PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 20 February 2014

(Extract from book 2)

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By authority of the Victorian Government Printer

The Governor

The Honourable ALEX CHERNOV, AC, QC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

The ministry

(from 22 April 2013)

Premier, Minister for Regional Cities and Minister for Racing	The Hon. D. V. Napthine, MP
Deputy Premier, Minister for State Development, and Minister for Regional and Rural Development	The Hon. P. J. Ryan, MP
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Minister for Liquor and Gaming Regulation, Minister for Corrections and Minister for Crime Prevention	The Hon. E. J. O'Donohue, MLC
Minister for Local Government and Minister for Aboriginal Affairs	The Hon. E. J. Powell, MP
Assistant Treasurer, Minister for Technology and Minister responsible for the Aviation Industry	The Hon. G. K. Rich-Phillips, MLC
Minister for Environment and Climate Change, and Minister for Youth Affairs	The Hon. R. Smith, MP
Minister for the Arts, Minister for Women's Affairs and Minister for Consumer Affairs	The Hon. H. Victoria, MP
Minister for Agriculture and Food Security, and Minister for Water	The Hon. P. L. Walsh, MP
Minister for Police and Emergency Services, and Minister for Bushfire Response	The Hon. K. A. Wells, MP
Minister for Mental Health, Minister for Community Services, and Minister for Disability Services and Reform	The Hon. M. L. N. Wooldridge, MP
Cabinet Secretary	Mr N. Wakeling, MP

Legislative Council committees

Privileges Committee — Ms Darveniza, Mr D. Davis, Mr Hall, Ms Lovell, Ms Pennicuik, Mrs Peulich 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, Mr Ramsay and #Mr Scheffer.

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 Finn, #Ms Hartland, Mrs Kronberg, #Mr Leane, Mr Ondarchie, Ms Pennicuik, #Mrs Peulich, Mr Ronalds, Mr Scheffer, #Mr Tarlamis, Mr Tee and Ms Tierney.

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

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

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

 # Participating member

Joint committees

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

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

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

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

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

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

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

House Committee — (*Council*): The President (*ex officio*) Mr Drum, Mr Eideh, Mr Finn, Ms Hartland and Mrs Peulich. (*Assembly*): The Speaker (*ex officio*), Ms Beattie, Mr Blackwood, Ms Campbell, 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 Garrett, 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 Melhem, Mr O'Brien, Mr Ondarchie, Ms Pennicuik, Mr Ramsay, Mr Tarlamis

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The Hon. D. M. DAVIS

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

Leader of the Opposition:
Mr J. LENDERS

Deputy Leader of the Opposition:
Mr G. JENNINGS

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

Deputy Leader of The Nationals:
Mr D. DRUM

Member	Region	Party	Member	Region	Party
Atkinson, Hon. Bruce Norman	Eastern Metropolitan	LP	Lenders, Mr John	Southern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Lovell, Hon. Wendy Ann	Northern Victoria	LP
Broad, Ms Candy Celeste	Northern Victoria	ALP	Melhem, Mr Cesar [3]	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 [5]	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 [1]	Eastern Victoria	LP	Pakula, Hon. Martin Philip [2]	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 [4]	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	Ronalds, Mr Andrew Mark [6]	Eastern Victoria	LP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Scheffer, Mr Johan Emiel	Eastern Victoria	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tarlamis, Mr Lee Reginald	South Eastern Metropolitan	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
			Viney, Mr Matthew Shaw	Eastern Victoria	ALP

[1] Resigned 3 February 2014
[2] Resigned 26 March 2013
[3] Appointed 8 May 2013
[4] Resigned 1 July 2013
[5] Appointed 21 August 2013
[6] Appointed 5 February 2014

CONTENTS

THURSDAY, 20 FEBRUARY 2014

Thursday, 20 February 2014

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

CONDOLENCES

Ralph William Howard

The PRESIDENT — Order! It is my sad duty to advise the house of the death on 19 December 2013 of Dr Ralph William Howard, member of the Legislative Council for the electoral province of Templestowe from 1976 to 1982. I knew Dr Howard. A few members in the house may also have known him, in particular Mr Davis and Mr Lenders. Dr Howard served in this place with distinction. He was a man who had a background in science, having worked with some medical companies. He was quite innovative and an entrepreneur in his own way; as I recall, Dr Howard also had an interest in the film industry. He was a man who was respected by all sides of the house, and he made a significant contribution in his time here.

I ask honourable members to rise in their places as a mark of respect to the memory of Dr Howard.

Honourable members stood in their places.

PAPERS

Laid on table by Clerk:

Ombudsman — Ombudsman's recommendations — Third report on their implementation, February 2014.

Subordinate Legislation Act 1994 — Legislative Instruments and related documents under section 16B in respect of —

Ministerial Order 705 of 14 February 2014 made under the Education and Training Reform Act 2006.

Ministerial Order 713 of 14 February 2014 made under the Education and Training Reform Act 2006.

Ministerial Order 714 of 14 February 2014 made under the Education and Training Reform Act 2006.

Ministerial Order 715 of 14 February 2014 made under the Education and Training Reform Act 2006.

A proclamation of the Governor in Council fixing an operative date in respect of the following act:

Co-operatives National Law Application Act 2013 — 3 March 2014 (*Gazette No. S46, 18 February 2014*).

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 11 March 2014.

Motion agreed to.

MEMBERS STATEMENTS

Sandhurst Centre, Bendigo

Ms MIKAKOS (Northern Metropolitan) — Yesterday, along with the member for Bendigo West in the Assembly, Maree Edwards, I had the opportunity to meet with a number of concerned staff and family members of residents of the Sandhurst Centre in Bendigo. They presented to us a petition containing almost 3000 signatures that calls on the Minister for Community Services, Ms Wooldridge, to provide greater certainty around the closure of the centre. The Sandhurst Centre is one of only two remaining government-run disability institutions in Victoria, and last year the government announced that it will be closed by June 2016.

The announcement of the closure of the centre and the potential contracting out of the services the centre provides to a non-government provider has understandably created a great deal of angst and uncertainty for the Sandhurst Centre community, particularly the residents, their families and staff. The closure of Sandhurst was one of the coalition's election commitments in 2010, yet the first that residents and staff heard about it was on 3 May 2013, the day the minister announced it by media release. In last year's budget the government committed $7.9 million to the closure and to the construction of five new supported accommodation homes in the area. There has been no word on where or when these homes will be built.

The residents of the centre want continuity of care. They want to know that when they move they will not face higher accommodation costs. Families want to be sure that the experienced staff of the centre will continue to look after their loved ones, and staff are understandably concerned about their job security and concerned that their wages and conditions may suffer. It is time the minister gave certainty to residents, their families and staff about the future, and it is time for her to provide answers to all of these questions.

Latrobe Valley fires

Hon. P. R. HALL (Minister for Higher Education and Skills) — I seek the opportunity to update the house on matters associated with the impact on educational facilities of the fire at the Hazelwood coalmine in Morwell, and I also wish to commend officers of the Department of Education and Early Childhood Development for the actions they are taking. Members would be aware that there is some concern about the impact the fire — particularly pollution from the fire — may have on educational facilities located south of Commercial Road in Morwell.

As of today, I can advise the house that Commercial Road Primary School is going to relocate its students to primary schools in Newborough and Moe. Also, the Sacred Heart Primary School is going to relocate students to the year 9 campus of Lavalla Catholic College. There are several early childhood facilities that have also been temporarily closed. All of these relocation arrangements will remain in place until 28 February at least.

Beyond what the Environment Protection Authority is doing, the Department of Education and Early Childhood Development is undertaking its own independent air monitoring. As of 3.00 p.m. yesterday 21 sites had been monitored, and in the next couple of days six permanent air station sites will be established in educational settings in Morwell. Maternal and child health and school nursing services will be reinforced and made available at education facilities in Morwell as and when required.

East–west link

Mr BARBER (Northern Metropolitan) — I have just come to the Parliament on the route 96 tram after visiting this morning's protest against the construction of the government's east–west toll road. There were two dozen police officers at the site guarding one drilling rig from two dozen protesters. With those kinds of ratios, does the government really believe that this project will ever be built if people power is against it?

There have been some flaccid attempts to demonise this group of people, but they are just ordinary people standing up for what they believe in to protect what they value. If members would like to visit the protest, they would learn a lot. Just one protester holding up a sign reading 'Toot for trains' is creating a cacophony, with drivers honking their horns in support of this protest. Members could take away from the protest the groundswell of support for trains and the opposition to roads. I urge all members in this place, for their own benefit, to visit the protest.

Climate change

Mr FINN (Western Metropolitan) — Despite the British Met Office telling us there has been no global warming for 17 years, and the fact that a good portion of North America and Europe is buried under a deep layer of ice and snow, as well as there being severe floods in England, the political Left has renewed its claims that the Earth is warming. The warming alarmists tell us this is a matter of 'settled science', yet there is no shortage of scientists ready to dispute that.

Last week the *New York Times* — hardly a bastion of conservatism — quoted computer projections saying there is no evidence to show that global warming is causing drought in California. In fact the *New York Times* says that global warming should mean more rain, not less. I do hope nobody has mentioned this to our very own Sandbags Flannery. We should recall that he has made a very nice quid out of the Australian taxpayer by saying the exact opposite. These new revelations could cause him to have kittens.

Let us not forget the shipload of 'climate tourists' who thought a quick jaunt down to Antarctica would be a good idea over Christmas. They went to see where the ice had melted but instead discovered the ice is still very much there. If they had bothered to check with NASA, they would have known there is now more ice on the polar caps than in living memory — despite Al Gore's prediction six years ago that that same ice would be gone in five years. He has the same sort of track record as Sandbags. This ship of fools was stuck in the ice for weeks. Two ships sent to rescue them were also stuck. They were finally flown out on helicopters, leaving the crew behind to wait for the ice to clear. They could be there for years. We can only hope soon-to-be Senator Janet Rice tells the commonwealth Parliament the truth about her time as a funster at the South Pole.

Olive O'Donoghue

Mr TARLAMIS (South Eastern Metropolitan) — Last month I had the pleasure of attending the official naming ceremony for the Olive O'Donoghue Room and Rose Garden at the Paddy O'Donoghue Centre in Noble Park. Olive O'Donoghue, who was a beacon of community enterprise and spirit and an inspiration to the residents of the greater Dandenong area, and in particular Noble Park, sadly passed away last year at the age of 96. I recall the beautiful memorial service held at the Paddy O'Donoghue Centre in her honour,

attended by all those who in some way had been touched by her generosity and community spirit. Members familiar with the area will recognise the O'Donoghue name from Noble Park's Paddy O'Donoghue Centre, which was previously the Noble Park Public Hall Trust and was renamed in her husband's honour in recognition of his service not only as a trustee but as the driving force behind its establishment.

Both Olive and Paddy selflessly dedicated their lives to building and strengthening their community. Olive served as a trustee of the Noble Park Public Hall Trust alongside Paddy for 33 years, and she served on the Noble Park Public Hall Trust's ladies auxiliary for 50 years. Olive's passing was a great loss for the many community groups and clubs to which Olive graciously donated many volunteer hours — far too many to mention in the short time I have available here today.

As a talented baker, Olive used these talents to fundraise for a number of groups, baking thousands of cakes over the years. In 2009 Olive's contribution to the Noble Park community was recognised when she received the Foundation Award at the Noble Park Centenary celebrations — an award which she cherished dearly. It is fitting that Olive is honoured in this way, uniting her once again with her beloved Paddy through the Olive O'Donoghue Room and Rose Garden at the Paddy O'Donoghue Centre. I congratulate the City of Greater Dandenong on its efforts in making this possible.

Firefighters

Mr RONALDS (Eastern Victoria) — I take this opportunity to again acknowledge the exemplary service volunteer and professional firefighters offer our communities. I witnessed this on two separate occasions last week. The first was when I was flying over Yallourn North and noticed a large grass fire. Within 40 minutes the Department of Environment and Primary Industries had deployed aerial assets, hitting the fire hard and fast.

A few days later, on the Sunday — a day I am sure we will all remember — I received a phone call from a friend warning me that a fire was in fact burning just minutes from my parents' house in Jindivick. Just days after the five-year anniversary of Black Saturday, when we lost property and pasture, it looked like we were again going to face a devastating loss that fire can bring. To make matters worse, it appears that the police are now looking at it as being deliberately lit.

The response to this fire was again nothing short of amazing. Within minutes the smoke was noticed by the local Country Fire Authority, which deployed crews. The fire had the potential, if not brought under control immediately, to burn right through some of the same prime pasture that was burnt on Black Saturday.

Today I express my thanks and gratitude to the many people in our emergency services, but in particular to the Drouin West Country Fire Authority brigade, which immediately deployed assets to get the fire under control. I speak on behalf of all residents of fire-affected regions as I express my gratitude for the protection that these volunteer organisations provide our community.

Australian Medical Association

Ms BROAD (Northern Victoria) — As the peak organisation representing the medical profession, the Australian Medical Association (AMA) develops policy solutions and provides responses to a broad range of health and medical issues. Recently the AMA released a position statement titled *Conscientious Objection*, and the president of the AMA, Dr Steve Hambleton, referred to the statement in remarks published online by *MJA Insight* on 20 January. In those remarks he said that from the AMA's perspective specific guidance was needed by its members on how to fulfil their ethical obligations to patients. He stated:

> Our position statement is built around the fundamental principle that a doctor's conscientious objection should not impede a patient's access to care. Where a doctor has a conscientious objection to providing or participating in certain treatments or procedures, he or she should make every effort in a timely manner to minimise the disruption in the delivery of health care.
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> …
>
> The position statement also provides guidance to doctors on how they can fulfil this obligation to patients. They can, for example, inform the patient of their objection, preferably in advance, inform the patient that they have the right to see another doctor, and, most importantly, ensure the patient has sufficient information to enable them to exercise that right.
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> We believe our position statement strikes an appropriate balance between the rights of doctors and the rights of patients.

I commend the AMA on its position statement, which is consistent with Victorian law, and I commend the statement to all members of the Victorian Parliament.

Road Safety Committee

Mr ELSBURY (Western Metropolitan) — Today the Victorian Parliament's Road Safety Committee is hosting an event in the Legislative Council committee room to celebrate its inception in 1967. The committee has provided many changes to our laws in the state,

including recommendations for random breath testing, mandatory helmet wearing for cyclists and the demerit point system.

The most important and possibly the biggest impact was caused by the *Report Upon an Investigation into the Desirability of the Compulsory Fitting and the Compulsory Wearing of Seat Belts*, published in 1969. This particular cause was strongly promoted by Emeritus Professor Peter Joubert, OAM, who led the successful campaign in the 1960s to encourage the Road Safety Committee to investigate the benefits of wearing seat belts. Following the Declare War on 1034 campaign in the *Sun* newspaper, the Victorian government adopted the compulsory wearing of seatbelts on 22 December 1970.

We are certainly seeing a reduction in the road toll with the introduction of other road safety measures. Last year the road toll was 234, down 14.2 per cent on the previous year's figures, and we can only hope that that trend continues.

Australian citizenship

Mr MELHEM (Western Metropolitan) — Australian citizenship is an important step in one's migration story. I have recently had the opportunity to participate in a number of citizenship ceremonies, and it is a joy and a pleasure to see the smiling faces of those being granted Australian citizenship.

This Australia Day 4500 people around the country took the oath to become Australian citizens. Along with the federal member for Gellibrand, Tim Watts, and my colleagues from the other place the member for Williamstown, Wade Noonan, and the member for Altona, Jill Hennessy, I was honoured to share in the Australia Day special citizenship ceremony for 120 new Australian citizens held in Altona by the City of Hobsons Bay.

Becoming an Australian citizen is a new beginning. It involves making an ongoing commitment to Australia and all that this country stands for. Australia celebrates diversity and at the same time strives for a unified and harmonious nation. The strength within the Australian community means that we work together to solve issues, which makes Australia the great country that it is. Our stability, our culture and our laws have been shaped in this country by our history. Australia has been built on the combined contributions of our Indigenous peoples and everyone who later came from all over the world. Our new citizens will inherit our history and will be in a position to contribute to it by acquiring the right to cast their vote to elect all forms of government in our great country.

Having spoken to some of the new Australian citizens, I stand proud as an Australian citizen who was a migrant to this country, and I shared the emotion and proud feelings of these new citizens during this experience.

Chinese New Year

Mrs PEULICH (South Eastern Metropolitan) — Chinese New Year — this year is the year of the horse — is widely celebrated throughout the world but obviously also in Australia, Victoria, Melbourne and South Eastern Metropolitan Region. It was my pleasure to join a number of community organisations in celebrating the year of the horse. The horse is known for its nobility, strength and persistence, but — a word of caution for those in an election year — horses tend to get jittery when they lose focus.

I congratulate the organisers of the 22nd annual Springvale Lunar New Year Festival in Springvale, organised by the Springvale Asian Business Association and Tom Nguyen. As usual, it was an amazing event with a big line-up of VIPs and community members. The Vietnamese Community in Australia Tet festival opening ceremony held at Sandown racecourse was wonderfully organised by Mr Bon Nguyen, president of the Victorian chapter of the Vietnamese Community in Australia, and his committee. I also congratulate the Cambodian Chinese Friendship Association of Victoria on its Chinese New Year celebrations at Anabella Receptions in Clayton. I congratulate Mr Kouy Tiang, president of the Cambodian Chinese Friendship Association of Victoria, and his 20 vice-presidents.

Australia Day

Mrs PEULICH — I also had the pleasure of welcoming the 2014 recipients of the City of Casey Australia Day Study Tour Award, including Stephen Capon, Sarah Dunstan, Samantha Chapman, Mason Peatling, Kelsy De Prada, Sitarah Mohammadi, Arnie-Marie San Juan, Asanga Seneviratne, Nelson Phan and Wali Sultani. It is a wonderful program which has seen 300 young people develop into wonderful leaders over the last 10 years.

DonateLife Week

Mr DRUM (Northern Victoria) — DonateLife week starts this weekend and runs from 23 February to 4 March. This Sunday the Australian Transplant Cricket Team will play an exhibition game in Bendigo

against a team of Bendigo personalities. Obviously the purpose of the game is the same as the purpose of DonateLife Week — that is, we need to raise awareness of the thousands of Victorians who are currently on the waiting list for life-saving transplants, hoping they can get those transplanted organs from wherever they can.

The vast majority of Victorians who sign up to and register for organ donation never get the opportunity to donate their organs, as very stringent circumstances must apply to one's death before any potential donor can have their organs transplanted into recipients waiting for these vital organs. We need to get the message out there to encourage Victorians to have the conversation with their loved ones so that if the worst thing happens and we lose a loved one there can be no doubt about the wishes of our recently deceased loved ones.

I am looking forward to helping these extraordinary Australians this weekend. On Saturday night I am having a dinner at home, and I think both teams are coming around. These people are a shining example of how someone can be given a new lease of life or of how people who are very sick can be given back the gift of health. We all need to raise awareness to make sure that everybody has the conversation so that loved ones who are bereaved can be in no doubt as to the wishes of people who may be able to give life to others.

DRUGS, POISONS AND CONTROLLED SUBSTANCES AMENDMENT BILL 2013

Second reading

Debate resumed from 12 December 2013; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr JENNINGS (South Eastern Metropolitan) — I am pleased to have the opportunity to speak on the Drugs, Poisons and Controlled Substances Amendment Bill 2013. The measure follows a succession of amending bills to legislation in Victoria that have been introduced by the Napthine government and its predecessor, the Baillieu government, over three years as the coalition government grapples with its legislative framework and its ability to enforce what it describes as a tough-on-crime and tough-on-drugs regime. Unfortunately the government has increasingly demonstrated through its succession of legislative proposals that it is playing catch-up rather than being ahead in a coherent and cogent framework for dealing with these matters.

Despite the derogatory comments I have just made in introducing my contribution, can I say that Labor will not oppose this piece of legislation, just as it has not opposed the previous three versions of legislation that have come to the Victorian Parliament in the last three years. This is primarily because we share a concern, which hopefully is at the heart of the government's concern, about the potential dangers and risks to our citizens associated with the use of illicit substances, or in this case synthetic substances, that may lead to psychotic and dangerous behaviour, or add to the misery of some Victorians. That is the reason we do not oppose this legislation. We believe there should be a cogent, consistent and enforceable regime relating to these matters in Victoria. That is the spirit in which we do not oppose this legislation.

When previous bills in this area have come before the house, in my contribution on behalf of the Labor Party on every occasion I have indicated that rhetoric in relation to these matters, as demonstrated in legislation, is not good enough in terms of achieving the outcomes of the protection of our citizens and the encouragement of safe practices in the Victorian community. We need to regulate drugs and poisons, particularly drugs of dependence, in this state in a consistent and appropriate manner to provide for effective enforcement and effective compliance. Whilst our lifestyle in Victoria is safe, we need to ensure that we are not going down the path of creating repressive legislative environments that are enshrined by statute but are unenforceable by either the police or the health department, which is responsible for regulation of the drugs and poisons sector.

Indeed, what members will observe if they note the delivery of not only the legislative framework but also the propaganda that has been associated with these reforms during the life of this government is that the initial legislative reforms were carried, promoted and understood to be within the domain of the Minister for Mental Health, who was charged with responsibility for the relevant act. However, the last two pieces of legislation have had the lead minister, and the way in which the government has chosen to have these issues understood, as the Minister for Police and Emergency Services, which in many ways is a symbolic rhetorical framing of legislation, as I indicated. It may be at the behest of law enforcement agencies including the police, in terms of them wanting additional rigour in relation to their ability to enforce these arrangements, that has led to the refinements in this piece of legislation. It may well be that the police have advised the government that they are unable to effectively enforce the legislative intention of the government without these additional powers. Again, that is the reason the opposition will not be opposing the legislation.

However, I repeat my argument on behalf of the Labor Party and significant members of the community that the ongoing litany of legislative reforms are always attempting to play catch-up and are always attempting to enable a theoretical rigour in terms of the governance of activities around the production and distribution of synthetic drugs and cannabis, as it relates to the use of bongs in the state of Victoria. The track record of the Victorian government over the last three years has indicated that it has not been able to satisfy its rhetorical position or establish a cogent, coherent and consistent legislative framework, and that it keeps on adding to the legislative program in Victoria at a greater rate than it adds to the safety and security of the Victorian community.

I will explain what might seem to be a confusing position adopted on behalf of Victorian Labor. It might be easier, given my criticisms, for us to oppose the bill, but in the spirit of allowing the government to deliver a cogent and enforceable framework which is consistently applied across what the government believes, on the advice of the health department and law enforcement agencies, is the legislative structure it needs to protect the safety of Victorians at this time, we will support the bill.

The bill prescribes a number of synthetic drug substances. It adds — cumulatively, during the life of the government — more than 30 synthetic drugs to the banned substances list in Victoria. From my vantage point, it is disappointing that the government has decided it needs to introduce specific legislation for a whole series of variations of synthetic analogue constructions of chemical compounds, going beyond the intention of the very first piece of legislation the government brought in on this matter.

When the government purported to ban Kronic in Victoria, it created an environment in which, on the basis of proper advice, the minister could by regulation harmonise with the drug enforcement regime of Australia and with other jurisdictions, to amend — by regulation, as I said — the list of substances that were banned and prohibited within Australia. That empowering regulatory framework enabled a contemporary and real-time adjustment on the basis of real-time medical and law enforcement advice about what substances needed to be added to the schedule of banned substances within the legislative framework. It seemed conceptually to be a model that enabled a real-time appropriate response by the relevant minister to add to the schedule of banned substances in Victoria.

In terms of that mechanism to capture those substances, it may be argued that prosecutions may not be secured in courts by law enforcement agencies if the substances have been physically captured and withdrawn from sale by the agencies but there is some doubt about the rigour of the schedule. That may be argued; I have not actually heard the government argue that, but it may be argued, and it may be argued today.

That may be a reason for needing to specify in legislation each and every compound and each and every substance, but it seems to me that inevitably there will be two consequences of the approach now adopted by the government. That approach is to retrospectively prescribe specific substances, or analogues or derivatives of those substances — always in a reactive way and always trying to play catch-up. Illicit drug manufacturers have demonstrated consistently over the years, in Australia and around the world, their ability to move into new chemical compounds and constructs, which may be beyond where the law is set but which deliver a form of induced high, and to find a market and use for them. It may well be that this approach adopted by the government now will guarantee by design that it never catches up with that entrepreneurial and inventive spirit within the illicit drug manufacturing sector. That is one problem.

The other problem is that enforcement may not necessarily be enhanced unless there are very accurate and forensic assessments available to law enforcement agencies and also that the courts have the ability to accept the proof of what can be sometimes tightly and sometimes loosely defined within the legislative framework, which is what the actual crime is, what the appropriate penalty for it is and the enforceability of the laws. I think this will continue to be a problem.

In fact the approach adopted by this piece of legislation may have the unintended consequences of roping in various analogues of substances that in other instances may be totally legal in the state of Victoria, if not in Australia or other jurisdictions. The opposition does not have to account for this; however, the government does. A number of interested parties in Victoria — the most significant of which being the Eros Foundation, which has provided the government with information and furnished the opposition and presumably the Greens with it as well — have drawn to the attention of the government the fact that there will be unintended consequences for the analogues described in the legislation, particularly in relation to nicotine and alcohol products.

Drugs of dependence such as nicotine and alcohol are usually dealt with in a far less regulated environment than the prism of the Drugs, Poisons and Controlled Substances Act 1981. There is the potential for the

analogues of alcohol and nicotine substances to be roped into the provisions of the bill, which I am virtually certain is not the intention of the government. It certainly would not be the intention of the police to prosecute the sellers and distributors of alcohol and nicotine under the provisions of the act. I imagine the government would be extremely anxious about that matter if it sincerely believes that the total scope of this legislation is going to be enforced in the state.

If I were to be cynical for a minute, I would indicate to the chamber that the government possibly does not have that level of internal anxiety, because it knows there is a huge discrepancy between the rhetorical scope and ability to enforce these laws and the real ability to enforce them. In fact the real effect of these laws will be far more negligible than what they may be in theory, but it is appropriate for us to identify what those problems may be in terms of their structure and the way in which the government has gone about creating this legislative environment.

From the very first occasion on which the government introduced reforms on these matters some two and a half to three years ago questions were asked about the resource allocation that was to be provided to the Department of Health and Victoria Police in terms of their ability to enforce the changes to the law. Specific questions were asked of the minister at the table at the time about the additional resource allocation. Even though he asserted that additional resources and efforts would be dedicated to this issue, he could not quantify them.

At no point in time have I seen any documentation provided by the government about the additional resource allocation that has been provided for the enforcement of these laws that the government has introduced. At no stage has the government been able to answer questions about the availability of synthetic cannabinoids that may be purchased via the internet and delivered by Australia Post, whether the government has any ability to regulate that space or whether it has taken any action.

Ms Crozier interjected.

Mr JENNINGS — A very soft and gentle interjection has come across the chamber to me about this being a federal jurisdiction in relation to regulating Australia Post. If that is the case, what is the pretence that the Victorian government is entering into about its ability to enforce these matters and laws without a national regulatory and law enforcement approach? What is the pretence? Why do we now have a proliferation of four pieces of legislation in the state of Victoria with an acknowledgement by way of a very gentle interjection that the ability to enforce this may be negligible? That is my contention and my argument with the Victorian government. That is my challenge to it. Regardless of its rhetorical flourish about being tough on these matters and protecting our citizens, how can the government demonstrate its ability to enforce this legislation in a way that guarantees that the source of supply has been cut off?

The government is not alive to active consideration of the ways in which this issue may be addressed in a more appropriate fashion by harmonising the approach to regulations through a health framework or a community education framework that promotes safe practices and individuals taking control of their lives across the broad spectrum of drugs of dependence. Our community deserves additional protection from such drugs through the prism of knowledge, empowerment and options that are available to individuals so that they might be better informed about healthy lifestyles and the ways in which they can protect themselves from the scourge of drugs of dependence.

There is not necessarily an emphasis on those elements of community support. Resources provided by the Victorian government have flatlined in the area of drug and alcohol services over the life of this government. They have literally flatlined because there has not been an increase in real terms to the budget that has been allocated to the alcohol and drugs sector in Victoria. Recent reforms introduced by this government in the alcohol and drugs sector which will change the provision of alcohol and drug services may lead to a reduction in the amount of community support provided by agencies. There may be an emphasis on assessment and triaging of citizens needing assistance from those agencies rather than a focus on the increase of the provision of those services across the range of therapeutic, residential and other forms of support.

The government demonstrates an extraordinarily mixed message of concern, given that it has had three years to increase the effort it puts into alcohol and drug services and to increase community education and backup to our citizens who may be vulnerable to these substances. It has consistently chosen not to invest in that area. It has equally chosen not to invest in law enforcement in this area. It has chosen not to add to the ability of Victoria Police, through enhanced resource, effort or focus capacity, to enforce these laws or to harmonise with other jurisdictions, including the Australian government, so that law enforcement could more effectively work. In almost three and a half years the government has not taken those opportunities, yet it is

trying to catch up by adding to its armoury of legislation.

The government has not been prepared to consider it through a parliamentary committee. It gives many ridiculous references to parliamentary committees. In fact, the Minister for Health sends a whole proliferation of ridiculous references to parliamentary committees, but he has sent not one on this issue. There has not been one on this issue in relation to the way in which we could establish a more appropriate way of addressing these issues to provide community protection for a realistic way in which drugs of dependence can be regulated in this space despite the urging of organisations such as the Eros Foundation and other members of the community, who say, 'Even if we enter into these debates from diametrically opposed views and priorities, let's try to find a rigour and an environment that delivers the best-balanced outcomes that can be implemented consistently in the state of Victoria'.

Those organisations have recommended an approach similar to that which is being developed in New Zealand, which instead of adopting a reactionary and reactive approach to legislative reform has adopted a proactive one based on a higher degree of regulation and certainty about what drugs of dependence are in the marketplace. It may well be that members of the government say this is naive and an overly optimistic view of the ability of any government to regulate this space and of the community's acceptance of regulation in this space. However, there has not even been a preparedness to embark on a conversation about these matters; that is the extraordinary thing. There has not even been a conversation about whether there is an alternative way.

The evidence to which attention has been drawn in New Zealand — and this information has been provided to the government — indicates that there has been a significant reduction in the distribution and availability of drugs of dependence in New Zealand. Certainly, this is true through the prism of outlets for the supply of the substances captured by this legislation. A few years ago there were perhaps as many as 4000 outlets in New Zealand selling these products, and now that has been reduced to perhaps as few as 200 outlets. That is a significant reduction. It is a 20-fold reduction in the number of outlets. In fact, I think my maths may have let me down there. It has been reduced 20 times, but I do not think that means it is a 20-fold reduction. Notwithstanding my self-imposed correction, reducing the number of outlets from 4000 to 200 is a significant reduction in availability through the source of supply of these drugs of dependence in New Zealand. That is what I want to draw attention to.

The approach that is being adopted in New Zealand is that the health department and various agencies in New Zealand feel a responsibility to undertake a greater degree of forensic examination not only of the chemical substances that may be on sale but to ascertain what their physiological and emotional effects may be on the people who use them. They then make a judgement based upon evidence about the appropriate degree of regulation that should apply to those substances. Whilst that approach has a whole range of dangers related to the longevity and reliability of the analysis, I would be an advocate for those models being explored and given consideration to in a public policy setting and a regulatory environment, and of testing those models in terms of the science that underpins them, the enforceability of such a regime and the confidence that the Victorian community or the Australian community may have in our ability to regulate these matters in a different way into the future.

We should not be fearful of those discussions. We, as a Parliament, should be sophisticated enough and mature enough to look at the best way in which we can educate the community on these matters, and regulate and enforce these matters in the years to come. I hope that opportunity may be afforded us in the years to come, but it seems that the current government is not prepared to entertain it. In fact the government is far more interested in the symbolic and short-term effects of the reactive pieces of legislation it consistently brings into the Victorian Parliament.

It may well be that once I have listened to the contributions of government members today I will have an enhanced understanding and acceptance of the logic and rigour that has brought this piece of legislation to the Parliament. I look forward to hearing that, but I am not anticipating it. I look forward to hearing from government members today a preparedness to entertain a sensible, consistent and coherent conversation within the Parliament and the broader community about these matters, but I am not expecting that. I am expecting a very defensive, self-satisfied series of contributions that indicate that the government, for the fourth time during the course of the last three and a half years of legislative reform in this place, knows exactly what it is doing and is confident in what it is doing. It says that it is tough on drugs and tough on crime. It is sending a coherent and consistent message that is tough, but by the mere fact that this is the fourth piece of legislation in this area, it is demonstrating by its own actions that it has been pretty ineffective in legislative reform in this area in the last four years.

