the Law Institute of Victoria and Youthlaw, and by others working in the area, with regard to young offenders and those offenders who have mental health problems or a range of welfare problems that make it difficult for them to comply with bail conditions. Rather than making it an offence, what we should be doing is putting more resources into those areas to make it easier for people to comply with bail conditions.

In his speech the Attorney-General — and I think even the Premier said this when this promise was made prior to the 2010 election — spoke about this offence being a deterrent. I fail to see, and certainly the Victorian Law Reform Commission has made the point that it is very difficult to see, how making it an offence to not comply with a bail condition or to breach a bail condition would be a deterrent when there is already the deterrent of being remanded in custody or of having more onerous conditions attached to your bail if you are taken back to court and the court releases you but adds more conditions.

It just makes it more difficult for the offenders who are struggling to comply with conditions in the first place, and in terms of recalcitrant, violent, wilful offenders I do not think it would be a deterrent. I do not think that a penalty of up to three months and perhaps less than three months is going to deter someone who is at the higher end of offending. In terms of that I am not convinced of its efficacy as a deterrent for high-level offenders, but I think it is going to make problems for people who are struggling to comply with their conditions.

When we are talking about people who carry out violent offences while they are out on bail, I have to say the real problem is those people who present an unacceptable risk to the community given their history, and under the Bail Act that already needs to be taken into account by the magistrate or bail justice when releasing them on bail. This bill does not prevent that; it only imposes a penalty when someone breaches a condition of bail or commits an indictable offence. It does not go to the problem of the release of a person on bail who poses an unacceptable risk in the first place. That particular issue is not being addressed by this bill, and neither was it addressed a few months ago when we passed the Justice Legislation Amendment (Cancellation of Parole and Other Matters) Bill 2013. The actual issue of people being released who should not have been released is not being addressed by this bill, and that needs to be made clear.

Under clause 9 the bill also introduces a system of infringements which can be delivered by the police for a contravention of a bail condition. Clause 9 introduces new section 32A, which says:

> (1) A member of the police force —
>
> or fisheries office —
>
> may serve an infringement notice on a person who the member of the police force has reason to believe has committed an offence against section 30A.

The infringement penalty is 1 penalty unit — that is, a $140 fine. This is an area of the bill where I have some concerns. One penalty unit, or a $140 fine, is the lowest penalty you can get — you cannot get half a penalty unit — so you would have to say that the breach of a bail condition attracting 1 penalty unit would have to be a very minor breach, such as being late for an appointment, perhaps being late home during a curfew, straying into a geographical zone or something like that. In my view that sort of a breach, which is not endangering the public in any way or creating a danger to the safety of the public, should be dealt with by a caution. If the police believe it is more serious, they should take the person back to court. Then the court can, under the bill, impose a fine of up to 30 penalty units, or a term of imprisonment.

It should be the court that makes that decision and not the police, because again we are going to have young people and people with other problems struggling to comply with bail conditions being caught up in this infringement system. Then they will be going through the processes to deal with them not being able to pay the fine, being caught up in the steps that follow when you are not able to pay the fine. It seems to me this is a completely unnecessary part of the bill, and certainly one that attention has been drawn to by Youthlaw, which deals with young people who are in the justice system all the time. Those at Youthlaw have certainly raised a lot of issues about it and I have thought about it, and given there are already penalties of fines under the bill that a court can impose, I do not see the point of this extra infringement of 1 penalty unit.

For a long time the consequence of a breach of bail has been arrest and a hearing before a court or bail justice to determine whether bail should be revoked, the accused person should be released on the same day or there should be a new undertaking, so there are consequences. It is hard to see why there is a need for the offence of a breach of bail conditions. Furthermore,

indictable offences committed whilst on bail create a breach of bail, so the accused is brought back to court for that and then will also have to face court for the alleged indictable offences they have committed. As I said earlier, there is an issue of subsequent release, which we have seen with some high-profile and very concerning but quite rare cases. For example, one that is being covered in the media is a 13-year-old who was released on bail many times and went on to injure two persons in their home. It was a home invasion, and the people were very seriously injured.

Also, there has been the issue of Adrian Bayley. That was a failure not only of the parole system but of the bail system. During the public discussion about Adrian Bayley, including issues relating to his release on parole, his subsequent release on bail after he had been sentenced for a crime to which he had pleaded guilty and been convicted of and his appeal of the sentence, I made inquiries of the Department of Justice and was told that it was a policy of Corrections Victoria not to oppose bail when someone was on parole and was appealing their sentence. I asked for clarification of that many weeks ago in preparation for debate on this bill, but clarification was not forthcoming. Only today the Adult Parole Board of Victoria made statements in the media saying that Corrections Victoria indeed had that policy. That certainly does need to be seriously looked at, but it is not dealt with in this bill.

I have thought a lot about this bill. I also thought about whether it would be better, in new section 30A, to talk about serious breaches of bail rather than just technical breaches and, in new section 30B, to talk about serious indictable offences. I looked into that, but I got into a bit of trouble in terms of the Crimes Act 1958, because the class of serious indictable offences is already defined and includes a lot of offences. So that did not really get us very far. That was, however, something that was also suggested by Youthlaw: to make the relevant offence the committing of a serious indictable offence rather than committing just any indictable offence.

I am concerned that these new provisions may cause more problems. They are obviously going to come into effect, and I think they need to be carefully evaluated as to whether they are effective or not and whether they are taking up more court time than they need to be; of course there is a difference between proving that someone breached a condition and proving they committed an offence. I have drawn up an amendment which would require the new provisions to be introduced by clauses 8 and 9, the new offence and infringement provisions, to be evaluated by the minister and the department after a period of two years and that the review be reported back to Parliament. I think if we put these provisions in we need to know whether or not they are working.

As I said, the Victorian Law Reform Commission does not support the introduction of an offence for breaching bail; the Law Institute of Victoria does not support it; and Youthlaw does not support it. Such an offence does not exist in any other jurisdiction except Queensland; other jurisdictions only have the offence of failing to appear, in addition to the breaching of the bail condition itself. I do think we will need to look at whether this is working or whether it is taking up court time for no great effect over and above that created by the existing capacity to arrest a person in breach of bail conditions. Currently such a person can be arrested and taken back to court, and they can be put in remand if the court so desires or considers.

These are difficult issues to go through. We certainly have to have the safety of the community paramount, but I am not sure that this bill goes to the heart of that issue. It is an issue we need to go to the heart of, but I do not think this bill does so. Similar to the issue with the bill on parole, punishing someone after the fact will not necessarily prevent them from either breaching their bail condition or committing an offence whilst on bail. It does not prevent that; it just punishes it. It is very clear that that is what this bill does. And in just punishing it, is it going to take up more court time than would be warranted by any benefits it achieves? We need to know if that is the case, particularly as we have had this stream of changes to parole, to bail and to sentencing. In fact I would say there needs to be some examination of the piecemeal changes we have seen over the last three years so that we know whether they have been effective or not. Taking into consideration the Victorian Law Reform Commission report on bail, I do not think we are getting there with this bill. I hope other members can support my amendment, which is for a review after two years. With those comments, I look forward to the committee stage.

Mr ELASMAR (Northern Metropolitan) — I rise to contribute to the debate on the Bail Amendment Bill 2013. It would appear the bill seeks to put in place strong and effective bail laws. My colleague Ms Mikakos already indicated to the house Labor is not opposing the bill. These new bail laws, I have no doubt, will resonate with the people of Victoria. Following on from recent very high profile homicide cases, decent and respectable citizens are quite rightly horrified and disgusted at the criminal justice system that has let them down, and they have clamoured for justice. These amendments to the Bail Act 1977 are a response to that anger.

I will attempt to itemise commonly imposed bail conditions. Under the proposed amendments to the Bail Act 1977 it is an offence to contravene certain bail conditions or commit an indictable offence whilst on bail. The amendments also require further bail applications to be heard by the same magistrate or judge who heard the previous application and generally that an accused person give the informant and the prosecution notice of further applications for bail or for variation of bail conditions three days before the hearing of the application.

The bill also seeks to eradicate the common practice of bail shopping. I understand that bail shopping is where a magistrate or bail justice denies bail to a defendant and the accused person simply applies to other magistrates or bail justices to overturn the original decision to refuse bail. The relevant amendments will prohibit this from happening. If a defendant wants to appeal, they must apply to the original judicial officer who denied them bail in the first instance. This is a sensible measure, and I am sure that no-one would disagree with it. However, the logistics of getting the same judicial officer to rehear what would effectively be an appeal against the initial decision would be, in all probability, extremely difficult.

The bill also proposes to provide information on any or all of the criminal history of the applicant to the bail justice or magistrate prior to the decision as to whether or not to grant bail. This sounds wonderful but the reality of this is that as far as I can see there has been no additional funding or resourcing of Department of Justice staff to enable the provision of this much-needed information.

In theory this legislation sounds great. It looks as if the government is keeping its promise to the Victorian electorate by introducing legislation that on the face of it appears to be substantially tougher on law and order. However, the reality is much less edifying. Our criminal justice system is already bursting at the seams. Doing more with less is just empty jingoism. The coalition government needs to allocate sufficient resources and funding to make the elements of this bill work properly. It would appear that arising out of the proclamation of this bill fewer habitual offenders will be remanded on their own recognisance. Where does the government then propose to put them? There are no answers that do not involve revenue.

Mr ELSBURY (Western Metropolitan) — I rise to contribute to the debate on the Bail Amendment Bill 2013. Crimes by individuals against our civil society have a serious impact on the way we live our lives and can have a devastating effect on families.

I will take a moment to reflect on an event not related to this bill, one which occurred a world away but has impacted on a family and a community in my electorate of Western Metropolitan Region. The senseless act which resulted in the death of Christopher Lane in the town of Duncan, Oklahoma, brings to light the devastating impact crime can have on good people's lives. A promising life has been cut short; a talented baseball player, a son, a brother, a friend, a partner, has been lost. I would like to express my condolences to the Lane family and to Ms Sarah Harper, Mr Lane's partner, for their loss.

I will now return to the bill before us today. The Bail Amendment Bill 2013 amends the Bail Act 1977 to list key and commonly imposed bail conditions; make it an offence to contravene certain bail conditions; make it an offence to commit an indictable offence while on bail; require further bail applications to be heard by the same magistrate or judge who heard the previous application, if it is reasonably practicable to do so; and generally require an accused to give the informant and the prosecutor written notice of further application for bail or applications for variation of bail conditions three days before the hearing of the application

Bail allows a person who has potentially broken our laws to remain in our society and live as a law-abiding citizen until a court can determine their guilt or innocence of the offence with which they have been charged. It is not a right; it is a measure of trust provided to an individual. It involves an additional level of trust, given that there is a cloud over the individual's conduct in our community. If they are granted bail, they are trusted not to cause further disruption to our society. If the trust that has been afforded to them is then breached, then the law should inflict a penalty, and that is what this bill allows for.

Bail conditions can be imposed by police, but if the offender is not happy with the bail conditions, a bail justice may be brought in to set bail. However, bail cannot be set by the police or a bail justice if the crime is murder or treason. Of course courts can set bail for the offences before them as an assurance that a defendant will not either take flight, reoffend, interfere with witnesses, contact their victim or continue their unacceptable conduct.