The government may be able to provide us with a greater degree of confidence. On the last two occasions that I have taken legislation on this subject into the committee stage the minister has given undertakings that have not been met. I do not see any value in taking the minister to the table again on these matters, because I do not take any comfort from the answers that he has provided me with on previous occasions. I think I would be wasting and insulting the Parliament's time by doing it today.

For the cumulative reasons I have described, the opposition will not oppose the bill. If it plays a positive role in protecting any of our citizens in the short term, then we can use that as the justification for not opposing it today.

Ms HARTLAND (Western Metropolitan) — I thank Mr Jennings for his contribution. The Greens will be supporting this bill, but I also have concerns about the fact that this is the fourth time that we have dealt with this matter and the fact that this bill has been on the notice paper for quite some time. During that period the substances we are talking about today will, as I understand it, have been on the shelves and available to be purchased.

I urge the government to look at the New Zealand model of regulating new drugs. The legislation, which is referred to as the Psychoactive Substances Act 2013, was passed last year by the New Zealand Parliament with a margin of 119 to 1, which is a fairly significant margin. Support was obtained from seven different political parties across the New Zealand political spectrum. The law will create a new government agency within the Ministry of Health, the Psychoactive Substances Regulatory Authority, which will be charged with ensuring that synthetic psychoactive products meet adequate safety standards before they go on to market.

My understanding from a reading of the literature is that this has made it possible to deal more quickly with these drugs as they come on to the market. It has also meant that about 90 per cent of the items that have been presented have been knocked off, because they do not meet any kind of health and safety guidelines. The law has also established other regulations such as a minimum purchasing age of 18. At the moment I understand that people can just buy these things on the internet or by walking into various shops. Further regulations place restrictions on retail outlets, including a ban on sales in convenience stores and requirements for labelling and packaging. It is incredibly important that people know, when they are buying a substance, what is in it so that if they have a major psychotic episode, they can take it along to the hospital and the doctors will know what it is that they have ingested. There is also a ban on advertising.

It is interesting to note the number of organisations in New Zealand that support this legislation. The Drug Policy Alliance in New Zealand had this to say about the new regulatory system:

> Individuals and companies who wish to apply for approval of a new drug product must demonstrate that the product poses a low risk of harm to the consumer. The application process requires the product to undergo rigorous clinical trials to examine toxicity and addictiveness (at the expense of the producer/importer) followed by an evaluation of the results by an independent expert advisory committee.
>
> Simply banning these drugs only incentivises producers to develop drugs that get around the law —

and that is exactly what is happening now. That is why, for the fourth time, we are having to deal with this legislation. I have probably said on the last three occasions this legislation has been before the house that every time we ban one substance it is renamed, reconfigured and brought back on the market again.

I urge the government to not bring these bills continuously to the Parliament and instead really look at the problem. The appropriate place for a reference to be sent would be the Law Reform, Drugs and Crime Prevention Committee. I take up Mr Jennings's remarks about the references that go to our upper house committees. They do not have a huge amount of relevance, but referring this bill would have a massive amount of relevance. It would be good to look at the New Zealand model and other overseas models. As far as I can see, the New Zealand model means that as new drugs come onto the market they can be dealt with in real time, rather than waiting three, four or five months for a new piece of legislation to come into force to ban them. I suspect that in a few weeks time we may have to deal with this issue again. If that is so, the next time such a bill is brought before the Parliament the Greens will attempt to refer it to a committee.

I know the government will block that move because it seems not to want to look at anything it does not agree with. I urge the government to be sensible about this matter: refer the bill to the Law Reform, Drugs and Crime Prevention Committee and assess the New Zealand model to see if that is the right model for us and whether it is working there. Let us have a different approach to this issue, because the drugs we are talking about in this bill have probably now been on the market for five months and once we ban this lot, next week there will be a new set of drugs to be dealt with. I urge the government to rethink the way it is doing this. It

should refer the bill to a parliamentary committee and come up with a piece of legislation that deals with these problems, rather than always lagging behind.

Ms CROZIER (Southern Metropolitan) — I am pleased to rise this morning to speak on the Drugs, Poisons and Controlled Substances Amendment Bill 2013. Before I comment on other members' contributions I would like to remind members of the chamber that the government makes no apology for its strong stance on law and order issues and in relation to that initiative its hard stance on illegal drug activities. This bill also reflects the commitment of the government to further enhance Victoria's reduction in the alcohol and drug toll, as set out in great detail in the document entitled *Reducing the Alcohol and Drug Toll — Victoria's Plan 2013–2017*.

We need to reinforce the message to young people about the effects of illegal drug use. What we are dealing with in this bill is a difficult, fast-moving and emerging drug problem — and not just in this state; it is a problem right across the country and indeed in other countries. I remind members that the United Nations Office on Drugs and Crime put out a very good report entitled *The Challenge of New Psychoactive Substances*. Mr Jennings made derogatory comments about the government playing catch-up. I remind him that the United Nations Office on Drugs and Crime report says:

> The fast-paced nature of this market, the increased availability of these substances and the reports of increased and emerging use of and trade in such substances have drawn concerns among the international community as there is the potential for transnational organised criminal groups to exploit the market for these substances.

The government is not working in isolation. This issue is recognised as a concern at an international level, so to say we are playing catch-up is quite ridiculous. Mr Jennings also said that there needs to be an inquiry, and Ms Hartland also suggested this. I remind members that the Law Reform, Drugs and Crime Prevention Committee is currently holding a detailed inquiry into the supply and use of methamphetamines, particularly ice, in Victoria. Throughout his contribution Mr Jennings spoke about how we need to look at the emergence and distribution of these drugs through internet channels and Australia Post. These are huge challenges across the country, but this particular inquiry has terms of reference, and I will read them out in part so Mr Jennings is aware of what the inquiry is actually doing. The committee is required to:

> 1. examine the channels of supply of methamphetamine, including direct importation and local manufacture of final product and raw constituent chemical precursors and ingredients;
>
> 2. examine the supply and distribution of methamphetamine and links to organised crime organisations, including outlaw motorcycle gangs;
>
> 3. examine the nature, prevalence and culture of methamphetamine use in Victoria, particularly amongst young people, Indigenous people and those who live in rural areas;
>
> 4. examine the links between methamphetamine use and crime, in particular crimes against the person …

The reference goes on. What that inquiry is doing in relation to the harmful effects of drug use is of particular relevance to the overall issue of how we are dealing with a very insidious aspect of drug abuse in our community.

To return to the bill, this is another important bill. It follows on from regulations introduced in 2011 by the Minister for Mental Health to ban a number of synthetic cannabinoids and in 2012, by way of amendments to the Drugs, Poisons and Controlled Substances Act 1981, to add a total of eight broad chemical groups, including synthetic cannabinoids, to the list of drugs of dependence in that act. We are looking at what we can do across the spectrum of broad drug use. I have referred to the inquiry into methamphetamine use, but this bill is about sending a message to our young people about the very dangerous effects of these kinds of drugs and looking into how we can perhaps deal with that by sending a message to crime gangs that perpetrate such illegal activities.

The bill extends the definition of 'drug of dependence' to include the analogues of certain drugs that have structural similarities to illicit drugs. Those drugs are similar in nature to hallucinogens, more broadly known by members of the community as LSD because of how they can affect people. There have been some tragic stories about the use of these sorts of drugs. There was the very sad story of a young Sydney man under the influence of one of these drugs, N-BOMe, as it is known. He took a pill, his family could not control him, he thought he could fly and he plunged to his death. It is a tragic story, and it highlights the influence synthetic drugs can have.

These tragic stories are alarming. Recently we heard the story of five people in Victoria who consumed the drug Marley. They became very ill and ended up in one of our emergency departments. These drugs are having a great impact on our health services, our emergency departments, our law enforcement agencies and our health workers, who are having to deal with people under the influence of drugs. The various agencies

responding to these issues have done a tremendous job, and I commend the police and health services for working together in many of these instances. It is very difficult.

Psychostimulants, as they are known, have some very severe effects, and the reports of seizures, tremors, agitation and hallucinations are extreme. The full effects of these drugs are not yet widely known. Research suggests that their immediate effects, such as organ failure, and their long-term effects are still to be fully determined, but it is evident that the immediate effects can include violent behaviour. Some drugs have a hallucinogenic effect, which may result in people failing to properly understand what their actions might entail.

The bill adds 30 new synthetic substances or classes of synthetic substances to the list of drugs of dependence. As we know, the chemical formula of some drugs can be altered, but the government is addressing that by adding those substances to the list. The bill allows law enforcement agencies such as Victoria Police to provide drugs of dependence, poisons or controlled substances and substances or items used in illicit drug production to external laboratories in Victoria or in other states or territories for scientific testing and analysis. Victoria Police will work in collaboration with other agencies that are trying to get on top of what is going on in illicit drug laboratories.

The bill will enable Victoria Police to forfeit or destroy any bongs, bong components or bong kits that it has seized in connection with the serving of infringement notices that might already be in place. That sends a message that those items cannot be reused or resold.

A number of elements in the bill deal with the illicit drug problem, which is a national and an international problem. The design of these drugs makes it a difficult issue. They provide legal highs, as has been said, but they can have devastating effects on individuals. The long-term health effects of these drugs are not yet fully known, but we have heard too many reports from emergency departments about their ill effects, and we are hearing these reports on a regular basis.

Those suffering the ill effects of these drugs are taking up a lot of the resources of our health services and law enforcement agencies. We should do anything we can to send a message to young people about the harmful and devastating effects of the drugs that are on our streets and coming into our community. That is partly what this bill does — it sends a very strong message. It will allow law enforcement officers to seize bong kits and prevent people from reselling them. The bill sends a message to outlets that sell these drugs, whether they be sex shops or tobacconists, that the drugs have extraordinarily harmful effects. The proprietors of those outlets have a responsibility to understand fully what they are selling.

I commend the minister, and I commend all the agencies involved in this area who are working extremely hard to do what they can to assist in addressing this problem. As I stated at the outset, this is an international problem. The United Nations, in a report it published last year, highlighted the rapid emergence of these new drugs onto the market. The government is taking this matter seriously. The Parliament's Law Reform, Drugs and Crime Prevention Committee is currently working on its inquiry into the supply and use of methamphetamines, particularly ice, in Victoria. These issues are all related. That inquiry is not directly related to synthetic drugs, but it is looking at the illegal use of drugs in our community. It sends a message to our community that we are looking at what is going on with these drugs, their harm and illegal use. It sends a message to criminal gangs and those involved in criminal activities associated with illegal drug use that those activities will not be tolerated. This government makes no apology for its strong stance on law and order, and it makes no apology for including illegal drug activities in its law and order policies.

The Minister for Mental Health, Ms Wooldridge, is doing a lot to address the increasing levels of people in Victoria with mental illnesses. There are increased mental health services right across metropolitan Melbourne and country Victoria. Ms Woodridge is well aware of the issues at hand, and she has done a tremendous job. I commend the Minister for Mental Health. I also commend the Minister for Police and Emergency Services, who is obviously working with his agencies to address these concerns. I commend the bill to the house.

Mr SCHEFFER (Eastern Victoria) — The second-reading speech for the Drugs, Poisons and Controlled Substances Amendment Bill 2013, which amends the Drugs, Poisons and Controlled Substances Act 1981, reminds us that the Parliament most recently amended the Drugs, Poisons and Controlled Substances Act to extend a ban on synthetic cannabinoids and to ban several other synthetic substances. The 2012 amendments to the act followed a series of amendments over time, which have been referred to in previous contributions, that restricted the availability and use of drugs of dependence, particularly cannabinoids. In the 2011 amendments to the act, eight synthetic cannabinoids were classified as drugs of dependence.

The bill before us today is a further instalment in that it extends the definition of 'drugs of dependence' to include drug analogues — that is, designer drugs that are modified in laboratories — and it adds 30 such synthetic substances to schedule 11 of the Drugs, Poisons and Controlled Substances Act 1981. The bill permits police to provide seized drugs of dependence to laboratories for scientific testing and analysis and also enables the police to take bongs and bong kits when they serve infringement notices and destroy them where the infringement is upheld.

I make the point again that law enforcement agencies are caught up in an arms race where the manufacturers of synthetically designed drugs such as cannabinoids outrun the ability of authorities to legally control their manufacture and distribution. In his contribution Mr Jennings pointed out that at the end of the day this is an unwinnable contest.

I pointed out in my contribution to the debate on the 2012 amendments to the principal act that almost as soon as toxicologists identify a synthetic substance, a new version is developed that is beyond the reach of the law. The manufacturers of new synthetic substances now have the capacity to create a new variant, with very minute changes to the chemical structure, in a very short time.

The second-reading speech states that the synthetic drug market is developing rapidly and that new legislative responses such as the provisions contained in the bill are necessary to keep pace with this market. The government says that the purpose of adding the 30 additional synthetic substances to schedule 11 of the act is to deter the supply and use of these substances by declaring them to be illicit drugs and by applying the same serious manufacturing, trafficking and possession offences as apply to the production, supply and possession of other illicit drugs.

In the bill the government for the first time provides Victoria Police with the power to supply drugs of dependence, poisons or controlled substances, and precursors that have been used and seized by the police, to appropriate and authorised external testing facilities for testing and analysis. The opposition has previously called for this power to be given to Victoria Police, and it recognises that the bill corrects what was a weakness in the legislation. The government says it is committed to maintaining strong laws against drug dealing and drug use while supporting drug users to change their behaviour. It also indicates that it is deeply concerned about the rapid emergence of these new synthetic drugs and their availability both online and through retailing. That is all good and well, but I guess the question is how the government plans to address this dual concern and on the one hand put in place a legal regime that prevents drug dealing and on the other provide the necessary support for users to come off the drugs.

The bill provides an incremental shift to increasing police powers to have synthetic drugs tested and analysed. As I said, it places another 30 substances in schedule 11 and permits police to remove bong kits. These measures only scratch the surface of this huge global issue to which the second-reading speech refers — namely, the warnings from the United Nations Office on Drugs and Crime and the listing of 73 newly developed psychoactive substances identified by the European Monitoring Centre for Drugs and Drug Addiction.

The National Drug and Alcohol Research Centre's *Trends in Drug Use and Related Harms in Australia, 2001 to 2013* report in relation to illicit drugs indicates that opium and cocaine use has declined or stabilised, ecstasy is up, there is evidence that the number of people with a drug dependency is stable, and the number of people who inject drugs is declining. But there is a continuing expansion in the seizure of psychoactive substances in Europe and an increase in the use of psychoactive substances, which is posing new and serious problems for law enforcement authorities and treatment services. The report notes that in Australia there was a decline in illicit drug use between 1998 and 2010, while 2010 showed a significant increase primarily due to cannabis and non-medical pharmaceutical use, with cocaine used sporadically by only a very small percentage — 2.1 per cent — of the general population.

That brings me to alcohol and tobacco use. The report says that tobacco continues to cause more ill health and premature death than any other drug we know; alcohol consumption being the second. Serious harms resulting from our legal drugs completely overwhelm the harm caused by illicit drugs, and while the effects of methamphetamines, cannabinoids and other synthetic psychoactive drugs are without doubt very serious for the individuals and families involved, they appear to affect a very small percentage of the general population.

The Australian National Council on Drugs reported late last year that one in eight deaths of Australians aged under 25 years is related to alcohol consumption and that almost two-thirds of young people aged between 18 and 29 years said they drank specifically to get drunk. These are shocking statistics, and while there is a gradual turnaround in public understanding of the fact that alcohol is dangerous, albeit legal, we still permit

advertising and have not made really serious and determined efforts to reduce its harmful use.

While the number of people who smoke has fallen dramatically, it is still around 15 per cent of the population. Alcohol consumption is far higher, at 80.5 per cent — a fall from 83 per cent in 2007 — whereas cannabis use was at 9.1 per cent in 2007, down from 17.9 per cent in 1998. It was then up again to 10.3 per cent by 2010. In 2010 ecstasy use was at around 3 per cent and heroin use was less than 1 per cent. The use of pharmaceutical opioids increased from 0.2 per cent to 0.4 per cent between 2007 and 2010, methamphetamine use is reported to be stable at 2.1 per cent — on recent evidence it is perhaps rising from that, but that is on 2010 figures — and cocaine use remains relatively low at around 2 per cent.

Trends in Drug Use and Related Harms in Australia, 2001 to 2013 states that there is no data available on the use of emerging psychoactive substances such as mephedrone, methylenedioxypyrovalerone and synthetic cannabinoids. It indicates that this data is scheduled to be collected in 2013 as part of the National Drug Strategy household survey. While this data is a rear-vision view, it illustrates the point that while it is important for authorities to protect the community from psychoactive synthetic drugs, we need to keep in perspective the prevalence of their use in the community, and policy-makers and governments need to keep the main focus on reducing tobacco use and the harmful consumption of alcohol. The problems posed by the psychoactive synthetic substances with which this bill is concerned are profound because, as I have indicated, there is potentially no end to the creation of new modified substances, and simply adding more and more substances to schedule 11 does not seem to be a sustainable solution, even though it may be part of the solution.

Mr Jennings drew attention to the Australian Drug Foundation's view that there is merit in the approach taken in New Zealand, where the onus is put on the manufacturers of synthetic psychoactive substances to show that the products they retail are safe for human consumption. Mr Sam Biondo, the CEO of the Victorian Alcohol and Drug Association, has said that further bans are not the answer, that substances need to be labelled so that users know what is in a package and that some form of regulation and harm reduction messaging would help save lives. In his contribution Mr Jennings also referred to work of the Eros Foundation, stating that its views should be seriously entertained by all of us in the available mix of issues and options, a view which I support.

The arrest last year by the Federal Bureau of Investigation of Dread Pirate Robert, also known as Ross Ulbricht, the founder of the online drug retail site Silk Road, was one of last year's most compelling and revealing stories. Even though Silk Road was located in the 'dark net', a space not accessible through Google, Carole Cadwalladr reported in the *Guardian* of 7 October that this huge and sophisticated drug market place was nonetheless a mouse click away and that she accessed it in 10 minutes. She wrote:

> Drugs are just another market, and on Silk Road it was a market laid bare, differentiated by price, quality, point of origin, supposed effects and lavish user reviews. There were categories for 'cannabis', 'dissociatives', 'ecstasy', 'opioids', 'prescription', 'psychedelics', 'stimulants' and, my favourite, 'precursors'.

Cadwalladr made an order under a false name but used her real address:

> … two days later an envelope arrived at my door with an address in Bethnal Green Road, East London, on the return label and a small vacuum-packed package inside: a small lump of dope.

While Silk Road was closed, there is no doubt that other sites have replaced it.

The interesting point is that the structure of the illicit drug market may in fact be not all that different to the legal alcohol market. Often the language on alcohol websites is redolent of romance and good taste — chardonnay, pinot gris, sauvignon blanc, merlot or cognac, scotch. Then you have martinis, harvey wallbangers and screwdrivers — all in the catalogues that we see. We are very comfortable with these because we feel easy about these age-old and legitimate drugs, but that masks the fact that alcohol can also be a dangerous substance and can cause huge harm, as I have indicated through the devastating statistics that are available to us. The drug alcohol may not work its negative effects on us as quickly as some of the dangerous synthetic substances that are the subject of this bill, but it is nonetheless a matter of huge concern for public health.

This is a very complex area of public policy. It is enmeshed in our culture. Maybe the illicit substances and cannabinoids that we are discussing in this bill are not part of the open culture that many of us are part of, but there is a huge subterranean culture, which many of us are not fully aware of, that is engaged with the buying, selling and use of these drugs, and these are embedded and spliced into our legitimate markets and our commerce. It is a complex issue.

Many of these substances are very dangerous either in the long or the short term; some affect very few people

and others impact directly or indirectly on millions of people.

Mrs COOTE (Southern Metropolitan) — It gives me great pleasure to speak on the Drugs, Poisons and Controlled Substances Amendment Bill 2013 and to say that this is another example of the Napthine coalition government addressing what is a very complex issue. All the speakers today have all emphasised in different ways how difficult an area this is. I commend Mr Scheffer for his contribution. It was well-thought through and contained a lot of pertinent and interesting facts. He said that this is an unwinnable contest, and that is absolutely what we are facing. This bill is about the changing nature of what these drugs are today.

In 1999 we saw the height of the heroin era. Members may recall that there was a lot of discussion about whether to introduce safe interjecting rooms, which was a very contentious issue. Heroin was the major drug of that time. As insidious as heroin is, we knew what we were dealing with. We knew that there were various drugs to treat alcohol and drug addiction, including Naltrexone and a whole range of other therapeutic approaches. We also knew the reactions of the people using heroin. We knew that in my own electorate, around St Kilda, pimps had their girls out on the streets because the girls were addicted to heroin and prostituted themselves just to get their next fix. We understood that heroin is an insidious drug, but we knew a bit about it and could work with those people.

The drugs we are speaking of today are a very different breed of drugs. They are cheap and not as messy as heroin. Many drug takers see heroin as messy and as being the lowest of the low of drugs. People who were injecting heroin were seen by other drug takers as being the worst members of the drug culture. However, the new drugs we are speaking of today are very fast moving and cheap. Often people do not know what is in them, therefore it is extremely difficult to know how to treat the people affected by them. Drug treatments, substitutes and antidotes for some of the new drugs have not yet been developed, so we need to look at opportunities and ways to manage people who use these drugs — for example, ice.

Ice is such an insidious drug. We have absolutely no idea what is in it; its content can change from batch to batch. The difficulty is that the people who take ice can become aggressive, but they are not always aggressive. They can use ice for a considerable period of time until aggression manifests itself, living quite comfortably in their normal routines until ice use overtakes them and they face disaster. It is very hard to know how to wind it back, and I know that various drug agencies are working very hard to see what they can do to make this situation better.

I recently spoke to a leader of one of the drug agencies, who said that the first thing they do with people who present with ice problems is try to calm them down. If they can be calmed down, then a therapeutic approach can be started and the problem can be dealt with. The difficulty is that often the staff at drug agencies have no idea what is in the drugs that people have taken.

In his contribution Mr Scheffer also spoke about alcohol and alcohol usage, which leads me to a dilemma faced by all of us as policy-makers. Alcohol is used by the bulk of people in our community in a very responsible way; however, there are elements in society who overly abuse it. Recently there has been a very worrying trend towards binge drinking and problems with alcohol-fuelled violence, both within the home and on our streets. It is true that we are also confronted with a huge alcohol marketing exercise which is very difficult to counteract. Nevertheless, statistics do not lie; they show us that the greatest impact of any drug on our community is the aftermath of alcohol abuse, including car accidents. I refer not only to the deaths caused by car accidents but also to the ramifications of severe injuries caused as a consequence of alcohol-related accidents.

In many instances family violence is pre-empted by alcohol use. Alcohol is readily available and easy to abuse. Children and young people are often able to buy bulk cheap alcohol and ‘pre-load’ before going off to a nightclub because they do not want to buy the expensive drinks that are on sale at those nightclubs. Often they are already half tanked by the time they get to the clubs because they buy readily available alcohol from the liquor outlets.

Government members have some serious questions to face about how we see alcohol. I know that the Minister for Community Services, Minister Wooldridge, has done an extraordinary job in looking at and addressing much of this issue, which is very concerning to us as a government. Members of the coalition are taking a whole-of-government approach to this issue.

The drugs we are dealing with in the bill before us are a very different breed of drugs from those which were causing problems one and two decades ago. We are dealing with a breed of drugs that is seen as being more acceptable — they are seen as being clean, easy and obtainable.

Mr Scheffer made a very thoughtful contribution to the debate; however, I cannot say the same about the contributions made by Mr Jennings and Ms Hartland. I was very disappointed to hear from both of them. Mr Jennings has made some very good contributions to debates in this chamber at times, but his contribution today was certainly not one of them. It was all over the shop and had very little substance and no direct involvement with what we are talking about. He tried to score points on a bill that is too important to have political ramifications. To be perfectly frank, his contribution did him no credit and was beneath him. It was not one of his better contributions.

Ms Hartland takes every opportunity she can to look at the negative side of anything, and she has done so again. She does this time and again. She is quite unrealistic and takes an almost bleeding-heart, wear-your-heart-on-your-sleeve approach. The issue of illegal drug use is too important for that. This issue affects everyone in our community — our children, grandparents, parents, young carers and a whole range of people in between. There have been issues around drug-related violence in our hospitals and drug-related violence on our streets — drug-related violence just about anywhere we care to look. Places we used to think of as safe are now no longer safe.

Why is it that Ms Hartland and Mr Jennings could not say that this bill is another vital step along the pathway to making progress against the challenges that we have in this fight against drugs? I think they both should be very disappointed in their contributions, and I am sure when they read them they will be, as will most voters in Victoria.

I turn to the contents of the bill. This important piece of legislation will crack down on the use of illicit drugs and close loopholes relating to synthetic substances used to circumvent existing drug laws. In such matters in many instances we are dealing with hardened criminals who do not care about what happens to the people — including children — who take these drugs. Lately a very worrying trend has arisen of bikie gangs getting involved in illicit drug manufacture and distribution. Sometimes members of these clubs are people who have never ridden a motorbike in their lives but have become a part of the criminal element and are often involved in making and distributing the very drugs we are speaking about.

They find those loopholes; they look at them and see if they can come up with another recipe so they can sell and distribute their insidious drugs. As it was last time we debated this issue, this is an attempt to address the issue and send a very clear message that illegal drug use — taking it, selling it and producing it — is unacceptable to the Napthine government.

First we allowed the Minister for Health to ban certain chemical compositions for a period of up to 12 months, and we allowed the government to move swiftly on rapidly evolving synthetic drugs. This allowed the minister to ban Kronic and other synthetic cannabinoids, which are microscopically different to banned drugs but which cause the same symptoms and lasting damage. Then we passed a bill through the Parliament, after the last debate we had, continuing the ban on those drugs.

There are 30 new synthetic substances that we are debating here today. This bill will continue the course of banning unacceptable recipes and drugs. These synthetic drugs mimic banned substances such as ecstasy, cannabis and LSD. Unlike legal pharmaceuticals, they are untested, and it is extremely likely that they are unsafe for human consumption. They are frequently marketed as a 'legal high', which can give users a false sense of security, lulling them into believing that these drugs are not as dangerous as they really are.

Just in this past fortnight the chief health officer has issued a warning for health professionals regarding synthetic cannabinoids, which once again are hitting the market. This alert was issued after three people were hospitalised in a 36-hour period after using these drugs. This alert, issued to health professionals, emergency departments and intensive care units, notes that these drugs include 'undisclosed chemicals not approved for human consumption and known to be harmful to human health'. It lists some of the symptoms associated with these synthetic drugs, while warning that due to the chemical ingredients not being listed, symptoms can be unpredictable. It suggests symptoms may include agitation, confusion, seizures, vomiting, loss of consciousness, hypertension or hypotension, myocardial ischaemia and myocardial dysfunction.

This bill also expands the definition of a drug of dependence to include drug analogues. Currently the definition includes any form of a drug of dependence, which includes salts and isomers, but it does not specifically include drug analogues. Drug analogues are synthetic substances that have a chemical composition similar to illicit drugs. This change will allow us to catch more synthetic drugs under the umbrella of a drug of dependence, and it will allow the police and public health professionals to act more swiftly in protecting the community from the dangers of these chemical products.

The bill allows Victoria Police to supply seized drugs to external testing facilities for the purposes of testing and analysis. The existing law does not allow Victoria Police to supply these drugs to external facilities; it allows supply only to internal forensic services departments. The reason for this change is that the Australian Federal Police has commenced a project obtaining drug samples from across Australia to provide better intelligence in combatting drug dealing and supply. By granting the power for Victoria Police to provide samples to external facilities, this bill will allow Victoria Police to participate in this project and help reduce the number of Victorians using illicit drugs.

We had a long debate last year about the sale of bongs. Presently when bongs, bong components and bong kits are seized the court may order them to be forfeited and destroyed if a person is found guilty of an offence. If the person is served with an infringement notice, however, there is no power to order forfeiture and destroy seized items. This bill closes that loophole by allowing this to occur.

In conclusion, this bill continues to tighten Victoria's approach to combatting the illicit drug trade. It makes some important changes to the legislation to better protect Victorians from some harmful products in circulation, and it also allows Victoria Police to cooperate and participate in a national project run by the federal police, which will provide the drug squad with valuable intelligence.

As I said at the outset in quoting Mr Scheffer, this is a very difficult contest. It is us, as legislators and people with responsibilities, together with the health professionals, against this huge, well-organised criminal component in our community. Just because it is a contest that is difficult does not necessarily mean that it is unwinnable, as Mr Scheffer has said. Every attempt that we can make to crack down on any loophole to make Victoria safer from drugs is something to be commended. I commend the bill to the house. I commend the Napthine government ministers who are working on this matter. I believe the people of Victoria welcome such bills, which give them confidence that we are anti-crime.

Mr ELASMAR (Northern Metropolitan) — I wish to make a brief contribution to the debate on the Drugs, Poisons and Controlled Substances Amendment Bill 2013. As a parent I am horrified to see the emergence of even more chemically concocted pills cooked up in dirty homemade laboratories. Our young people who swallow these tablets are putting their lives at risk for a cheap thrill. They do not realise the negative effects of the dirty parts of the pills. Our police are working hard to stem the flow of these dangerous drugs by raiding and smashing these labs, which are producing many thousands of tablets that are sold daily on the streets and nightly in our bars and clubs.

It is not enough to get tough on these despoilers of our younger generation. We need to educate our young people on the dangers of illegal pill popping. Unfortunately the war on drugs is being lost in the hearts and minds of vulnerable kids. Some kids take these drugs because of peer pressure — everyone else is taking them, so it must be cool — or out of sheer boredom. Victoria needs a strategy not just to tackle the dealers and the despicable manufacturers of these drugs but to actually educate and inform young people of the inherent dangers of synthetic drugs and how they can kill or permanently damage the central nervous system.

It has been stated before that Labor does not oppose this bill; in fact Labor recognises that the bill attempts to address the commonplace emergence of these synthetic drugs. Our young people are in greater danger than ever before in the history of drug taking, because anyone with a basic knowledge of chemistry can set up a crude, no doubt filthy laboratory in their own home and start using pills based on pseudoephedrine — a drug originally formulated for sinus congestion — to make ice, ecstasy or a new-generation pill simply called 'P'. I would have liked to have seen additional money set aside for a program to minimise or educate people about the dangers involved. This should be done as early as possible in the formative years of our kids.

There is no doubt in my mind that the global war on drugs is failing. A proportion of the money allocated to the antismoking campaign — and please do not take me the wrong way, because I understand the devastation of smoking-related diseases on families and on health budgets around the world — could be better used. We need to understand that additional fines and punishments are not working. We need to spend a good deal more money on prevention rather than counterproductive measures. More jails will come at a cost to the taxpayer, but more heartbreak will be the overriding factor that will affect us all as a community. We need to understand the complexities of drug taking, and we need to eradicate it — by preventing it before it begins.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

CRIMES AMENDMENT (GROOMING) BILL 2013

Second reading

Debate resumed from 6 February; motion of Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation).

Ms MIKAKOS (Northern Metropolitan) — I rise to speak today on the Crimes Amendment (Grooming) Bill 2013, and I indicate at the outset that this bill has the full support of the Labor opposition. This bill seeks to amend the Crimes Act 1958 to create a new criminal offence of grooming for sexual conduct with a child under 16 years of age.

Some of the most challenging issues we deal with in this Parliament are the ones that deal with children's safety, and they are the ones we should be giving our utmost attention to. The bill, and with it this new offence of grooming, is largely based on the findings and recommendations of the Family and Community Development Committee report of its inquiry into the handling of child abuse by religious and other non-government organisations, tabled in the Parliament on 13 November 2013. The report, often known by its short title, *Betrayal of Trust*, was the culmination of many months of work. As I have said previously in this house, I pay tribute to all members of that committee for their bipartisan and considered approach to these sensitive issues.

The work of that committee would undoubtedly have been difficult in that some 578 submissions were received and 162 hearing sessions were held, including 56 private hearings, in Melbourne, Bendigo, Geelong and Ballarat. The final report is a strong testament to the many people who bravely shared their experiences of abuse and allowed their stories to be told. The recommendations in the report covered a range of areas, including reform of the criminal law.

Chapter 22 of the report is devoted entirely to the issue of grooming. As members may already be aware, grooming is an act undertaken by a perpetrator with the aim of befriending and establishing an emotional connection with a child to lower inhibitions or gain access to sexually abuse the child. There are a number of ways in which grooming can occur, and importantly the committee noted that grooming can involve the cultivation of a friendship with members of the child's family as well. The committee also noted that grooming involves 'psychological manipulation that is normally very subtle, drawn out, calculated, controlling and premeditated'. That quote was from page 466 of the *Betrayal of Trust* report.

In an age when more and more children are using the internet we must also be vigilant about grooming taking place online. Currently there is no specific offence of grooming; however, it is considered an aggravating feature of a sexual offence. Even so, the committee found that:

> Treating grooming as an aggravating feature of a sexual offence does not sufficiently recognise the damage such conduct causes to those who are the subject of such behaviour, categorised as secondary or passive victims.

That appears on page 470 of the report.

In attempting to understand just how damaging this behaviour can be I found the evidence submitted by Mr Patrick Tidmarsh, a forensic interview adviser with the Victoria Police sexual offences and child abuse investigation team, quite compelling — and I thank the parliamentary library for the comprehensive research brief it has produced, as it outlines some of Mr Tidmarsh's evidence. Mr Tidmarsh stated that grooming is 'not exclusively about the sexualisation of the relationship with the child', as some perpetrators will often 'spend weeks, months or even years crafting a relationship with a family or an organisation and a child in order to gain access — unfettered and isolated access — to that child'. That evidence was referred to on page 4 of the parliamentary library research brief.

There are many types of behaviours other than the sexual act itself which may constitute acts of grooming, and I note the committee stated that the evidence given by many victims at the inquiry was consistent with Mr Tidmarsh's analysis of grooming behaviour. I am particularly referring to page 466 of the *Betrayal of Trust* report.

The committee recommended that not only should the offence of grooming be created but it should also not require a substantive offence of sexual abuse to have been committed. It recognised that in addition to the primary or intended child victim of sexual abuse, parents and others can also be victims of this criminal conduct. I cannot imagine the absolute horror, betrayal of trust and guilt parents must feel having been subjected to the predatory behaviour of people they trusted and in some cases had taken into their family home.

Clause 3 of the bill inserts new section 49B(2) into the Crimes Act 1958. It states:

> A person of or over the age of 18 years must not communicate, by words or conduct, with a child under the

> age of 16 years or a person under whose care, supervision or authority the child is (whether or not a response is made to the communication) with the intention of facilitating the child's engagement in or involvement in a sexual offence with that person or another person who is of or over the age of 18 years.

The offence will carry a maximum penalty of 10 years jail.

New section 49(3) sets out a non-exhaustive list of persons who may be considered to have a child under their care, supervision or authority. These include the child's parent or step-parent, teacher, legal guardian, religious official or spiritual leader, employer, youth worker, sports coach, an out-of-home carer or a person employed in, or providing services in, a remand centre, youth residential centre, youth justice centre or prison.

The bill also makes it clear that a perpetrator cannot escape the law on the grounds of jurisdiction. The grooming offence will apply if the accused or the victim is in Victoria, irrespective of whether some or all of the communication constituting an offence occurred outside Victoria. It only matters that the accused or the victim were in Victoria at the time at which that communication occurred.

Whilst we wholeheartedly support the new grooming offence, we know it is often difficult to establish grooming as a crime. People who undertake this behaviour go to extraordinary lengths to cover their tracks. They use interstate or overseas internet service providers and all sorts of means to escape being detected. There are many actions or behaviours that when seen in isolation can appear innocent yet may still constitute grooming. It is important that regard be given to patterns of behaviour and any prior history of the offender.

I am sure all members will agree that the sexual abuse of children is one of the most abhorrent crimes. Its impact can be utterly devastating, both physically and psychologically, and its effects long lasting. As we saw from the evidence given at the Family and Community Development Committee inquiry, for so many of those victims that damage has lasted a lifetime. The protection of children from sexual abuse has been and should always be beyond politics, and we are motivated by those factors in our wholehearted support of the bill before us today.

Approaches that deal with the sexual abuse of children should always be bipartisan, which is why I again welcome the government's decision to establish the inquiry that led to the *Betrayal of Trust* report and subsequently this legislation. The report made a number of recommendations. I look forward to the government quickly taking action on them. I do not wish to hold up the passage of the bill by giving a lengthy contribution today. I wholeheartedly support the bill and wish it a speedy passage.

Ms CROZIER (Southern Metropolitan) — It is my very great pleasure to rise to contribute to debate on the Crimes Amendment (Grooming) Bill 2013. I listened to Ms Mikakos's contribution and thank her for her comments on the work of the Family and Community Development Committee. As chair of that committee I can attest to the enormous amount of work undertaken by its members. I also thank Ms Mikakos for her comments on the committee's report.

The bill is the first piece of legislation that has come into the Parliament following the recommendations made by the Family and Community Development Committee in its *Betrayal of Trust* report, which I had the privilege to table in this place last November. I take this opportunity to once again thank the many people who assisted with that task, including the secretariat, the Parliament, the victim support agency, Task Force Sano and others, all of whom contributed to preparing the report and its recommendations, enabling us to bring it to the house in a bipartisan fashion.

As I said at the time, children were betrayed by trusted figures in organisations of high standing and suffered unimaginable harm. Parents and the community were betrayed by the failure of organisations to protect children in their care. The criminal abuse of children involves extremely serious breaches of the laws of our community. On the day I tabled the report I was heartened by the Premier's immediate action in recognising the severity of what the committee had read and heard throughout the course of its inquiry. The Premier said that the government would not wait to respond to the report, that it would immediately act to protect children, and that is exactly what the government has done.

In less than one month of me tabling this very extensive report — which stems from one of the largest inquiries, if not the largest inquiry, the Victorian Parliament has undertaken — legislation was introduced into this Parliament. I would like to commend the government and particularly the Attorney-General on his swift action in drafting laws and enabling this bill to come before us.

In a media release of 11 December last year the Attorney-General said:

> The creation of this new offence is a key first plank in the government's response to the recommendations of the parliamentary Family and Community Development

> Committee's *Betrayal of Trust* report on the handling of child sex abuse allegations.

This issue has been around for a very long time, and I again commend former Premier Ted Baillieu, the member for Hawthorn in the Assembly, for having the courage to be the first leader anywhere in Australia to take on this issue. It was a very brave move, especially given some people in the media said that we did not have the capacity to do it.

As has been highlighted, this bill addresses the insidious manner in which grooming takes place, and it makes it a criminal offence. This has been appropriately reflected in the maximum penalty of 10 years imprisonment. As was highlighted in the report, drafting legislation relating to grooming is not altogether easy. It is not easy to identify what grooming is; it can look like perfectly innocent behaviour. The last thing we want is for innocent people who have normal relationships with one another — that is, normal contact between an adult and a child — to be caught up in this legislation. The committee was very mindful of this, but we received an extraordinary amount of evidence relating to grooming and the many forms in which it can take place.

Grooming also affects secondary victims. These can be parents who are severely affected by their guilt, having not fully understood what has taken place. As Ms Mikakos rightly highlighted, sometimes grooming can occur in their very homes. Some secondary victims we heard from were absolutely devastated, and they lived with their guilt for many years — some up until the day they died. It was just devastating to hear stories, time and again, in relation to the terrible guilt those parents felt. There was no doubt that they were exploited by those sexual predators.

Many witnesses described the grooming activities and behaviours that they or their families were subjected to. In many instances the predators were highly skilled in what they did, the behaviours they undertook and the manipulation they used. They recognised that some children were more susceptible than others and that some families were more susceptible than others. In some instances we heard from single parents. We heard about family break-up issues and alcohol-related issues. They were very damaged families, and predators would target these vulnerable families and children and manipulate them for their own devious and dreadful purposes.

Many offenders would make their victims feel special. They would deliberately cultivate a relationship to gain confidence and power, and inducements of various kinds may have been offered to further enhance the relationship. I would like to read to members in the chamber some of the examples that we heard. I quote from the report, which contains evidence from a number of witnesses who came before the committee. It states:

> … my father's drinking probably helped ensure that I was someone he would target.

One victim described his family:

> Three boys and three girls; it was almost that perfect scenario, I suppose. We were all pretty shy kids. He made things fun. He would chase us, or something like that. He made it so that, I do not know, we would not say anything, even though our parents said nobody is allowed to touch you in certain areas. They told all the kids that, but he made things fun and he made it like he was a friend. I was only five and still did not quite understand what he was doing, really.

Another victim stated:

> I was a member of both the choir and altar boys … He groomed me by giving me cigarettes, money and alcohol …

We wanted to include those examples in the report because they highlight the various degrees of behaviour and the extent that these devious sexual predators went to. They were difficult stories to listen to. As the report indicates, parents and families were also groomed and parents reported feelings of guilt. One victim spoke of her mother:

> My mother was no exception, and with a very complex set of circumstances in her own life that allowed for psychological abuse, exploitation and manipulation she was truly putty in the hands of a man who was targeting her child and distancing her from her maternal role toward the child.

The examples in the report highlight just how far these predators went. The report states:

> Offenders may take full advantage of the respect accorded to their position and the unquestioned trust that parents, grateful for and in some cases honoured by the attention being given to their child, place in them. There is a power imbalance in situations where an offender has a revered position in the family.

It is evident that a deliberate course of action was taken by predators. It is absolutely inexcusable that we could ignore this, and that is why the various recommendations were taken into account. I am very pleased that we were able to make this recommendation and that this piece of legislation targeting the behaviour of grooming with the intent to conduct a criminal offence has come before us today.

Grooming behaviour constitutes the cultivation of friendship and the building of that relationship directly with the victim or through the victim's parents, carers or others closely associated with them by offering

inducements or bribes such as I have described to enable that relationship to occur. The current law does not recognise the severity of such actions. That is what this legislation is all about. The law does not currently recognise that such conduct, with either the intent to engage in sexual activity with a child or the actual engagement in sexual activity with a child, is a criminal offence.

When I tabled the report I talked of the extensive life-altering implications. The lives of many people in our community who have been subjected to this sort of behaviour require that the criminality of that behaviour be recognised. This bill does just that: it recognises the deliberate activity of these predators. It will amend the Crimes Act 1958 by inserting a new offence of grooming for sexual conduct with a child under the age of 16 years, and it will make consequential amendments to other acts.

I know other members want to speak on this. It is an important bill that has come before us. I do thank the opposition for its full support in this. I, like Ms Mikakos, believe it is important that any element relating to the area of child protection should be addressed in a swift and bipartisan manner. Again I thank those opposite for their support, and I, like other members, wish it a speedy passage.

Ms PENNICUIK (Southern Metropolitan) — In speaking on this bill I begin by acknowledging that my contribution follows that of the chair of the Family and Community Development Committee inquiry into sexual abuse, which resulted in the *Betrayal of Trust* report. Ms Crozier has just preceded me with a contribution, and I pay tribute to her as the chair of that committee. I note that two other members of the committee, Mrs Coote and Mr O'Brien, are also present in the chamber, and I pay tribute to them too for the extensive amount of work they did and the harrowing testimony to which they had to listen from hundreds of witnesses, or many tens of witnesses, with regard to the issue of child sexual abuse by individuals within trusted organisations.

I also pay tribute to all those people who came forward to give evidence to the committee, because that was very brave of them, and it was often the first time they had spoken about it. Of course there are many other people in the community who have not spoken about these issues to this day. As Ms Crozier so eloquently outlined, it has affected their lives forever and probably will always affect their lives.

As to what this bill goes to, it affects the lives not only of the direct victims — those who were predated upon and who had crimes committed against them — but also of their family members, particularly their parents, and, as this bill also goes to, other trusted individuals who may have had care of them who were also caught up in this insidious activity of grooming, which in many cases goes on to perpetration of hideous crimes against children. The protection of children against sexual abuse is one of the most serious issues that faces us as legislators and the community, and everybody in the community should always be looking out to ensure that children do not come to this type of harm. It is the responsibility not only of parents but of other adults in the vicinity to be cognisant of and aware of the type of behaviour that this bill goes to — that is, the behaviour known as grooming.

I will not quote from the report, as Ms Crozier has already done so. Needless to say, anybody who reads through the report will find much of it very disturbing and upsetting. The parliamentary library has put together an excellent brief covering the issue and not only what this particular bill is putting forward but also how the issue is dealt with in some other jurisdictions. I want to make some comments about that, and I would also like to thank the library for its brief and particularly Rachel Macreadie, who was its author.

In terms of the technicalities of the bill, it will amend the Crimes Act 1958 to insert a new section 49B to provide for the offence of grooming by a person over 18 years of age for sexual conduct with a child under 16 years of age. The Attorney-General said in his statement of compatibility that the bill creates a new offence of grooming for sexual conduct to give effect to a key recommendation — that is, recommendation 22.1 — of the report Betrayal of Trust by the Family and Community Development Committee. The new grooming offence is very broad — there are no limitations expressed in the bill. It simply makes it a criminal offence to communicate with a child under 16 years, or with a person with care, supervision or authority of the child — and there is a non-exhaustive list of who those persons may be — with the intention of facilitating that child being involved in a sexual offence with the accused or another person at a later time.

The new grooming offence does not require a substantive offence of sexual abuse to have been committed, and nor does it require any specific conduct involved in the grooming, such as exposing the child to indecent material or seeking to persuade the child to take part in any sexual activity. The offence will attract a maximum penalty of 10 years.

The offence created by this bill is very broad and therefore needs careful consideration. Even the committee mentioned in its report that it is difficult to draft legislation regarding the crime of grooming. The report says:

> Actions or conduct that may constitute grooming can sometimes appear innocent, even if inappropriate. It is the perpetrator's intent that makes the conduct criminal in nature. Legislators must be careful in making laws that depend upon circumstantial evidence. For this reason, it is necessary to consider the behaviour in the context and circumstances in which it occurs, in order to determine whether it is part of a pattern that reveals a criminal intent.

That was a point made by Ms Crozier.

The Attorney-General has also stated that the grooming offence is cast broadly so as to apply to any communication with either a child or their parent or carer where that communication occurs with the intention of making it easier to engage in or involve the child in a sexual offence. This will ensure that that sort of befriending and relationship building that the committee identified as an integral part of grooming will be caught by the offence if undertaken with the intention of facilitating the engagement or involvement of the child in a sexual offence.

The committee found that grooming often involves not only the cultivation of the friendship of the child victim but frequently the grooming of the parents of the victim as well. The committee used the term 'grooming' to refer to actions deliberately undertaken by an adult with the aim of befriending and influencing a child and, in some circumstances, members of the child's family, with the intention of establishing an emotional connection in order to lower the child's inhibitions.

In her contribution Ms Mikakos quoted from evidence given by Mr Patrick Tidmarsh from the Victoria Police sexual offences and child abuse investigation team. He stated that some perpetrators:

> … will spend weeks, months or even years crafting a relationship with a family or an organisation and a child in order to gain access — unfettered access, isolated access — to that child.

Mr Tidmarsh also made the point that children are 'extremely unlikely' to report a perpetrator 'after the relationship has been manipulated and crafted'. He also said that grooming is about isolating the child and constructing a situation in which secrets about the relationship are kept by the child.

Finding 22.2 of the committee's report states:

> … grooming can occur in many other contexts other than via telecommunications — which are covered by this bill, and —
>
> which are currently covered by legislation. Perpetrators of sexual offences against children often engage in grooming behaviour directly with the child cultivating a friendship through personal contact and the criminality of that conduct should be recognised.

Obviously the behaviour that is described in the report and addressed in the bill is insidious and hateful and is undertaken by persons who are intent on abusing children.

I will comment now on the broadness of the offence and the issue it raises of the difficulty — and Ms Crozier talked about this in her contribution — of drawing a line between the normal behaviour of adults like me, who like to be around children and to have fun with children, and it being misconstrued as grooming. We do not want a situation to arise where people hold back from having a normal relationship with a child because it might be misconstrued. It is a difficult line and we need to acknowledge that in this debate. The bill says the behaviour must be with the intention of grooming a child for further activity of an illegal nature or abuse of the child further down the line.

How is that intent going to be established? How are we going to know that the person has crossed the line and formed a relationship that is over and above what Ms Crozier described as a normal relationship? I thought they were useful and pertinent questions to ask the department. The answer was that the police would allege that that was the intention of the person and that allegation would be supported by evidence such as emails, text messages, diary entries from the person, chat room entries et cetera, but ultimately it would be up to the courts to decide. If charges are brought, of course it will be up to the courts to decide. I imagine the reference to the evidence that the police would bring to bear is to electronic communications or communications for which there is some written evidence. However, it is going to be very difficult to establish the intent behind the relationship if it is just friendship or actions and where there are no electronic communications or text messages or anything like that.

Here I raise a word of caution about the broadness of the offence in this legislation compared with similar offences in other jurisdictions, which I will look at in a moment. People who do not have that intention could be caught up, and in some instances it may make it difficult to catch someone who has that intention. The courts and we, as legislators, need to watch as this legislation works its way through the courts to ensure that it is working in the way it is intended to work,

which has come from the recommendations of the inquiry.

In terms of the difficulty of establishing a line between normal behaviour between an adult and a child and unprofessional or insidious behaviour with the intention of abusing children, we need to be aware that there can be situations where persons are accused of having an abusive intent when they do not. They could be, as Ms Crozier said, innocent of that intent but be accused of it by someone who has a malicious intent towards them. A person so accused may be innocent and may be found to be innocent, but they will always carry the burden of the suspicion of others because of the allegation thrown at them, which was found to be untrue. This is a very difficult issue. I raise those cautions because the way the offence is drafted in the bill could lead to unintended consequences. However, I am sure the Department of Justice, the courts and others will be cognisant of that.

By way of comparison, I turn now to the way grooming offences are handled in other jurisdictions. In New South Wales specific actions are attached to the offence of 'procuring or grooming' a child under 16 years for unlawful sexual activity. That was introduced in 2007 by inserting new section 66EB into the Crimes Act 1900. Further offences were added in 2008, including 'meeting a child following grooming' and 'procuring or grooming a child under 16 for unlawful sexual activity'.

It is interesting to note that in the New South Wales legislation there is a difference in the penalties imposed for such offences. The penalty attached to the offence in this bill, under new section 49B, is 10 years imprisonment. In New South Wales there is a differentiation based on the age of the child. The maximum penalty in New South Wales is imprisonment for 15 years if the child is under 14 years, and 12 years if the child is over the age of 14 or between the ages of 14 and 16. Obviously the younger the child the more heinous and hateful the offence, because the child will be less aware that the behaviour of the perpetrator constitutes grooming.

Under the New South Wales Crimes Act there is also an offence for an adult person to intentionally meet a child or travel with the intention of meeting a child whom the adult person has groomed for sexual purposes, and it is an offence for an adult who engages in any conduct that exposes a child to indecent material or provides a child with an intoxicating substance and does so with the intention of making it easier to prepare the child for unlawful sexual activity, and of course they should be offences. In the section on grooming the New South Wales legislation also says that:

> In any proceedings for an offence against this section, it is necessary to prove that the child was or was to be procured for unlawful sexual activity, but it is not necessary to specify or to prove any particular unlawful sexual activity.

Interestingly, it also refers to 'fictitious children' and says that a reference in this section to a child includes a reference to a person who pretends to be a child if the accused believed the person was a child. Obviously this is much more possible with social media and electronic communications et cetera.

The crime of grooming children with the intent of going on to abuse them is a heinous and insidious crime and was highlighted in horrible detail in the *Betrayal of Trust* report. Such behaviour needs to be outlawed. As I have mentioned before, not only does it need to be outlawed and made an offence under the law, but as was pointed out in the *Betrayal of Trust* report, we as adults in the community need to be educated about what that sort of behaviour can entail. We also need to be made aware of the difficulty of exactly drawing the line in terms of some types of behaviour which may in fact be quite innocent. It is a difficult issue to deal with.

I have attempted to draw a comparison between the way grooming is treated in other jurisdictions and alert the Parliament and the courts to be on their guard as this bill comes into application. Is it effective in catching perpetrators and putting a stop to their activities? At the same time is it capturing people in its application who are not committing any sort of offence and who have no intention of committing an offence? We need to be aware of that. Having made those remarks and highlighted those issues, the Greens are supporting this legislation. Once again, I thank everybody who was involved in the inquiry that led to the *Betrayal of Trust* report, a report we all should learn from.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Technology sector

Mr SOMYUREK (South Eastern Metropolitan) — My question is to the Minister for Technology, Gordon Rich-Phillips. Of the $20 million the minister committed in May 2011 to NICTA, the government recently withdrew $16 million of funding over two years. It has been reported that the cuts will result in the loss of 66 jobs and the closure of three Melbourne-based research groups: the health and life sciences group, optics and nanoelectronics group and the control and signal processing research group. Given that the minister's government has identified growth in high-tech manufacturing and high-tech industries of the

future as the solution to the decline in Victorian industry, how are these funding cuts consistent with growing high-tech manufacturing and new and emerging high-tech industries of the future?

Hon. G. K. RICH-PHILLIPS (Minister for Technology) — I thank Mr Somyurek for his question about NICTA funding. NICTA is an entity that was formerly called National ICT Australia. It was first funded by the commonwealth and the New South Wales governments and subsequently received Victorian government funding around 2004. In fact NICTA has received more than $40 million worth of funding from the Victorian government over the last decade.

Importantly, Mr Somyurek referred to Victorian government support for high-tech manufacturing and for technology industries more generally. Mr Somyurek's question actually goes to the nub of the issue, because the Victorian government has a range of programs which go to support the development of our high-tech industries in Victoria. We are a proud supporter of high-technology industries in Victoria and high-technology institutions undertaking research and development in Victoria. But importantly, when the Victorian government is providing support for institutions and running support programs for institutions, indeed for enterprises in Victoria, the benefits need to accrue to Victoria. We need to see the benefits of research and development accrue in Victoria for the Victorian economy. We need to see the benefits of commercialisation accrue here in Victoria.

What we saw with NICTA is that funding was flowing from the Victorian government into NICTA, as was funding flowing from the commonwealth into NICTA. What we were not necessarily seeing were the benefits of that funding coming back to Victoria. The government has taken the decision that where it is providing support programs for technology industries, the benefits need to be realised in Victoria. Victorian projects need to be commercialised in Victoria, jobs need to be created in Victoria.

On the issue of NICTA staffing, that is a matter for NICTA. NICTA decides where it allocates its resources, which goes to the nub of the issue. The Victorian government has said it will spend these funds on projects here in Victoria. Over the last three years we have seen 4000 technology jobs created in Victoria. We have seen more than $800 million of capital investment attracted to Victoria in the technology sector. The government has a very proud record of achievement with its programs in Victoria. We will continue to invest those funds for the benefit of the technology sector in this state.

Supplementary question

Mr SOMYUREK (South Eastern Metropolitan) — By defunding NICTA the government appears to have broken a contract with the organisation. Has the minister received any legal advice with respect to issues of sovereign risk?

Hon. G. K. RICH-PHILLIPS (Minister for Technology) — I am not sure that is a supplementary question to Mr Somyurek's principal question, but I am happy to address the issue. Of course the Victorian government acts in accordance with its contractual obligations. In taking the decision and looking at the future of the funding of NICTA the Victorian government was very conscious of its contractual obligations, and I am advised that we are entirely in accord with our contractual obligations.

Latrobe Valley fires

Mr RONALDS (Eastern Victoria) — My question is to the Minister for Health, the Honourable David Davis. Can the minister update the house on the government's response and support for the community affected by the fires in Morwell?

Hon. D. M. DAVIS (Minister for Health) — Mr Ronalds might be a new guy, but he is a very fierce advocate for his area, as is Mr Northe, the member for Morwell in the Assembly. Mr Ronalds is very focused on providing support to his community, probing government and encouraging government to support his community. I make it clear that Mr Ronalds has been in close communication with the government, as has Mr Northe.

I inform the house that yesterday afternoon I visited Moe specifically to inspect the new centre that will provide respite for the community. The respite centre in Moe is sufficiently far away from the fire so that the smoke will not be an issue. People in the local area, either by way of public transport or private vehicle, will be able to attend the respite centre. There is support at the respite centre, including ambulance paramedics. There are Environment Protection Authority officers, there are Department of Human Services officers and there are also church officials and community members who provide support and backup for those who are obviously facing a very challenging time in Morwell with the fires continuing.

I spent some time in Morwell talking to a number of people. I am very much aware of the impact of the fires,

the impact of the smoke and the very oppressive smell as a result. The government has been progressively increasing its monitoring through the Environment Protection Authority, as I have indicated to the house previously. The chief health officer provides me with commentary about that monitoring. I pay tribute to the work of the chief health officer in providing advisories to the community, and further advisories have been produced in the last 24 hours relating to ash and other matters. I can also indicate to the chamber that there will be significant support to the community through this respite centre.

The government response is significant. I know the chamber will have heard Mr Hall's comments earlier about some monitoring that has been undertaken by the Department of Education and Early Childhood Development, and it obviously has specific focus on its schools and kindergartens. As I indicated to the chamber yesterday, the Department of Health office in the region is very closely involved with aged-care centres and in ensuring that they have appropriate plans in place and have advice and information. The centres have been in close consultation with departmental officers and with the chief health officer. I can also indicate the close involvement of the GPs, and both Medicare Local and my department have been in communication with the 42 general practitioners in the town. The information provided by those GPs back to the government — —

An honourable member interjected.

Hon. D. M. DAVIS — I have talked to GPs about a whole range of matters. I surveyed them on the patients who are coming to them. I can report that there has not been a significant or substantial increase in the number of patients. A number of patients have been treated for some respiratory matters. GPs, particularly a person's own GP, are the best-placed practitioners to do this. They will understand the history of those patients and their drug history. I encourage people to continue to seek support either through Nurse on Call or some other referral mechanism or through their GPs. I have spoken to officials from the local hospital who are very aware that the emergency department is in a position to respond as required, but it has not been overwhelmed by demand to this point. That is a good piece of news.

Sensis

Mr SOMYUREK (South Eastern Metropolitan) — My question is again to the Minister for Technology. Yesterday Sensis announced the loss of 336 jobs in Victoria. There have been whispers about these job losses since before Christmas. I ask: when was the minister first made aware of these potential job losses?

Hon. G. K. RICH-PHILLIPS (Minister for Technology) — I thank Mr Somyurek for his question around Sensis. The Victorian government has ongoing discussions with companies operating in Victoria around their plans, and obviously Telstra is a major employer and a major operator in Victoria. The Victorian government has discussions with Telstra from time to time. Mr Somyurek referred to an announcement made yesterday by Sensis, a Telstra subsidiary, with respect to job numbers in Victoria and across Australia.

It is worth reflecting on the nature of the announcement made by Sensis yesterday, which reflected a shift in its business. Sensis is the directory business for Telstra; it produces the *White Pages* and the *Yellow Pages*. That announcement by Sensis yesterday reflects the shift in its business away from the traditional hard copy printed telephone directories to newer technologies, such as online delivery et cetera. This is very much where the Victorian government's focus on developing technology and developing technology industries is focused. This is where we have a range of programs that are focused on supporting the development of technology industries and in supporting the development of new jobs in ICT and in other technology streams. That is why we have seen in the last three years more than 4000 new jobs created in the technology area, and more than $800 million of capital investment into technology.

We recognise that there are shifts in the economy, such as the shift that was announced by Sensis yesterday, and the Victorian government, through its programs, is responding to those shifts.

Supplementary question

Mr SOMYUREK (South Eastern Metropolitan) — I ask the minister if he is expecting any flow-on effects, such as further job losses, as a result of the announcement made by Sensis yesterday?

Hon. G. K. RICH-PHILLIPS (Minister for Technology) — I will say to Mr Somyurek that the Victorian government does not run Sensis and it does not run Telstra. Those decisions around how Sensis structures its business into the future and how Telstra structures its business into the future are a matter for Sensis and Telstra. What I can say to Mr Somyurek and to the house is that the Victorian government has put in place a range of programs to support the development of new industries and new technologies in the

technology area. That is why we can say that over the last three years more than 4000 new jobs have been created in the technology industry and more than $800 million of capital investment has been invested in this sector. In recognition of the changing economy and in recognition that new jobs need to be created, we have a range of programs in place, and that is why we support research and development in the technology sector. That is why we support the sector in the way we do.

Family violence

Mr DRUM (Northern Victoria) — My question is to the Minister for Crime Prevention, Edward O'Donohue. I ask: can the minister inform the house of what the government is doing to help reduce violence against women and children, particularly in the Koori community?

Hon. E. J. O'DONOHUE (Minister for Crime Prevention) — I thank Mr Drum for his question and his interest in crime prevention initiatives, particularly in our Koori community. The subject of Mr Drum's question was violence against women and their children. In that context, let me reflect on the tragedy of the death of Luke Batty and acknowledge the courage of his mother, Rosie. Tyabb is a town in my electorate, and it is a town that I know extremely well as it is not far from where I currently live. In that context I acknowledge that tragedy, which reinforces the seriousness of this issue, the seriousness of domestic violence and crimes against women and their children. What a challenge it is for all of us — for government, for the agencies of government and for the entire broader community.

The police are doing a great deal of work in this area, as is the Victorian community. I believe the government is doing a great deal, but this tragedy reinforces that there is still much more to be done. In Australia family violence is the biggest killer of women aged 14 to 49. That is an astonishing statistic. Sadly the number of women who lose their lives to violence in Koori communities is even higher. Domestic violence — violence against women and children — is destroying lives and having a terrible effect on some of our communities. The Victorian government is committed to addressing this and to preventing violence before it happens.

As I have advised the house before, under my portfolio of crime prevention the coalition government has allocated $7.2 million in grants dedicated to reducing violence against women and children. Of this, $2.4 million has been allocated to Koori-specific projects.

One of these projects is the community violence prevention project, developed through a $560 000 grant to the Mallee District Aboriginal Services. This project is targeting violence in the Koori communities of Mildura, Robinvale, Swan Hill and the broader region. One of the many initiatives as part of this project and campaign is the creation of six television commercials aimed at preventing family violence, with two commercials airing in these areas now. These commercials are real, raw and confronting. Importantly, the commercials have been created with a direct input from the local community. The feedback thus far has been very positive. There will be two more commercials running in the coming months, and the remainder are programmed for early 2015.

Violence against women and children is unacceptable in any form and in any place. That is why this campaign is so important. The government is committed to working with Victorian communities to prevent violence before it happens.

I am pleased to also acknowledge the investment made by my colleague the Minister for Community Services, Mary Wooldridge, of $650 000 for new initiatives to tackle Indigenous family violence across Victoria. Thirty-nine projects have been funded through this initiative. This is part of a whole-of-government strategy, a broader strategy, as articulated in the 2012 strategy, *Victoria's Action Plan to Address Violence Against Women and Children — Everyone Has a Responsibility to Act*. The coalition government has invested $90 million to address this serious issue. As I have indicated previously, we all have a responsibility in this area.

Transport Accident Commission employment

Mr MELHEM (Western Metropolitan) — My question is to the Assistant Treasurer, Mr Rich-Phillips. Can the minister confirm or deny media reports this morning that there will be 165 state government jobs going from the Transport Accident Commission in Geelong rather than the 70 that he confirmed yesterday?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I thank Mr Melhem for his question. I advise Mr Melhem that the numbers he has referred to, as reported in the media today, are incorrect. As I indicated to the house yesterday, the Transport Accident Commission (TAC) does engage a number of staff for project work. TAC is implementing the

TAC 2015 strategy which is designed to improve service delivery by the commission. We have seen through that project a number of tangible outcomes in terms of service delivery to TAC clients. For example, one of the elements that that project work has been undertaking has been to improve the TAC claim acceptance time. We have seen claim acceptance times drop from, in some cases, up to 70 days to 5 days. That is the type of work that is being delivered through the TAC 2015 strategy.

That is of course being delivered as individual project work. When you engage in individual project work you engage workforce contractors to deliver that individual project work, and when the project work finishes you do not continue to hire the contractors. It is similar to having an extension built on your house. Once the extension work is finished you do not continue to hire and pay the builder. You have the project work and you have the — —

Mr Drum — Labor does.

Hon. G. K. RICH-PHILLIPS — Mr Drum says, 'Labor does', and that is perhaps one of the problems. With the TAC 2015 strategy, which involves project work, contractors have been involved specifically for that project work, and when the project work ends, those contract positions are no longer required. It is part of responsible management of the TAC that it manages its workforce in that way. TAC is a compulsory monopoly insurer. Every motorist in Victoria pays for TAC. A typical Victorian family with two cars is paying around $900 a year in TAC charges. It is important that those costs are kept to a minimum and that where project work has ended, those roles no longer continue to be engaged. That is the appropriate way for TAC to run that project, and that is what TAC is doing.

Supplementary question

Mr MELHEM (Western Metropolitan) — I thank the minister for his answer. He will appreciate what the Geelong people have been going through in recent times. With the minister's confirmation that it is only going to be 70 job losses, can he confirm that there will be no further cuts in the next 12 months, or the engagement of labour hire personnel, for example, during that period to replace workers at TAC? It is not hard to say that that is it for the next 12 months.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I thank Mr Melhem for his supplementary question. What I can say to Mr Melhem is, putting aside the project work that TAC has been undertaking, around 700 people are employed as part of business as usual in TAC providing services and providing compensation support for TAC clients. TAC is a very substantial employer in Geelong, and it will continue to be a very substantial employer in Geelong. At the end of last year the Premier announced that from 2015 the Victorian government would work to relocate the Victorian WorkCover Authority to Geelong. This will add around 550 or 600 new jobs in Geelong. We have worked with the federal government to secure the headquarters of the National Disability Insurance Agency (NDIA) in Geelong. This is a substantial opportunity to establish a centre of excellence in statutory insurance, having TAC, the Victorian WorkCover Authority and the NDIA headquarters in Geelong.