As mentioned earlier, bail conditions are listed in this legislation. Each of these conditions will be able to be imposed in the setting of bail conditions but will not be mandated. The conditions include: reporting to a police station; residing at a particular address; a curfew imposing times at which the accused must be at his or her place of residence, not exceeding 12 hours in a

24-hour period; that the accused is not to contact specified persons or classes of person; surrender of the accused's passport; the imposition of geographical exclusion zones, being places or areas the accused must not visit or may only visit at specified times; required attendance at and participation in bail support services; that the accused not drive a motor vehicle or carry passengers when driving a motor vehicle; that the accused not consume alcohol or a drug of dependence within the meaning of the Drugs, Poisons and Controlled Substances Act 1981 without lawful authorisation under that act; that the accused comply with existing intervention orders; any other condition that the court considers appropriate to impose in relation to the conduct of the accused. This is not an exhaustive list but it will allow those authorised to impose bail conditions with a level of flexibility.

Seeking to have magistrates or judges hear subsequent bail hearings of an individual is putting into legislation an action already used by the courts in bail hearings. As the judge or magistrate will have some familiarity with the case for which bail has been granted, it improves the efficiency of the court and reduces the risk of a salient fact of the case being overlooked.

This legislation makes it an offence to breach bail. This does not include attending a bail support service but does apply to all other conditions of bail set. By breaching bail and thus committing an offence, a person on bail may be punished with up to three months imprisonment or 30 penalty units. This change reaffirming the serious nature of breaching bail conditions is intended to protect the law-abiding citizens of Victoria from those who choose to contravene our laws with no regard for the additional conditions imposed by their bail conditions. We have also allocated funding of $22 million to the court integrated service program, which assists those who have difficulty adhering to bail conditions.

There have been many studies undertaken to determine the rate of recidivism for people under bail conditions. In 1991 the Victorian Law Reform Commission reported that 31 per cent of a sample of 248 people on bail committed an offence. In 2004 the Tasmania Law Reform Institute looked at a larger sample and found that 25.7 per cent of those on bail committed an offence. New Zealand studies have found that 20 per cent of those on bail commit an offence.

There has been extensive consultation on this bill with the Victorian courts, the Department of Health, the Department of Human Services, the Department of Environment and Primary Industries, the Office of Public Prosecutions, Corrections Victoria, Victoria Police and Victoria Legal Aid. The bill before the house is a good bill. I am glad to hear that the opposition will be supporting the bill. I look forward to its passage.

Mr ONDARCHIE (Northern Metropolitan) — I rise to speak on the Bail Amendment Bill 2013, and I commend my colleagues Mr O'Brien and Mr Elsbury for their very eloquent contributions to the house today. I do not wish to revisit all of their words, because this is a very important bill and there is a necessary passage of legislation through this house. I do not want to spend a lot of time on it, other than to say I absolutely agree with the things Mr O'Brien and Mr Elsbury presented to the house today as eloquently as they did.

I want to talk very quickly about some of the positive measures that come through this bill. It is going to stop bail shopping — that is, where an accused visits numerous different magistrates in order to get lighter bail conditions. We are going to stop that. The magistrate who hears a case is going to hear it all the way through. It is going to keep those people who should not be on the street off the street. It is going to free up the time of Victoria Police members by allowing them to issue notices of infringement of bail conditions, rather than having to go through the whole cumbersome, bureaucratic process. It is another step in line with the coalition's commitment to be tough on crime. We gave that commitment in our election promises back in 2010. This bill adds to reforms like the Corrections Amendment (Breach of Parole Bill) 2013 and our protective services officer legislation. We are about being tougher on crime, and this bill goes another step toward that.

I have to correct Mr Elsbury. Opposition members did not say they supported the bill; they said they were not opposing the bill. I would much rather they stood up in front of Victorians and said they support this important piece of legislation. They are having a bet each way. They admit to this house that bail conditions need remedying, and this is one of the pieces in the puzzle to do that.

While opposition members say in an amateurish way that we are not doing enough to tackle the causes of crime, we are doing things. They did not do much in their 11 years in government. They hypocritically stand here saying, 'You're not doing enough to tackle crime'. We are, and this is another piece in the jigsaw. We can add it to the CCTV funding we have given to places like the city of Moreland, where tragically Jill Meagher lost her life not so long ago. This is another step, another piece in the jigsaw. I wish this bill a speedy passage through the house.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Ms PENNICUIK (Southern Metropolitan) — One of the reasons the Attorney-General gave for the necessity of an offence for breaching a bail condition is an important issue and one I have given a lot of thought to. When you are dealing with a repeat offender who has perhaps been granted bail in the past and who has breached bail conditions, there is no way for the next magistrate or bail justice who is hearing the application for such an offence to know the history of that offender when they were previously on bail. What the Attorney-General has said, but without a lot of detail, is that because it is not an offence it is not recorded, either by the police or by the courts, that the person previously breached bail conditions or in fact committed an offence while on bail. My first question is: if they have in the past committed an offence while on bail, why is that not able to be known by a subsequent court or bail justice?

Hon. E. J. O'DONOHUE (Minister for Corrections) — I am advised that where a person on bail is convicted of a subsequent offence the conviction is recorded, but the fact that the person was on bail is not.

Ms PENNICUIK (Southern Metropolitan) — I am wondering: is legislative change needed so that the fact they were on bail when they committed the offence is recorded? Can that be remedied and from now on actually be recorded?

Hon. E. J. O'DONOHUE (Minister for Corrections) — As was articulated during the second-reading debate, one of the general purposes of these amendments is to make the system tighter. That is why there are amendments so that where practical the person comes back before the same magistrate or judge and an appropriate period of notice is given to relevant parties.

Ms PENNICUIK (Southern Metropolitan) — In terms of breaching bail conditions, is it the case under the current act that there is no record anywhere of a situation in which, for example, a person is arrested by the police and taken back to court for a breach of bail conditions and then has their bail revoked and is remanded in custody?

Hon. E. J. O'DONOHUE (Minister for Corrections) — I am advised that, because that possible scenario that Ms Pennicuik referred to is not a criminal offence, there is currently no record of that taking place.

Ms PENNICUIK (Southern Metropolitan) — It is a central issue that a subsequent magistrate or bail justice who wants to know the history of a person who has been on bail before and whether they have breached their conditions or committed an offence does not have access to that knowledge. That is one of the reasons why I am prepared on behalf of the Greens to support the bill, but I want to have that review process put in place so we can work out how it is working, because it is very important. The fact that this information is not collected, kept and made available to subsequent bail justices and magistrates is a concern.

Hon. E. J. O'DONOHUE (Minister for Corrections) — The government welcomes the support of the Greens for this bill.

Clause agreed to; clauses 2 to 8 agreed to.

Clause 9

The ACTING PRESIDENT (**Mr Elasmar**) — Order! Ms Pennicuik has circulated three amendments. Her amendment 1 is a test of her remaining amendments, which seek to require a review of certain aspects of bail to be tabled in the Parliament.

Ms PENNICUIK (Southern Metropolitan) — I move:

1. Heading to clause 9, omit "**section 32A**" and insert "**sections 32A and 32B**".

Amendment 1 is just a change to the heading of clause 9; the substantive amendment is no. 3, which proposes to insert new section 32B, Review of offences, which reads:

> (1) The Minister must review the operation of sections 30A, 30B and 32A to determine whether the policy objectives of those sections remain valid and whether the terms of those sections remain appropriate for securing those objectives.
>
> (2) The review is to be undertaken at the end of 2 years after the commencement of sections 30A, 30B and 32A.
>
> (3) The Minister must cause a report on the outcome of the review to be laid before each House of Parliament as soon as practicable after the review is completed and in any event within 30 months after the commencement of sections 30A, 30B and 32A.

The review I am asking for is a review of new sections 30A and 30B, inserted by clause 8, which are the new offences of breaching a bail condition and committing an indictable offence whilst on bail. It also includes the new section 32A, inserted by clause 9, concerning infringements.

I just want to briefly say, as I do not want to take up too much of the chamber's time, that government speakers have said that Corrections Victoria was consulted, the courts were consulted and other people were consulted. They have not all agreed. For example, the magistrates are divided on the issue: some support the offence of a breach of a condition, and some support the offence as it exists in the New South Wales legislation, which is that of failing to appear. So there is not universal support for this. The Law Institute of Victoria, for example, does not support it; the Victorian Law Reform Commission did not support a new offence of breaching bail. There is not that support.

The issue that we have just discussed under clause 1 remains: the record of offenders who have been on bail is not readily available to subsequent bail justices or magistrates when they are considering what they must consider under the Bail Act 1977, which is whether the person is a risk to public safety and whether they are likely to offend. We know from evidence that one of the criteria that indicates whether a person is likely to offend is if they have offended before, and if the courts do not have that information before them, then it compromises their decision making. That is the part of the bill that I think may have the preventive focus we are looking for, in that if the courts have before them the history of offenders and their behaviour on bail, then they may make better decisions around not releasing people on bail who are a risk to the community. That is where I think there is some preventive focus in this bill, but it is worthy of evaluation, because it is a serious issue. Parliament should be made aware of that evaluation by way of review after two years. I commend my amendment to the house.

Ms MIKAKOS (Northern Metropolitan) — I rise to indicate to the house that the Labor opposition will not be supporting the Greens amendment. We consider this amendment unnecessary. We take the view that there should be continual review of the effectiveness of these provisions, not just in relation to bail but in the justice system overall, and we think the amendment that the Greens are proposing is unnecessary for those reasons.

Hon. E. J. O'DONOHUE (Minister for Corrections) — I acknowledge Ms Pennicuik's remarks about the consultation that the government undertook with the courts and other relevant bodies before this bill was introduced to this house. The government does not necessarily agree with Ms Pennicuik's characterisation of the support, or otherwise, of various parties, but I appreciate her acknowledgement of the consultation that took place.

The coalition government made a clear commitment to the Victorian community to act to reform abuses of bail. This commitment included putting an end to bail shopping, ensuring bail decision-makers were properly informed of an accused's history while on bail, making breaching bail an offence and equipping police and courts with the tools they need to deal effectively with those who treat bail with contempt.

This is not a pilot scheme or a trial run. As with any new laws, the government will monitor the bill's effectiveness. In that context I appreciate the opposition's view on this amendment. However, to signal that these laws are in some way a temporary measure which will be up for review in two years time sends entirely the wrong message to the community. Bail is a serious undertaking and a commitment given by those present at court to abide by the law while at liberty in the community. The community is entitled to expect that these standards will be rigorously enforced. The government intends to ensure that undertakings of bail are treated with the seriousness and respect they deserve and that breaches of this confidence result in appropriate consequences. The government does not support the Greens amendments to this bill.

Ms PENNICUIK (Southern Metropolitan) — I will make one remark in response to both the government and the opposition. I agree with what was said by Ms Mikakos — that is, that everything should be reviewed all the time. However, when significant provisions are put in it is worth putting a focus on them. The minister has said the government will review these provisions, but the government is not the Parliament. A lot of stuff goes on in government, and in the past opposition members and the Greens have tried to get reports and evaluations from the Department of Justice or the Corrections Victoria and they have not been forthcoming. I am sure Ms Mikakos would agree that she has had the experience of the government making an evaluation and conducting a review which is not made public. This particular amendment is about such a review being made available to the Parliament.

Committee divided on amendment:

Ayes, 3

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

Noes, 34

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

Amendment negatived.

Ms PENNICUIK (Southern Metropolitan) — I have further comments on clause 9 which are not to do with the amendments. Clause 9 of the bill introduces a provision for the police to issue infringement notices of 1 penalty unit, which is the lowest penalty anyone could ever get. There is no guidance as to what that would be issued for, but in my opinion, at the present moment if there is a minor breach of a bail condition police have discretion to issue a caution or a warning — if it is a very small breach which is not endangering the public, such as being late for or not attending the police or overstaying a curfew for a short amount of time. These could be the only types of breaches of bail that would attract such a low penalty of 1 penalty unit.