This government is committed to growing jobs in statutory insurance in Geelong. We have solid commitments around the Victorian WorkCover Authority, we have solid commitments with the NDIA and we are delivering a centre of excellence for the people of Geelong.

Workers in Transition

Mrs KRONBERG (Eastern Metropolitan) — My question without notice is directed to the Honourable Peter Hall, the Minister for Higher Education and Skills. Will the minister inform the house of how the Workers in Transition program and the Victorian training guarantee is assisting retrenched Victorian workers?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Mrs Kronberg for her question and genuine interest in this matter, one in which I am sure we all have an interest. Unfortunately there are genuine retrenchments from time to time, and Victoria has seen a fair share of those in recent times. The Victorian government has in place a well-established program to assist those workers who may be facing retrenchment or have been retrenched as a result of the business for whom they have worked either closing or, in some cases, restructuring. That particular fund is called the Industry Transition and Specialist Training Initiative. Within that broader program there is a specific fund called the Workers in Transition program. As I said, it is designed to help those workers who are either facing retrenchment or indeed are retrenched as a result of industry restructure or business closures.

The way the program works is that as soon as it has become known that there is a business in the circumstances I described, either closing or facing closure, then contact is made by an officer of my

department, the higher education and skills group, to make available to the workers and to the business some of the support measures which we can put in place. Where there is training or retraining required for those workers facing retrenchment, they can get help in two different ways. One is under the Victorian training guarantee. If a worker wishes to upskill — that is, improve the level of qualification they currently hold — then they would qualify for subsidised training under the Victorian training guarantee.

But if a worker who is facing retrenchment or has been retrenched seeks to retrain at an equivalent or lower level to a qualification they currently hold, then under the Workers in Transition program that requirement is dispensed with and training can be provided at a level appropriate to where job opportunities may exist for those particular workers. That is how the well-documented Workers in Transition program works. During the course of 2012–13 around 3500 workers were engaged with the Workers in Transition program. Many of those came along purely for information sessions, for career advice and for counselling and the like, but 834 of those in that financial year enrolled in a course or a module under that particular program.

It is also worthwhile mentioning that while during that financial year there were 39 registered training organisations that participated in delivering retraining to retrenched workers, 78 per cent of that training activity was undertaken by either the Kangan or Chisholm TAFE institutes. Certainly the TAFE providers are the predominant providers contracted under this program to help with retrenched workers. Given recent announcements, we expect demand under this program to increase over these next 12 months. In that regard some very strong submissions have been made by the Victorian government to the federal government for assistance and support and to make sure that money becomes no barrier to a retrenched worker being able to get some subsidised training.

We also acknowledge the fact that large companies should share some responsibility for the future of their workers. I am pleased to say the government has been working with some of the major companies following their recent announcements — companies like Ford, Holden, Toyota and Alcoa — to ensure that we are working together and that each of the interested parties shares responsibilities in terms of the future of those workers.

Aged-care facilities

Ms MIKAKOS (Northern Metropolitan) — My question is to the Minister for Ageing. Given the minister's invitation-to-register process closed on 10 February, will the minister now come clean and tell Victorians exactly which public aged-care facilities are going to be sold off or closed?

Hon. D. M. DAVIS (Minister for Ageing) — I thank the member for her question. The government has sought responses from a number of agencies, including not-for-profit agencies, that will provide options for reinvigorating aged-care facilities in metropolitan Melbourne. That will be a matter of the proposals that come forward with the support of health services and which are seen to be in the interests of communities by particular health services. Obviously the process is one that requires proper probity, and that probity makes it difficult for me to give precise details to the member now.

I note that in 2009 the then Minister for Health sought to take steps to sell a house which was closely associated with Austin Health. The important example there is recognising the long-term challenge of having proper capital flows and that the commonwealth has not provided proper capital flows. This government has provided bigger capital flows into this area than the previous government — for example, there is $18 million to rebuild aged-care facilities in Swan Hill.

I am struck by this 8 May 2009 note on the strategic business case, transfer of a residential aged-care bed licence to a private not-for-profit aged-care provider. I wonder who the health minister was at that point? I think it might have been Mr Andrews, the Leader of the Opposition and member for Mulgrave in the Assembly. He was intending to take steps to sell this particular unit.

Ms Mikakos — On a point of order, President, the minister has given a very wide-ranging response which has not addressed my specific question, which was about his invitation-to-register process — his process — that closed on 10 February. I asked him to outline which facilities he is going to sell off or close. I ask him to come to the question that has been asked.

Hon. D. M. DAVIS — On the point of order, President, obviously there is a context here. Commonwealth aged care is regulated and funded by the commonwealth. Victoria has a number of services across the state; some are in the country and some are in the city. The member's question relates to city-based services, and I am putting this in a historical context.

Governments of all colours have looked at how they can reinvigorate services and make sure that the capital stock is renewed, and that is what I am doing.

The PRESIDENT — Order! That is debating. I understand the minister is keen to provide some context for the current process, but that context should not be the substantial part of his answer at this time, given that Ms Mikakos's question was rightly addressed at the current process of expressions of interest. I am not sure that in fact even the letter that the minister quoted from represented a similar and parallel process by way of example, notwithstanding that it was a transfer of ownership to a different operator. I ask the minister to come back to the actual expression of interest process.

Hon. D. M. DAVIS — As I have said in this chamber before, the government is prepared to look at proposals that come forward that would see reinvigorated and better facilities. The example I have used in this chamber before is Peninsula Health which was successfully able to negotiate with Southern Cross Care to see new capital put in place and a more satisfactory outcome for people on the Mornington Peninsula.

What is clear is that we need a system where the number of beds in total across the state is increasing. The commonwealth, under all governments, has been increasing the number of beds year on year, so there is increased capacity. As the member well knows, the commonwealth regulates and funds aged care. What the commonwealth has not been good at doing is putting capital in to support that, particularly for state government facilities. Very little capital has gone in over the last decade under the Labor government or under the government before that. There is a need for new capital facilities and reinvigorated facilities to provide better care for people in metropolitan areas.

The model that operated at Frankston is one that could provide better outcomes for the community. The government is prepared to look at that model with the caveats that we want to see good outcomes for community members. We would want the support of local health services that operate those particular arrangements.

As to the member's point about a particular expression-of-interest process, obviously that is a process that has the normal probity rules around it, and those normal probity rules would be ones that I intend to follow. In due course we will have public discussions about that. The Ballarat example — —

The PRESIDENT — Order! Thank you, Minister.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — I remind the minister that he does manage and fund public aged care in Victoria, from which he has cut $75 million in funding. In light of his process, having recently closed, will he now rule out selling or closing Cyril Jewell House in Keilor East, a unique public aged-care facility that provides specialist beds for young people with multiple sclerosis?

Hon. D. M. DAVIS (Minister for Ageing) — The member made some assertions about reductions in funding. In fact there is more funding into residential aged care by the state government this year than last year, and indeed the funding under her government. I want to be quite clear that the funding has increased year on year.

What I would also say is that each case will be taken on its merit. I am obviously not privy to the expression-of-interest process due to the probity arrangements that exist, but any change would have to be in the interests of the community and supported by the relevant health service. It is interesting to note that in this chamber recently the member raised an example at Ballarat. Many of the bed licences sold — or sought to be sold — by Ballarat Health related to closures that occurred under the previous government. The idea that she would oppose the sale of bed licences just lying around from pre-2010 from closures in Ballarat under the previous health minister — —

The PRESIDENT — Order! Thank you, Minister.

Air traffic control system

Mr ELSBURY (Western Metropolitan) — My question is to the Minister responsible for the Aviation Industry, the Honourable Gordon Rich-Phillips. Can the minister update the house on the latest export success for the Victorian aviation industry?

Hon. G. K. RICH-PHILLIPS (Minister responsible for the Aviation Industry) — I thank Mr Elsbury for his question and indeed for his continuing interest in the Victorian aviation and aerospace industry.

One of the great things about our aviation and aerospace sector is its diversity. We recognise some of the big players in aviation and aerospace here in Victoria. Obviously we have Boeing Aerostructures at Port Melbourne, which is the largest Boeing manufacturing facility outside North America. We have companies in the training sector, such as CAE Oxford Aerospace Academy operating international pilot

training here in Victoria — one of the largest pilot training operators anywhere in the world. We have companies such as GippsAero, an indigenous aircraft manufacturer based in the Latrobe Valley. But we also have many service providers and support services in the aviation and aerospace sector in Victoria which are punching well above their weight.

Not long after I became the Minister responsible for the Aviation Industry in Victoria I was delighted to open the CASIA lab, the Centre for Advanced Studies in Air Traffic Management, which is a Thales Australia facility at the old World Trade Centre complex down on the Yarra River. This centre is committed to developing air traffic control systems and capabilities. It employs around 350 software engineers and is committed to the development of new air traffic control systems.

Last year as part of the Victorian government's super trade mission to South-East Asia I was delighted to visit the new air traffic control centre adjacent to Changi Airport in Singapore, where the new long range radar and display system, LORADS III, air traffic control system, developed in Australia by Thales Australia, has been installed to run air traffic control systems in South-East Asia. As many members of the chamber would know, the airspace in Singapore is some of the busiest airspace in the world. Singapore is one of the busiest hubs in the world. In seeking new air traffic control facilities for Singapore, the Civil Aviation Authority of Singapore obviously needed technology which is reliable, dependable and world class. Where did the authority look when it wanted technology which was reliable, dependable and world class? It looked to Victoria. It is a great success story that the LORADS III air traffic control system, developed by Thales Australia here in Melbourne, has now been installed in Singapore.

I am delighted to inform the house that on 10 February that system went live and is now providing air traffic control services throughout the Singapore airspace in one of the busiest hubs in the world. It is a great testament to our capability and innovation in air traffic control services and the aviation and aerospace sector more generally that we were able to develop such a capability here in Victoria and export it around the world. This technology has delivered around $1 billion in exports over a decade. It is a very substantial export earner, it is a very substantial employer for Victoria, and it is one that the Victorian government is proud to support.

Ararat prison

Mr LEANE (Eastern Metropolitan) — My question is for the Minister for Corrections, the Honourable Edward O'Donohue. At the Ararat project the workers who are installing the soccer pitch for the inmates have been instructed that they need to install it to the FIFA-certified standard. When you look at the FIFA website and at what degree you have to go to to get FIFA certification, you see that the process for the artificial turf alone is quite expensive and extensive. The question I ask the minister is: why are taxpayers footing the bill for a soccer pitch — —

The PRESIDENT — Order! I am in a bit of a quandary because the member did not complete the question in time. However, if I may anticipate, I think the question is: why is the taxpayer funding a soccer pitch to FIFA standards? I think that was the direction that was mentioned earlier, so that is the question that the Chair recognises for Mr O'Donohue.

Hon. E. J. O'DONOHUE (Minister for Corrections) — The question from Mr Leane is: why does the Ararat prison project have included as part of that work the construction of a soccer pitch? The very simple answer to Mr Leane is because, as part of a prison that will accommodate more than 700 prisoners upon completion, a whole range of infrastructure is required including sporting facilities, an upgraded medical centre which is being constructed and some accommodation to house ageing prisoners — there is a whole range of infrastructure. Indeed there is a new communication system and a new gatehouse. One of the biggest transformations at Ararat is the new gatehouse. The old gatehouse is old and beyond its use-by date. The new gatehouse will provide a much more appropriate entry point into the prison. The new sally port will provide additional capacity for the prison.

Mr Lenders — On a point of order, President, Mr Leane's question was specific, regarding the soccer pitch at the Ararat prison and why it needed to be of FIFA standard. I ask you to hold the minister to that. The question was not about whether the gatehouse was FIFA standard but why the soccer pitch is.

Hon. D. M. Davis — On the point of order, President, it is clearly appropriate in the discussion of this matter for the minister to put the context of the construction of the prison and all the arrangements and facilities that will be part of that. He is setting that context before he moves to the next part.

The PRESIDENT — Order! It may well be that the view of the soccer pitch from the gatehouse is one of the major features and significant, but at any rate — —

Mr Leane — Security might enjoy the view.

The PRESIDENT — Order! Thanks, Mr Leane. I did have some difficulty with this question; the question was not put because of the commentary that was made. Therefore, in this instance I must allow some latitude to the minister. I have tried to anticipate what the question might have been. I have put that to the minister, and the minister has made remarks in the time that he has been speaking in response to the question I put on Mr Leane's behalf. But, as I said, I think the minister has some latitude because the question was not finalised.

Hon. E. J. O'DONOHUE — President, as I was saying in response to the question from Mr Leane, the infrastructure at the Ararat prison is being significantly upgraded.

Honourable members interjecting.

Hon. E. J. O'DONOHUE — I take up the interjections from the opposition. Let us remember that this is a project Labor botched. It could not put it together; it fell over. It left the township of Ararat in dire economic straits. This project has been fixed by this government. This is a project that should have delivered an additional 350 beds to the prison system in Victoria in late 2012, but because Labor cannot manage money and cannot manage projects, it was botched. The coalition government has fixed it, because only the coalition in Victoria can manage money and manage projects.

To perhaps answer the question that Mr Leane could not get to in the 1 minute preamble that he had, the reason the specifications are this way is that they are the specifications designed by Labor.

Supplementary question

Mr LEANE (Eastern Metropolitan) — Taking into account the minister's answer and the number of times the minister has come into this chamber and said that he has taken ownership of this project and he has taken control of this project, the question I ask the minister is: seeing there are a number of primary schools and junior sports clubs that are crying out for improved sporting facilities, is the minister happy to sign off on a FIFA-certified soccer pitch, considering the nature of the inmates in that particular facility?

Hon. E. J. O'DONOHUE (Minister for Corrections) — I am very pleased the coalition government has fixed this botched and bungled project of the Labor Party. I am very pleased that as a consequence of the work of this government, today on site at Ararat there are hundreds of workers contributing to the local economy, helping to generate jobs and economic activity.

The Labor Party, as we know, grossly underinvested in the corrections system when it was in power. Three times it said no to a new prison. The only thing it did do was the Ararat prison project, which it botched. Mr Leane asked me if I take responsibility. I am very pleased that this government has fixed this project that Labor botched. As a result, the economy of Ararat and the communities of Ararat and the broader Western District are grateful for the investment and the jobs this project is generating.

Sunbury planning

Mr FINN (Western Metropolitan) — My question without notice is directed to my friend and colleague the Minister for Planning, and I ask: can the minister inform the house what action the government has taken concerning municipal changes in the north-west of Melbourne and their impact upon local planning schemes?

Hon. M. J. GUY (Minister for Planning) — On this side of the house we are proud to have kept our word to the people of Sunbury. On this side of the house we are proud that, when we made a commitment to the people of Sunbury — —

Mr Tee — What about the people in Portsea? How are they feeling?

Hon. M. J. GUY — It is the Construction, Forestry, Mining and Energy Union's rep on the Labor admin committee, Mr Tee! I did not think he would pipe up today.

We are proud we have kept our word to the people of Sunbury. Many times over the last 15 years the people of Sunbury have been promised the chance to have a referendum to decide their municipal boundaries and the planning schemes that will be responsible for a possible city of Sunbury. It was promised, as Mr Finn would know, back in 1999. Who, might I ask, made this promise? Bracks. Listens. Acts. Not in this case!

The PRESIDENT — Order! The reference to a former Premier of the state was most inappropriate. I will not have that sort of reflection on a former office-bearer of the state.

Hon. M. J. GUY — I always take your advice, President, and I will allow myself to be corrected. It was a promise made by the then Steve Bracks-led Labor Party, which was not fulfilled. Again, I just point that out by way of background in discussing the establishment of a city of Sunbury planning scheme. That promise was again made — in a case of, for good measure, if it was a lie once, it could be a lie twice — in 2002, but never fulfilled.

In 2010 I had the honour of going to Macedon with then local upper house member Donna Petrovich to again affirm that a coalition government would provide a referendum to the people of Sunbury, indeed to the city of Hume, to see whether the city of Sunbury could be a vision that might be established via a vote by the people in the city of Hume. It is interesting to note that the referendum results came back with more than 60 per cent of Hume residents and ratepayers who participated in that voluntary poll opting for the city of Hume to go to the next step. And in that next step a number of community consultation committees have been established.

Mr Lenders — On a point of order, President, the minister is now clearly answering a question, which we welcome, on local government matters, on issues under the Local Government Act 1989 about referendums, about holding referendums and about the results of referendums. Does this mean the minister is now in this house able to be asked questions on the affairs of any municipality if they deal with elections or referendums or election commitments given by political parties?

Hon. D. M. Davis — On the point of order, President, the minister clearly has responsibility for planning schemes and can be asked questions on planning schemes, and that seems to have been what the question was about.

The PRESIDENT — Order! As I have indicated, ministers need to be careful when they comment on matters which are outside their direct responsibility and would appear to be the responsibility of another minister — in this case the Minister for Local Government. The minister indicated in his introductory remarks that his answer to this question reflected on implications for not just local government structure but also for the planning scheme that might be adopted for the people of Sunbury as part of a change in the governance of that area by way of the creation of a new municipality. I would hope the minister would be coming back to that sort of commentary in his remaining answer time.

Hon. M. J. GUY — Indeed, President; again a very good ruling. The establishment of the city of Sunbury would of course precipitate the need for a new city of Sunbury planning scheme. I can inform the chamber that that is something I have of course now taken advice on, and I have sought further advice around the methods and processes for preparing a new planning scheme for what would be a new municipality. I have also sought advice about ensuring that existing overlays, such as heritage requirements, would remain in place and would carry over for any new planning scheme that might be established — for instance, in a new city of Sunbury.

As Mr Finn would know, there have been examples in the past which have been nothing more than barefaced lies, but this commitment from the coalition government to give the people of Sunbury a chance to have not only a new municipality but their own planning scheme attached is one this government believes is the right thing to do. It recognises a longstanding commitment from its side of politics. It is not a barefaced lie but a commitment we are proud to honour, a commitment that will build a better Sunbury and, more to the point, that will be part of building a better Victoria.

Ms Mikakos — On a point of order, President, I raise this matter now because I note that the Minister for Children and Early Childhood Development, Ms Lovell, may not be at the table during the adjournment debate this evening. On Tuesday evening I raised an adjournment matter with Minister Lovell in respect of the Olympic Village child and family centre. In her response she claimed that Mr Carbines, the member for Ivanhoe in the Assembly, had been sent a response on the adjournment matter. She also said in her response that I would be sent a copy of this response. Mr Carbines checked with the Speaker and the Assembly papers office and had not received a response, and I have not received a response from the minister either. I point out that Mr Carbines coincidentally received the response in the mail today at his electorate office. I am therefore seeking guidance from the minister as to whether the response had been signed off before I raised the adjournment matter and she gave her response on Tuesday evening.

Hon. D. M. Davis — On the point of order, President, that was clearly not a point of order. It related to an adjournment matter, and it should properly be raised during the adjournment debate. My understanding is that ministers' responses in the adjournment debate dispose of matters absolutely and the member does not have the capacity to raise a so-called point of order. It was not a point of order; it

was an opportunity for her to seek to put incorrect information into *Hansard* under the guise of making a point of order.

The PRESIDENT — Order! Ms Mikakos raised what she saw as a point of order, and in the scheme of things it is acceptable as a point of order. However, in terms of the information she seeks, I do not believe the minister is required to make any response at this time, and I rule the point of order out of order. It seems extraordinary to me that Ms Mikakos asked for information on an adjournment item which was provided and that she now seeks to find out when that might have been signed. The point is that the adjournment commitment was fulfilled, and it is not appropriate to raise this item by this mechanism at this time. If there is a further issue in respect of the matter the member wishes to pursue, there are other mechanisms, but the point of order was not an appropriate one at this time.

Ms Mikakos interjected.

The PRESIDENT — Order! I think Ms Mikakos will find ministers sign many things at weekends.

CRIMES AMENDMENT (GROOMING) BILL 2013

Second reading

Debate resumed.

Ms PENNICUIK (Southern Metropolitan) — In conclusion, there were some other queries about new section 49B(4), inserted by clause 3 of the bill, which reads:

> For the avoidance of doubt, a person does not intend to facilitate a child's engagement in or involvement in a sexual offence with that person or another person where, if the child were to engage in or be involved in the sexual activity intended, that person or the other person would not commit a sexual offence because he or she would have a defence or satisfy an exception to that sexual offence.

I asked the department for clarification as to the meaning of that clause, which is apposite to the issues I raised in my earlier contribution. I was advised that clause 3 essentially applies to a person over 18 years who was married to a person under 16 years. Of course in Australia a person under the age of 16 years cannot be lawfully married. I am informed that the provision applies to a marriage that took place in another country where the couple have since migrated to Australia. I presume that these would be unusual and exceptional circumstances. In fact this issue has recently been the subject of public debate about a very adult man married to a child of 13 years. That issue is being resolved at the moment.

My question to the minister is: could this clause be used as a defence for the offence outlined in the bill? The minister and I have had some conversations about it and I have also had some email correspondence with the department. The minister has said that he will go to this issue in his contribution at the end of the second-reading debate. If he does so, then we will not need to go into committee. With those few remarks, the Greens will be supporting the bill.

Sitting suspended 12.59 p.m. until 2.02 p.m.

Mr EIDEH (Western Metropolitan) — I am pleased to make a brief contribution to the debate on the Crimes Amendment (Grooming) Bill 2013. This bill is the first step in a long journey to change Victoria's laws to protect vulnerable children from predators. I know for fact that regardless of what side of the house we sit on we all believe in protecting the lives of innocent children, which is why Labor will be supporting this bill.

This bill amends the Crimes Act 1958 to create a new law which makes it an offence to groom a child under the age of 16 for sexual conduct. Grooming is defined as actions which are undertaken by a person 18 years or over with the aim of befriending and establishing an emotional connection with a child or secondary person, which may include a member of the child's family, to lower inhibitions, obtain access to the child and ultimately sexually abuse that child.

Considering the many ways that a predator can gain access to a child in today's society, particularly through the internet, it is hard to believe that until now the practice of grooming has only been considered an aggravating feature of a sexual offence. Grooming is criminal, which is why this new offence will have a maximum penalty of 10 years jail. This bill will enable police to intervene before irreversible damage is caused.

This bill has come about as a result of the Family and Community Development Committee's inquiry into the handling of child abuse by religious and other non-government organisations and its subsequent report, *Betrayal of Trust*, which was tabled in this house. I thank all those involved in the inquiry. I particularly thank the members of the committee: Georgie Crozier and Andrea Coote, members for Southern Metropolitan Region; the member for Broadmeadows in the Assembly, Frank McGuire; the member for Thomastown in the Assembly, Bronwyn

Halfpenny; a member for Western Victoria Region, David O'Brien; and the member for Ferntree Gully in the Assembly, Nick Wakeling.

All the committee members vindicated victims by listening to, believing and responding to their experiences, often easing a burden those victims have carried for many years. I commend my parliamentary colleagues for their hard work, and I especially commend those who, despite their anguish, spoke up to make a difference for children in the future. Their efforts have changed Victoria's future forever, and their courage will never be forgotten.

This bill will extend the crime of grooming to secondary victims, acknowledging the effect grooming has on those manipulated in order to gain trust and ultimately access to innocent children for the purpose of committing sexual abuse. Secondary victims often carry enormous guilt and a sense of responsibility for the abuse of their children. I hope this legislation will successfully pass through Parliament this year and that the Premier prioritises the other recommendations made by the Family and Community Development Committee.

Mrs COOTE (Southern Metropolitan) — Since the Family and Community Development Committee tabled its report, *Betrayal of Trust*, in November, an enormous amount has happened. The report has achieved so much more than those of us on the committee would ever have expected. We were overwhelmed by the response we had from victims — not only the victims who were courageous enough to present to us in camera, in person or by written submission, but also people from all over this state, this nation and the world. This report has elevated the debate about child abuse to such an extent that it will have ramifications for a significantly long time.

In their letters an overwhelming number of victims said they felt vindicated and relieved and that they were overwhelmed that a parliamentary committee, with its importance and authority, respected them and gave them dignity. It has enabled them to relook at their lives and start over again.

This inquiry has had a profound effect on our nation, and there is a royal commission conducting hearings as we speak. Our report has enabled people who would not normally speak out to present their stories to the royal commission.

I want to remind everyone what we are discussing here today. We are talking about grooming. In our report the committee made many recommendations. We heard many stories, but grooming was something that on the whole people did not really understand. People suspected it might happen. They saw untoward behaviour. They did not know what the signs were. They were not certain about what to look for. In fact by burrowing into this and asking some very difficult questions we learnt from the primary victims and secondary victims just how insidious this could be.

We heard the stories of the priests who would ply nine-year-olds with alcohol and then continue to say mass. After the mass they would buggerise those very same children behind the altar. How do you recover from this? What advice do you give to a mother who said to us, 'I sent my children to school thinking that was the safe environment, that my children would be nurtured and cared for'? The school was St Alipius in Ballarat, and all classes — every single one — were presided over by paedophile priests, many of whom have gone to jail. How does that mother ever resolve that guilt? How does she ever come to terms with that?

While a psychiatric nurse was working hard to keep his family well provided for by working long, hard shifts, the family priest, whom the parents trusted and honoured, was in their very household being predatory towards their children. What of their guilt? What of the parents' guilt? How do you ever resolve that?

Grooming was something about which the community was uncertain. People really were not certain about what to look for. Was it just friendliness? Was it just encouraging people to be part of the group, to be an altar boy? Was it just that, or was it something more? People did not want to know, and they did not know the right questions to ask. I would like to quote from our report on what grooming behaviour is. Grooming behaviour is:

> Persuading a child or group of children that they have a 'special relationship', for example by:
>
> - Spending inappropriate special time with a child;
> - Inappropriately giving gifts;
> - Inappropriately showing special favours to one child but not other children.
>
> Inappropriately allowing the child to overstep the rules.
>
> Asking the child to keep the relationship to themselves.
>
> Testing boundaries, for example by:
>
> - undressing in front of a child;
> - encouraging inappropriate physical contact (even where it is not overtly sexual);
> - talking about sex;

'accidental' intimate touching.

Inappropriately extending a relationship outside of work (except where it may be appropriate — for example, where there is an existing friendship with the child's family or as part of normal social interactions in the community).

Inappropriate personal communication (including emails, telephone calls, text messaging, social media and web forums) that explores sexual feelings or intimate personal feelings with a child.

An adult requesting that a child keep any aspect of their relationship secret, or using tactics to keep any aspect of the relationship secret, would generally increase the likelihood that grooming is occurring.

We had one witness who said to us, 'I was seven. I didn't know what the names meant. I didn't know the things he was doing to me. I didn't have a name for it'. The grooming bill was a very difficult bill to compile and establish, and I really want to put on the record my praise for the committee that put this legislation together and for the Attorney-General, who had the courage to support it and bring it in so quickly. The coalition government, the opposition and the Greens, by taking a tripartisan approach to the report, have given a clear indication that Victoria is not a place that condones any incidence of grooming or other acts against children. It is a very clear and concise message.

In the federal royal commission we heard about an instance involving the YMCA. Members may have seen the two young girls who were at the YMCA. First, I will just paint the picture. There was a young male youth worker who was very popular with all the kids at the YMCA. He used to play with the kids. He used to see them outside work hours. He used to sit them on his knee. He used to be very attentive to these kids. There were two young girls who had not been in the workforce for very long, and they looked at this behaviour and thought it was a little untoward. There was something about it that made them feel uneasy. They did not know quite what it was, but they were certain it was not proper. The rules of the YMCA were that nobody from the staff was to see the children out of hours. This man was in charge of that, and he contravened it. The girls themselves were very uneasy about this, but they had no framework on which to hang their suspicions. They did not know that grooming is or could be an offence. They did not know the signs to look for, and this bill we are charged with passing here today does exactly that.

The bill puts in place the parameters and the framework so that people who are experiencing something about which they are uncertain will be able to understand it. It will be put right out there for them to understand: grooming will be illegal. One of the biggest things this bill does is recognise the secondary victims — those parents and family members who thought they were acting in the best interests of their children but who had no idea at all that their children were being abused by the very people to whom they had entrusted them. That is what is so important about this bill.

In her contribution Ms Pennicuik suggested that people could be inadvertently roped in to and blamed for something they did not do. Our committee spent a lot of time talking about normal relationships, such as those we all have with our children and grandchildren and with children in our care and in our community. It is a very difficult thing to do. I would rather come down hard on the side of suspicion than have one further child groomed into the future. It is hard; the innocence of our community is being shattered but, sadly, the paedophiles know how to press the right buttons of the right people. They are insidious. We must make certain that we put rules in place that will stop this behaviour.

I thank all the people in this chamber who have spoken on the bill and congratulated the chair of the committee, Georgie Crozier, and members David O'Brien; Nick Wakeling, the member for Ferntree Gully in the Assembly; Bronwyn Halfpenny, the member for Thomastown in the Assembly; Frank Maguire, the member for Broadmeadows in the Assembly; and me. You all gave us huge support, and the contributions that I have heard from each and every one of you today show that this really is a place of honour.

Ms TIERNEY (Western Victoria) — I add my voice to those who have extended their thanks to the members of the Family and Community Development Committee (FCDC) who were involved in the inquiry that produced *Betrayal of Trust*, which is such a significant and complex report. I also thank the staff and all the other people who assisted committee members in their deliberations and with the drafting of the report as well as the people who presented to the inquiry or provided letters and evidence or who had the courage to convey their experiences and share their stories with the committee so that their stories could be brought together with other stories to paint the picture of what was a horrific chapter in our community's history over many decades. As a result of its inquiry the committee was able to suggest a number of ways in which together the government and the community can try to ensure that the perpetrators of these acts — these crimes — will have their access restricted in the future.

I concur with the comment made by Mrs Coote that if this means we err on the side of suspicion so that this sort of outrageous behaviour is not inflicted on one more child, then so be it. That is our responsibility. I

believe that all of us in this chamber, regardless of our political persuasion, are absolutely committed to ensuring that we do whatever we can, whether it be in this place or outside. It is incumbent upon us to make sure that the many members of our community, particularly those who have been in positions of authority, who have inflicted the sorts of indiscretions, interference, and invidious behaviour on our children, and who have absolutely crossed the line on so many levels for way too long, are no longer able to do so.

The Labor Party is very supportive of the bill before the house. We believe that while this is a difficult area to encapsulate in legislation because it is about a set of behaviours, those who have drafted it have done a very good job of dotting the i's and crossing the t's so that those who are participants in this horrendous behaviour know that one day they will be caught. They will be caught, because the community is being educated about a set of behaviours that are not just grossly inappropriate but criminal. The way that behaviour is codified in this legislation will help all those who are interested in this area to nab the people who need to be nabbed.

In terms of the technicalities of the bill, clause 3 inserts new section 49B into the Crimes Act 1958, and is about prohibiting a person 18 years or over from communicating with a child under the age of 16 years or a person under whose care, supervision or authority the child is with the intention of engaging the child in a sexual offence. Currently grooming is an aggravated factor to sexual offending, not an offence in itself. This bill provides for intervention prior to the abuse and recognises the damage caused by grooming to victims. The bill also addresses jurisdictional issues, providing for the offence to be made out if the child or the accused was in Victoria at the time at which the communication or the intended sexual offence would have occurred. This covers circumstances where, for example, a child in Victoria receives a communication from a perpetrator living elsewhere.

The bill also amends the definition of 'victim' in the Victims' Charter Act 2006 to include the child and their family member as persons entitled to submit a victim impact statement in criminal prosecutions of the offence of grooming. I think it is important that that is the case because parents and other carers are often involved in these situations and they must be given the ability to make statements and be involved in the criminal process.

The members of the FCDC worked very hard. The committee met on numerous occasions and held hearings not just in Melbourne but also in Bendigo, Geelong and Ballarat. My electorate of Western Victoria Region covers the regional cities of Geelong and Ballarat, and I know from talking to people in my electorate that they very much appreciated the fact that the committee understood that regional voices needed to be heard. In fact a lot of what had been happening over the years had been happening in regional centres, and a number of people have spoken to me about their experiences. Some did not feel that they could provide evidence to the committee or did not feel physically comfortable attending the hearings, but members should rest assured that they kept a very keen eye on the progress of the inquiry.

There was a lot of communication and cross-fertilisation of information right across regional Victoria in respect of not just the Catholic Church but a whole range of other organisations as well. I think it holds us in good stead that people saw a parliamentary committee take time out to care for and make sure that all those who were involved in the process were heard. Where there were situations in which additional support and care needed to be given, it was offered and extended and in many cases picked up. I record my thanks in respect of the way the whole inquiry was conducted.