My view is that they should be treated as they are now, with a caution or a warning, and if there is a more serious breach, then the police should arrest the person and take them back to court and let the court deal with them under proposed section 30A. Under that section they can be charged with the offence of breaching bail and the court can give them a fine of up to 30 penalty units — and may in fact give them 1 penalty unit or 2 — or can in fact impose a custodial sentence.

I do not see the point of this clause. Concerns about it have been raised by Youthlaw, which makes the point that it is young people who have a lot of these bail conditions imposed on them, more so than adults. They may have troubles, they may have problems related to family circumstances such as being homeless, they may have mental health issues and they may struggle to comply with their bail conditions. This clause, with its infringement provisions, will impact more on these people and tie them up in the steps that follow if they do not or are unable to pay the fines associated with infringements. Because the penalty is so small, people will start to get involved in the justice system when that does not need to happen. I think this offence is already covered under the existing provisions in the act and the new provisions inserted by clause 8. There is absolutely no need for clause 9.

Hon. E. J. O'DONOHUE (Minister for Crime Prevention) — The government disagrees with Ms Pennicuik. The application of this new penalty is not mandatory. It merely gives police and others increased discretion.

Committee divided on clause:

Ayes, 34

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

Noes, 3

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

Clause agreed to.

Clauses 10 to 11 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

MAJOR TRANSPORT PROJECTS FACILITATION AMENDMENT (EAST WEST LINK AND OTHER PROJECTS) BILL 2013

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Major Transport Projects Facilitation Amendment (East West Link and Other Projects) Bill 2013.

In my opinion, the Major Transport Projects Facilitation Amendment (East West Link and Other Projects) Bill 2013, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The main purposes of the bill are to:

amend the Major Transport Projects Facilitation Act 2009 to reduce procedural delays and red tape in relation to major transport projects; and

amend the Transport Integration Act 2010 to improve the operation of that act.

Human rights issues

Section 15 of the charter act protects a person's right to freedom of expression, which includes the freedom to seek, receive and impart information. The right to freedom of expression is not absolute; lawful restrictions reasonably necessary to protect the rights of other persons, or for the protection of public order and public health, are permissible under the charter act.

Restricting a person's ability to receive information in the form of *Government Gazette* notices could engage the right of freedom of expression. Clauses 7(2), 11(1), 12(1), 15, 17(3), 22, 51, 52 and 65(1) in the bill remove requirements to publish certain notices in the *Government Gazette* from the Major Transport Projects Facilitation Act 2009. However, the bill does not limit the right of freedom of expression because it requires or does not affect the requirement to publish notices on websites of agencies and, therefore, the relevant information remains widely accessible to the public and potentially in a way that is more accessible and user friendly. In some cases (clauses 6 and 14(2)), the requirement to publish information on the departmental website is new and therefore positively promotes the right to receive information.

Clauses 16(c) and 23(c) of the bill change requirements relating to documentation for assessment under the impact management plan and comprehensive impact statement respectively. The changes remove some information requirements for those documents which could engage the right of freedom of information as it affects the ability of the public to receive information. Insofar as these amendments limit the right to the freedom of information, in my opinion the limitation is justifiable and proportionate to the bill's objective of reducing red tape and procedural delays. In addition, the restrictions are limited in nature as the information is still provided in accordance with scoping directions (the publicly available requirements for project assessment documentation) issued by the planning minister and sections 27(a), (f)–(h) and 39(a), (f)–(i).

Clause 21 of the bill also engages the right to freedom of expression by amending the Major Transport Projects Facilitation Act 2009 to allow the planning minister to confine the scope of any public hearing to specified matters. Clause 21 may also engage the right to take part in public life by limiting the degree of involvement during a public hearing, if the minister exercises his or her discretion to confine the scope of a hearing. Section 18 of the charter act provides that every person has the right, and is to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives, for example by exerting influence through public dialogue and debate with elected representatives.

However, members of the public are not restricted from making written submissions to the assessment committee and verbal submissions to the assessment committee where a confinement does not apply. Therefore, although clause 21 of the bill limits these rights, in my opinion the limitation is justifiable on the basis that the limitation reflects the purpose of the bill to reduce procedural delay and cut red tape in relation to major transport projects. It is also a limited restriction as members of the public are still able to convey their views and participate in the engagement process required by the Major Transport Projects Facilitation Act 2009. Therefore the public can still participate in influencing the final approval decision of the minister.

Section 19(1) of the charter act provides that all persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of that background, to enjoy his or her culture.

Clause 59 of the bill allows for reservations of land under the Crown Land (Reserves) Act 1978 to be revoked and therefore engages cultural rights generally. The Crown Land (Reserves) Act 1978 enables Crown land to be permanently or temporarily reserved for a range of purposes, including purposes which involve the creation, protection or preservation of places of cultural significance.

However, revoking a reservation for the purpose of an approved project will only occur following an assessment and approvals process under the Major Transport Projects Facilitation Act 2009 and a transparent and public process under division 5 of part 3 of that act. Therefore, the bill maintains cultural rights by providing groups whose cultural

rights may be affected and the public generally with an opportunity to participate in the decision-making process where a reservation is revoked.

Clause 59 also engages the right to take part in public life as impacts on public participation on the basis that reservations can be revoked. However, again the limitation is proportionate and justifiable on the basis that the revocation must occur in accordance with the proper processes under the Crown Land (Reserves) Act 1978 and the public participation mechanisms in the Major Transport Projects Facilitation Act 2009.

Section 20 of the charter act provides that a person must not be deprived of his or her property other than in accordance with law. Any law that deprives a person of property must be accessible, sufficiently precise and should not provide for an arbitrary interference with property. Clause 73 of the bill inserts a new section 138A into the Transport Integration Act 2009 which allows the Linking Melbourne Authority to compulsorily acquire land required in connection with the performance of its powers or the exercise of its functions.

Compulsory acquisition of an individual's land is a deprivation of property for the purpose of the right to property. However, the acquisition of interests in land under the bill requires ministerial approval. The compensation requirements in the Land Acquisition and Compensation Act 2009 also apply, with minor modifications. A person deprived of their land under these clauses must be properly notified and compensated, and may test the lawfulness of an acquisition through judicial review. In addition, clause 55 does not limit planning compensation. Accordingly, in my view, compulsory acquisition of land under the bill would be in accordance with the law and these provisions do not limit the property right.

Conclusion

For the reasons outlined above, I consider that the bill is compatible with the charter act.

Matthew Guy, MLC
Minister for Planning

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

Transport context

Victoria is growing and changing. The demand for travel and the need to efficiently move people and goods is growing every day.

The coalition government is committed to delivering major transport infrastructure projects. They are essential to our economic future and our livability.

Congestion on roads and on public transport hurts our economy and affects all of our day-to-day lives.

The government is taking decisive action to cut red tape to allow for the assessment and delivery of major transport projects more quickly and efficiently.

Legislation has a key part to play in cutting red tape to address the infrastructure backlog. This is central to transforming our transport system. Put simply, this bill will deliver much-needed infrastructure sooner, and at a lower cost.

The coalition did not oppose the Major Transport Projects Facilitation Act when it was introduced into this house in 2009. There are, however, a range of improvements that need to be made to the scheme to cut red tape and boost productivity for the assessment and delivery of declared projects.

The benefits to major transport projects

The east–west road link, the Melbourne Metro rail tunnel and the port of Hastings are transformative projects. The quicker they are delivered, the quicker Victorians and Victorian businesses will see the benefits.

The east–west road link is a city-shaping project for Victoria. The new 18-kilometre cross-city freeway standard link will provide an alternative to the M1 corridor, alleviate chronic congestion and improve travel time for motorists and allow freight to be moved around more quickly. The government has committed to fund stage 1 of this project, which has an estimated capital cost of between $6 billion and $8 billion.

The Melbourne Metro rail tunnel will untangle the rail network and unlock the capacity needed to expand the network and increase services to Melbourne's growth areas in the north, west and south east. Creating capacity, particularly in the city loop, also means that more trains can run on all the lines, not just those running through the new tunnel. In 2012, the government made the first state contribution to the project, allocating $49.7 million.

Subject to the Premier's approval the legislation will also enable the port of Hastings development to be delivered. This project is essential for Victoria's future and the government has provided $110 million in the budget to kick-start the development.

This act, with the substantial improvements before you, is the foundation on which these crucial projects can be delivered.

It would also be a mistake to think that the bill is only for multibillion-dollar projects. It is not just about capital expenditure, it is about the value to the community that new and upgraded parts of the transport network can bring. Cycling networks, for example, face the same barriers as other linear projects in road and rail and the issues associated with getting projects delivered.

This legislation provides an alternative to the environment effects statement process and the multiple approvals required to deliver state significant projects.

Delivering major transport projects is a very costly exercise. This bill is designed to cut down on bureaucracy and channel state funds to where it can deliver the most benefit — the transport infrastructure on which we all rely.

Policy context

The changes before the house are a cornerstone of the government's budget commitment to deliver better value in infrastructure planning and delivery.

As the budget papers state:

> The government is driving better value for money, streamlining project approvals and cutting red tape to expedite major projects coming to market. The government is continuing to implement rigorous processes to improve infrastructure project delivery and ensure the cost pressures that affected major projects in the past are not repeated.

This is precisely what this bill is designed to do.

In December last year the government released its economic statement, 'Securing Victoria's Economy — Planning, Building, Delivering'.

The strategy outlines the government's vision for public sector reform involving controlling costs, reducing internal red tape and improving management within the public sector.

This bill exemplifies this government's commitment to work harder and to work smarter to cut red tape so the benefits of major transport projects can be delivered sooner.

The bill

Part 1 of the bill deals with preliminary matters.

Part 2 of the bill makes changes to the Major Transport Projects Facilitation Act 2009 to:

- introduce a more risk-based assessment regime;
- enable early works on projects, including the east–west link;
- shorten statutory time frames to improve productivity and speed up projects;
- simplify administrative processes;
- enable more efficient land assembly and project delivery; and
- extend the scope of the act.

Part 3 of the bill addresses other related amendments.

Key changes to the regime

Moving progressively to a risk-based assessment enables a more proportionate approach to different risks. This will improve assessment efficiencies and deliver a more practical and focused assessment report for public exhibition and consultation.

Early works on projects can provide an opportunity to structure projects to maximise efficiency and create jobs sooner. This bill makes clear that declaration of a project does not prevent the delivery of early works outside of the act's provisions. The act expands, rather than replaces, the methods of obtaining the necessary approvals for a major transport project. For projects with early works, it is simply a matter of obtaining any required planning or environment approvals in accordance with existing applicable laws.

This bill makes significant cuts to time frames for decisions in the assessment and approval process. Time frames for decisions around pathways, scoping, release of key documents and approvals have all been halved or more than halved.

The bill not only cuts time frames for decision making, but changes the scheme to allocate resources more efficiently and shift the focus to the project, rather than the process itself. An example of this is the simplification of the administrative steps required to have a project declared.

What the bill does not do is reduce the time frame for public exhibition — the onus is on government and government agencies to work more efficiently. This power does not prevent government from consulting with councils, where relevant.

The bill extends an existing provision to make clear that councils cannot frustrate projects once that project has been approved by the Minister for Planning.

The bill introduces a statutory duty on state agencies to act and make decisions expeditiously to avoid delay.

The bill also enables more efficient project delivery by reducing red tape to improve the arrangements for land assembly.

Conclusion

The changes cut red tape to boost productivity in the assessment and delivery of projects under the act.

The burden of red tape in the system is shouldered by the community and by business. Every week a project is tied up in administration is another week of congestion on our transport system. Congestion increases business costs and decreases the amount of time we all get to spend with our families.

This bill cuts red tape for projects. This bill cuts the time taken to assess, approve and deliver major transport projects. This bill gives that time back to the people of Victoria.

I commend the bill to the house.

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

Debate adjourned until Thursday, 29 August.

CORRECTIONS AMENDMENT (BREACH OF PAROLE) BILL 2013

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

For Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Corrections Amendment (Breach of Parole) 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 main purpose of the bill is to amend the Corrections Act 1986 (the principal act) to provide that it is an offence for a person to breach a prescribed term or condition of parole without reasonable excuse. Any prison sentence imposed in relation to the offence of breaching parole will be served cumulatively on other prison sentences to be served by the person. The bill also amends the principal act to authorise a police officer to arrest and detain a person if the officer suspects on reasonable grounds that the person has breached parole.

Human rights issues

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

Right to liberty — new offence of breach of parole and associated arrest powers

Section 21(2) of the charter act provides that a person must not be subjected to arbitrary arrest or detention. Section 21(3) provides that a person must not be deprived of his or her liberty except on grounds, and in accordance with procedures, established by law.

Clause 3 of the bill inserts a new s 78A into the principal act to provide that it is an offence for a person to breach a prescribed term or condition of parole without reasonable excuse while released on parole. The penalty attached to this offence is three months imprisonment, 30 penalty units, or both. Clause 5 of the bill inserts a new s 16(3BA) into the Sentencing Act 1991 to provide that a term of imprisonment imposed for an offence against s 78A must, unless otherwise directed by the court because of the existence of exceptional circumstances, be served cumulatively on any period of imprisonment the person may be required to serve on cancellation of parole (that is, the remainder of the sentence the person was serving until their release on parole) as well as any period of imprisonment imposed in relation to another offence committed while on parole (the commission of which will also amount to an offence against s 78A).

Clause 3 of the bill also inserts a new s 78B(1) into the principal act to provide that a member of the police force may, without warrant, arrest a person on parole if the officer suspects on reasonable grounds that the person has committed an offence against s 78A.

In my view these provisions are compatible with the right to liberty. The grounds for arrest are clear and appropriate, and cannot be regarded as arbitrary.

A parole period provides an offender with an opportunity to be reintegrated into the community under strict supervision, with the ultimate aim of reducing reoffending and minimising associated risks to the community. The terms and conditions of parole are specified by the adult parole board (the board) and communicated to parolees by way of individual parole orders, with which a parolee must comply. In circumstances where a parolee breaches a prescribed term or condition of parole, without reasonable excuse, it is entirely appropriate that punishment attaches to the breach. Similarly, the power to arrest a parolee for a breach of parole is appropriate in the context of the objectives and essential elements of the parole regime.

Right to liberty — detention pending determination by the adult parole board

New s 78B of the principal act further provides new powers to police to detain persons arrested under s 78(1). New s 78B(2) provides that the person may be detained where the arresting police officer is satisfied that the alleged breach is not trivial or minor and detention is necessary to prevent the prisoner continuing the breach or committing a further breach of parole. New s 78B(3) provides that the person must be detained where the alleged breach is constituted by an offence that is punishable by imprisonment other than an offence against s 78A or a breach of a term or condition of parole that is prescribed (by regulation) for the purpose of this provision. Detention of the prisoner on parole may also be ordered under new section 78C(1)(a) pending consideration by the board of the breach of the term or condition of parole. The detention effectively amounts to a temporary suspension of parole. Pursuant to new clause 78E of the principal act, also introduced by clause 3 of the bill, the period spent in detention is to be regarded as time served in respect of the sentence of imprisonment for which the person is on parole.

While the person is detained pursuant to these provisions, and is effectively serving the sentence of imprisonment already imposed for the offence for which they were on parole, the ability to apply for bail is temporarily suspended.

I consider that these provisions are compatible with the right to liberty in s 21 of the charter act. I acknowledge that persons detained under these provisions will have their parole temporarily suspended and will be detained before having the opportunity for a proper hearing before the board. It will also mean a delay before the person is able to apply for bail for the new offence with which they are charged, in the event that the board determines not to cancel parole. However, the detention

occurs pursuant to the sentence of imprisonment already imposed by the court and in order to protect the public from the dangers that arise where a person is breaching their parole. The provisions require that the matter be referred to the board within 12 hours of arrest and that the board determine whether the person ought to be detained pending consideration of the breach of parole, or cease to be detained under s 78B, and then consider the breach of parole, as soon as practicable after notification.

Right to be presumed innocent

Section 25(1) of the charter act provides that a person charged with a criminal offence has the right to be presumed innocent until proven guilty in accordance with the law. New section 78A creates an offence of breaching a prescribed term or condition of parole without reasonable excuse. Pursuant to s 72 of the Criminal Procedure Act 2009, the onus is on the accused to present or point to evidence that could establish a reasonable excuse.

Courts in other jurisdictions have generally taken the approach that an evidential onus such as this does not limit the presumption of innocence. The prosecution bears the onus of establishing the principal elements of the offence and, once an accused has presented or pointed to evidence of the reasonable excuse, the prosecution must also disprove that excuse beyond reasonable doubt. Additionally, whether a person has a reasonable excuse for breaching parole will be within his or her knowledge. By contrast, it would be extremely difficult, if not impossible, for the prosecution to prove the absence of a reasonable excuse given the range of potential excuses available. Accordingly, even if s 78A amounts to a limit upon the right to be presumed innocent, the limitation is reasonable and justifiable under section 7(2) of the charter act.

Right not to be punished more than once

Section 26 of the charter act provides that a person must not be punished more than once for an offence for which he or she has been finally convicted. A person who commits an offence against s 78A is subject to a criminal penalty for that offence, as well as any criminal penalty attached to any separate offence committed while on parole. However, the elements of these offences, and the purposes to be served by them, are distinct. In such circumstances, the right not to be punished more than once for an offence for which a person has been finally convicted is not relevant. I therefore consider that new s 78A is compatible with the right not to be punished more than once.

Mr Edward O'Donohue, MLC
Minister for Corrections

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The bill will amend the Corrections Act 1986 so as to:

introduce a new offence of breach of parole by failing to comply with a prescribed term or condition of parole without reasonable excuse (with a consequential amendment to the Sentencing Act 1991 to make clear that any prison sentence imposed for this new offence of breach of parole is to be served cumulatively on any other prison sentence, unless exceptional circumstances exist); and

introduce a new power under the Corrections Act 1986 for police to arrest a prisoner on parole if the police officer suspects on reasonable grounds the prisoner has committed the offence of breach of parole.

Over the last year, the government has introduced significant legislative and operational reforms to the adult parole system in Victoria, and this work is continuing.

Included in these reforms is the Justice Legislation Amendment (Cancellation of Parole and Other Matters) Act 2013, which commenced on 20 May 2013. It enacted new provisions regarding cancellation of parole, including automatic cancellation of parole for repeat offending by serious violent offenders and sex offenders.

The bill builds on those reforms by introducing a new offence of breach of parole, where that breach is constituted by failing to comply with a prescribed term or condition of parole.

The penalty for the new offence of breach of parole will be up to three months imprisonment, a fine of up to 30 penalty units, or both.

The new offence is consistent with the offence of committing a further offence whilst on bail (contained in a bill amending the Bail Act 1977 currently before Parliament) or whilst subject to a community correction order under the Sentencing Act 1991.

As is currently the case with sentences of imprisonment imposed on persons on parole, any prison sentence imposed for the new breach of parole offence will be cumulative, unless the court orders otherwise due to exceptional circumstances. A consequential amendment to the Sentencing Act 1991 makes this explicit in relation to the new offence.

The bill provides a new power for the police to deal with breach of parole terms or conditions that do not involve further offending — for example, breach of a curfew or breach of alcohol restrictions.

The new power provides that any police officer may, without warrant, arrest and detain a prisoner on parole if the police officer suspects on reasonable grounds that the prisoner, while on parole, has breached a prescribed term or condition of parole.

Upon arrest for breach of parole, the prisoner will be dealt with in accordance with the criminal laws and procedures that currently apply to arrested persons, unless the police officer is satisfied that the prisoner should be detained in order to prevent the breach continuing or to prevent a further breach of parole. If the police officer is so satisfied, the prisoner may be detained until the breach is considered by the Adult Parole Board.

If the breach of parole is the commission of a further offence punishable by imprisonment or some other serious breach that will be set out in the regulations, the prisoner must be detained until the breach is considered by the Adult Parole Board.

If the prisoner is detained under these new provisions, the Adult Parole Board must be notified within 12 hours of the arrest, and as soon as reasonably practicable after being notified, the board must order that the person:

be detained in a prison or police gaol pending consideration by the board of the breach (as soon as is practicable); or

no longer be detained under these provisions.

A member of the board (other than the secretary or a part-time non-judicial member) may exercise these functions of receiving notification of arrest and making the initial decision on detention or release, on behalf of the board.

If an order is made that the person continue to be detained, the board must as soon as practicable consider the breach, and decide whether to cancel parole or vary parole terms and conditions.

The bill ensures that in these circumstances the breaches of parole are considered immediately and then criminal prosecutions for an offence will be subsequently addressed. For this purpose, the provisions of the Crimes Act 1958 and the Bail Act 1977 that require persons in custody for an offence to be taken before a bail justice or the Magistrates Court or released on summons do not apply until the detention of the prisoner for breach of parole is addressed by the board.

If the board makes a decision that the prisoner should no longer be detained under these new provisions or decides not to cancel parole, those criminal laws dealing with the custody of the person are immediately re-enlivened. The result is that a prisoner may continue to be detained for the purposes of the criminal proceedings before the court or until, for example, bail is granted.

Even if the board decides the prisoner should not be detained under the provisions, the arrest of the person will, as is currently the case, be the subject of a report to the board by Corrections Victoria, and the board will determine whether any further action should be taken.

The bill reflects that parole is a privilege not a right, and the paramount consideration for parole is community safety.

I commend the bill to the house.

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

Debate adjourned until Thursday, 29 August.

FORTIFICATION REMOVAL BILL 2013

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

For Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

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

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

Overview of bill

The bill provides for the making of fortification removal orders which require removal or modification of fortifications on premises that are connected to certain criminal offences. These orders are made by the Magistrates Court, on the application of the Chief Commissioner of Police. The bill also provides Victoria Police with certain powers of entry, inspection and enforcement in respect of fortification removal orders.

Human rights issues

The right not to have privacy or home unlawfully or arbitrarily interfered with (charter act s 13(a))

The right not to be deprived of property other than in accordance with law (charter act s 20)

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

Section 20 of the charter act provides that a person must not be deprived of his or her property other than in accordance with law.

Both of these rights are relevant to several provisions of the bill.

Fortification removal orders

Clause 6 provides that the Chief Commissioner of Police may apply to the Magistrates Court for an order that a fortification must be removed or modified. A 'fortification' is a relevant structure or device (including an electronic surveillance device) or a combination of the two, that forms part of or is attached to premises that has or is intended to have the effect of preventing uninvited entry to the premises and is beyond

what is reasonably necessary to provide security for the ordinary lawful use of that kind of premises.

The magistrate may make a fortification removal order if satisfied that there are reasonable grounds to believe the premises are being used, have been used, or are likely to be used for or in connection with the commission of a specified offence, or to conceal evidence of a specified offence, or to keep the proceeds of a specified offence (cl 11). 'Specified offence' is defined to mean an indictable offence that is punishable by at least 10 years imprisonment or an offence set out in the schedule to the bill (which includes, for example, crimes relating to the possession or use of prohibited weapons) (cl 3).