Turning to the challenges in prosecuting an offence, in 2013 the New South Wales ombudsman provided indicators to identify when grooming behaviour is occurring. They include persuading the child that they have a special relationship; inappropriately allowing that child to overstep the rules, such as by giving them alcohol, money or drugs; asking the child to keep their relationship a secret; and testing boundaries — for example, by undressing in front of a child, encouraging physical contact, talking about sex or accidental intimate touching. However, the challenge for authorities will be in establishing that such behaviours occur with the intention to subsequently sexually abuse the child. Prosecutors will rely on a pattern of behaviour, prior conduct and all of the above circumstances to infer the intention, which, as I said, may prove difficult. At least we now have clear guidelines and a serious criminal offence attached to that set of behaviours.

The opposition supports the passage of this bill, which will allow the authorities to intervene when a pattern of behaviour is identified. It is a preventive measure that aims to protect vulnerable victims and their families from further harm. As I said, Labor also commends the work done by the Family and Community Development Committee and all those involved in the inquiry, including importantly the victims and their families. The committee's informed recommendations

have guided us in taking measures against the devastating abuse of children in our community. In acknowledgement of the serious nature of those offences it is important that we make this bill our priority. I commend the bill to the house.

Mr O'BRIEN (Western Victoria) — It is with great pleasure that I also rise to make a contribution on the Crimes Amendment (Grooming) Bill 2013. In following Ms Tierney, I compliment her on her contribution and the extent to which she acknowledged and continued the important bipartisan approach adopted with this difficult inquiry. Now that the recommendations of the inquiry are progressively being implemented, particularly with this important piece of legislation, it is pleasing to see this house and the Parliament as a whole embracing those recommendations and the importance of this legislation. I also acknowledge Ms Pennicuik's contribution and her support for this continued bipartisan approach.

I was pleased to witness two excellent contributions from the government side. Ms Crozier, the chair of the committee, provided significant leadership. With her deputy, Mr McGuire, the member for Broadmeadows in the Assembly, she ensured that a bipartisan approach was delivered. I also take this opportunity to commend Mrs Coote on her service to the Parliament. As one of only two members of the committee who had served in a previous Parliament, Mrs Coote, in her typical fashion, exercised significant leadership and mentorship to all committee members and staff and most importantly to victims.

It is important to acknowledge the voices of the victims and families. They called for the inquiry and provided guidance in forming the recommendations about the manner in which society needs to deal with these issues. To get to the heart of the debate, as the concluding speaker on this bill I note that it is a very difficult area in which to legislate. This was acknowledged by all speakers, particularly Ms Pennicuik. The government and the committee members share Ms Pennicuik's concern about the difficulties of legislating in this area. That is why the committee devoted considerable time to the consideration of various legislative approaches adopted by the commonwealth and other states, approaches that presently occupy the Victorian statute books.

Grooming is a critical area for child abusers, but it is a very difficult one to legislate, because the nature of grooming is serial conduct intended to beguile and place a paedophile in a position where they can commit their acts of sexual abuse. Intention is the key element identified both by the committee in its report and also in the legislation, and indeed that was made clear by the Attorney-General in his second-reading speech and by the Minister for Crime Prevention in this house. Intention will be the key differentiating factor between other forms of conduct that may be regarded as innocent.

The evidence on grooming that was presented to the inquiry time and again revealed part of a behaviour that allowed victims, and regrettably their families on occasion, to be lulled into a false sense of trust that was then betrayed by the subsequent sexual abuse. The committee had the opportunity to consider whether grooming behaviour was simply an element of an attempt to commit sexual abuse, but recommended creating a separate specific offence for grooming. It is important to understand the context of the key element of intent as endured by victims and their families.

Several statements from victims are set out in the relevant chapters of the report. I will refer to a statement from Chrissie and Anthony Foster, who have suffered horrific sexual abuse in their own family. With their long advocacy they made a significant contribution to the Victorian inquiry, the Royal Commission into Institutional Responses to Child Sexual Abuse, and they also supported many other victims. In their evidence to the committee they said in relation to grooming:

> The other thing is that the sexual assault of children is an invisible epidemic — and the grooming process is part of that. It is a crime carried out in silence. The perpetrator grooms the child to the extent that they are confident that the only people to know of the crime will be the perpetrator and the child … There are very few crimes — blackmail is probably the only one — where the crime is held in a circle of silence that no-one else gets to see for a long, long, long time.
>
> So anti-grooming legislation I believe is a potential part of a much greater approach that we have to employ. We need to shift to a point where children are freely able to express any violation of their body and where any potential abuser knows that the child will report to a believing adult. The crime would not occur if the abuser knew that the child would report the crime to a believing adult. It just would not occur, because that is the very basis on which the perpetrator applies the assaults. It is the grooming process that leads to this circle of silence around the victim and the perpetrators that no-one else can see. So, yes, the grooming process is very important, I believe.

Various other analyses have been conducted by notable workers in this area, including Professor Caroline Taylor, the foundation chair in social justice at Edith Cowan University, who said:

> I think offenders are still grooming children at an alarming rate … I also think that offenders are very clever people who move with the times — for instance by using technology, which is a particular interest of children. Finding the

> vulnerabilities that children have or families have still seems to be an element in the grooming that you see.

The committee considered the present situation in relation to offences involving electronic communications, which is a form of grooming that will be prohibited by this offence if it is carried out with the intention of committing a subsequent sexual offence, as set out in the legislation. However, it is not the only type of grooming that can occur. This issue was also considered in a subsequent paper produced by Child Wise entitled *Child Grooming — Offending All the Way Through from the Start*, dated 2013. Child Wise looked at analyses of other states' provisions, and it looked at the question that has arisen in England around legislating just for offline or just for online grooming.

The committee recommended that the government take a holistic approach by stating the offence rather simply, and in that regard the offence will have wide application in terms of the circumstances that can be caught, provided that the court can establish beyond reasonable doubt that there was the requisite intention, so proved, including inferences that can be drawn from all the circumstances of the particular case, some of which may occur over a long period of time and which obviously may be admitted or proved. In that regard internet technology and other communications can be evidence of that offence, but they need not be the only circumstances that constitute the offence.

In that regard this legislation will have an important role, not just in protecting children but also, as has been outlined by the Fosters, in educating the community. To pick up on sentiments that are shared by all members of this house, which were particularly and most recently shared by Mrs Coote and Ms Tierney, we need to apply that focus that is now on the issue of child abuse so that people are made more aware of behaviour that might be part of offending conduct.

I turn to an article published in the Hamilton *Spectator* of 15 February by journalist Rex Martinich headed 'Nothing to fear from child laws', which reported on the example I gave that an adult patting a child on the head may not constitute an offence, but an adult patting a child on the head with the intention of grooming so that they are in a position to commit sexual offences may well form part of the evidence in particular instances. Everything in such an offence is relevant, but the requisite intention is the key element. In the article in the *Spectator* my comments were supported by a noted Hamilton solicitor, a director of law firm Melville Orton and Lewis, Noel Kennedy. I will pick up on Ms Tierney's contribution again and echo her comment that Western Victoria Region, amongst many other regions, was particularly affected by this scourge.

Mr Kennedy, as someone who has represented alleged victims of child abuse, said that he very much welcomed the laws, which would protect the safety and welfare of children. He also identified the grey areas, and he again pointed to the key question of intention and to the need to prove that intention so that we do not have unintended consequences with this legislation, to pick up on Ms Pennicuik's comment. However, the government's intention is to do everything it can to prevent child abuse, to encourage children and their families to speak up and be aware of the dangers and to ensure that everything can be done to try to overturn what has been a systemic covering up of abuse in certain organisations, but of course such abuse can occur anywhere in society at any time.

With those words, I commend all members who have contributed to this debate. I also join my colleagues in thanking the staff of the Family and Community Development Committee, including the secretariat, the advisers and those who dealt with the victims. I also commend Taskforce Sano, which is a parallel process that was put in place by the government and the committee. I commend the Attorney-General and the Premier for responding in a timely but not rushed manner with this legislation, and I look forward to further bipartisan or multipartisan approaches being adopted by this Parliament in this area that affects the whole Victorian community.

Mr FINN (Western Metropolitan) — I rise to support the Crimes Amendment (Grooming) Bill 2013. In doing so I will repeat my comments of late last year, when the *Betrayal of Trust* report was first presented to this Parliament. I want to repeat my words of congratulation to the members of the committee, three of whom are in the chamber at the moment — Ms Crozier, the chair of the committee, Mrs Coote and Mr O'Brien. My admiration for the work that they have done in this particular area knows no bounds, particularly because I am not sure I could have done it. I am not sure I am robust enough.

Ms Crozier interjected.

Mr FINN — I am not sure I am. I am not sure I would have been able to put up with some of the horrific evidence that was presented to the committee. I express my admiration for the work the members of the committee have done and for the results of that work, and we are seeing one of those results today. The state of Victoria, and in particular the children of Victoria, owe the members of the committee a great debt of

gratitude. On behalf of them I thank those members very much indeed.

The name of the committee's report is very appropriate, because trust is something that these acts destroy more than anything else. There is some hope of making a physical recovery from some of these attacks — that is what they are — but it is quite possible that a child who goes through such a nightmare may well, for the rest of their life, not be able to regain trust in their fellow human beings, and that is a tragedy. Such a situation can be particularly devastating for those who had a very high respect for the clergy, for example.

The committee's inquiry affected me particularly, because when I was at school as a boarder — and I only found this out years later — certain of my classmates were being molested by the priests and brothers, who I had faith in at the time. In fact for a very long time I refused to believe that the abuse had occurred. I defended one priest publicly, and after that he was convicted for a particular attack. Quite publicly, at a function, I said I did not believe that he had done it. This is the gall of these characters. This is what we are dealing with. He rang me after he got out of jail and thanked me for having faith in him and for my support. I was pleased to hear from him, because I had not heard from him for a very long time, and I was very pleased that things had been sorted out. However, it was only when he went to jail the second time that I realised just how wrong I was. As I say, this is the gall of these characters. After what he had done originally, it is possible he would do just about anything. But for him to ring me as a member of Parliament and thank me for my support when he knew what he had done and to attempt to continue the cover-up just left me wondering if there is anything that some of these people will not do. It is just extraordinary.

I am sure those classmates way back in the 1970s will still be suffering as a result of what happened. I was particularly close to one of the perpetrators, one of the criminals, and I ask myself, 'Why didn't he touch me? Why wasn't I a victim?' — not that I was upset by that. The response was very clear when somebody said to me one day, 'They only pick certain sorts of children, and you would not have been the sort of child who would have taken it. You would not have been the sort of child he would have preyed on'.

Mr O'Brien — That is where the grooming comes in.

Mr FINN — As Mr O'Brien says, that is where the grooming comes in. Grooming is deliberate. It is premeditated, it involves lies and it involves deception. Quite often it is very clever. A lot of these characters are not stupid; they know exactly what they are doing. It is all very carefully planned. In other instances, apart from the clergy — because it does happen in the outside world generally — people will start a relationship with and move in with a child's mother so they can have access to the child. That is not unheard of. These people are driven by, I suppose, an insatiable hunger for children that I do not understand — and I hope I never do understand it fully. It fills me with disgust and, given my experiences over the past 40 years from the days when I was at school — well, let us say 35 — it distresses me. It causes me considerable distress to have been so close to it happening and not to have known. If I had known, I would have tried to do something about it, but I did not know. That is how clever — —

Mrs Coote — That is why they didn't pick you.

Mr FINN — I think that is right, Mrs Coote; I think that is why they did not pick me and why they were obviously very careful not to give any great hints that anything was going on. If any of my classmates had attempted to tell me that it was going on, I probably would not have believed them. In one case I would have, but in the other cases I would not have. There was one bloke, Rapson, who is now in jail, who was a total lunatic. I am sure the members of the committee who are in the chamber will know that name very well. When I heard that he had been charged it did not surprise me one little bit because in my view he had major problems not related to what we are talking about today.

As I said, I do not think I would have believed my classmates. I was brought up in a family where you did not speak ill of the clergy; to do so would have risked a smack on the ear. That was not something that one did. It has been an education, to say the very least, over the last few years because I was one of the people who early in the piece did not want to believe what was happening. I just could not believe that this was going on. But eventually you have to. I say to those people who have contacted me and said that the committee is on an anti-Catholic witch-hunt or is on a witch-hunt of the church or whatever: that is not the case. This is about getting to the truth. I just wish the church had faced it years before it did.

As a Catholic I know that the basis of the Catholic Church is truth. If the church throws out the truth and goes out of its way to avoid it or to cover it up, you really have to wonder what is going on there. I know it is not just the Catholic Church; the other day I saw that an Anglican priest had been charged with something

similar, and we know from the report that the Salvation Army is mentioned in dispatches. I know it is not any particular church, and nor is it just clergy. That is important to note, so there are not people out there who might feel left out because their particular plights are not being addressed. I would not want to give those people the impression that that is the case, because the problems, issues and difficulties that they have had over the years are just as important as those of people who were molested by the clergy.

This is a very, very important bill. Children — and their protection — must always be our priority. I spend most of my life protecting children, whether it be in here or at home. Sometimes I think it is easier in here than it is at home. I spend a great deal of my life protecting children because without our protection they are extraordinarily vulnerable. We know there are people out there who will prey on them. We know there are people out there who will take advantage of them. We know there are people out there who will use them for their own personal pleasure — as playthings that are non-human. Those sorts of people are out there, and it saddens me enormously. We need this sort of legislation.

When I grew up — and perhaps I grew up in a very protected environment; I am sure I grew up in a very protected environment — I do not think this sort of thing — —

Mr O'Brien — As far as you knew.

Mr FINN — As far as I knew, as Mr O'Brien says, it did not happen. I certainly did not know about it; mum and dad did not know about it. But now it seems all too prevalent. It may well be because we now know about it. It may well be that it is not that it is more prevalent but that there is just more public knowledge. That may the case, and that may be a good thing. But we have to protect our children from people who will harm them in any way. As I said, that is what I spend most of my life doing. As a legislator I have a responsibility to do that, but as adults every single one of us has a responsibility to do that. The first priority we carry into this place is to protect those who cannot protect themselves and to defend those who cannot defend themselves. That is our job. The big boys can look after themselves — we know that, and they often do — but it is our job to make sure that those who cannot protect themselves are protected. That is what this bill is about. I very strongly support the Crimes Amendment (Grooming) Bill 2013, and I look forward to the day when such legislation will be looked upon as something that is no longer necessary.

Mr ONDARCHIE (Northern Metropolitan) — We talk about a lot of bills in this house, and in my three years here lots of legislation has gone through the Parliament, perhaps more so than in other parliaments in the country. But one of the most important pieces of legislation this house could ever proceed with is the Crimes Amendment (Grooming) Bill 2013. I hope this bill will cover every possible base in combating grooming behaviour.

I will start, as others have, in commending the work of my good friend and colleague, Ms Georgie Crozier, and her fellow committee members in this place, my colleagues Mrs Coote and Mr O'Brien, and the work of the Family and Community Development Committee in producing the *Betrayal of Trust* report into institutionalised child abuse. To my three colleagues I say, as a parent and a grandparent, thank you very much for your work. Thank you very much for working towards protecting my children, my grandchildren and all our children. It takes a village to raise children, and we as a society, as Mr Finn outlined, can have no greater calling than looking after children.

It was not an easy task to hear the harrowing tales of sexual abuse that were aired in that committee, although of course it cannot compare in the least to the suffering felt by those who had to endure sexual abuse as children. Those who told their stories to the committee outlined in detail the impact the abuse had had on them throughout their childhood and their adult life. Victims often found it difficult to trust authority figures, have functional relationships and even hold down jobs due to the abuse they suffered. The government is well aware that the report contained more recommendations than are seen in this bill, and it is currently making preparations to include the other recommendations that were found by that very energetic and focused committee.

A lot of my volunteer life has been involved in supporting children firstly as a member and then a leader in the Church of England Boys Society and then as a sporting coach of both junior cricket and junior football, as a kindergarten president and as a school council president. I have been involved in youth groups in my church and, as members will be aware, my wife and I have been blessed to bring into our home children not of our blood who are now absolutely my children by any measure. The kids I have dealt with have had happy, energetic, loving lives. How dare anybody in our society take that away from them. How dare anybody try to take the happiness, the energy and the innocence of children away from them. This legislation deals with some of that, but I have my own method for dealing with those people. I have my own method that I

would like to personally use against some of those people, but the law precludes me. This grooming bill will go some of the way to dealing with that. Privately, although this is reported publicly, I would like to have 5 minutes alone with some of those people. I would deal with them the Ondarchie way.

Typically we think of grooming occurring via personal relationships. However, in this digital age it is important to note the role that technology plays in allowing predators to talk to under-age persons. Critically, this bill makes both personal and digital grooming illegal. Grooming also takes place through people gaining the trust of an under-age person's loved ones, giving predators exclusive access to commit sexual assault against minors. This is also illegal. Grooming has a huge impact on the parents of a victim, who have often put their trust in an individual, a friend or a supposedly respected member of our society, only to have that trust betrayed in such an abhorrent way. As a parent I know how I would feel, and my heart goes to those who presented to our committee, to their families and to their loved ones who gave of their heart and who gave their commitment and trust to those who are supposed to be respected and hold positions of importance in our society.

This puts a measure on our kids these days. As parents we have become more wary about letting kids out to do things, whether it be allowing them to go to the shop for a loaf of bread and a bottle of milk, as I used to do when I was a child; making their own way to sports training; finding their own way to and from school; freely joining a group of children; or staying over at a friend's house whose parents we do not necessarily know. We have become less trusting in our society, and to some degree I hold these people, the sexual predators, accountable for that. Why can our children not have innocence?

This bill also helps to keep at the front of the minds of both parents and children the idea that child sexual abuse is a real problem in our society. We have had to become more wary, unfortunately; we have to had become more watchful, tragically; we have had to become helicopter-type parents, unfortunately, because we are watching over our children the whole time. It is sad.

As children many in this house would have enjoyed the freedom to wander around their neighbourhoods, have sleepovers at the houses of friends and be part of many community groups. Today's parents are becoming more wary about that because of these people. This bill also gives a chance to reiterate to the children of Victoria that if they are experiencing abuse of any kind, they should feel free to tell someone else about it — tell a grown-up, tell a teacher or tell a friend who can tell their parents, because it is not okay. It is not okay that they get this unwanted attention. It is not okay that they are not able to optimise their lives because of these predators.

I support this bill, and I support the underlying sentiments of the bill. I thank everybody in this house who has played a role not just in getting to this part but for what they spoke about today, and the blessing of the work of all those involved in the *Betrayal of Trust* report will sit forevermore within my heart. I commend this bill and its actions to the house.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I begin my summing up of this debate by acknowledging all speakers and thanking them for their contributions. Like other members, I also acknowledge the members of the Family and Community Development Committee whose work has led to this legislation being introduced and to the publication of *Betrayal of Trust*, a most important report on the committee's inquiry into child sexual abuse in religious and other organisations. I note that Ms Crozier was the chair of that committee during that inquiry, and that two members in this place, Mrs Coote and Mr O'Brien, were also members of that committee. I congratulate them and all the other members of the committee for their work.

I will respond to some issues raised by Ms Pennicuik both prior to and during the second-reading debate, and I thank her for giving me notice to enable me to investigate those matters for her.

Ms Pennicuik raised a question in relation to the operation of new section 49B(4). The bill does not introduce any new exemptions or exceptions, so those that currently exist and operate under the Crimes Act 1958 will continue to act and operate under the Crimes Act. One example is marriage, as contained in section 45 of the Crimes Act. A circumstance may arise in which a couple who are married pursuant to the laws of another country or culture may find themselves in Victoria. The application for the exemptions and exceptions to the grooming offence are clear: if the couple communicate with each other about engaging in sexual conduct as described in the section, that would be grooming but for the exemption.

I draw Ms Pennicuik's attention to section 47 of the Crimes Act headed 'Indecent act with a child under the age of 16'. In summary, that section says that where the sexual conduct is consensual and the accused demonstrates to the court on the balance of probabilities

that they believed the child was over the age of 16 years, that accused has a defence. I stress they have a defence only; it would be a matter for the court in each and every circumstance to weigh the evidence and come to a conclusion. I hope that clarifies the issue for Ms Pennicuik. Again I thank her for giving me advance notice to investigate her concern. I also thank all members for the way in which the debate on this most important legislation has been conducted.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

DOMESTIC ANIMALS AMENDMENT BILL 2013

Second reading

Debate resumed from 12 December 2013; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Ms PENNICUIK (Southern Metropolitan) — The Domestic Animals Amendment Bill 2013 concerns what we would describe as a vexed issue — indeed Mr Lenders described it as a difficult issue. It is certainly one that has exercised the community for some time. The bill is simple. It does not overhaul the current system as outlined in the Domestic Animals Act 1994, which includes a breed-specific or restricted breed system. The bill makes some alterations based on the recommendations of the coroner following the horrific death of Ayen Chol. The report by Coroner Parkinson was handed down on 28 September in 2012. In it the coroner makes three recommendations pursuant to section 72(2) of the Coroners Act 2008. They are:

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

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

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

The bill implements the recommendations made in the coroner's report of September 2012. There are some other mechanical or technical-type amendments to the legislation, but those are its main provisions following Coroner Parkinson's recommendations.

Two of the recommendations are specifically mentioned in the bill. The minister has indicated that the recommendation with regard to reporting by veterinary surgeons will be done by a regulatory or other mechanism or by agreement with the Australian Veterinary Association. That recommendation flows from the circumstances outlined in the report into what happened leading up to the horrific death of Ayen Chol.

Anybody who has had the opportunity to read the coroner's report, which is not very long — only 28 pages — will know that it is very disturbing to read what occurred on that day in the house of Ayen Chol and her family. Every member of this place is aware that Ayen Chol was attacked by a dog which had escaped from a neighbouring house and that Ayen Chol was killed by that dog. The events that occurred that day are outlined in the report and make frightening reading. It is also worth mentioning that the same dog inflicted serious injuries on another child and on an adult in the incident which involved the death of Ayen Chol. The other victims were transferred to hospital and underwent surgery. At the time those things were happening, other children in the household hid on the kitchen table from the dog, and adults were trying to take the dog away from the child. The coroner's report is harrowing reading, including the evidence given by the owners of the dog, which was described by the coroner as unreliable at best.

I also wish to mention the issue about veterinary surgeons, because the situation was that the dog was not registered, as it should have been. The veterinarians who had been called to attend on the dog had not brought that to the attention of any authorities. Had they done that, this whole event may not have happened.

It is very concerning to read the coroner's report. In terms of implementing the recommendations of the coroner, I have to say it has taken a long time for the proposed legislation to get here. It is 17 months since the coroner's report was handed down, and we are only just getting towards completing debate on this bill, which commenced last year.

I would also like to point out that since the coroner handed down the report a similar incident has occurred in New South Wales. In August last year a toddler died

from injuries sustained in an attack by a family pet. The pet was described as a mastiff cross. The little boy was being looked after by his grandmother in the family home when the incident occurred, and the grandmother tried repeatedly to fight off the dog but was unable to — in fact she is reported to have collapsed from exhaustion in the effort to do so.

As I said, this is a vexed issue. The issue of how to deal with restricted breed dogs, dangerous dogs and menacing dogs polarises people in the community. Certainly as MPs we have received a lot of email correspondence about the implementation of the amendments that were made to the Domestic Animals Act 1994 in August 2011 and how that is playing out in terms of councils being able to implement the changes and various cases going to the Victorian Civil and Administrative Tribunal to try to resolve issues about what is or is not a restricted breed dog.

I wish to briefly go back in time to comments I made in 2010, when again we were debating amendments to the Domestic Animals Act — and those amendments were made to the act at that time. I will just point out that that was prior to the death of Ayen Chol, so we are going back prior to that event which led to the amendments in 2011 and prior to the further amendments that are following the coroner's current recommendations. I stated at the time that I look at any legislation to do with animals from an animal welfare perspective, but I think we also need to be concerned with the safety of people, and in particular the safety of children. Certainly that is a theme that we are looking at in our deliberations this afternoon.

I made the point that there are restricted dog breeds in the commonwealth legislation and that those particular breeds cannot be imported into Australia. The breeds listed are the Japanese tosa, fila Brasiliero, dogo Argentino and the perro de presa Canario. These are restricted breeds under the commonwealth legislation, and they cannot be brought into the country. They are also restricted under the Domestic Animals Act, as is the American pit bull terrier, which was added in the 2011 amendments.

Back in 2010 I made the point that the high fines that were being introduced in that particular bill — some $2500 for not registering a dog — may result in more people abandoning animals. Rather than encouraging owners to have their dog registered, a fine of that magnitude may result in people abandoning the animal. I also made particular mention of the special vulnerability of children with regard to dog attack. If you look at what is said in the literature by the various associations, including the Australian Veterinary Association and other groups in the community that concern themselves with animal welfare and issues of dogs, you see that they acknowledge the special vulnerability of children, in terms of their size in comparison to dogs.

One of the factors, covered often in the literature, which may result in a dog bite is referred to as the behaviour of the victim. Children are overrepresented as victims, and this is often because they are small in comparison to the size of the dog and their head is often at the same level as the dog's head. If you look at the circumstances the associations point to in which a dog may be provoked to attack, you see that the behaviour of the victim is influential. Of course children may behave in a provocative way towards a dog without knowing or realising that they are doing so. That is why there is a special vulnerability. We need to be very cognisant of that as legislators and make sure that the law assists in protecting children from attack from dogs.

Whilst dog attacks very rarely involve the death of an adult, we have seen they can much more easily involve the death or significant disfigurement of a child. Most often children are bitten on the face, while adults are more often bitten on the limbs. That describes the special vulnerability of children. It is also the case that bites are received most often from family pets rather than from dogs at large in the street, although bites from dogs in the street may be more often reported than bites from family pets, especially if the event does not involve a visit to a medical centre or hospital.

I also made the point that many people I know of personally — and this is certainly talked about generally — see their family dog as safe around children; they think their particular pet would not bite or attack a child. The fact is of course that any dog will do that. Any dog, even a family pet, can bite a child. The sad case that occurred in August last year, which I just mentioned, involved a family pet that fatally attacked a toddler. There are some laid-back, cavalier attitudes towards the presence of dogs around children that persist in the Australian community, and I do not think there has been enough public education about the issue. That goes to part of the argument that has been made against breed-specific legislation — that is, that this is the behaviour of any dog; any dog is capable of attacking a child, an adult or even another dog or animal. Many of the groups concerned about breed-specific legislation and animal welfare advocate that we need more education in that area, and I agree, but I do not think education is enough, just as it is not enough in road safety or in other areas of public administration. You need education and regulation.

Back in 2010 I also objected to the change pertaining to the circumstance where an unregistered dog is found at large by a council and is apprehended and where the owner cannot be found et cetera. Previously there had been an eight-day period for which such a dog would be held by a council before it could be destroyed, and that period was being reduced to 48 hours. I made the point that if the dog was in the custody of the council, it was no longer a danger to anybody, and that if it was not a declared dangerous dog but was just an escaped unregistered dog, more of an attempt to find the owner and safely return the dog to the owner should be made.

I also made the point that in order to better regulate the purchase and breeding of animals there should be a ban on the sale of animals from pet shops. Pet shops should only be able to sell pet paraphernalia, if I could call it that — accessories or products you might need for your pet, such as pet collars or pet food — but not live animals. The selling of live animals from pet shops should be outlawed in Victoria and in Australia. That would go a long way, for a start, to getting rid of puppy farms, which despite legislation brought into this Parliament are still operating and which are a blight on us as a community. More needs to be done about them, and I will be saying more about that issue and the relationship between pet shops and puppy farms. Also it should be a little bit more difficult to purchase animals than just going in and purchasing an animal on a whim, given there are people who will not be responsible pet owners.

I also raised the need for more rehoming of animals. I tried also to amend the bill I have been speaking about so that there would be more information in council annual reports as to animals that had been apprehended and destroyed — so that there would be records of what was occurring in that regard.

In 2011 the Domestic Animals Amendment (Restricted Breeds) Bill 2011 was introduced. My colleague Mr Barber addressed that bill at the time. The bill added the American pit bull terrier to the list of breeds restricted under the principal act. Mr Barber commented on the minister's comment that:

> The public of Victoria has made it clear that they do not want these animals in Victoria any longer than necessary.

Mr Barber said:

> I think the public has made it clear that it does not want to see these sorts of tragedies, but the question of what are 'these animals' is yet to be defined. The bill creates a mechanism through which it will be defined, but I am not sure whether that mechanism will be effective in the way this suggests.

In the committee stage Mr Barber went on to say:

> I have already stated some level of concern about the removal of the process of creating regulations and replacing it with the minister simply deciding one and gazetting it. Can the minister therefore tell me a few things about the process for creating this definition? First of all, what is the definition now, and what state is it in?

This was in relation to the new standard that was to be referred to by councils in establishing whether an animal was or was not an American pit bull terrier. That has, since the introduction of this legislation some two and a half years ago — or getting on for that — caused a lot of angst in the community, and I will go further to that in my contribution.

Mr Barber made the point that if the standard were to fail and have to be revisited, there is no way back under the act for that to happen because at a certain point the amnesty no longer applies. That was the amnesty that applied at the time for registering restricted breeds; it has obviously expired by now. That is the difficult plight faced by the government. Mr Barber went on to say:

> Back in 2010 we had a lot of representations from dog breeders about the difficulty of creating standards. It could be that it is just dog breeders who have this view. The government is very confident that it can define a dog of a particular breed in that way. I suppose time will tell.

This has proven to be quite a problem for councils and dog owners alike. I am sure everybody in the chamber has received many emails with regard to this particular issue. Because of those representations and the problems playing out in the community, in May 2013 I posed a question on notice to the Minister for Agriculture and Food Security. The question was:

> Given the number of disputed council decisions and challenges in the courts, what measures is the government taking to address problems with the implementation of the restricted breed provisions under the Domestic Animals Act 1994?

The minister replied:

> The appeal process is part of the natural justice process that is available for a range of dogs and does not represent a failure of the implementation of the Domestic Animals Act.
>
> The current legislation will continue to be reviewed to meet the purpose of protecting the community, promoting responsible pet ownership to and ensuring the welfare of pets in Victoria.

I thought that was most strange, given that there were a number of appeals before the Victorian Civil and Administrative Tribunal (VCAT) and so much angst in the community.

In August 2013 I followed up and asked the minister four more questions, the first of which asked:

> Who is undertaking a review of the implementation of the Domestic Animals Act 1994?

The minister's answer was:

> Local councils are the enforcement agency for the Domestic Animals Act 1994. Councils are responsible for adequately reviewing their implementation of the act as part of the domestic animal management plan.

I do not think that is good enough. This is an act of the state and the government should be reviewing it, especially when so many issues have been brought to its attention.

That brings me to the issue of the review of the legislation, which is just not possible with this bill; it is much bigger than what we are dealing with today. Mr Lenders, in his contribution, referred to his notice of motion which is listed as no. 705 on today's notice paper. In it he requests that the issue be referred to the Environment and Natural Resources Committee for it to inquire, consider and report on breed-specific legislation. The Greens say that is a good idea. Several years have passed and we agree that the act needs to be looked at in order to see how it is playing out in the community.

The second question I asked the minister was:

> How many restricted breed dogs have been registered with Victorian local councils since 2010?

The minister's answer was:

> … between September 2010 and 17 June 2013 there have been 165 restricted breed dogs registered with local councils.

I have to presume that most of those restricted breed dogs would be American pit bull terriers because I not believe the other breeds I mentioned actually exist in Australia.

The third question I asked the minister was:

> How many owners have appealed council decisions regarding restricted breed dogs and how many have been successful?

The minister's information was that 29 appeals had been made to the Victorian Civil and Administrative Tribunal and 13 of those had been set aside. That means almost half the appeals were set aside and more than half were successful.

My fourth question asked about the total cost of legal challenges to Victorian local council decisions. The minister was not able to give me an answer on that because costs are not centrally reported and there is no requirement for councils to report on them. That is a pity because one of the amendments I tried move in 2010 was to have councils report on that issue so that we would have that information further down the track.

In his contribution Mr Lenders also raised the fact that many organisations, including the Royal Society for the Prevention of Cruelty to Animals and the Australian Veterinary Association (AVA), are against breed-specific legislation. The Australian Veterinary Association has written an extensive paper stating its position as to why breed-specific legislation does not work.

Many people are advocating for the Calgary model. Perhaps we as Victorians should look at that model by way of an open and transparent parliamentary inquiry; that would be a good idea. I believe the system as a whole needs to be reviewed.

I have met with representatives of the Australian Veterinary Association to discuss this issue, largely because of the representations I have had from members of the community, some of whom were defending their own dogs, some of whom were defending other dogs that have been caught up in this legislation and in appeals to VCAT. The Australian Veterinary Association, for example, states why it believes breed-specific legislation does not prevent dog attacks. It says that, firstly, a breed on its own is not an effective indicator or predictor of aggression in dogs. It also states that whilst genetics are an important factor in dog bites, the impact of environment and learning are critical to the behaviour of a dog.

The intensity of a dog bite is dependent on at least five interacting factors, one of which is hereditary — that is, genes and breed. The other factors include early experience, socialisation and training, health and the victim's behaviour, as I mentioned before.

On one hand opponents of breed-specific legislation are saying that the breed is not an effective indicator on its own; on the other hand the AVA says that it is one of the indicators. The AVA also says that it is not possible to precisely determine by appearance or DNA analysis the breed of the types of dogs targeted by breed-specific legislation. That problem occurs with the definition of what kind of dog constitutes an American pit bull terrier. I was shown a chart which shows 25 types of dogs; it is a kind of test as to whether you can identify all the dogs on it. Amazingly I was able to pick out the American pit bull terrier from the collection of 25 photos, but I was not able to identify most of the other dogs. I had really not heard of many of the other breeds. The chart also included photos of other restricted breed dogs that I was not familiar with.

Another point made by the Australian Veterinary Association is that the number of animals that would need to be removed from the community to have a meaningful impact on hospital admissions is so high that the removal of only one breed would have a negligible impact. The counterargument to that is that if it involved a widespread breed — for example, the labrador — that might apply. However, as the minister has said, there are only 165 restricted breed dogs registered in Victoria. That is not a large number of dogs. Another point the Australian Veterinary Association makes is that dog owners who desire this kind of dog will simply acquire a dog of another breed of similar size, strength and perceived aggressive tendencies. I think that is a pretty good point.

This is a vexed issue. I have received many emails in which people tell me it is the deed, not the breed. In the case of some dog attacks, and in the case of Ayen Chol, the deed resulted in the death of a child. It is difficult to predict which dog is going to do what; it is difficult to predict what the deed is going to result in. In the case of Ayen Chol, it is too late to prevent a horrific outcome of that deed. I read in the coroner's report that that dog, along with killing Ayen Chol, injured two other people on that day. My heart goes out to members of that family, because I know they have suffered other tragedies. They lost their house, and they were refugees. Terrible tragedies have befallen them, one after the other. They will never be able to fully recover from what happened that day.

One of the questions that arises when considering the complete dismantling of breed-specific legislation is whether we want to see currently restricted breeds, the Japanese tosa, the fila Brasileiro, the dogo Argentino and the perro de presa Canario, reintroduced into Australia. My research tells me they are known as fighting dogs. Would there be support for their reintroduction to Australia? As I said, there are arguments on both sides. As a parliamentarian I approach the issue of dealing with animals from an animal welfare perspective, and I ask what is best for animals. In this case, however, as we are dealing with restricted breeds and possibly dangerous or menacing dogs, we also have to look at the safety of the community and how that is best achieved. It is not always an easy balance to strike.

I agree that the concept of breed-specific legislation and its implementation should be reviewed by way of public inquiry, and that is best done by a parliamentary committee. I received an email — and I am sure other members received the same email, because I can see that they were all listed as recipients — suggesting that in addition to Mr Lenders's motion, the inquiry consider the quality and availability of existing data on dog bite incidents and systems for recording and reporting such incidents. I think that would be a good thing to look at because, as I understand it, recording and reporting of dog bite incidents is not uniform across the states. Victoria is not one of the best states at recording this data. It is done better in New South Wales and South Australia.

The inquiry might also examine international experience to consider the effectiveness of breed-specific legislation and world best practice approaches to keeping the community safe from dog-bite injuries. It could look at the Calgary model and other models and consult with appropriately qualified and experienced experts. We should review breed-specific legislation and invite all interested parties to make submissions to and present at that inquiry.

There is still much to do by way of public education. I am constantly horrified by the attitude of some dog owners who think their dog is safe around children. No dog is safe; any dog can bite a child. This attitude needs to change. As we know, most attacks by dogs are by pet dogs.

I will conclude by saying that if the government is not persuaded by Mr Lenders's motion, or by my support for that motion, of the idea of a public inquiry, it may be persuaded by the report that in June last year, after a challenge to a Victorian Civil and Administrative Tribunal case involving a restricted-breed dog, VCAT vice-president Judge Michael Macnamara said that he felt sympathy for council officers responsible for identifying a dog as a restricted breed. Referring to the standard for the identification of the American pit bull terrier, which is causing a lot of trouble, he said to a council officer, 'You're thinking, "I didn't write this rubbish"'. Monash City Council has spent some $120 000 on that case defending appeals under the legislation. Moonee Valley City Council had spent some $50 000.

I reiterate that a vice-president of VCAT has commented that he had sympathy for council officers who were unable to identify a dog as a restricted breed using the standard that has been put in place by this government. In overturning the council's finding, Judge Macnamara said the idea of a standard able to be interpreted consistently by people with reasonable experience was a noble aspiration but that it was far from clear that the objective had been achieved. I also think that the government must be coming under pressure from some councils in this regard.

Today we are dealing with the recommendations of the coroner basically with regard to three simple amendments to the Domestic Animals Act 1994: to make it an offence to breed a restricted breed dog, to reverse the onus from the council having to prove that a dog is a restricted breed and to put that onus on the person, and also the more regulatory type of amendment regarding the obligation on veterinary surgeons when they come across what they believe are restricted breed dogs that are not being registered to notify the relevant authorities. With those wide-ranging comments on the system itself, I note the Greens are supportive of the coroner's recommendations being implemented through this legislation.

Mr MELHEM (Western Metropolitan) — I welcome the opportunity to make a contribution on this bill. The opposition supports the Domestic Animals Amendment Bill 2013, which goes back to the coroner's findings into the death of Ayen Chol, the four-year-old girl who was attacked by a vicious and restricted breed dog, a pit bull terrier. Ayen Chol was four years old, and on 17 August 2011 was at home in St Albans with her mother, aunt and other family members. Tragically she lost her life.

The accounts of this vicious, unprovoked attack are chilling and heartbreaking. What the little girl endured and the head and neck injuries she sustained from the dog were horrific and frightening. People must be held accountable for their actions. Imagine a four-year-old child: how helpless can you be? What chance do you have if you are being attacked by a big vicious dog?

I can speak about that firsthand. I had a similar experience. In a way I was unfortunate, but in another way I was fortunate because, thank God, it was me and not the kids. At my previous address we had a next-door neighbour who was building a house. As part of the process I think he decided he would have a pit bull terrier to guard the house. When he brought it in I think it was three months old, but it took him some time to build his house, and by the time the dog was about a year old there was hardly ever anyone home. This dog was not socialised with other people. It probably used to be fed every second day and was traumatised by kids from the neighbourhood over the fence and so forth. The owner of that dog was a nice chap. He was in his late 20s. I met him in the street, and he was a very nice person, so you cannot say it was just because he was a 'redneck' or whatever word you want to use. He was a nice guy trying to build a house, and he worked all sorts of hours as a truck driver.

One day I was talking to him outside his house, and he had left his back gate open. It was a big dog, and it made its way around. I took no notice. I thought, 'Yes, it's fine, the owner's there'. Then out of the blue the dog just jumped on me and grabbed me on the arm. Thankfully, my reflexes — —

Mr Finn — The dog knew what he was doing.

Mr MELHEM — I did not know what he was doing. I was able to hit the dog on the throat, and then it dropped before it was able to lock its jaw.

Mr Finn interjected.

Mr MELHEM — The first thing that went through my mind, Mr Finn, was, 'Thank God it was me and it wasn't the kids'. I do not think it is a funny story. Mr Finn was talking about protecting kids earlier, so that is not a funny story. I would ask Mr Finn to reflect on that. Thank God my then seven-year-old and nine-year-old were not outside with me. Imagine if the dog had grabbed one of them. What would have happened?

With that, I note I am very supportive of this bill because in this day and age there is no real justification for breeding these dogs. All sorts of people are experimenting with different breeding. It is really way out of control, so I think we need something like this bill, and down the track we should look at a review to see how it is going. Has it delivered the outcome — that is, to restrict the breeding of these dangerous animals — to make sure our children and families are safe? It is not like the old days, 100 or 200 years ago, when you probably needed dangerous dogs — a vicious dog or a fighting dog or animal — for protection. We do not need them in this day and age. In the 21st century you do not need these sorts of animals to protect you. Forms of technology are in place to provide security for people.

The lives of children and vulnerable people should take precedence over the lives of these dangerous animals. It is as simple as that. We must ban certain dangerous dogs. In fact any breed that displays elements of dangerous behaviour should be banned, full stop. Most importantly, people who breed them should be held accountable. It is about education as well. We need to educate members of the community to ask: do we really need a dangerous dog or this type of breed? Do we really need pit bull terriers in this country? I think they should be banned altogether, full stop. Just ban them, full stop. There should not be any argument about it, but I suppose we have got to start somewhere.

This bill aims to implement the recommendations made by the coroner following the inquest into the death of four-year-old Ayen Chol. Ms Pennicuik went through

the various recommendations, which I will not discuss apart from saying that our children need to be safe and our communities need to be safe. There should be no place for dangerous dogs when human lives or the lives of other animals are at stake. With those comments I commend the bill to the house.

Mr ONDARCHIE (Northern Metropolitan) — I rise to speak in favour of the Domestic Animals Amendment Bill 2013. It will be fantastic to see the passage of this bill today, which will help Victoria to take all reasonable steps to stop dangerous dogs from harming or killing in the future. I thank Mr Melhem for his comment that 'this is a fantastic bill'. We look forward to his support for the other fantastic bills that come into this house every sitting week. We thank Mr Melhem for recognising the great work of the government in the preparation of this bill.

So often owners of dangerous dogs will say that their dogs have always been kind and friendly. What they do not understand is that they are seen as the dog's leader — the person who feeds them and houses them — so they are not likely to attack them. For the same reason, dogs are also likely to behave well towards other people when an owner is present, as their owner will give them cues as to the friendliness of the other person and they can restrain their dog, if they do attack, without risk to their safety. What owners all too often forget is that these dogs can be fiercely territorial, and when their owner is not present they can have few, if any, inhibitions. Male dogs that are not desexed are likely to be more aggressive and much stronger than desexed dogs.

Nowhere was this more tragically seen than with the sad death of Ayen Chol in early 2011 when she was mauled by a pit bull terrier. This four-year-old girl, who had the world ahead of her, had her life tragically cut short when the dog grabbed hold of her head and shook her violently. She had little chance of surviving such an attack. At this point I pay tribute to my friend and colleague Mr Elsbury for his contribution in the house last year about Ayen Chol, a contribution that we should all remember for not only the heartfelt emotion of Mr Elsbury but also for the fact that he is a parent of children of a similar age. I ask members to reflect on his statement last year, which summed up why we need to do this today.

We should not forget that Ayen was not the only person attacked that day. The dog attacked Ayen's 31-year-old cousin, Anglina Mayout, and Anglina's 5-year-old daughter, Nyadeng Goer. There was a very real possibility of two people dying that day, with five-year-old Nyadeng only just managing to escape the fate of her first cousin once removed.

This house should also note the heartache many owners of pets feel when their often weaker pets are attacked by dangerous dogs. I was dismayed when I heard the story of Allan Close and the death of his guide dog in August 2012, in Bellfield in my electorate of Northern Metropolitan Region. According to the *Herald Sun* of 10 August, Allan Close was walking his brother's seeing eye dog, Matilda, and a cocker spaniel, Bosley, when they were set upon by two unrestrained pit bull terriers and a bull terrier cross. Matilda was chased by two of the dogs onto Bell Street, Bellfield, where she was hit by a car and later died. Bosley, the cocker spaniel, needed emergency surgery for deep wounds to his throat. These were family pets. Allan Close's blind brother, Andrew Close, said, 'They have killed not only my best friend, but she was my eyes, my independence'. The couple who owned the three dogs quickly rounded them up and fled the scene after the attack in Plunkett Street. They should be held accountable too. The dogs were eventually found and put down, but only after causing untold grief and anguish to my constituents.

A few years ago my family dog, Benny, passed away, though not as a result of an attack by a dangerous dog. I know how terrible it feels to lose a pet who has become a member of the family. Sometimes, strangely, I still hear Benny barking. I shudder to think how much worse it would have been if my dog was also my eyes and my helper.

The bill reduces the period in which a person may apply to Victorian Civil and Administrative Tribunal (VCAT) for a review of a declaration that a dog is a restricted breed. It empowers VCAT to make an order for the owner of a dog declared a restricted breed dog to pay the costs of the dog being retained in custody while VCAT reviews the declaration. The bill requires owners of dangerous, menacing or restricted breed dogs to notify councils of further information about where the dog is being kept, and it provides for offences in relation to authorised officers. It provides for admissibility in legal proceedings of declarations of dogs as restricted breed dogs and empowers the Magistrates Court to disqualify a person from owning or being in charge or control of a dog in certain circumstances and to provide entry, search and seizure powers under a search warrant.

The bill inserts an offence prohibiting breeding from a restricted breed dog, empowers authorised officers of veterinary practitioners to take samples from dogs in certain circumstances and empowers authorised officers

to seize dogs suspected of being involved in the offence of breeding from a restricted breed dog. The bill also provides for entry and search powers under a search warrant for the offence of breeding from a restricted breed dog and for the seizure of documents under part 7A of the Domestic Animals Act 1994.

The bill inserts powers as to inspection, search and seizure of certain documents of veterinary practitioners and also inserts additional requirements for councils to provide the secretary with information regarding dangerous, menacing and restricted breed dogs. I know there are many councillors who would support this very important legislation, such as Cr Meralyn Klein of Nillumbik Shire Council, who is very much across this legislation and supports the things we are doing here around restricted breed dogs and the protection of children and families as well.

The bill amends the Crimes Act 1958 to empower a court to disqualify a person from owning or being in charge or control of a dog if the person has committed an offence connected with a dangerous, menacing or restricted breed dog under the act and to provide entry, search and seizure powers under a search warrant in relation to such a person. It also makes miscellaneous amendments to the act. I am pleased that those opposite are in support of this 'wonderful piece of legislation', to quote Mr Melhem.

I will come back to the point that I made about the guide dog that was killed following an attack in Bellfield. Seeing Eye Dogs Australia general manager Leigh Garwood said it was shocking to hear about the attack. He said:

> Every one of our seeing eye dogs is a much-loved part of a close-knit family and it is a terrible loss for our community …
>
> I want to remind dog owners of their responsibility to keep their pets under control. Attacks like this can have such an impact on someone's life —

particularly that of Andrew Close, who had owned guide dog Matilda since 2009. Andrew was devastated by the death of Matilda and said she was his perfect match. The then mayor of Banyule City Council, Tom Melican, acknowledged this was a very upsetting incident for everybody concerned. A spokesperson for Banyule council added that they were keen to find out who the owners of these dogs were.

A Melbourne man was fined $11 000 over the death of four-year-old Ayen. Lazor Josevski of St Albans pleaded guilty to four charges over the death of Ayen, who was attacked and killed inside her own home by a pit bull terrier. Apparently the dog had no previous history of violence and escaped from the backyard via an open roller door. As I explained to members in the chamber earlier in my contribution, often these dogs are well behaved in front of their owners because they see the owner as their pack leader. However, when the owner is not present, they feel quite uninhibited and free to do the things that come naturally to terrible breeds like the pit bull terrier. I agree with Mr Melhem — strange as that may sound — do we really need pit bulls at all?

Mr Finn — No.

Mr ONDARCHIE — I have heard them called something else that rhymes with pit, Mr Finn, but I will not go into that today.

This animal attacked three people outside a house and was beaten off by someone holding a handbag, but as it was running away it followed a young child inside a house. It mauled Ayen as she grabbed onto her mother's legs in fear and desperation. This is a very important bill for the house to pass today. I commend those opposite who got behind it. Once again I reiterate my acknowledgement of the very poignant emotional contribution made on this subject by Mr Elsbury during the last sitting year. I commend the bill and wish it a speedy passage through the house.

Mr SCHEFFER (Eastern Victoria) — On the face of it, the Domestic Animals Amendment Bill 2013 is a straightforward bill, and as we have heard, the opposition does not oppose its aims or direction. We support the legislation, but its effectiveness and the veracity of the evidence upon which it is based are not without problems. More evidence and research into what is a very complex issue would be valuable, and I will have a bit more to say on that in a moment.

I follow other members in paying my respects to the family of Ayen Chol, whose very sad death gave rise to the coroner's inquest and report. That in turn informed Victorian government policy and legislation that aims to prevent or at the very least minimise circumstances where these tragic events might occur again. As we have heard, the bill picks up on two recommendations contained in the coroner's report: breeding a restricted breed should be a criminal offence, and the onus of establishing that a dog is not a restricted breed rests with the owner of the dog. Both of these recommendations and the provisions that give them legal effect are contained in the bill. As we indicated, the opposition does not oppose it.

A restricted breed dog is one of the following: the Japanese tosa, the fila Brasileiro, the dogo Argentino, the perro de presa Canario, or presa Canario, and the

American pit bull terrier, as well as other breeds or types that have controls attached to them. The view underpinning restricting certain breeds of dogs is that characteristics attach to certain breeds. There is nothing surprising in this, because throughout history dog breeding in many cultures has been about creating animals that would be able to undertake tasks useful to human beings or to have characteristics that were valued. So we have dogs that can help with herding, hunting, retrieving or racing, and we have lapdogs that are solely companions for petting. Dog breeding is not a perfect practice. It is a relatively crude tool for bringing out desirable characteristics and training. The care or the cruelty administered in the raising of dogs can and does have a variety of influences on the adult animal, as it does with most mammals, including human beings.

My own view is that no dog can be totally trusted because no dog can be perfectly known; each is an individual and reacts after its own fashion in unpredictable circumstances. Some argue that rather than restricting certain breeds, it would be better to educate dog owners and the public. While these are undoubtedly important measures, it seems to me, and to most people, that these measures are not enough. If the best dog with the best owner can attack the wrong person or a child, what do we do when we know that certain breeds have been specifically bred for aggressive and attack characteristics?

Paul McGreevy is professor of animal behaviour and welfare science at the University of Sydney's faculty of veterinary science, and he is currently engaged in research that throws some light on the complexity that underlies canine behaviour. Professor McGreevy is undertaking research that may lead to resolving impulsive canine aggression. To understand why dogs bite, he is looking at brain tissue, genome mapping and behavioural assessment to ascertain whether any genetic markers for aggression in dogs can be identified. More specifically the research aims to categorise the styles of aggression shown by dogs currently labelled as dangerous, to neurologically characterise the dogs showing impulsive aggression, to identify DNA genetic signatures associated with impulsive aggression and to identify dogs with an elevated inherent risk of biting impulsively.

In a conference paper prepared in September last year for the Australian Welfare League, Professor McGreevy notes the sociability natural to dogs has made them excellent companion animals; domestication and selective breeding has led to the development of breeds that are especially good at chasing, killing and protecting resources; and in some breeds the defence response has been magnified and their warning signals diminished resulting in impulsive behaviours. The unfortunate thing is that in many cases people who have the worst reasons for wanting to own status breeds such as pit bull terriers own them. They are not capable of appropriately training the dogs and then they breed them without much knowledge or planning.

In his remarks on this bill, Mr Helper, the member for Ripon in the Assembly, expressed some frustration over the lack of data available to provide clear analyses on what he called the 'make-up of dog attack risks'. He indicated that without good evidence policy responses will always be suboptimal. Until the type of research that Professor McGreevy is undertaking is able to provide more reliable tools for managing this serious problem, we have little option but to identify certain breeds as restricted and to exact appropriate penalties against individuals who breach those controls and prohibitions. On that basis I certainly support this legislation, as does the opposition.

Mr ELSBURY (Western Metropolitan) — It is my pleasure to speak on the Domestic Animals Amendment Bill 2013. I have two daughters. I love them with every fibre of my being. They are the reason I come here. I come here not only to earn a wage so I can provide them with food, shelter and an education but also because I want to make this state safe for them.

Anyone who knows this chamber and has looked up at the ceiling will know there are several angels looking down upon us. They are symbolic. The one almost directly opposite me is the protector; she is the warrior. That is what this legislation is doing today. It is protecting the most vulnerable in our community — our children.

I will do anything I can to protect my kids, and the parents of Ayen Chol were no different. They wanted to provide her with a safe environment. They left South Sudan seeking a better life. They saw great opportunities here for their family and their kids, and they wanted Ayen to have that chance. Unfortunately, through circumstances completely out of their control, a dog, a family pet, escaped from its yard, attacked two people, followed a child into the house where Ayen was and through a complete turn of fate decided that it was going to attack Ayen, who was four years old. At the time that happened my little girl Hannah was also four years old. Ayen did exactly what my little girl would have done — she tried to grab on to her mother for protection. Unfortunately it was not enough. The dog attacked with unbelievable ferocity and strength, because that is what this breed of dog is bred to do —

fight. Pit bulls are bred to be fighting dogs. They are bred to rip apart the creature they are up against, whether it be a dog or some other poor animal that gets in their way.

Mr Ondarchie was very kind to mention that the day after this tragedy occurred I rose in this house and called upon the Minister for Agriculture and Food Security, Peter Walsh, to do everything he could to make this sort of tragedy something of the past. I sincerely hope this legislation will at least make Victoria a little bit safer in that regard.

You can probably tell from my demeanour at the moment that I took this pretty hard. I went to the Chols' house. I took the obligatory flowers to show my sympathies to the family, and I took a small toy for the young girl who was injured in the attack. I spoke to one of Ayen's uncles. I did not get to say too much. I was fighting back tears because I did not want to show them that the person who was offering them help was struggling at the same time as them. We had a quick chat, and I told them to give me a call if there was anything I could do to help. I never got a call. I hope they have been able to get all the help they need and have been able to find some solace. I know that Ayen's mother is a religious person, and I hope she is able to use that strength to get her through what must be an outrageously difficult time. That night I got to go home and hug my girls, which is something that the Chols will never be able to do again.

This bill is about reducing the threat of restricted breeds on our community. As I have already stated, restricted breeds are bred specifically for their strength, ferociousness and lack of fear in throwing themselves at other creatures in their attempt to destroy them. I have no doubt that there are pit bulls that are beautiful creatures, that there are dogs in this category that are awesome pets and that there are pit bulls that are docile and lovely and that make the families who have them absolutely happy. I have no doubt that happens, just as I have no doubt that there may be some labradors, King Charles spaniels or dogs of that ilk that may also be ferocious in their own ways. However, that does not change the fact that these restricted breeds are built to kill. I do not know how many more times we will have to read in the papers of yet another attack by a pit bull.

I will provide some examples. On 8 October 2012 a pit bull terrier attacked a man who was walking his dog in Mossfiel Reserve in Hoppers Crossing, which is not that far from where I live. In August 2012 three pit bulls attacked a guide dog in Bellfield. In February 2011 an American pit bull and an American Staffordshire terrier attacked a family going for a walk on Morris Road in Hoppers Crossing. In one extreme case I read about on the internet, in October 2009 a gentleman in Reservoir was attacked by a pit bull. That particular dog had already killed a cat and mauled a dog being walked by a 10-year-old girl. The pit bull attacked the gentleman's pet dog, which it killed, and when the man tried to get the pit bull off his pet, it attacked him, attaching itself to his arm for 20 minutes. The paramedics who came to his aid had to give the dog an overdose to kill it so it would let go.

These animals do not have a place in our society. They should not exist, and the full penalties of the law should come down upon anyone stupid enough to breed them either as purebreds or as mutts. If you try to hide the fact that you have this type of animal by breeding it with another dog, you really need to get yourself checked out.

These measures are very important. They are measures that were recommended in the coroner's report of the inquest into the death of Ayen Chol. The coroner made three recommendations, one of them being the mandatory reporting by veterinarians of suspected dangerous breed dogs which are not registered, neutered or microchipped. This issue has been dealt with by being added as a guideline through the Veterinary Practitioners Registration Board of Victoria.

Another recommendation relates to the onus of proof of whether or not a dog is a dangerous breed being placed on the owner, and that is fully justified. The proposal to reduce the time in which an appeal can be made to the Victorian Civil and Administrative Tribunal is the only right thing to do. Councils certainly need full powers to be able to do what they can to make our society just that little bit safer. With those words, I will vote in favour of this bill, and I am glad to hear that everyone else who has spoken so far will do the same.

Mr FINN (Western Metropolitan) — Mr Elsbury's contribution to this debate was clearly from the heart. It shows not just this house but the Victorian community the depths to which this issue affects us all. It is an extraordinarily important issue, and this bill — and the previous bill — has made it a very good day for Victoria and for this Parliament. With the previous bill the government is attempting to protect children from human predators, and with this bill it is attempting to protect children from canine predators, and that is a good thing.

It has to be said that there are two sorts of people in the world: cat people and dog people. I am a dog person; I make no bones about that.

Hon. P. R. Hall — But you barrack for the Tigers.

Mr FINN — I do barrack for the Tigers, but in terms of what domestic animal I have, I am very much a dog person. My Bobbi at home is a wonderful dog, and when I am out walking her I often think of what would happen if the dog down the street got out, because she would not have a hope if she were attacked by that dog, who loves to let her know that he is around when we are walking. That is something that worries me.

What worries me even more is what happened to Ayen Chol. Ayen was not walking down the street with her dog. Ayen was in her front yard and she ran inside. She was killed by a dog in her kitchen. As a four-year-old, if you cannot be safe in the kitchen of your own home with your mum, where can you be safe? That is why we are debating this bill today. There are some dogs who just should not be in our midst. This legislation is about stopping those dogs. It is about eliminating those dogs.

As I said, I love dogs. I have loved dogs all my life. Since I was a little kid I have had dogs. But there are some dogs that we just do not need. There are some dogs that are a threat to humans and also to other dogs. I receive a number of complaints from constituents who tell me about the attacks that they have suffered or that their animals, their dogs, have suffered when they have been out walking. Dogs have come from nowhere and attacked, mauled, and sometimes killed their pet dog. That is just not on. Hopefully this legislation will go some way towards eliminating those sorts of attacks, not just on other dogs and other pets but on human beings as well. That is what this legislation is about, as Mr Elsbury said. It is about protecting people as well as protecting animals.

Those of us who have been in politics for a while and who have been out doorknocking know just how frightening savage dogs can be. I recall one particular instance when a dog had me up against a front door for about a half an hour.

Mrs Peulich — Was it your front door?

Mr FINN — No, it was not my front door; it was another door, down in Tullamarine. I thought I was a goner. It was a very good watchdog. This dog was out and about. It should not have been outside the backyard, but it was. Some people I speak to who have these vicious dogs say they never let them out. It is not a question of letting it out; it is a question of what happens if it gets out. That is the thing. Nobody lets these things out; quite often they get out themselves, and then we see the consequences. I am hopeful those people who hold the view that these sorts of dogs have a role in our society will take note of this legislation, take particular note of the penalties involved and remove these dogs from their ownership. I hope we will see the elimination of these sorts of breeds of vicious dogs in not too much time at all.

Hon. P. R. HALL (Minister for Higher Education and Skills) — We have been speaking as one in the chamber this afternoon, and it is lovely to enjoy the support from all sides — from the Labor Party opposition, from the Greens and from government members — in their agreement with and consent to this bill. It is always good to have a debate on a subject which involves dogs because invariably it invokes a lot of emotion, passion and frivolity. We all like to tell stories about our dogs. Literally the range of emotions that our pets bring to us go from absolute joy and happiness right through to other emotions that have been clearly evident.

Mrs Peulich interjected.

Hon. P. R. HALL — No, I enjoy the stories about our pets and dogs.

Mr Finn interjected.

Hon. P. R. HALL — My chocolate-coloured labrador, Molly, would enjoy meeting Mr Finn's Bobbi, I am sure. We all enjoy the pleasure of our domestic animals and share a genuine concern for their welfare and safety as well as for the welfare and safety of our fellow humans. That goes to the reason we have this piece of legislation before us.

I take up one substantial matter that was raised during the course of debate by Mr Lenders and supported by Ms Pennicuik. It is about general business, notice of motion 705 standing on the notice paper. In his contribution Mr Lenders sincerely indicated his desire to move this motion and to have a parliamentary committee examine this particular matter in a bit more detail. I appreciate the way in which this has been raised and the genuine offer to sit down and talk about the matter and to try to come to some commonly agreed terms of reference for this subject. Because the matter has been raised with genuine concern and interest, I am prepared to take it to the Minister for Agriculture and Food Security, Mr Walsh, and have a discussion with him, convey the wishes of those who have spoken about it and see if there cannot be some agreement to a parliamentary committee looking into it. I will undertake to have that discussion with Minister Walsh to see if we can progress the issue which has been raised by some speakers in the debate today.

That being said, I again thank members for their support for this legislation and trust, as Mr Elsbury and others have said, that we will have safer and better communities as a result of this legislation going through the Parliament today.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

SUMMARY OFFENCES AND SENTENCING 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, (the 'charter act'), I make this statement of compatibility with respect to the Summary Offences and Sentencing Amendment Bill 2013.

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

Overview of bill

The bill amends the Summary Offences Act 1966 by expanding the grounds on which police members and protective services officers (PSOs) may direct a person to move on from a public place, and enabling police members to apply to the Magistrates Court for an exclusion order where they have repeatedly been directed to move on from a public place. The bill also amends the Sentencing Act 1991 by creating a new alcohol-exclusion order that prohibits a person who has been convicted of a relevant offence, in circumstances where the person's intoxication was a significant contributing factor, from entering or consuming liquor in specified licensed premises in Victoria.

Human rights issues

Changes to move-on powers and the related exclusion orders

The bill expands the grounds on which the move-on powers under section 6 of the Summary Offences Act may be used. A person who is directed to move on from a public place by police members or PSOs must leave that public place and is prohibited from returning to it for up to 24 hours. The related exclusion orders also prohibit a person from entering a particular public place but for up to 12 months.

The amendments impose a limitation on an individual's right to move freely within Victoria as set out in section 12 of the charter act and may, in certain circumstances, limit the rights to freedom of expression (section 15), and peaceful assembly and freedom of association (section 16). However, for the reasons that follow these limitations are consistent with explicit or implicit internal limits on the rights or are reasonable and justified under section 7(2) of the charter act.

All of these charter act rights can be subject to restrictions, including to protect public order, public safety and the rights and freedoms of others. Section 15 contains an explicit internal limitation to this effect (section 15(3)), but the other sections may be implicitly limited in the same way (in accordance with the reasoning in *Magee v. Delaney* [2013] VSC 407). In the International Covenant on Civil and Political Rights, from which each of these charter act rights is derived, there are express internal limitations for each of the rights in relation to measures that are necessary to protect public order, public health or morals, or the rights and freedoms of others (see article 12(3) on freedom of movement, article 19(3) on freedom of expression, article 21 on peaceful assembly and article 22 on freedom of association). Although these internal limitations do not appear in the relevant charter act rights, the internal limitations in the international covenant illustrate matters that may be considered to justify limitations on those rights in accordance with section 7(2). The new grounds for the use of move-on powers are aimed at protecting public safety and order and the rights and freedoms of others. The grounds ensure there is an appropriate balance between the right to freedom of movement, freedom of expression, peaceful assembly and freedom of association of one individual and the protection of the rights of others, including the rights of others to freedom of movement, privacy, property rights and security. These are important objectives that are sufficient to justify the bill's careful and safeguarded provisions and any limitations those provisions may impose on these charter act rights.

The bill includes a range of safeguards that minimise effects on the relevant charter act rights and ensure any limitation is reasonable. A police member or PSO may tailor a move-on direction as required. For example, a direction can be given in respect of an entire public place, or just part of that place. The duration of the direction cannot exceed 24 hours and need not be for the full 24 hours.

The making of an exclusion order by a court is discretionary and the court must be satisfied that an order would be a reasonable means of preventing that person from continuing to behave in a manner that would be the basis for another move-on direction. The court can tailor the scope of the order. For example, it may determine the nature and extent of the public place that the order applies to, and the duration of the order. Similarly, new section 6E(5) of the Summary Offences Act enables the court to allow a person to enter a place to which the exclusion order applies for specified purposes

where it is appropriate. Exclusion orders may also be varied upon application where the court is satisfied it is appropriate.

There are also specific safeguards around the enforcement of move-on directions and the related exclusion orders. For example, a person does not commit the offence of contravening a move-on direction where he or she has a reasonable excuse for doing so. A similar exclusion applies to the offence of contravening an exclusion order.

Section 6(5) of the Summary Offences Act excludes the use of move-on powers based on the grounds set out in section 6(1)(a) and new section 6(1)(f) in relation to a person who is picketing a place of employment, demonstrating, protesting or publicising his or her view about a particular issue. That exception will no longer apply to the grounds in sections 6(1)(b) and (c) nor to the remaining four new grounds. Those grounds are more closely related to unlawful conduct and a move-on power on those grounds should not be excluded simply because a person is engaged in picketing, protest or publicising a view. The application of these grounds in such circumstances will assist police in protecting the rights of others and maintaining public safety and order.