In some cases, fortification removal orders may apply to residential premises. Requiring a person to remove or modify a fortification that forms part of or is attached to their home might negatively affect the person's privacy or home (although a removed or modified fortification would have to be beyond what is reasonably necessary to provide security for the lawful use of residential premises). If a person failed to remove or modify a structure or device that belongs to them during the compliance period of three months and the police had to remove or modify it, the structure or device or material removed by the police is forfeited to the Crown under cl 41 and that forfeiture would deprive the person of the use and benefit of that property.

To the extent that the rights in charter act s.13(a) and s.20 are relevant, in my view these rights are not limited by the bill, because:

> any interference with privacy and home will be lawful and not arbitrary (and hence will not limit the right in s. 13(a)); and
>
> any deprivation of property will be in accordance with law (and hence will not limit the right in s. 20).

A fortification removal order may only be imposed by order of the Magistrates Court, after application by the chief commissioner. The bill sets out strict criteria that must be satisfied before an order can be made, namely that the Magistrates Court must be satisfied that there are reasonable grounds to believe that the premises are being used, have been used, or are likely to be used in connection with serious crime.

The bill also contains safeguards which protect persons who may be affected by fortification removal orders. These include a requirement for any application to be supported by detailed written information, including an affidavit (cl 7); the requirement that the chief commissioner must make reasonable efforts to serve the owner of relevant premises (or, where there is more than one owner, at least one of those owners) with notice of an application, the requirement that occupiers be notified by having a copy of the application and any order made affixed to the premises (cls 8 and 17); owners and occupiers are given the opportunity to object (cls 9 and 10); the detailed specification of what an order must include (cl 13); there is a period for voluntary compliance with the order of at least three months before any enforcement action can be taken (cl 16) and an owner or occupier can apply to the chief commissioner or the court for an extension of that compliance period (cls 18 and 19). Finally, owners and occupiers of premises can use existing rights to appeal an order in a civil proceeding on a question of law to the Supreme Court or to seek judicial review of the order in the Supreme Court.

Entry and inspection powers

Clause 15 provides that a fortification removal order remains in effect for 12 months after the expiration of the compliance period (which usually lasts three months from the making of the order). While a fortification order is in effect, Victoria Police has the power to enter and inspect the fortified premises to determine whether the fortification has been removed or modified as required by the order, whether a fortification that was removed has been replaced or restored, whether a fortification that was modified as required under the order has had the modification removed or undone, or whether another fortification has been constructed on the premises (cl 25).

The chief commissioner may also apply to the Magistrates Court after the fortification order ceases to have effect for an order to enter and inspect fortified premises (cl 26).

The right to privacy and home is relevant to these provisions of the bill, where fortification removal orders are made in respect of residential premises. In my opinion, the powers of entry and inspection conferred on Victoria Police do not infringe this right because any interference will be lawful and will not be arbitrary. These powers are conferred for the limited purpose of determining whether there has been compliance with a court order.

While at the premises, Victoria Police are only authorised to do things that are reasonably necessary to determine compliance or the existence of further fortifications (cl 25(b) and cl 32(b)). Before entering, police must announce the fact and basis of their authorisation and provide a reasonable opportunity for persons present to permit entry without the police needing to use reasonable force (cl 35).

Enforcement powers

Clauses 36 and 37 provide that if the fortification removal order is in effect but the compliance period has ended, and the fortification removal order has still not been complied with, Victoria Police is authorised to enter the fortified premises without a warrant, and to do anything reasonably necessary to remove or modify the fortification as specified in the order, and may bring onto the premises a person, equipment or materials reasonably required to do so.

Clauses 40 and 41 provide that the Chief Commissioner of Police may in the enforcement of a fortification removal order, recover the cost of removing or modifying fortifications from an owner or occupier responsible for its construction in court proceedings, and sell, destroy or otherwise dispose of a fortification or material removed from a fortification.

In my view these provisions do not limit the right to privacy and home or the right not to be deprived of property other than in accordance with law. These powers are not arbitrary but serve the important purpose of ensuring that fortification orders made by a court are ultimately complied with and not flouted. Occupiers and owners of premises have the three-month compliance period (or longer if extended) to comply with court-ordered removals or modifications of fortifications. If they fail to do so and the police have to enter to give effect to the orders, the recovery of costs and the forfeiture of the removed fortifications is both reasonable and in accordance with law.

The right to freedom of movement (charter act s 12)

Section 12 of the charter act provides that every person lawfully within Victoria has the right to move freely within Victoria.

Clause 38 provides that Victoria Police may direct an obstructive person to leave fortified premises if they believe on reasonable grounds that the person is hindering or obstructing Victoria Police in the exercise of its enforcement powers. A direction must be reasonable in all the circumstances. Clause 39 provides that Victoria Police may remove the person, using no more force than is reasonably necessary, if the person has refused to comply with a direction to leave.

In *Magee v. Delaney* [2012] VSC 407 the Supreme Court held that what constitutes a protected form of expression under s. 15(2) of the charter is limited by public policy considerations inherent in the nature of a free and democratic society. Section 15(2) did not protect expression in the form of damage to a third party's property which was a criminal offence. By parity of reasoning, the scope of the right to freedom of movement is subject to a range of limits implicit in a free and democratic society based on the rule of law. In my view, one of these implicit limits on the freedom of movement in section 12 is being required to obey lawful directions by law enforcement officers where a person is hindering or obstructing the officers. Even if the freedom of movement were not implicitly limited in this way, clauses 38 and 39 are reasonably justified limitations under s. 7(2) as being appropriate and adapted to the legitimate aim of allowing law enforcement officers to enforce a court order in an orderly and unimpeded manner.

Right to presumption of innocence (charter act s 25(1))

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

Part 5 of the bill creates several new summary offences which proscribe conduct engaged in 'without lawful excuse' (clauses 43, 44, 45, 46 and 47). For example, clause 45 provides that a person must not, without reasonable excuse, refuse or fail to comply with a direction given to leave fortified premises. The effect of section 72 of the Criminal Procedure Act 2009 is that the accused must present or point to evidence that suggests a reasonable possibility of the existence of facts that will establish the reasonable excuse. The onus is then on the prosecution to prove beyond reasonable doubt that there was no such reasonable excuse.

In my view, the right to be presumed innocent is not limited by these provisions, because the prosecution will still carry the burden of proving beyond reasonable doubt all the elements of the offence including the absence of any reasonable excuse of which the accused presents evidence.

The Hon. Matthew Guy, MLC
Minister for Planning

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

Serious and organised crime is an ongoing threat to public safety and order in Victoria. The government recognised this when we committed to introduce laws to allow criminal bikie and similar gangs to be outlawed and fortifications of their premises to be demolished. The government delivered on the first part of that commitment last year with the introduction and passage of the Criminal Organisations Control Act 2012. This bill delivers on the second part of that commitment.

Fortifications on premises can be used to facilitate and protect criminal activity, preventing or delaying lawful entry by police or other authorities while evidence is destroyed or concealed. Their very existence can also be a visible threat to community safety, sending a message that some people consider themselves above the law and able to act with impunity to further their criminal activity.

This bill makes clear that such persons are not above the law and that police have strong powers to take action when offenders seek to use fortifications to shield their criminal activities.

The bill will specify a fortification to be a structure or device (including an electronic surveillance device, such as closed-circuit television equipment, a night vision camera or motion sensor), or a combination of the two, that forms part of or is attached to premises, that has or could (or would be considered by a reasonable person to be intended to) have the effect of preventing uninvited entry, beyond what is reasonably necessary to provide security for the ordinary lawful use of that kind of premises.

Under the bill, the chief commissioner will be empowered to make an application to the Magistrates Court for a fortification removal order that will require the fortification to either be modified or removed wholly. The court will be able to make such an order against a fortification if it is satisfied there are reasonable grounds to believe that the premises are being used, have been used, or are likely to be used in connection with a specified offence. For the purposes of the bill, a specified offence will be an indictable offence punishable by imprisonment for a period of 10 years or more or an offence specified in the schedule to the bill. These specified offences are ones that are typically committed by those involved in serious and organised crime.

The bill therefore requires a clear link between the erection and use of a fortification and serious criminal offences. The bill will not affect the legitimate use of security measures for lawful purposes.

The bill provides for a fair and reasonable civil process that balances the need for a straightforward procedure with the ability of persons affected by an application to have their say in court. The legislation provides for service of notices and orders on at least one owner of the premises, and for the affixing of notices and orders at the premises.

If the court decides to make a fortification removal order, the person or persons named in the order will have a set period

(called the compliance period) within which the fortification must be removed or modified.

The bill provides police with the power to enter and inspect the premises to ensure the order has been complied with and no further fortification has been erected. That power is exercisable for the period that the order is in force. Once the order has expired, the chief commissioner may also seek a court order allowing further inspections for a period up to three years.

If action to remove or modify a fortification is not taken within the required period, Victoria Police is empowered to take enforcement action themselves. This might involve entering the premises to remove or modify the fortification using whatever equipment or means is necessary to achieve that. Victoria Police will also be empowered to engage contractors or other third parties to undertake removal activities.

The bill creates a number of new criminal offences for seeking to defy or obstruct the lawful removal of fortifications. These new offences will apply to:

obstructing the inspection of fortified premises;

obstructing the execution of a fortification removal order;

failing to comply with a direction by police to leave fortified premises;

obstructing the removal of a person from premises;

interfering with affixed documents;

constructing or installing a fortification on certain premises; and

constructing or installing a fortification on a premises where a fortification removal order has previously been made.

The bill also contains additional provisions to ensure the efficient operation of the legislation, including a power for the chief commissioner to delegate his or her functions to other officers of senior rank and an immunity, similar to immunities in interstate legislation, for police and persons engaged by police acting in good faith to enter premises to modify or remove a fortification.

The previous government failed over 11 years to enact legislation to allow criminal bikie and similar gangs to be outlawed and their fortifications removed. The threat posed by these organised crime gangs is now plain to all — drug production and trafficking, violence, blackmail, extortion, intimidation, and arson. The government committed to act to tackle these problems, and we have delivered on our commitment.

I commend the bill to the house.

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

Debate adjourned until Thursday, 29 August.

ROAD SAFETY AND SENTENCING ACTS AMENDMENT BILL 2013

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

For Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

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

In my opinion, the Road Safety and Sentencing Acts Amendment Bill 2013, as introduced to the Legislative Council, is compatible with the human rights set out in the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the bill is to consolidate into a single, simplified process, the statutory provisions relating to obtaining a driver licence or learner permit after disqualification and the provisions relating to imposing or removing an alcohol interlock condition from a driver licence or learner permit. The provisions will be located in the Road Safety Act 1986.

The bill also repeals and re-enacts sentencing powers for courts to impose driving bans for any offence and for the Magistrates Court to impose an alcohol interlock condition for any offence committed where the offender was under the influence of alcohol or drugs which contributed to the offence.

In addition, the bill creates new powers for the Magistrates Court to impose alcohol interlocks where a person is convicted of the offences of driving dangerously or negligently while being pursued by police, or theft of a motor vehicle, if committed under the influence of alcohol. These new powers operate prospectively.

The bill also makes a range of structural, procedural and technical amendments.

Human rights issues

New process for relicensing and for alcohol interlocks

Section 13 of the charter act provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with. This right is relevant to the process for

applying for a licence eligibility order and it is also relevant where an alcohol interlock condition is imposed or removed by VicRoads following an order from the court.

A person who wishes to apply for a licence eligibility order may be required, depending on the circumstances, to obtain an assessment report regarding the person's use of alcohol or drugs. Personal information relating to the applicant, including medical information from a registered medical practitioner, may be disclosed to the court in a licence eligibility proceeding. Certain offenders are also required to obtain a licence eligibility report which assesses the applicant's suitability to obtain a licence. Alcohol interlock devices also collect information regarding the presence of alcohol in a person's breath. This information is ultimately provided to the court as part of the application process for a licence eligibility order.

These provisions do not limit the right set out in section 13 of the charter act. An application for a driver licence or learner permit after disqualification is entirely voluntary. If a person wishes to apply for a driver licence or learner permit, the new provisions set out the procedure that must be followed. Thus, any personal information is collected or disclosed with the free consent of the applicant. The provisions serve an important function in a democratic society, namely ensuring public safety through appropriate driver licensing decisions including conditions on licences.

The imposition of alcohol interlock conditions in relation to offences committed prior to 13 May 2002

Section 27(2) of the charter act provides that a penalty must not be imposed on any person for a criminal offence that is greater than the penalty that applied to the offence when it was committed.

The bill codifies the existing law relating to alcohol interlocks in the Road Safety Act. The provisions will allow alcohol interlocks to be imposed for offences committed before the alcohol interlock regime commenced on 13 May 2002.

However, the bill does not limit the right set out in section 27(2) of the charter act. The alcohol interlock provisions do not impose a penalty in relation to a criminal offence. An alcohol interlock condition is not punishment for an offence, so there is no issue of an increased penalty for a criminal offence. Rather an interlock condition is imposed where a person wishes to apply for a driver licence or learner permit after a period of disqualification following an offence.

Edward O'Donohue, MLC
Minister for Corrections

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The bill adds to the government's significant reforms to sentencing in Victoria by integrating the current complex range of provisions in the Sentencing Act 1991 and the Road Safety Act 1986 relating to licence cancellations, suspensions and restorations, and alcohol interlocks. The bill will create a set of common procedures that will apply regardless of the source of the cancellation, suspension or interlock requirement. The reforms also include new sentencing powers to impose driving bans and alcohol interlocks.

The bill does not make it easier for banned drivers to be relicensed by a court. Rather, the bill creates a more unified and streamlined process to obtain a driver licence following a ban from driving due to offending. The bill introduces a new single process under the Road Safety Act 1986 for offenders seeking to obtain a driver licence or learner permit who were previously banned from having or obtaining a licence. The new process will apply regardless of whether the driving or licence ban was imposed under the Road Safety Act 1986 or the Sentencing Act 1991. The reforms will significantly improve processes for VicRoads, Victoria Police and the courts as well as reduce court delay and cut red tape.

A new 'licence eligibility order' replaces the current 'licence restoration order' to more accurately reflect the role of the court in granting permission for a person to apply to VicRoads for a driver licence or learner permit subject to further checks carried out by VicRoads.

The bill introduces significant structural and procedural reforms to the alcohol interlock regime introduced in 2002. These changes will support future reforms announced on 3 March 2013 as part of the coalition government's Road Safety Action Plan 2013–2016.

The bill creates a new single streamlined process to impose or remove an alcohol interlock under the Road Safety Act 1986, irrespective of whether the disqualification for the alcohol-based offence was imposed under that act or the Sentencing Act 1991.

The bill also consolidates the new sentencing powers that were introduced in the government's community correction order (CCO) legislation that created new powers under the Sentencing Act 1991 to impose driving restrictions for offences in conjunction with a CCO. This consolidation ensures there is a single package of legislation setting out these provisions.

The bill also provides the Magistrates Court with a new discretion to impose alcohol interlocks for driving dangerously or negligently while being pursued by police; or theft of a motor vehicle, if either offence is committed under the influence of alcohol.

Importantly, complex and unclear provisions about driver licences and alcohol interlocks have been simplified or removed from the Road Safety Act 1986 and the Sentencing Act 1991.

The bill was developed in consultation with Victoria Police, VicRoads and the courts. It will introduce efficiencies and improved procedures that are welcomed and broadly supported. The bill will commence no later than 30 September 2013, subject to passage by the Parliament.

The bill is an integrated package that makes important reforms to the Sentencing Act 1991 and the Road Safety Act 1986 to ensure common procedures apply, regardless of the source of the cancellation, suspension or interlock.

I commend the bill to the house.

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

Debate adjourned until Thursday, 29 August.

ROAD LEGISLATION AMENDMENT (USE AND DISCLOSURE OF INFORMATION AND OTHER MATTERS) BILL 2013

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Road Legislation Amendment (Use and Disclosure of Information and Other Matters) Bill 2013.

In my opinion, the Road Legislation Amendment (Use and Disclosure of Information and Other Matters) 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 purposes of the bill are to:

a. amend the Road Safety Act 1986 to:

   i. repeal and replace the provisions of the Road Safety Act 1986 that relate to the use and disclosure of information held by VicRoads, so that they —

      A. only deal with information that identifies an individual and is collected or received in relation to VicRoads' registration and licensing functions and activities; and

      B. generally focus on the purpose for which the information is to be used or disclosed rather than restricting disclosure to a particular recipient, for a particular project or in respect of a particular act;

   ii. confirm that gazette notices made under the Road Safety Road Rules 2009 may adopt any relevant matter that is contained in another document — for example, requirements relating to bicycle helmets that are contained in the Australian standards;

   iii. give VicRoads the ability to limit the vehicles that must be included on the written off vehicles register to the vehicles specified under the regulations;

b. amend the Marine Safety Act 2010, and make consequential amendments to the Accident Compensation Act 1985, the Transport Accident Act 1986, the Road Safety Camera Commissioner Act 2011, the EastLink Project Act 2004, the Melbourne City Link Act 1995 and the Police Regulation Act 1958, in relation to the use and disclosure of information collected or received by VicRoads;

c. amend the Accident Towing Services Act 2007 to:

   i. enable VicRoads to approve applications for tow truck driver accreditation from persons who do not hold a Victorian driver licence but who can feasibly work as drivers in Victoria and hold a driver licence issued in their home state;

   ii. confirm that the defence that applies to a charge of failing to release an accident-damaged vehicle when a person is owed money for work in relation to the vehicle does not allow the person to retain or withhold any personal property left in the vehicle;

   iii. confirm that VicRoads may impose conditions on a regular tow truck licence that prohibit the holder from towing vehicles from within a specified area, irrespective of the weight of the vehicle;

   iv. clarify the operation of the provision which requires the Essential Services Commission to conduct a review of matters relating to accident towing services, the storage of accident-damaged vehicles or salvage;

d. make minor unrelated amendments to the Road Safety Act 1986, the Road Management Act 2004 and the Melbourne City Link Act 1995.

Human rights issues

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

<u>Repeal and replacement of the provisions of the Road Safety Act 1986 that relate to the use and disclosure of information held by VicRoads — right to privacy and reputation</u>

The provisions in the bill which relate to the use and disclosure of information held by VicRoads are compatible with section 13(a) of the charter act, which relevantly provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with.

If the use and disclosure of information is consistent with the new provisions in the Road Safety Act 1986, it will not be unlawful. It will not breach the criminal offence provisions in the Road Safety Act 1986 or the Marine Safety Act 2010 and

it will not be a breach of privacy under the Information Privacy Act 2000 or the Health Records Act 2001.

The purposes and circumstances for which information may be used or disclosed under the Road Safety Act 1986 will be sufficiently restricted to ensure that use and disclosure cannot be based on random or arbitrary choice. Any use or disclosure of information that is consistent with the new provisions will therefore not be arbitrary.

Accordingly, the new use and disclosure of information provisions in the Road Safety Act 1986 will not limit the right to privacy under the charter act.

Other provisions in the bill

The other amendments in this bill are intended to clarify and confirm existing practices and do not engage any of the rights protected by the charter act.

Matthew Guy, MLC
Minister for Planning

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The bill introduces new provisions for the use and disclosure of registration and licensing information held by VicRoads and makes a number of other amendments to the Road Safety Act 1986 and the Accident Towing Services Act 2007.

VicRoads holds a significant amount of information acquired through its activities in licensing drivers and registering motor vehicles. A large component of this information is personal information that either identifies an individual or is information from which an individual's identity can be reasonably ascertained. Names, addresses and dates of birth of a registered operator of a vehicle or a licence or permit holder are obvious examples of identifying registration and licensing information. The facial image of a licence-holder is another.

The Road Safety Act 1986 currently contains provisions that prohibit the use and disclosure of information of a personal nature and information that is commercially sensitive, other than for a number of specified purposes or in specified circumstances. It requires VicRoads to enter confidentiality agreements with the proposed recipients of information in relation to most of the circumstances in which information may be used or disclosed. It also imposes criminal penalties for the use and disclosure of information that contravenes the act.

An inter-agency working party conducted a review of these provisions as part of a general review of the Road Safety Act 1986. It identified a number of shortcomings with the current provisions. Amongst the most significant of these are the following:

a. The scope of the current provisions is unnecessarily broad as they capture information that could simply be dealt with under the Information Privacy Act 2000 or the Health Records Act 2001.

b. The reference in the legislation to information that has commercial sensitivity is insufficiently precise.

c. Many of the provisions that allow the use or disclosure of information are narrowly confined in scope and relate to particular recipients or particular acts. Such highly prescriptive provisions have proven to be inflexible, as they do not accommodate new similar circumstances. This has led to the need to amend the act on a fairly frequent basis.

The bill introduces new provisions that address the main issues identified during the review. The key features of these provisions are as follows.

They will only apply to information that identifies a person (whether living or deceased) that VicRoads collects or receives in relation to its registration or licensing functions or activities. This information warrants a high degree of protection due to its potential for criminal use, such as for identity fraud purposes. It is therefore appropriate that criminal penalties be imposed for its unauthorised use or disclosure.

Registration and licensing information that identifies an individual also requires its own regulatory regime due to the public interest objectives that may be served through the use and disclosure of this information and the need to impose strong protection against its unlawful use and disclosure. The new regime will authorise the use and disclosure of this information for a range of relevant purposes. For example, the bill will allow VicRoads to disclose identifying registration and licensing information to Victoria Police to assist it in locating missing persons and for the purpose of a vehicle recall procedure in relation to a possible safety-related defect in a vehicle.

Other identifying information held by VicRoads that does not relate to its registration and licensing functions or activities may appropriately be regulated by the Information Privacy Act 2000 or the Health Records Act 2001.

Commercial information will no longer be regulated under the Road Safety Act 1986. Any requests for access to commercial information will generally be dealt with under the provisions of the Freedom of Information Act 1982 that apply to information that relates to matters of a business, commercial or financial nature. That act requires decision-makers to determine whether the release of the information would expose an undertaking unreasonably to disadvantage and to consult with the undertaking as to whether disclosure should occur. It therefore provides an appropriate process for determining whether the disclosure of the information would disadvantage the undertaking.

The new regime adopts a broader and more purpose-based approach to the use and disclosure of information. This approach is designed to accommodate current activities for which information may legitimately be used or disclosed and also new ones of a similar nature as they arise. The new

scheme should therefore be more responsive to changing needs.

The maximum penalty for the unauthorised use and disclosure of information will be increased from 100 penalty units to 120 penalty units and there will also be an alternative penalty of up to 12 months imprisonment. An offence will be committed when a person knowingly or recklessly uses or discloses information in contravention of the regime.

The bill will expressly confirm that even if VicRoads is authorised to disclose information for a particular purpose, it is not obliged to do so unless another law requires this disclosure.

The bill will retain the current confidentiality agreements but will rename them information protection agreements and will require that additional safeguards be included in these agreements. These safeguards include the requirement that the agreements must specify how compliance with its terms will be monitored and enforced and auditing arrangements.

By broadening the purposes for which identifying registration and licensing information may be used or disclosed and at the same time increasing the penalties for unauthorised use and disclosure and strengthening the information protection agreements, the bill strikes the right balance between an individual's right to privacy and the public interest in making information available for certain purposes.