Power to require name and address

The bill creates a new power enabling police members and PSOs to require a person being directed to move on to provide their name and address. The right to privacy set out in section 13 of the charter act is relevant to this power. However, in my view this provision is compatible with the right to privacy as it is lawful and not arbitrary. Police will only be able to utilise this power where they intend to direct a person to move on. This new power will enable police to keep track of when a person has been repeatedly moved on for the purposes of applying for a related exclusion order. It will also assist police in determining whether a person contravenes a move-on direction. The use and disclosure of that information would be subject to the usual protections under the Information Privacy Act 2000.

Arrest power

The bill inserts a new power into the Summary Offences Act, which provides that a police member or a PSO may, without warrant, arrest a person if the officer suspects on reasonable grounds that the person is or has committed an offence against section 6(4) of the Summary Offences Act (contravention of a move-on direction). In my view these provisions are compatible with the right to liberty as the grounds for arrest are clear and appropriate, and cannot be regarded as arbitrary. Section 6(4) also provides safeguards that minimise interference with liberty by expressly limiting the reasons for which a person may be detained in custody.

Alcohol-exclusion orders

Alcohol-exclusion orders prohibit a person from entering into a range of licensed premises including nightclubs, bars, restaurants, reception centres and major events. These orders limit the right to freedom of movement and are relevant to the right to peaceful assembly and freedom of association.

Alcohol-exclusion orders are aimed at protecting public order and the rights and freedoms of others, including the right to life and the right to liberty and security of a person. The orders may only be made after a person has been convicted by a court of a relevant offence and the court is satisfied that the offender's intoxication significantly contributed to the commission of the offence.

There is a clear and rational connection between the limitation on the right to freedom of movement and the purpose of the order. Before making an order, a court must be satisfied that the person was intoxicated at the time of the offending. Further, that intoxication must have significantly contributed to the offending. Thus, any person subject to an order has demonstrated through their offending that they are a risk to public safety when intoxicated. The alcohol-exclusion order will reduce that risk by ensuring the person cannot enter or consume liquor in many places where they could otherwise become intoxicated in public.

The effect of an alcohol-exclusion order reflects the significant contribution of alcohol to that offending. Applying the order to a narrower range of licensed venues could channel those subject to the order towards those licensed venues not covered by the order and thus place the public at those venues at risk. The strong, mandatory scheme provided for in this bill is also intended to provide a clear and powerful deterrent against others committing relevant offences. The deterrence of a discretionary scheme would be undermined by cases where an order is not made.

As with the move-on-related exclusion orders, there are safeguards to ensure alcohol-exclusion orders do not inappropriately limit other rights. Courts may create conditions where appropriate allowing a person to enter licensed premises for specified purposes. Such purposes might include employment, reaching accommodation, or attending particular events where appropriate. Section 89DG allows a person subject to the order to apply for its variation throughout the duration of the order. Given this capacity to adjust alcohol-exclusion orders appropriately if justified by a person's individual circumstances, I do not consider that they create an unreasonable limitation on the right to freedom of movement when balanced with the important objectives of the orders, including public safety and protecting the rights of others.

Offences for contravening exclusion orders

New sections 6G of the Summary Offences Act and 89DF(1) and (2) of the Sentencing Act make it an offence to contravene a move-on-related exclusion order or an alcohol-exclusion order. Sections 6G(3) and 89DF(4) have the effect of placing an evidential onus on the accused where the prosecution adduces proof that the accused was present in court when the order was made, or proof of service of the order on the person. The right to be presumed innocent until proved guilty according to law is relevant to these provisions. However, the right is not limited. Where the accused points to evidence that puts knowledge of the order at issue, the prosecution will still have a legal onus to prove beyond reasonable doubt that the accused knew or was reckless as to whether the order was in place.

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

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill makes important changes to the law to better protect the community from lawless behaviour on our streets and to deter and prevent alcohol-fuelled violence.

First, the bill amends the Summary Offences Act to give police clearer and more effective move-on powers and to create longer lasting exclusion orders.

Secondly, the bill delivers the government's election commitment to ban those convicted of alcohol-fuelled violence from licensed premises for two years.

Clearer and more effective move-on powers

Move-on powers provide police and PSOs with a useful tool for safeguarding the peaceful enjoyment of public spaces by all, as well as defusing situations that threaten public order and safety. Police and PSOs are currently able to direct people to move on from public places for a range of reasons. These include where they reasonably suspect that a person is breaching or is likely to breach the peace, or is endangering or is likely to endanger the safety of another.

The bill provides further grounds on which these powers may be used. Police and PSOs will be able to direct a person to move on from a public place if they suspect on reasonable grounds that a person:

has committed an offence in the place;

is causing a reasonable apprehension of violence to another person;

is causing, or is likely to cause, an unreasonable obstruction to others;

is present for the purpose of procuring or supplying drugs; or

is impeding, or attempting to impede, another person from lawfully entering or leaving premises or part of premises.

These new grounds will provide greater certainty for police members and PSOs as to when they may exercise move-on powers, and expand the range of circumstances in which such directions may be given.

Move-on powers may be applied in relation to one person or many. The bill clarifies that police and PSOs may give one direction to an entire group rather than having individually to direct each person in the group to move on.

The bill continues to protect legitimate rights to lawful protest or demonstration, but it makes clear that if protesters go beyond legitimate expression of views and instead resort to threats of violence or seek to impede the rights of others to lawfully enter or leave premises, police will have the power to order those protesters to move on.

To this end, the bill provides that move-on powers may be used in respect of people engaged in picket lines, protests and other demonstrations. However, the existing ground relating to breach of peace and the new unreasonable obstruction ground will not apply in those situations. These grounds are excluded because of the scope for dispute about their application in the context of demonstrations. Police will instead be able to rely on the impeding access ground and other grounds to deal with protesters who blockade or otherwise impede access to or from premises or who resort to threats of violence or to illegal conduct.

The bill will also improve the enforcement of move-on directions. For example, the bill expressly provides that police and PSOs may arrest a person who contravenes a move-on direction. The bill also assists the detection of such contraventions by providing that police may require a person being directed to move on to provide their name and address. Currently, police are unable to do this in many cases, making it difficult to detect contraventions of the move-on directions where the person returns a few hours later. This change will also enable police to keep a record of people who are repeatedly moved on.

Move-on-related exclusion orders

Move-on powers can keep a person away from a public place for up to 24 hours, but no more. Consequently, a person may return to the place and engage in the same conduct the very next day. This can be a particular issue where police know that people are returning to a certain area repeatedly, such as for the purpose of buying or selling drugs.

The bill addresses these situations by enabling police to apply to the Magistrates Court for an exclusion order against an individual.

The making of an exclusion order will be discretionary, and the court may only make an order if it is satisfied that:

a person has been repeatedly directed to move on from the same public place or part of a public place; and

an exclusion order would be a reasonable means of preventing that person from continuing to behave in a manner that would be the basis for another move-on direction.

If a court decides to make an exclusion order, it can specify a duration of up to 12 months. During that time a person will be prohibited from entering the public place specified in the order. However, the bill does allow the court to create conditions allowing a person to enter the place if there is a good reason for doing so and the court considers it appropriate in all the circumstances.

Once an exclusion order is in place, it will be an offence to contravene that order. The offence will carry a maximum penalty of two years imprisonment.

These exclusion orders will give police a new tool for addressing low-level street drug dealing and for breaking up gangs that gather in public places to threaten people or engage in criminal behaviour.

Alcohol-exclusion orders

The government made an election commitment to ban those found guilty of committing a violent offence while under the influence of alcohol from licensed premises for two years.

This bill makes amendments to the Sentencing Act 1991 to give effect to that commitment.

A high proportion of violent behaviour is caused by people who have had too much to drink. These measures will better protect the public from the recurrence of such behaviour and create a strong deterrent to the offender and to others.

Under the requirements, a court must make an alcohol-exclusion order where it is satisfied that:

a person has been convicted of a relevant offence;

the person was intoxicated at the time of the assault; and

the person's intoxication significantly contributed to the commission of the offence.

These orders will apply to most indictable offences against the person, ranging from homicides to intentionally causing injury, as well as to sexual assaults such as rape or indecent assault, and to offences such as threats to kill and assaulting police.

Alcohol-exclusion orders will prohibit the offender from entering specified licensed premises or consuming liquor in any licensed premises anywhere in Victoria for a period of two years. Where an offender goes to jail for their offence, the exclusion will apply from the time they are released from jail. Where an offender is sentenced to a community correction order of longer than two years, the court will be able to impose alcohol treatment conditions that will continue to operate after expiry of the alcohol-exclusion order.

The licensed premises from which persons are excluded are the same as those covered by alcohol-exclusion conditions made under a community correction order pursuant to section 48J of the Sentencing Act 1991. These include nightclubs and bars — including pubs — as well as licensed restaurants and cafes. Bar areas of other licensed premises will also be covered, including hotel bars and bars at sporting grounds and clubs. A person is also prohibited from entering major events covered by a relevant liquor license, such as the formula one grand prix.

Provision is made for the court on application to vary the exclusion conditions in circumstances where that is justified, such as where a person lives above licensed premises or works at licensed premises. A court may also allow a person to enter licensed premises for a specified purpose if there is a good reason and the court considers it appropriate. However, the courts cannot allow a person to drink on those premises.

Contravention of an alcohol-exclusion order will be an offence, carrying a maximum penalty of two years imprisonment.

Alcohol-exclusion orders will send a clear message that drunken, violent behaviour will not be tolerated in Victoria and that those who engage in it will face significant consequences for their personal and social life, in addition to whatever other sentence they receive.

I commend the bill to the house.

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

Debate adjourned until Thursday, 27 February.

CORRECTIONS LEGISLATION AMENDMENT BILL 2013

Introduction and first reading

Received from Assembly.

Read first time for Hon. E. J. O'DONOHUE (Minister for Corrections) 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 Corrections), 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 Corrections Legislation Amendment Bill 2013.

In my opinion, the Corrections Legislation 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 this bill is to make various amendments to the Corrections Act 1986 (the 'Corrections Act'), the Prisoner (Interstate Transfer) Act 1983 and the Serious Sex Offenders (Detention and Supervision) Act 2009.

Human rights issues

Stopping and censoring prisoner letters

Clause 6 of the bill inserts new sections 47D(1)(ab) and 47D(ac) in the Corrections Act to enable letters sent to or by prisoners to other prisoners (or former prisoners) to be stopped and censored in circumstances where the governor reasonably believes that a letter may be a threat to the good order, management or security of a prison or prisoner. Section 47D(1) of the Corrections Act already empowers the governor to stop and censor prisoner letters in certain other circumstances.

Section 13(a) of the charter act relevantly provides that a person has the right not to have his or her privacy or correspondence unlawfully or arbitrarily interfered with. The circumstances in which the governor may stop and censor letters in new sections 47D(1)(ab) and 47D(ac) are limited. Before such a power may be exercised, the governor must have formed a reasonable belief that a letter may constitute a threat to good order, management or security. The power in the new sections is therefore not arbitrary, since it is based on identified criteria directed at ensuring the proper management, maintenance and security of prisons and prisoners. Similarly, the power in the new sections is not unlawful because the power is expressed in clear terms and the circumstances in which it may be exercised are confined and sufficiently precise.

The right to freedom of expression in section 15(2) of the charter act encompasses the right to receive and impart information. This right is relevant to stopping and censoring prisoner letters. However, the right to freedom of expression may be subject to lawful restrictions reasonably necessary for the protection of public order or to respect the rights of other persons (section 15(3) of the charter act). In my view, the new sections 47D(1)(ab) and 47D(ac) constitute such a lawful restriction, and so do not unreasonably limit section 15 of the charter act.

Escort officers and firearms and non-lethal firearms

Clause 8 of the bill inserts new sections 55EA to 55EC in the Corrections Act to provide for the issue to, and discharge of firearms and non-lethal firearms by, escort officers. The circumstances in which an escort officer may be issued with and discharge a firearm are presently governed by the Corrections Regulations 2009. Clause 8 of the bill enacts the relevant regulations as provisions of the Corrections Act in substantially similar terms.

Under new section 55EA, a governor or the secretary may authorise the issue of a firearm to an escort officer in certain circumstances where, for example, their duties involve dealing with high or maximum security prisoners, or where the governor or secretary reasonably believes that a firearm is necessary for the security or good order of the prison or for the safety of a prisoner, escort officer or other persons.

Discharge of firearms

New section 55EB of the Corrections Act relates to the discharge of firearms.

Subsection (1) provides that an escort officer may only discharge a firearm at a prisoner if the prisoner escapes or attempts to escape from custody and the prison officer reasonably believes that discharging the firearm is the only practicable way to prevent the escape of the prisoner from custody.

Subsections (2) and (3) provide that an escort officer may also discharge a firearm at a person (not necessarily being a prisoner) only if the escort officer reasonably believes that the person is aiding a prisoner in escaping or attempting to escape from custody and discharging the firearm is the only practicable way to prevent the escape of the prisoner from custody; or the person is using force or threatening force against certain specified individuals and the escort officer reasonably believes that discharging the firearm is the only practicable way to prevent that person causing death or serious injury.

Subsection (4)(a) provides that before discharging a firearm at a person under section 55EB, an escort officer must, if it is practicable to do so, give an oral warning that the person will be shot at if they do not cease engaging in the relevant conduct. Subsection (4)(b) also provides that an escort officer must be satisfied that discharging the firearm at the person under section 55EB does not create an unnecessary risk to any other person.

The right to life in section 9 of the charter act is relevant to new section 55EB. Section 9 provides that every person has a right not to be arbitrarily deprived of life. The effect of new section 55EB is to authorise the discharge of a firearm in circumstances involving serious threats posed to prison security or the safety of others, and as a method of last resort following the issuing of a warning (which has been ineffective). Any interference with the right to life that may occur as a result of the authorised discharge of a firearm in these circumstances will therefore not be arbitrary, and so will not unreasonably limit the right in section 9 of the charter act.

Discharge of non-lethal firearms

New section 55EC relates to the discharge of a firearm of a type that is prescribed by regulation to be a non-lethal firearm. It provides that an escort officer may discharge a prescribed non-lethal firearm at a person if the escort officer reasonably believes that discharging the firearm is the only practicable way to prevent, control or stop a riot in a prison or to prevent a serious threat to the security or good order of the prison.

The rights to protection from cruel, inhuman or degrading treatment in section 10(b) and to humane treatment when deprived of liberty in section 22 of the charter act are relevant to new section 55EC. However, to the extent that these human rights may be limited by the use of a non-lethal firearm, I consider that any such limitation would be reasonable and demonstrably justified pursuant to section 7(2) of the charter act. The circumstances in which section 55EC authorises an escort officer to use a prescribed non-lethal firearm are limited, such that it must be the only practicable means of maintaining or restoring security or good order within a prison.

Electronic monitoring

Clause 14 of the bill inserts new sections 74(5A) to 74(5C) in the Corrections Act to provide that prisoners on parole, who are already subject to certain conditions for electronic monitoring, will be subject to further electronic monitoring conditions.

Section 74(5)(b) of the Corrections Act currently empowers the adult parole board to attach a condition to a parole order requiring a prisoner on parole to be subject to electronic monitoring. New section 74(5A) provides that, if the adult parole board attaches an electronic monitoring requirement to a parole order, that order will also be subject to the following further conditions:

> that the prisoner comply with any direction given by the adult parole board or the secretary under new section 74(5B);
>
> that the prisoner remain electronically monitored and wear an electronic monitoring device fitted to them for 24 hours of each day;
>
> that the prisoner not tamper with, damage or disable any electronic monitoring device; and
>
> that the prisoner enable the secretary to visit their place of residence at any time that is reasonably necessary and for any purpose, including for various purposes related to the maintenance of electronic monitoring devices.

New section 74(5B) empowers the adult parole board or the secretary to give prisoners on parole who are subject to an electronic monitoring requirement, such directions as the board or secretary considers necessary for monitoring compliance with that requirement or condition. New section 74(5C) provides that it is an offence for a prisoner on

parole not to comply with a condition under new section 74(5A), unless the prisoner has a reasonable excuse.

Clause 27 of the bill also inserts new section 20(1)(c) in the Serious Sex Offenders (Detention and Supervision) Act 2009 to empower the Supreme Court and County Court, in circumstances where a condition of a supervision order has been imposed authorising the adult parole board to direct that an offender reside at a residential facility, to impose a further condition authorising the board to give directions relating to the monitoring (including electronic monitoring) of the offender's compliance with the direction to reside at that residential facility.

The right to privacy in s 13(a) of the charter act is relevant to the provisions inserted by clauses 14 and 27 of the bill. Although the imposition of further conditions related to electronic monitoring interferes with the right to privacy, new sections 74(5A) and 20(1)(c) will apply only to prisoners on parole, or to offenders on supervision orders who are already subject to electronic monitoring or residency conditions. These new provisions will ensure that prisoners and offenders in the community can be adequately supervised, and that compliance or otherwise with the terms and conditions of parole orders or supervision orders can be effectively monitored, and are consequently not arbitrary. Moreover, the power of the adult parole board and the secretary to give directions to prisoners on parole under section 74(5B) is expressly conditioned upon those decision-makers being satisfied as to the necessity of making such directions.

Additionally, in relation to clause 27, the relevant condition will be imposed by a court. Consequently, in my view, the provisions inserted by clauses 14 and 27 of the bill are neither unlawful nor arbitrary.

Alcohol or drug testing

Clause 15 of the bill inserts a new section 76A in the Corrections Act to empower the secretary to direct a prisoner to submit to alcohol or drug testing, where that prisoner has been released on parole under a parole order that is subject to a condition requiring them to abstain from consuming alcohol, to undergo certain alcohol or drug-related assessment and treatment, or to submit to alcohol or drug tests. Subsection (2) provides that tests must be of a kind approved by the secretary and may include the taking of a urine sample.

The right to privacy in section 13(a) of the charter act is relevant to the power conferred on the secretary in new section 76A to compel a prisoner on parole to submit to alcohol or drug tests. The concept of privacy encompasses a person's physical integrity, and includes the freedom from compulsory blood, breath or urine tests.

However, in my view the tests will not be unlawful or arbitrary, and therefore the right to privacy is not limited by new section 76A. The power to direct prisoners on parole to submit to alcohol or drug testing applies only to those who are already subject to particular conditions relating to the consumption of alcohol or use of drugs. Although the tests may be conducted at any time without notice, this is for the legitimate purpose of ensuring that a prisoner on parole is in compliance with the conditions of their parole order at all times, and that offenders are able to engage with the wider community in a way that does not pose a threat to the safety or welfare of other offenders or members of the community.

If the testing is capable of constituting medical treatment, which may be the case if an offender was subjected to a blood test, new section 76A may limit an offender's right not to be subject to medical treatment without consent under section 10 of the charter act. However, for the same reasons as those outlined above, I consider that any limitation would be reasonable and demonstrably justified pursuant to section 7(2) of the charter act.

Use and disclosure of information given to the adult parole board

Part 9E of the Corrections Act governs the circumstances in which 'personal or confidential information' may be used and disclosed under that act. Section 104ZZ specifically applies to information given to the adult parole board that is not disclosed in any decision of the board (or in any reasons given by the board for decision).

Clause 16 of the bill substitutes section 104ZZ(1)(b) to re-enact and expand upon the circumstances in which information given to the adult parole board may be used or disclosed. Substituted section 104ZZ(1)(b) will amend the current section 104ZZ in the Corrections Act 1986, to provide for the use and disclosure of such information for the preparation for, conduct of or participation in an inquest or investigation held by a coroner. Clause 16 also inserts a new section 104ZZ(2) empowering the minister to authorise the use or disclosure of information to which section 104ZZ otherwise applies.

The right to privacy in section 13(a) of the charter act will be relevant to the use and disclosure of any personal information pursuant to substituted section 104ZZ(1)(b) and new section 104ZZ(2).

The use or disclosure permitted by substituted section 104ZZ(1)(b) is directed to clearly specified purposes, namely, serving the ultimate end of ensuring the proper administration of coronial proceedings and the disclosure is limited to such circumstances. I therefore consider that the right in section 13(a) of the charter act is not unreasonably limited by substituted section 104ZZ(1)(b), as any restriction on privacy is neither arbitrary nor unlawful. Furthermore, I note that the minister must act compatibly with and give proper consideration to human rights when exercising the power to authorise use and disclosure of information pursuant to new section 104ZZ(2).

Extension and renewal of detention and supervision orders

The bill makes several amendments to the Serious Sex Offenders (Detention and Supervision) Act 2009 to empower courts determining whether to renew or revoke a supervision or detention order, or whether to extend an interim detention or supervision order, to vary the terms of such orders or direct that that they be subject to review at a different period to that previously ordered. The bill also amends the Serious Sex Offenders (Detention and Supervision) Act 2009 to empower the Magistrates Court to transfer supervision order proceedings to another court, and, if an offender fails to appear before that court, to issue a warrant for the offender's arrest.

These amendments are intended to ensure that courts have the jurisdiction and powers necessary to determine the most appropriate and effective means of monitoring and supervising serious sex offenders living in the community.

While orders relating to the supervision and detention of serious sex offenders inevitably affect those offenders' rights to move and associate freely within Victoria (ss 12 and 16(2)), to privacy (s 13(a)) and liberty (s 21) under the charter act, the purpose of these particular amendments is to enable courts to modify the terms of such orders once they have been made. Accordingly, I do not consider that the bill, to the extent that it amends the Serious Sex Offenders (Detention and Supervision) Act 2009, impermissibly burdens human rights.

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 make a number of amendments to the Corrections Act 1986, the Serious Sex Offenders (Detention and Supervision) Act 2009 and the Prisoners (Interstate Transfer) Act 1983.

The bill will amend the Corrections Act 1986 to:

permit letters between prisoners or between prisoners and ex-prisoners to be stopped or censored;

move the current legal authority for the use and discharge of firearms by escort officers from the Corrections Regulations to the Corrections Act;

broaden the circumstances where an escort officer is authorised to discharge a non-lethal firearm to include to prevent, control or stop a riot in a prison or to prevent a serious threat to security or good order of a prison;

provide that the types of non-lethal firearms authorised for use by an escort officer are to be prescribed in the regulations;

give a stand-alone power for the Minister for Corrections to enter into a lease or licence over land reserved for prison purposes, upon which a prison is or is to be situated;

provide that an application for a police custody transfer order is to be supported by an affidavit;

authorise the use or disclosure of certain confidential information held by the adult parole board to the coroner, or if authorised by the minister;

expressly allow the testing of prisoners on parole for alcohol, drug or poison use where the adult parole board has imposed terms or conditions on the parole order that relate to alcohol or drug treatment or testing or alcohol abstinence;

replicate existing provisions that apply to electronic monitoring of offenders subject to a community correction order, by creating terms or conditions that attach to a requirement imposed by the adult parole board that a prisoner on parole be electronically monitored for compliance with another term or condition of parole, and create an offence of failing to comply with such terms or conditions;

provide that a member of the police force, the Director of Public Prosecutions or the Secretary to the Department of Justice may take proceedings for offences against the Corrections Act; and

provide for the appointment of more than one member of the adult parole board to be a deputy chairperson and establish a process for determining which deputy chairperson is to act as chairperson in the chairperson's absence.

The bill amends the Serious Sex Offenders (Detention and Supervision) Act 2009 to:

give the court, upon determining an application to renew or extend an order under the act, the power to also vary or revoke the order;

permit the adult parole board to direct an offender to be electronically monitored when residing at a residential facility under the act, if such a direction is authorised by a condition on an order under the act;

clarify the provisions relating to timing of an application to review an order under the act if the offender is in prison; and

remedy a procedural deficiency related to transfer of breach proceedings from the Magistrates Court to the higher court that made the order under the act.

The bill amends the Prisoners (Interstate Transfer) Act 1983, which is part of a national scheme for the interstate transfer of prisoners underpinned by model legislation. This act is amended in line with a model bill, to permit the physical handover of prisoners subject to an order under this act at places other than a prison.

Turning to each of these amendments in more detail:

Letters

The Ombudsman's report into the death of Carl Williams noted that all communications between prisoners, including letters, should be closely monitored to avoid compromising prison safety and good order.

In accordance with this recommendation, the bill will amend section 47D of the Corrections Act so that the governor of a prison may stop or censor letters between prisoners, or prisoners and ex-prisoners, upon forming a reasonable belief that the sending or receiving of the letter may be a threat to the management, good order or security of a prison.

Firearms

Currently, section 112A of the Corrections Act provides for the making of regulations authorising the use of firearms by escort officers, and such regulations have been made.

This government is of the view that it is more appropriate that provisions of this nature should be in the Corrections Act rather than regulations.

This view is supported by the then Legal and Constitutional Committee of the Victorian Parliament, which in its 16th report, stated the provisions dealing with the discharge of firearms by officers 'constituted a major piece of legislation' and 'matters of this importance warrant consideration of the full Parliament and should be in an act'.

The bill essentially replicates the firearms provisions that are currently located in the Corrections Regulations 2009.

In addition, the bill amends the Corrections Act to authorise the use of non-lethal firearms by escort officers to control serious prison incidents such as riot. The type of non-lethal firearms that may be used by officers will be prescribed in the Corrections Regulations.

Lease or licence over land reserved for prison purposes

Victoria's adult prison system is comprised of a combination of public and private prisons, a number of which are currently located on unreserved Crown land governed by the Land Act 1958, but they are generally on reserved Crown land reserved for prison purposes and are governed by the Crown Land (Reserves) Act 1978.

Although the Minister for Corrections may, pursuant to section 8B of the Corrections Act, enter into agreements for the provision of correctional services and other ancillary agreements the minister has no legislated authority to put in place the appropriate land tenure arrangements necessary for the execution of such agreements. This creates uncertainty and complexity to contractual arrangements relating to such agreements.

The bill will amend the Corrections Act to give a stand-alone power to the Minister for Corrections to enter into a lease or licence over Crown land reserved for prison purposes upon which a prison is or is to be situated, for the purpose of an agreement under section 8B of the Corrections Act. The bill provides that a lease or licence will be able to be granted for up to 99 years.

Police custody transfer orders

The Corrections Amendment Act 2013 inserted new division 2B into part 8 of the Corrections Act, providing for a police member to make application to the Supreme Court for a police custody transfer order authorising the temporary absence from prison of a prisoner who wishes to voluntarily provide information to the police.

In the course of developing the necessary new procedures for the implementation of these new provisions, the Supreme Court has requested that the application for an order not simply be in writing, but be accompanied by an affidavit sworn by the police member applying for the order. This is a sensible suggestion supported by the government.

Use or disclosure of certain information held by the adult parole board

Part 9E of the Corrections Act concerns the use or disclosure of personal or confidential information. Within this part, section 104ZZ deals with the use or disclosure of information provided to the adult parole board that is not disclosed in a decision of the board, or reasons given by the board for a decision of the board.

Use or disclosure of the information described in section 104ZZ is currently specifically authorised if the use or disclosure is for the preparation for, conduct of, or participation in, criminal proceedings in any court or proceedings before a tribunal.

The bill will extend this authorisation to include the giving of this information to the coroner, for the purposes of the Coroners Act 2008, and also clarify that this information may be used or disclosed in circumstances where the minister has consented to such use or disclosure.

Testing of prisoners on parole for drug or alcohol use

The bill provides an explicit power for the Secretary to the Department of Justice (or delegate under section 8 of the act) to direct prisoners on parole to undergo tests for alcohol, drug or poison use if they are subject to terms or conditions on their parole order requiring treatment or testing for these substances or abstinence from alcohol.

Currently, community-based offenders with a treatment and rehabilitation condition for alcohol and drug abuse or dependency under community correction orders under the Sentencing Act 1991 are also subject to a testing power.

No equivalent express testing power exists for prisoners on parole with specific abstinence, treatment or testing conditions. Section 99A of the Corrections Act is limited to testing of such offenders where necessary for the management, good order, security or safety of offenders or locations. Before conducting a test, the secretary must believe on reasonable grounds that the offender is under the influence. The power does not allow Corrections Victoria to assess a prisoner's compliance with an abstinence, treatment or testing condition.

The bill will expressly allow testing of prisoners on parole at any time to determine any use of alcohol, drugs or poisons, for the purpose of monitoring their compliance with their parole conditions.

Terms or conditions attaching to a requirement for electronic monitoring of a prisoner on parole

Currently it is not an offence under the Corrections Act for a prisoner on parole to breach an electronic monitoring condition. Corrections Victoria currently reports non-compliance with electronic monitoring to the board, which may cancel or vary parole.

However, it is currently an offence under the Sentencing Act — punishable by a maximum three months imprisonment — to contravene electronic monitoring while on a community correction order without reasonable excuse. The person must submit to 24-hour monitoring, wear the device, not tamper with the device, accept visits to install or repair the device and comply with directions.

For consistency with the Sentencing Act, the bill enacts the same offence in the Corrections Act. As the new offence is punishable by imprisonment, the new breach of parole offence under the Corrections Amendment (Breach of Parole) Act 2013 applies. In accordance with that act, the prisoner must be detained (if arrested by police) until the breach is addressed by the board.

Prosecution for breach of Corrections Act

To further align with contravention of a community correction order under the Sentencing Act, the bill also provides that proceedings for offences under the Corrections Act may be brought by a member of the police force, the Director of Public Prosecutions (or relevant member of staff), or the Secretary to the Department of Justice (or delegate).

Appointment of deputy chairpersons to adult parole board

Currently, section 61A of the Corrections Act provides for the appointment of a chairperson to the board, and for the appointment of one deputy chairperson who is to act as chairperson in the chairperson's absence.

Circumstances surrounding potential appointments to the board (including as a consequence of the passage of recent amendments to the Corrections Act that provide that members can, in general, serve no more than nine years, and implementation of the recommendation in the Callinan review that the chairperson to the board be appointed on a full-time basis) have identified the need for greater flexibility by providing that more than one member is available to act as chairperson in the chairperson's absence.

Accordingly, the bill provides for more than one member (meeting the existing qualification requirements) to be appointed as a deputy chairperson, and establishes a process for determining which deputy chairperson is to act as chairperson in the chairperson's absence.

The bill also amends the Serious Sex Offenders (Detention and Supervision) Act 2009.

Power of court upon determining an application to renew an order or extend an interim order

The Serious Sex Offenders (Detention and Supervision Orders) Act, or SSODSA, commenced on 1 January 2010 and establishes a scheme for the post-sentence detention or supervision of serious sex offenders who present an unacceptable risk of harm to the community.

Detention orders can be made for up to three years and supervision orders can be made for up to 15 years.

Upon reviewing an order, the court has the power to revoke, confirm or vary an order. To avoid duplication, and because the court is being asked to consider essentially the same information, an application to review an order does not have to be made if an application to renew the order has been made.

For consistency with the existing powers of the court upon reviewing an order, the bill will ensure that a court, upon making a decision whether to renew an order (or extend an interim order), also has the power to revoke or vary the order.

Electronic monitoring of offender directed by the adult parole board to reside at residential facility

The SSODSA permits the court to impose a condition on a supervision order authorising the adult parole board to give a direction that an offender reside at a residential facility (the existing residential facility is Corella Place, outside Ararat). These conditions provide flexibility for an immediate response where an offender may be residing in the wider community but for some reason must be urgently moved to a residential facility.

The bill amends the act to rectify an anomaly, to provide that if the court has imposed a condition that the board can give a direction that an offender reside at a residential facility, the court can also impose a condition that the board can direct the offender to be electronically monitored to ensure compliance with the direction.

Timing for review of order

An offender ceases to be subject to the conditions of an order under the SSODSA whilst serving a term of imprisonment in prison, but again becomes subject to the conditions of the order upon being released — either at the end of the sentence or when released on parole.

The intent of the relevant provisions in the SSODSA is that any requirement for the secretary to apply for a review of the order is also suspended whilst the offender is in prison but is required once the offender is released.

The bill will amend the act to make it clear that the requirement for the secretary to apply for a review of an order is suspended whilst the offender is in custody. The act will also be amended to reflect the policy that a review that fell due whilst the offender was in custody (but was not applied for during this period) must be undertaken when the offender is released. The bill provides that an application for such a review must be made by the secretary or the Director of Public Prosecutions as soon as practicable after the offender is released from custody.

Transfer of breach proceedings

The bill remedies a procedural deficiency in the SSODSA related to transfer of breach proceedings from the Magistrates Court to the higher court that made the order under the act.

I commend the bill to the house.

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

Debate adjourned until Thursday, 27 February.

LEGAL PROFESSION UNIFORM LAW APPLICATION 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 Legal Profession Uniform Law Application Bill 2013 (the application bill).