The bill also amends the Marine Safety Act 2010, and makes consequential amendments to the Accident Compensation Act 1985, the Transport Accident Act 1986, the Road Safety Camera Commissioner Act 2011, the EastLink Project Act 2004, the Melbourne City Link Act 1995 and the Police Regulation Act 1958 in relation to the use and disclosure of information collected or received by VicRoads.

The bill makes two other minor amendments that improve the operation of the Road Safety Act 1986. The bill also makes some amendments to improve the operation of the Accident Towing Services Act 2007.

The bill enables VicRoads to approve applications for tow truck driver accreditation from persons who do not hold a Victorian driver licence but who can feasibly work as drivers in Victoria and hold a driver licence issued in their home state. This will facilitate towing operations in border areas of Victoria and is consistent with the approach taken in other jurisdictions that regulate the towing industry.

Under the Accident Towing Services Act 2007 it is an offence for a person in charge of a place to which an accident-damaged vehicle has been towed to refuse to release that vehicle. It is a defence to a charge of failing to release a vehicle, if the person is owed money by the vehicle's owner in respect of authorised work done on the vehicle or towing and storage charges imposed under the act. However, there have been instances in which a person has refused to release personal property left in the vehicle when money has been owed. The bill confirms that the defence that relates to refusing to release the vehicle does not allow the person to retain or withhold any personal property left in the vehicle.

The bill will also confirm that VicRoads may impose conditions on a regular tow truck licence that prohibit the holder from towing vehicles from within a specified area, irrespective of the weight of the vehicle.

In conclusion, this bill makes a number of useful amendments to road legislation. The most important of these is the introduction of a use and disclosure of information regime in the Road Safety Act 1986 that provides public benefit.

I commend the bill to the house.

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

Debate adjourned until Thursday, 29 August.

ADJOURNMENT

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

That the house do now adjourn.

Abalone industry levies

Mr LENDERS (Southern Metropolitan) — The matter I raise on the adjournment tonight is for the attention of the Minister for Agriculture and Food Security, Peter Walsh. It relates to the approximately $300 000 a year of levies that are taken from the abalone industry. There is some angst in the industry at the moment as to who administers these grants.

One body, the Victorian Abalone Divers Association, is administering these grants at the moment, and another body, Abalone Council Australia, has a lot of the members who were once in a divers association and who are interested in where the grants are going. The action I seek from the minister is to clarify the list of projects that the Victorian Abalone Divers Association has used the grants for in the last period of time. What I respectfully seek from him is some clarity for the industry, through me in this house, as to how the grants are administered, what they have gone to and how they are published. That is the action I seek from the minister.

Fringe benefits tax

Mrs PEULICH (South Eastern Metropolitan) — The matter that I wish to raise is for the attention of the Minister for Local Government. It is in relation to the rash policy-on-the-run announced by Prime Minister Kevin Rudd on the fringe benefits tax (FBT) involving salary-sacrificed vehicles. We have already heard of the significant impact on the car industry; for example, in the last little while we have heard that NLC leasing has made redundant 75 members of staff, McMillan Shakespeare is in a trading halt, the Qantas Group has frozen all motor vehicle services, the sale of SmartCompany is now on hold and car yards in major cities are already reporting lost orders. On the weekend

I spoke with one of the car dealers in Berwick. The owner of the dealership said that the impact on their bottom line was going to be $450 000 a year.

However, what concerns me is one area that has not yet been teased out, and that is the impact on local government, given that many employees in local government do salary sacrifice. The average cost of these cars I believe is about $35 000 to $40 000, so they are not luxury vehicles. The employees are not necessarily all at the executive level. One of my local councils has made preliminary calculations that the impact on their bottom line per year is going to be about $350 000. That is a very substantial impact on ratepayers, who each and every year would be looking at a massive loss of money that could otherwise be directed to infrastructure or improvement of services, or even just lowering or keeping downward pressure on rates.

What I am asking for the minister to do is to have her department undertake some investigation to ascertain the impact of the FBT on the local government sector. I also ask her to advocate to the peak bodies such as the Municipal Association of Victoria (MAV) and the Victorian Local Governance Association (VLGA), which have been remarkably silent on this issue, that they lend their voices in support of the campaign against this absolutely ill-considered change that will destroy jobs and impact on every sector, in particular significantly impacting on local government. We are aware of the MAV and the VLGA being vocal on a range of other issues, but this is an issue that goes to the heart of and will impact on every single council. I urge the minister to immediately pick up the phone and call these organisations to harness their support. I look forward to reading their press releases condemning the FBT changes as negatively affecting local government.

Mitcham rooming house

Mr LEANE (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Consumer Affairs, Heidi Victoria, and the action I seek is for her to act with personal courage by asking her department to investigate a rooming house in Mitcham. People have contacted me with concerns about this particular rooming house, which they believe the Department of Justice is using as a destination for men on parole who may have mental illness as well. Since this rooming house was established there has been a long period of antisocial behaviour, including all sorts of worrying actions such as an assault on people in the neighbourhood. As I said, the action I seek from the minister is that she show courage, find out what is going on out there, get involved and do what she can to address the ongoing issues the neighbourhood has been subjected to since this rooming house was established.

I have been provided with documentation by some of the neighbours of the rooming house, and I would like to hand that over to the minister at the table, the Minister for Higher Education and Skills, so that he can hand it to the Minister for Consumer Affairs so she will know the location and how the neighbours see this issue as affecting their lives.

Dairy industry regulation

Mr O'BRIEN (Western Victoria) — My adjournment matter is for the Minister for Agriculture and Food Security, the Honourable Peter Walsh. I call on the minister to provide information to the house regarding Victoria's regulatory framework around bacterial incidents connected with milk and dairy products.

Members would be well aware of the recent events surrounding New Zealand milk products. Earlier this month Fonterra warned that the bacteria that can cause botulism had been found in three batches of a particular type of whey protein concentrate made at its plant in the Waikato area of New Zealand in 2012. It is believed that the contamination, which is now the subject of a number of investigations, was caused by unsterilised pipes at the factory. Botulism is one of the most dangerous forms of food poisoning and can lead to paralysis. New Zealand authorities subsequently triggered a global recall of up to 1000 tonnes of product containing the affected ingredient across seven countries. Countries affected besides New Zealand included China, Malaysia and Thailand.

While this food safety scare has claimed no victims in terms of fatalities or known illnesses, it is a timely reminder of the reputational damage that can be caused should adequate safeguards not be in place. This month's incident follows the tragic Chinese case in 2008 when tainted Chinese milk formula resulted in the reported illness of 300 000 infants and the deaths of 6.

Apart from product from the Fonterra factory in Darnum, other Victorian exports were unaffected. However, the company's reputation — and unfortunately that of New Zealand as a dairy exporter — has suffered. New Zealand presently exports 95 per cent of its dairy products, and dairy is a strong driver of its economy. As one of the largest dairy exporters globally, Victoria guards its reputation carefully as a clean and green agricultural producer. This is particularly the case in Western Victoria Region, which I represent and which has some of the

best, if not the best, dairy areas in the country, as well as other grazing and farming agricultural opportunities. These latest figures indicate that Victoria exports approximately 86 per cent of Australia's dairy products — almost $2 billion worth — so we are reminded, and I remind the house, of what a vital industry this is.

There is nothing wrong or unfair about Victoria ensuring that its clean, green agricultural reputation, its unique biodiversity and its high standards of farming receive the highest levels of support, care and careful consideration by this government and by this minister. Therefore I look forward to the minister's confirmation that, as a state, we are taking a proactive stance on these very important issues to the dairy sector.

Broadband access

Mr SOMYUREK (South Eastern Metropolitan) — I raise a matter for the attention of the Minister for Technology, Mr Gordon Rich-Phillips, concerning the poor broadband internet access in Narre Warren South. On 22 June 2010 the minister, who was then a shadow minister, raised an adjournment matter for the attention of the then Minister for Information and Communication Technology regarding a small business operator who struggled to gain broadband internet access in Narre Warren South. I quote Mr Rich-Philips's words from *Hansard* of 22 June 2010:

> What I seek from the minister is for him, where appropriate, to extend those initiatives to ensure that broadband is made available in the outer suburban areas of Melbourne where it is currently of limited availability and that it be made available far earlier than would otherwise be the case if we waited for the national broadband network from Canberra.

Given that Minister Rich-Phillips so keenly pursued this matter whilst in opposition, I ask: what has his government done to rectify the situation now that he is the Minister for Technology?

Fringe benefits tax

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Health, who is also the Minister for Ageing. It concerns the effects of the fringe benefits tax changes by the federal government and the impact that will have on aged-care services and health services in the western suburbs of Melbourne. I am particularly concerned by a media release from Leading Age Services Australia Victoria, Victoria's peak body representing the aged-care industry. Mr John Begg, who is the CEO of that particular organisation, said:

> … the changes are of serious concern and will result in quantifiable real reductions to the effective wages of the employees of aged-care organisations, as well as many other community service providers.

Mr Begg went on to say:

> The changes will result in either a reduction of at least $2000 to $3000 per year in benefits or an increase of $2000 to $3000 in expenses per employee. Either way — this is a significant impact.

As members can understand, this will have quite a detrimental effect on the salary and conditions of a number of workers who are hardly in a high wage bracket; in fact, these are what would be called battlers. The federal government in Canberra seems to be keen to put the boots in at this particular time. Mr Begg also said:

> Around 70 per cent of the employees of our member organisations who access leasing arrangements earn less than $100 000 per year and the average cost of their leased vehicles is $35 000.

This obviously goes right across the board, not just to aged-care organisations. It affects hospitals, doctors surgeries and a whole range of health and aged-care facilities right across Australia, if the truth be known. What I am particularly interested in — —

Mrs Peulich — Home and community care services.

Mr FINN — Home and community care services indeed; Mrs Peulich is right on, as she always is. These are services which can ill afford to be affected in this way, and employees of these services are people who can ill afford to lose the money that Mr Begg and some others have suggested they would.

I ask the minister to provide for the house, and indeed for the community, an estimate that is as accurate as possible of by how much this fringe benefits tax change will impact upon service providers and their employees in the western suburbs of Melbourne. I believe it is only then that we can fully understand just how badly conceived and ill thought out this proposal is.

Local government rates

Mr MELHEM (Western Metropolitan) — My matter is for the attention of the Attorney-General. It is a matter of significant importance that deeply impacts both on Melbourne's west and on the state of Victoria. It is an issue which touches every household in the state, especially those in financial hardship, and it is an issue which the government must act on now. The issue is skyrocketing council rates and the lack of a financial

hardship code or guideline for local governments to follow when dealing with ratepayers who are in arrears.

I read with interest the report released jointly by the Footscray Community Legal Centre and the Federation of Community Legal Centres on council debt collection in Victoria. In fact the Attorney-General launched that report in December 2012. The report points to the overwhelming litigious practice of local councils suing residents in arrears because they cannot pay their rates without first adequately exploring the alternatives to litigation. Since 2003–04 councils have numbered 15 out of the top 25 most prolific litigators for small debt claims in the Magistrates Court. Victorian councils sue over 6000 people each year for unpaid rates. I am not advocating that people not pay their rates, but I think we need to talk to councils about being a little more humane in their approach, like other service providers, by offering ratepayers options and looking at what assistance can be provided so they can pay their rates.

I call on the Attorney-General to explain to the house what, if any, action has been taken in response to the report he launched. Further, I call on the Attorney-General to explain whether he will investigate or monitor the impact that the fire services levy may have on the number of ratepayers in arrears.

City of Wyndham refuse disposal facility

Mr ELSBURY (Western Metropolitan) — The matter I raise this evening is for the attention of the Minister for Planning, the Honourable Matthew Guy, and it relates to the Wyndham City Council's refuse disposal facility located at Wests Road, Werribee. The waste disposal centre has been there since the 1970s and utilises the large excavation produced by a stone quarry which is currently in operation at the site.

In the late 1990s I was involved in the community protest against a prescribed waste landfill, better known as a toxic waste dump, being established at this site. Many people from across the Werribee community vigorously opposed this risk to our neighbourhood. I attended meetings, collected signatures on petitions and the back window on my Holden Barina was plastered with anti-toxic-dump stickers. I owned the hat and I wore the T-shirt. I volunteered to protest against CSR, attended a public rally out the front of this place and was one of 15 000 people who attended a protest rally at Werribee Racecourse. This was our community at stake. The issue was resolved when the council found a clause in contracts for the site which allowed for the council to purchase the site. My very good friend who was the mayor at the time, the late David McLaren, was instrumental in this victory.

The issue I have today is that the council has seen fit to develop the site as a refuse management facility, and it is the methods it has recently adopted which I draw concern from. A pile of rubbish 25 metres high has been allowed to develop. Permits the council has provided to itself for the facility allow for the pile to rise to 100 metres, although I have assurances from the mayor and the CEO of the Wyndham council that this will not happen. The issue is that the pile was allowed to be built in the first place, especially when we consider that the topography of the region is nigh on dead flat, being a part of the largest volcanic plain in the Southern Hemisphere. Hence, the pile sticks out. It is the equivalent in height of a seven-storey building. The rubbish mountain, as it is being referred to, blots out views and distracts from the iconic You Yangs mountains. It also presents an odour issue as the household waste it is made from rots.

I ask the minister to inquire of the Wyndham City Council as to why it felt this development was reasonable. What are the checks and balances that the council employs when providing itself with such a planning permit? Why, when the pile already exists, has the council chosen to take this matter to the Victorian Civil and Administrative Tribunal at this very late stage? I also ask that the minister make further inquiries as he sees fit to gain a full understanding as to why this project was approved by the council. It is an unsightly and substantial landmark which impacts on the amenity of the Wyndham Vale region and further stigmatises the community of Werribee.

Parks Victoria job losses

Ms TIERNEY (Western Victoria) — My adjournment matter this evening is for the attention of the Minister for Environment and Climate Change. It concerns the Napthine government's announcement that it will cut 60 jobs from Parks Victoria. Sixty jobs is a significant number of jobs in anyone's language, but in terms of Parks Victoria's payroll it is an enormous number of people. It means that 60 fewer people will have an income, and those 60 people will not be able to contribute to their families and households. It also means 60 fewer people will be working tirelessly to protect the Victorian environment, an environment that is under attack and has been increasingly under attack since the election of the coalition government. The Labor government put the environment very high on its priority list, not just in terms of policy but also in terms of the implementation of programs. Under the watch of this government we only hear about the environment when it announces cuts to spending.

The action I seek from the minister this evening is that he provide detailed information on the consequences of cutting these 60 jobs from Parks Victoria. I seek written information from the minister on the location of each job that will be cut, in particular the jobs that will be cut in western Victoria. I also seek information on the functions performed by the 60 staff which will no longer be performed, information on the programs that will be cut or curtailed as a result of this announcement and details on what monitoring mechanisms will be put in place to record the impact that the job cuts will have on the Victorian environment.

Fringe benefits tax

Ms CROZIER (Southern Metropolitan) — My adjournment matter this evening is for the Minister for Health, Mr David Davis. Yesterday in a statement in this house I raised my concerns about the federal government's cuts to the fringe benefits tax (FBT) after having spoken with a number of constituents and businesses within my electorate of Southern Metropolitan Region who will be directly affected by this ill-considered policy. Today there have been further ramifications from this cut. Ford workers were forced to stay at home today due to the impact of the FBT changes. I note that the automotive industry in this state employs 24 000 people, so the potential for job losses in this industry alone is enormous. Notwithstanding those developments, I am particularly concerned for the thousands of health workers affected by this ill-considered policy.

In a letter to the Prime Minister dated 14 August representatives of leading health groups, including Mr John Begg, the CEO of LASA Victoria; Mr Trevor Carr, the CEO of the Victorian Healthcare Association; Dr Jo-anne Cherry, the president of the Australian Dental Association; and Mr Greg Sassella, the CEO of Ambulance Victoria — —

Ms Mikakos interjected.

Ms CROZIER — Ms Mikakos rightly highlights that Mr Finn also raised this issue, but my issues go a bit further than just the aged-care sector, because this goes right across the health and community health sectors. The letter states:

> We are particularly concerned at the manner in which the announcement was made, with no notice or consultation, and without consideration of the unintended consequences, particularly for public sector and not-for-profit employers and employees.
>
> As you will know, salary packaging of vehicle expenses is common in the public health system and the not-for-profit sector … Benefits of this type are of particular importance for positions in rural areas, where recruitment and retention can be challenging.

With that in mind, as this is a vital industry sector, I ask the minister to speak with the caretaker federal health minister, Tanya Plibersek, and the shadow health minister, Peter Dutton, highlighting the concerns of the signatories to that letter, which was written to the Prime Minister on 14 August, and in particular how this policy could have an impact on retention of staff in that vital industry sector.

East–west link

Ms MIKAKOS (Northern Metropolitan) — My matter this evening is directed to the Premier. As a member whose constituents are directly affected by the east–west tunnel, I wish to raise a number of concerns that I and my constituents have about this project. Some 92 homes and 26 businesses are to be demolished, sporting clubs and local users will lose vital parkland and the amenity of local residents will be adversely affected by smoke stacks, ramps and additional traffic being diverted to their area. They are therefore entitled to know why they are to be subjected to this fate. This project is cloaked in secrecy. The business case has not been released, and all that the public has seen is glossy brochures and artists impressions.

It has become apparent from a leaked Department of Transport, Planning and Local Infrastructure email as reported in the *Age* of 19 August that the estimated figure of 80 000 to 100 000 vehicles looks to have been artificially inflated. We know from past modelling that up to 80 per cent of vehicles exit the Eastern Freeway at Hoddle Street, but this $8 billion tunnel will do nothing to alleviate congestion on Hoddle Street and in fact will make it worse. Of course the tunnel will do nothing for the vast majority of Victorian road users, who do not use the Eastern Freeway at all.

On 2 August the *Age* reported that a study conducted earlier this year by University College London said:

> … tolls on the east–west tunnel would have to be three times the current cost of an average trip on CityLink for investors to make a profit.

It reported that the study also said:

> … motorists would have to be charged a least $10.50 for investors to get a return.

We do not know what the level of tolls to be imposed will be and we do not know whether the existing Eastern Freeway is to be tolled; however, given that the financial case for this particular project is looking very

unattractive, it is highly likely that tolls will be imposed on the existing Eastern Freeway.

This project is also going to drain funds from many other vital infrastructure projects around the state. There are schools in my electorate that have been waiting three years to be funded, and if this project goes ahead, they will be waiting much longer. The action I am seeking from the Premier is for his government to subject this $8 billion tunnel to the will of the Victorian people and let them decide at the November 2014 state election whether this project should proceed. The government should be seeking an electoral mandate for a project of this magnitude where a compelling case has not been made as to why this project should proceed at this point.

East–west link

Mrs COOTE (Southern Metropolitan) — This matter is for the Minister for Roads. I was sincerely disappointed in one of my local councils, the Glen Eira City Council, which recently came out and said that it was not supporting the east–west link. I think the mayor and councillors need to have a much closer look at themselves. What they have done is at best very narrowly focused, and 'parochial' is a word that springs to mind.

I suggest that the mayor reconvene his council and have a look at some of the facts. The facts are that in the coalition's last budget $100 million was spent on the Frankston railway line, which runs right through the heart of Glen Eira. The coalition government has also committed to the removal of the level crossing at North Road, Ormond, which Labor failed to do.

I know the councillors and mayor are aware of exactly what is being done. They are supportive of this. They say having enough public transport in the city of Glen Eira is not being supported. That is simply not true. The parochialism comes in when the council members avoid looking at what the east–west link is going to do for the city of Glen Eira. They forget that the residents of the city of Glen Eira are going to benefit from the east–west link. Along with other Victorians, they are going to be the recipients of cheaper goods, a better transport system and indeed jobs. All of these people in Glen Eira are going to be affected, and they will benefit from the east–west link. It was a very narrow, focused approach, and I am very disappointed in the actions of a council that I thought would have a broader vision of the world.

The east–west link will reduce pressure on the Monash Freeway, and that will add to the benefits for people living in and around Glen Eira. As I said, I cannot repeat enough how disappointed I am, especially in the mayor of Glen Eira, and I would like to ask Minister Mulder if he would contact the City of Glen Eira and its mayor and organise for his department to give the councillors an in-depth briefing on the benefits of the east–west link so that the council can reverse its public announcement.

Responses

Hon. P. R. HALL (Minister for Higher Education and Skills) — I have written responses to the adjournment matters raised by Mr Barber on 30 May, Ms Broad on 30 May, Mrs Coote on 11 June, Mr Lenders on 12 June and Mr O'Brien on 13 June.

Tonight's first matter was raised by Mr Lenders for the attention of the Minister for Agriculture and Food Security. He is seeking details of grant distributions — and how those grants were used — to the association representing abalone divers, the Victorian Abalone Divers Association. I will pass that on.

Mrs Peulich raised a matter for the attention of the Minister for Local Government concerning federal government fringe benefit tax (FBT) policy and how that impacts on cars and salary arrangements for those in local government. I will pass that on to the minister.

Mr Leane raised a matter for the attention of the Minister for Consumer Affairs regarding issues in relation to a rooming house in his electorate. He has given me some details, which I will pass on to the Minister for Consumer Affairs.

Mr O'Brien raised a matter for the attention of the Minister for Agriculture and Food Security regarding matters concerning actions to avoid potential contamination of milk. I will pass that on to the Minister for Agriculture and Food Security.

Mr Somyurek raised a matter for the attention of the Minister for Technology in relation to broadband availability in his electorate, particularly in Narre Warren. I will pass that on.

Mr Finn raised a matter for the attention of the Minister for Health, who is also the Minister for Ageing, seeking information regarding the impact of the federal government's FBT policy on the health and ageing sector in his electorate. I will raise that concern with the minister.

Mr Melhem raised a matter for the attention of the Attorney-General, in his description, seeking an explanation of the impact of the fire services levy on a

number of ratepayers in Victoria. I am not sure whether the Attorney-General is the right person to deal with that matter, but I am sure he will at least direct it to the appropriate minister.

Mr Elsbury raised a matter for the attention of the Minister for Planning regarding matters concerning the operation of the waste disposal centre at Werribee. I will pass that on to the minister.

Ms Tierney raised a matter for the attention of the Minister for Environment and Climate Change regarding job losses within Parks Victoria and asked the minister to take on board some concerns and provide some information she sought on that particular matter.

Ms Crozier raised a matter for the Minister for Health, again regarding the impact of the federal government's FBT policy — popular amongst members but unpopular in its application, it seems — across a wide range of areas. She requested that the minister meet with his federal counterparts and express concerns on behalf of the sector in Victoria.

Ms Mikakos raised a matter regarding the east–west tunnel and its impact on some of her constituents. She asked that her concerns be expressed to the Premier and that he listen to the concerns of her constituents. I will pass that on.

Mrs Coote raised a matter for the attention of the Minister for Roads. She is quite strongly opposed to and disappointed with the views of the Glen Eira City Council regarding the east–west link and requested that the Minister for Roads make himself available to brief Glen Eira council on the full details of the east–west link. I will pass that on.

The PRESIDENT — Order! The house stands adjourned.

House adjourned 5.59 p.m. until Tuesday, 3 September.