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

Overview

The central purpose of the application bill is to enact an applied law scheme to uniformly regulate the legal profession throughout participating jurisdictions in Australia. Schedule 1 of the application bill contains the Legal Profession Uniform Law (the uniform law), which will be enacted in Victoria as the host jurisdiction. Each participating jurisdiction will pass an applying act to apply the uniform law as a law of that jurisdiction. The application bill also provides for certain local matters to complement the uniform law, such as the establishment of local regulatory authorities and the fidelity fund. The application bill repeals the Legal Profession Act 2004 and makes the transitional arrangements and consequential amendments necessary to facilitate the new scheme.

Clause 6 of the application bill provides that the charter act has no application to both the uniform law set out in schedule 1 (and applied in other jurisdictions) and the uniform law as applied in Victoria by part 2 of the bill. Section 31 of the charter act empowers Parliament to override the charter act in this manner. Pursuant to subsection 31(6), the effect of clause 6 is that the charter act has no application to the uniform law. As a result, the interpretive direction under section 32 does not apply to the uniform law, and the Supreme Court does not have the power to make a declaration of inconsistent interpretation under s 36 in relation to the uniform law. Further, clause 6(3) explicitly states that a body performing functions or exercising powers under the uniform law is not a public authority within the meaning of the charter act in respect of its performance of those functions or exercise of those powers.

The purpose of clause 6 is to guarantee uniformity in interpretation and application of the scheme across the participating jurisdictions. It is being implemented to avoid any risk of non-uniform application through other jurisdictions being required to interpret the uniform law consistently with the charter act. Its purpose is also to avoid the inconsistency that may arise if interjurisdictional bodies established under the uniform law, as well as regulatory bodies in other participating states or territories performing uniform law functions, are required to act compatibly with the charter act despite having no experience with its requirements. If the charter act were only partly excluded, so that it continued to apply in the Victorian context, there is a further risk that inconsistencies could arise in the interpretation and implementation of the uniform law between Victoria and other participating states and territories.

The charter act continues to apply to all other provisions of the application bill. Local regulatory authorities in Victoria will still be considered as public authorities under the charter act when performing functions or exercising powers under the application bill (other than those conferred by the uniform law) or any other act in Victoria.

By stating that section 31(7) is inapplicable to clause 6 of the bill provides that the override clause does not have an expiry date.

Human rights issues

The application bill

I have considered the application bill (excluding the uniform law in schedule 1) and I consider that there are no human rights protected by the charter act that are relevant to the bill.

The uniform law

I note that pursuant to subsection 31(6) of the charter act, the effect of clause 6 of the bill is that the charter act has no application to the uniform law. I also note that the purpose of the override is not focused on overriding a human right due to any potential issue of incompatibility; rather, the purpose of the override is to not apply the charter act in order to effect uniformity in an interjurisdictional scheme.

Notwithstanding, I have considered the compatibility of the uniform law with the charter act. In my opinion, the uniform law is compatible with human rights as set out in the charter act, for the reasons outlined below.

A number of human rights protected by the charter act are relevant to the uniform law, including the right to privacy (section 13), the right to property (section 20), the right to be presumed innocent (section 25(1)) and the protection against self-incrimination (section 25(2)(k)).

The uniform law employs a number of measures designed to protect consumers of legal services which relevantly affect the privacy of practising certificate-holders (Australian legal practitioners). Clause 95 of the uniform law provides that an applicant or holder of a practising certificate may be required to provide specified documents or information, submit to a medical examination, provide a report from police on criminal history or cooperate in any other required way when a regulatory authority is considering whether to make a determination about the status of a certificate. While these requirements may interfere with the privacy of persons, I consider them to be essential consumer safeguards necessary for ensuring that only competent persons hold certificates, and as such I do not consider any resulting interference of privacy to be arbitrary. Accordingly, I do not consider the right to privacy to be limited in this context.

Chapter 7 of the uniform law contains extensive investigatory powers, such as the power of investigators to search premises with the consent of the occupier or under the authority of a search warrant, and the power to search non-residential premises without consent or a warrant in limited circumstances where it is urgently necessary to prevent destruction or interference with relevant material (cl 374 of the uniform law). These powers may also interfere with the right to privacy. However, the entry and search powers are only exercisable for specified purposes (namely, in connection with trust records examinations and investigations, compliance audits and complaint investigations) and are subject to appropriate requirements regarding notification of search, announcement before entry and return of seized items, meaning any interference that may result will not occur arbitrarily. Further, persons taking on

positions in the legal profession will not have an expectation of privacy in regards to their records and files being subject to audits and compliance checks. Accordingly, I consider that the right to privacy is not limited.

Investigators have wide-ranging powers while on premises including the power to require production of documents, to seize relevant material including computers and equipment, and to require any person on the premises to answer questions relevant to an investigation (cl 375(l)(j) of the uniform law). It is an offence to fail to comply with a requirement issued by an investigator under these powers (cl 387(2) of the uniform law) and a person is not excused from complying with a requirement on the ground that compliance may tend to incriminate that person (cl 466(3) of the uniform law). In relation to incorporated legal practices, part 7.4 of the uniform law gives investigators powers determined by reference to specified powers in the Australian Securities and Investments Commission Act 2001 as conferred on Australian Securities and Investments Commission investigators, to examine persons, inspect books and hold hearings. Any information or document obtained as a direct or indirect consequence of a person complying with a chapter 7 requirement is inadmissible in evidence against that person, except in proceedings for an offence against the uniform law, making a false or misleading statement or relating to a disciplinary matter. The rights to privacy, property and protection against self-incrimination are relevant to these powers.

I observe that these powers are common to regulated industries and I consider that they are of similar scope to the investigatory powers that were considered to be compatible with the charter act in the statements of compatibility to the Australian Consumer Law and Fair Trading Act 2012 and the Associations Incorporation Reform Act 2012. While the investigatory powers in the uniform law may interfere with, and in some cases limit, human rights protected by the charter act, I am of the view that any such interferences or limits are justified to enforce compliance with the scheme in relation to individuals who have voluntarily taken on positions of responsibility and privilege in a regulated industry, and have assumed duties and obligations in relation to legal practice. The information required to be produced and provided to investigators are those that are required to be kept as part of record-keeping obligations. The duty to provide this information is consistent with the reasonable expectations of persons who operate within the legal profession. Moreover, it is necessary for regulators to have access to information to ensure the effective administration of the regulatory scheme and that contraveners of the scheme do not escape liability. To excuse the production of such information where a contravention is suspected will allow persons to circumvent the record-keeping obligations of the uniform law and significantly impede the regulator's ability to investigate and enforce compliance of the scheme. For these reasons, I consider the uniform law to be compatible with the relevant rights protected by charter act.

Finally, a number of regulatory offences within the uniform law impose an evidential onus on a defendant to adduce or point to evidence that goes to an exception, excuse or defence (for example, clauses 148, 387, 388 and 364 of the uniform law). However, in my view, these provisions do not transfer the burden of proof, because once the defendant has adduced or pointed to some evidence, the burden is on the prosecution to prove beyond reasonable doubt the absence of the exception raised. Furthermore, the burdens do not relate to essential elements of the offences and are only imposed on the defendant to raise facts that support the existence of an exception, defence or excuse. Courts in other jurisdictions have generally taken the approach that an evidential onus on a defendant to raise a defence does not limit the presumption of innocence. However, even if these provisions limit the right to be presumed innocent in section 25(1) of the charter act, the limitation would be reasonable and justifiable under s 7(2) of the charter act because the defences and excuse provided for relate to matters within the knowledge of the defendant.

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

Second reading

Ordered that second-reading speech, except for statement under section 31 of the Charter of Human Rights and Responsibilities Act 2006, 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 enact, as a law of Victoria, a new Legal Profession Uniform Law that can be applied by any other state or territory as a law of its own jurisdiction.

As well as operating in Victoria, the uniform law will be applied initially by NSW, with the aim that other states and territories will choose to join the scheme after having the opportunity to observe the scheme in operation in Victoria and NSW.

The uniform law derives from work undertaken under the auspices of COAG from 2009 to 2011, which was supported by the commonwealth and aimed to deliver harmonised regulation of the legal profession across all states and territories.

However, following the withdrawal of other states and territories, Victoria and NSW have made a range of changes to the previously proposed reform package to simplify its administration and substantially reduce regulatory costs.

The uniform law aims to simplify and standardise regulatory obligations, cutting red tape for law firms, especially those operating across jurisdictions, while still providing for a significant degree of local involvement in the performance of regulatory functions. The principles of co-regulation, with involvement for the profession in critical areas of regulatory responsibility, are preserved, while consumers of legal services will also benefit from greater consistency of experience across jurisdictions and from improvements to key regulatory requirements.

With NSW and Victoria collectively being home to nearly three-quarters of Australian legal practitioners and a significant majority of Australian law firms, the uniform law is a major step on the path to national uniformity of regulation of the Australian legal profession, and is a critical

development at a time when Australian law firms face increasing competition from overseas and are themselves looking to expand into emerging markets.

The interjurisdictional framework

The bill provides for the establishment of two new bodies that will set policy and ensure consistent application across participating jurisdictions, being a Legal Services Council and an Admissions Committee, together with a commissioner for uniform legal services regulation.

In addition, the Attorneys-General of the participating jurisdictions will act jointly as a 'standing committee' in relation to various aspects of the scheme.

For Victoria, the bill will repeal the Legal Profession Act 2004, but will leave in place the basic Victorian regulatory framework established by that act, supplemented by the new interjurisdictional authorities created under the uniform law.

Legal Services Council

The Legal Services Council will be a five-person body with responsibility for making subordinate uniform rules under the scheme. The council is based on the principle of co-regulation, with two members nominated for appointment by the standing committee on the basis of expertise in a relevant field, which may include the protection of consumers, and one member nominated for appointment by each of the Law Council and Australian Bar Association. The chair of the council will be nominated on the recommendation of the standing committee with the concurrence of the presidents of the Law Council of Australia and Australian Bar Association.

The uniform rules that can be made by the Legal Services Council will cover areas including trust account management and reporting, licensing, complaints handling, external intervention, and reservation of legal work. The Legal Services Council can also make guidelines and directions about the performance of functions by state-based regulatory authorities under the uniform law and uniform rules to ensure the scheme is applied uniformly across participating jurisdictions.

Admissions Committee

The Legal Services Council will be supported by a separate statutory Admissions Committee, which will have responsibility for admission rules and other functions related to admission policy. The Admissions Committee will consist of judicial members, nominated by the Chief Justice of Victoria with the concurrence of the chief justices of the other participating jurisdictions, together with nominees of the professional associations and academic institutions, and a nominee of the standing committee.

Commissioner for uniform legal services regulation

The commissioner for uniform legal services regulation will be responsible for overseeing how the professional discipline and dispute resolution provisions of the uniform law are being implemented in participating jurisdictions. The commissioner may make guidelines and directions relating to the complaints-handling provisions, and will report annually to council.

The commissioner will also be the chief executive officer of the Legal Services Council. In that role, the commissioner will support the functioning of the Legal Services Council, and provide advice on proposals to the council.

Oversight of the scheme

As is common for applied law schemes, the bill excludes a number of Victorian oversight acts, such as the Freedom of Information Act 1982 and the Ombudsman Act 1973, from applying to the new interjurisdictional authorities.

As the new authorities will be based in NSW, NSW oversight legislation will be directly applied to them, and the uniform law itself sets out requirements in other areas covered by some of the excluded acts (for example, in respect of reporting).

Victorian regulatory authorities performing functions under the scheme will still be required to comply with Victorian oversight legislation.

The bill also includes a formal override of the Charter of Human Rights and Responsibilities Act 2006 to ensure uniformity in interpretation and application of the scheme across participating jurisdictions.

Victorian regulatory authorities will still be subject to the charter act in respect of any functions they perform under the Victorian-specific provisions of the bill, or under any other Victorian legislation. Further detail on the override clause is included in the override statement accompanying the bill.

Role for the professional associations

The uniform law continues to provide for the profession's involvement in a co-regulatory model.

In addition to a formal role in nominating members of the Legal Services Council and Admissions Committee, the Law Council of Australia and Australian Bar Association will have a legislatively enshrined role under part 9.2 of the uniform law to develop uniform rules relating to legal practice, legal professional conduct and continuing professional development, for solicitors and barristers respectively.

The uniform rules developed by the professional associations under these provisions will ultimately be made by the Legal Services Council, but may only be vetoed by the standing committee on public interest grounds, which include the imposition of restrictive or anticompetitive practices, or because of a conflict with the objectives of the uniform law.

The power to develop uniform rules in these areas preserves the legal profession's ability to set internal standards with which members of the profession must comply.

The Victorian framework

The uniform law provides for the direct conferral of most of its substantive regulatory functions on local regulatory authorities within each participating jurisdiction. The bill designates a responsible Victorian authority for each uniform law function.

Pursuant to part 3 of the bill, the Victorian Legal Services Board and commissioner will continue in their current form, and, under part 2 of the bill, will be vested with uniform law

functions that closely correspond with their current functions under the Legal Profession Act.

Under part 7 of the bill, the Legal Practitioners Liability Committee will continue in its current form and will continue to be responsible for issuing policies of professional indemnity insurance to Victorian lawyers and law practices.

The Supreme Court and VCAT will also continue to exercise jurisdiction similar to their existing jurisdictions under the Legal Profession Act.

Victorian Legal Admissions Board

As the uniform law centralises policy functions, the bill also rationalises existing Victorian regulatory authorities to reflect the cessation of their policy roles. The existing Board of Examiners and Council of Legal Education will effectively be merged into a single Victorian Legal Admissions Board, which will assess applications for admission to the profession in Victoria, and accredit law courses and practical legal training providers.

The Victorian Legal Admissions Board will comprise five members, and will be chaired by the Chief Justice of the Supreme Court or his or her nominee. The remaining members will be a retired judge, a nominee of the law institute, a nominee of the Victorian Bar, and a nominee of the Attorney-General.

Delegations

As under the Legal Profession Act, the Victorian board and commissioner will have the power to delegate functions, including the functions they are assigned under the uniform law.

It is expected that the Victorian board and commissioner will continue to delegate specific functions to the Law Institute of Victoria and Victorian Bar as they consider appropriate. This arrangement will continue to provide for the local Victorian professional associations, which have extensive experience both of legal practice and regulation, to maintain an active role in the regulation of the Victorian profession.

Funding and other matters

At part 5, the bill continues the present arrangements relating to the Public Purpose Fund, which is composed primarily of revenue from interest earnt on Victorian law practices' trust accounts.

The Victorian Legal Services Board will continue to administer the Public Purpose Fund, and will continue to make grants and payments to a range of funded entities, including Victoria Legal Aid, the Victorian commissioner, the new Victorian Legal Admissions Board, VCAT, and the Victorian Law Reform Commission. The board will also be required to pay an amount annually determined by the Attorney-General to meet the Victorian contribution to the funding of the new uniform scheme.

The funding contribution of Victoria and each other participating jurisdiction will be determined in accordance with a formula set out under the intergovernmental agreement underpinning the legal profession uniform framework, reflecting each jurisdiction's proportion of the overall number of Australian legal practitioners.

Legal Profession Uniform Law

Schedule 1 to the bill is the Legal Profession Uniform Law, the template provisions that will be enacted by Victoria in substantive form, and applied by each other participating jurisdiction.

Under this arrangement, Victoria will be the 'host jurisdiction' for the scheme, and the Victorian Attorney-General will be the 'host Attorney-General'. This role confers certain powers and responsibilities associated with administering the scheme; however, most actions must be performed with the approval of the Attorneys-General of participating jurisdictions.

The basic structure of the uniform law closely resembles that of the 2004 model bill on which the legal profession acts of most states and territories are currently based, covering the following areas:

prohibition on unqualified legal practice;

admission to the Australian legal profession;

legal practice, including business structures, licensing of Australian legal practitioners and registration of foreign lawyers;

trust money and trust accounts;

legal costs, including disclosure, charging, costs agreements and billing;

professional indemnity insurance;

fidelity cover;

dispute resolution, professional discipline and complaints handling;

external intervention in law practices for supervision, management or receivership.

The uniform law has also been drafted to ensure that existing mutual recognition arrangements with other jurisdictions are not disturbed.

I turn now to some of the key features of the uniform law, particularly elements that are new or are significantly modified compared with current regulation.

Costs disclosure

The specialised nature of legal work means that many clients are likely to have limited capacity to determine whether proposed legal work is necessary or valuable. Under part 4.3 of the uniform law, law practices will be required to take all reasonable steps to satisfy themselves that their client has understood and given consent to the proposed course of action for the conduct of their matter and the proposed costs.

In practice, this will require law practices to make reasonable inquiries to ensure that, after mandatory written disclosure has been made, clients understand the basis on which legal costs will be charged, how the initial estimate was calculated, factors likely to alter the estimated legal costs, and their rights in relation to challenging legal costs. Legal practitioners will be expected to exercise professional judgement regarding the level of detail needed by a client to understand the options available and costs involved.

At the same time, the uniform law recognises that for many inexpensive or routine matters, extensive and detailed disclosure would not be justified. For matters that are likely to cost less than a prescribed 'lower threshold' a law practice will not be required to comply with a specified form of disclosure requirement. The bill retains a lower threshold of $750 but allows for adjustment of the threshold by the Legal Services Council.

For matters that are likely to cost less than a prescribed 'higher threshold', a law practice will only need to comply with a basic requirement to provide a client with a standard disclosure form. The standard form disclosure is intended to be a short document that is the same for all clients with estimated costs in this band and to include basic information such as the client's rights in respect of costs. Importantly, it is intended that this standard disclosure will also include a statement that the client may not be charged more than the amount of the higher threshold without receiving full disclosure from the law practice.

The details of the standard form disclosure will be developed by the new Legal Services Council and incorporated in uniform rules prior to commencement of the uniform law. The higher threshold is set at $3000 but, as for the lower threshold, may be varied by the Legal Services Council after public consultation.

Charging only reasonable legal costs

One of the uniform law's most significant reforms, also under part 4.3, is the express requirement that a law practice should charge no more than fair and reasonable legal costs. Placing this obligation on law practices will better protect consumers as, even where consumers do not have the ability to judge what is a fair and reasonable price for legal services, law practices will be obliged to ensure that they do not take advantage of the information asymmetry between lawyers and clients.

The provision requires a law practice, in charging legal costs, to charge costs that are no more than fair and reasonable in all the circumstances and that are proportionately and reasonably incurred and proportionate and reasonable in amount, having regard to prescribed factors, which include the urgency of the matter and the level of experience of the lawyers concerned.

The new Legal Services Council will be able to provide guidelines for law practices on how to comply with this requirement.

Professional discipline and dispute resolution

An important feature of the uniform law is its complaint handling and disciplinary framework, set out in chapter 5, which aims to be efficient and low cost and to deliver appropriate outcomes. The framework seeks to facilitate the timely and efficient resolution of consumer disputes, while still providing a rigorous framework for dealing with serious disciplinary matters.

The uniform law provides for new powers for the local regulatory authority administering complaints handling, which for Victoria will be the legal services commissioner, to make binding determinations in resolution of consumer matters, including the power to make compensation orders of up to $25 000.

The commissioner will also have expanded jurisdiction to deal with costs disputes in matters where the costs in dispute are up to $100 000. The commissioner's jurisdiction will provide an inexpensive alternative to a formal costs assessment. The commissioner will have a new power to make a determination about costs that are payable in relation to matters where the costs in dispute are up to $10 000.

The uniform law also establishes a determinative power to facilitate the efficient resolution of certain low-level disciplinary complaints without recourse to a lengthy and potentially costly process through a court or tribunal. The commissioner will be empowered to make findings of unsatisfactory professional conduct, which is the lesser of two conduct findings, the more serious being professional misconduct.

With respect to jurisdictional oversight of complaints handling, the uniform law requires that each participating jurisdiction nominate an 'independent entity', not including a professional association, to perform the complaints-handling functions of the uniform law within that jurisdiction. In Victoria, the existing legal services commissioner is nominated for this purpose. Jurisdictions that do not presently have an independent complaints-handling authority may exempt themselves from the requirement for a period of three years.

Other features

Other features of the uniform law are also noteworthy:

Foreign lawyers will be able to be admitted to the Australian legal profession on a conditional basis, to facilitate the entry of qualified foreign specialists, especially on a short-term basis to work on a specific matter.

Sophisticated commercial or government clients will not be covered by the costs disclosure, charging and complaints regimes that are intended to provide protection for smaller, 'retail' clients.

The local regulator may conduct a 'compliance audit' of a law practice with respect to the uniform law if it considers there are reasonable grounds to do so, and may give a 'management system direction' to a law practice to address systemic compliance issues.

Lawyers working for government will be required to hold a practising certificate, and a specific class of practising certificate has been created for them.

The Legal Services Council will have the power to establish a centralised Australian Legal Profession Register, with the potential to become an important source of aggregated information on Australian lawyers and law practices.

Victorian position

I am pleased that, as one of the two initial participating jurisdictions in the uniform scheme, Victoria intends to adopt the uniform law almost without variation.

The bill provides at part 11 that Victoria will not apply, for a transitional period of three years, the prohibitions on law practices promoting, operating or providing legal services to managed investment schemes, which cover mortgage

practices where investors lend funds to borrowers who mortgage land or property, or both, as security.

These types of schemes have been relatively common in Victoria, especially in regional areas where historically they have facilitated important business and economic development initiatives. While their use is now declining, it would be unduly onerous to commence these prohibitions immediately.

A further variation is that, under part 5, the Victorian bill allows for the continuation of the current arrangement whereby a barrister's clerk may be approved to receive trust money on behalf of the barrister, but only in relation to trust money that is provided on account of legal services to be provided by the barrister. This is a longstanding Victorian arrangement that avoids the need to have barristers receive trust money directly.

Conclusion

In partnership with NSW, the government is pleased to lead the implementation of this important reform to the regulation of the legal profession as it continues to expand into new markets.

I would like to acknowledge the significant contributions to the development of this legislation made by the Legal Services Board, the legal services commissioner, the Council of Legal Education, Board of Examiners and Legal Practitioners Liability Committee, as well as those made by the courts, especially the Supreme Court, and by representatives of legal consumers. I would also like to acknowledge the support from the profession in Victoria and its representative bodies, the law institute and the Victorian Bar. All of these bodies have assisted greatly to make this next phase of legal professional regulation a reality.

The uniform law offers the prospect of significantly reduced interstate barriers to seamless national legal practice, while improving consumer protections and safeguarding an independent legal profession.

I commend the bill to the house.

Override statement

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I wish to make a statement pursuant to section 31 of the Charter of Human Rights and Responsibilities Act 2006 explaining the exceptional circumstances that justify the inclusion of an override declaration.

The Legal Profession Uniform Law Application Bill 2013, as introduced to the Legislative Council, contains a clause — clause 6, the 'override declaration' — that overrides the application of the Charter of Human Rights and Responsibilities Act 2006, the 'charter act', to the Legal Profession Uniform Law, as set out in schedule 1 to the bill.

Section 31(3) of the charter act requires that a member of Parliament who introduces a bill containing an override declaration must make a statement to the relevant house of Parliament explaining the exceptional circumstances that justify the inclusion of the override declaration. Accordingly, I make the following statement.

The Legal Profession Uniform Law is template legislation intended to be implemented in multiple states and territories in the same form for the purpose of standardising regulation of the legal profession across all participating states and territories.

In order to maximise the degree of uniformity across participating states and territories, the uniform law will be enacted as an 'applied law'. The uniform law will be passed as a substantive law of Victoria with other participating states and territories to then 'apply' the uniform law as a law of their own jurisdiction.

The uniform law will therefore be Victorian legislation, even where it is 'applied' by an act of another state or territory. Consequently, Victorian acts relating to oversight and interpretation, including the charter act, would ordinarily apply to the uniform law. If the charter act were not expressly overridden in the bill, there is a risk that other jurisdictions would be required to interpret the uniform law consistently with the charter act, despite having no experience with its requirements. Similarly, the interjurisdictional bodies established under the uniform law, as well as regulatory bodies based in other participating states or territories and performing uniform law functions, may be required to act compatibly with the charter act, at least in respect of those specific functions.

If the charter act were only partly excluded so that it continued to apply to Victorian regulatory authorities in respect of functions they perform under the uniform law, there is a risk that inconsistencies could arise in the implementation of the uniform law between Victoria and other participating states and territories. Regulatory authorities in Victoria would be required to act compatibly with the charter act when performing functions under the uniform law, whereas regulatory authorities in other participating states and territories would not be similarly obliged.

The features that distinguish the bill and constitute 'exceptional circumstances' that justify the inclusion of the override declaration are the prevailing objective of interjurisdictional consistency that applies to the uniform law, the 'applied law' model that is used to achieve that objective, the fact that the uniform law will be passed as a substantive law of Victoria, and the framework of interjurisdictional and local regulatory bodies that will each be performing elements of the uniform law.

Subclause 6(1) of the bill provides that the charter act has no application to schedule 1 of the bill, which contains the Legal Profession Uniform Law, and to the Legal Profession Uniform Law (Victoria). It is necessary to provide for both the uniform law as it will be applied in other jurisdictions (i.e. schedule 1) and as it is applied in Victoria (i.e. the Legal Profession Uniform Law (Victoria)).

Although not necessary for the formal override of the charter act, subclause 6(2) disapplies section 31(7) of the charter act in order to exclude the need to re-enact the override in five years time, recognising that the factors necessitating the override will still be present in five years.

Subclause 6(3) is included for the avoidance of doubt and provides that a body performing functions under the uniform law is not a public authority when carrying out those functions. Victorian bodies established or continued by the bill will be subject to the charter act when carrying out non-uniform law functions specific to Victoria.

Finally, I note that notwithstanding this override statement and the reasons for it, the statement of compatibility for this bill states that the bill's provisions are compatible with the actual rights contained in the charter act.

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

Debate adjourned until Thursday, 27 February.

SMALL BUSINESS COMMISSIONER AMENDMENT BILL 2013

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) 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 Small Business Commissioner Amendment Bill 2013.

In my opinion, the Small Business Commissioner Amendment Bill 2013, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The main purposes of this bill are to:

(a) amend the functions and powers of the small business commissioner to promote the efficient investigation and resolution of commercial disputes involving small businesses;

(b) improve alternative dispute resolution services for small businesses, particularly in the dealings of those businesses with larger businesses and with government; and

(c) confer powers on the small business commissioner to publish information relating to disputes in certain circumstances.

Human rights issues

Section 13 of the charter act provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with, and not to have his/her reputation unlawfully attacked.

An interference with privacy and reputation will not be unlawful if it is permitted by a law that is accessible and precise. An interference with privacy will not be arbitrary if the restrictions it imposes are reasonable, just and proportionate to the end sought.

Clause 7 of the bill inserts a new section 6A into the act. Section 6A provides a power for the commissioner to issue certificates certifying that alternative dispute resolution has failed to resolve a dispute. The certificates may also specify the details of a business or government party that has unreasonably refused to participate in alternative dispute resolution.

The commissioner must give written notice that a party's details may be published prior to providing the services. If a party unreasonably fails to attend or participate, that party will be provided with another opportunity to do so. If a party has still not made reasonable endeavours to participate, the commissioner may issue a certificate verifying that the particular party has unreasonably refused to participate in alternative dispute resolution. A party will also be able to make submissions to the commissioner giving reasons why their details should not be published.

Clause 11 of the bill provides that, having given the parties an opportunity to write to the commissioner giving reasons why their details should not be published, the commissioner may consider those reasons before publishing the details of the certificates in a report to the minister. That report may be published in hard copy format, as well as on a website.

This measure has been proposed to encourage parties to resolve their disputes cooperatively and to facilitate improved reporting as to the outcome of alternative dispute resolution under the act.

The details of the parties may specify the name of the business or government entity but should not include the names of the individual or individuals representing that business or government entity. When considering any written submissions, the commissioner may also consider whether the details of a sole trader should not be included, particularly if that information might be adverse to the reputation of the person in whose name the business is to continue to trade.

Corporations are not defined as persons under the charter act, which does not apply to them.

Finally, the bill may be relevant to the right to a fair hearing with respect to the commissioner's power to certify the outcome of disputes. Section 24(1) of the charter act provides that a party to a civil proceeding has the right to have a proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

The bill does not restrict the right of any party to seek review of a decision by a court or tribunal and nor does the bill restrict or limit rights to access a court or tribunal to determine the relevant dispute. For the purpose of the Administrative Law Act 1978 (Vic), the commissioner's decisions are reviewable. A certificate issued for the purpose of certifying whether a party has made reasonable endeavours to resolve a dispute will constitute prima facie evidence to a court or tribunal that the dispute was mediated, but such a certificate will not necessarily be conclusive evidence.

Conclusion

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

Hon. Gordon Rich-Phillips, MLC
Minister for Technology.

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The purpose of this bill is to:

amend the functions and powers of the Victorian small business commissioner to promote the efficient resolution of commercial disputes involving small businesses;

improve alternative dispute resolution services for small businesses, particularly in their dealings with larger businesses and with government; and

confer powers on the commissioner to publish information relating to disputes in certain circumstances.

Ten years ago, the Office of the Small Business Commissioner was established with bipartisan support. This was an Australian first and, since that time, the office has set a national standard.

For example, the office has received and resolved over 11 000 applications for assistance in a decade of extraordinary change, reducing the business disruption associated with disputes.

In the 2012–13 financial year, over 1600 applications for assistance were received and over 83 per cent of those disputes were successfully resolved. Moreover, client satisfaction with the service is consistently about 90 per cent, and has remained around this level for a number of years.

If it is true that imitation is the sincerest form of flattery, then the success of the office can perhaps best be highlighted by the fact that New South Wales, South Australia and Western Australia have all subsequently established their own small business commissioner, based on the successful Victorian model.

Further, we now have an Australian small business commissioner, who in addition to being the inaugural Australian small business commissioner, served as Victoria's first small business commissioner for seven years.

However, 10 years have now elapsed since the act was passed and Victoria needs to keep the pace to ensure a competitive and fair operating environment for small businesses for the decade to come. In these circumstances, it is with great pleasure that I introduce this bill to the house.

The Victorian government recognises the vital contribution that small businesses make to the state's economy. Small businesses represent 96 per cent of all businesses in Victoria and supply 47 per cent of private sector jobs.

As at June 2012, there were 529 690 actively trading small businesses in Victoria, representing 96 per cent of all businesses in Victoria. When compared with June 2011, there has been an increase of 6794 small businesses operating in Victoria, representing an average growth of 1.3 per cent.

The Victorian government also recognises that not all businesses of all sizes face the same competitive pressures. Owners of small businesses simply do not have the resources that larger organisations use to manage the challenges associated with starting up, running and growing their business. Accordingly, the Victorian government aims to help smaller businesses by providing a legislative framework that helps them to achieve their goals.

The Victorian government listens to small business owners, and this bill has been prepared following public consultation and feedback. As I have mentioned, there is overwhelming support from small businesses and industry groups for the work of the Victorian small business commissioner.

This bill introduces a number of amendments to clarify and extend the commissioner's powers and functions.

First, this bill extends the commissioner's functions relating to the investigation and resolution of business complaints. The commissioner currently has a statutory obligation to investigate complaints and seek to resolve disputes specifically concerning unfair market practices. There has been a sense in the business community that the commissioner's jurisdiction to investigate complaints should

be further clarified and extended to commercial dealings in addition to unfair market practices.

This amendment intends to provide the commissioner with the broadest possible remit to investigate small business complaints and resolve disputes. It will clarify that the commissioner does not need to first consider if a particular market practice, or a threshold standard of unfairness, has been engaged in before investigating a complaint and resolving a dispute.

In light of this broader remit, the commissioner also needs a corresponding discretion to refuse to deal with some complaints, particularly if they are trivial, vexatious, or the commissioner reasonably considers that a dispute is unlikely to be resolved.

It is a sad fact that there are some, albeit very few, disputes that might not be so well suited to resolution by mediation or other forms of assistance. This might include, for example, disputes where multiple parties may be involved and the parties may be seeking relief for a range of different wrongs, some of which are directly connected with a small business or unfair practice complaint, some of which are not connected at all.

Also from time to time, there may be complaints that are best resolved by the Ombudsman or another public body, due to the nature or content of the complaint.

The discretion to refuse some complaints is not intended to be exercised broadly and the commissioner should investigate a complaint and seek to resolve a dispute where it is in the public interest, unless there is a good reason why it should not be dealt with.

Second, the commissioner needs greater flexibility to respond effectively to changing circumstances. This is why the functions of the commissioner are also being extended to include alternative dispute resolution services, if mediation might not be the most effective form of resolution.

Mediation is only one of a number of alternative dispute resolution methods that can be used to resolve business disputes. Others include preliminary assistance, independent neutral evaluation, assisted negotiation, arbitration, and facilitated meetings. This government believes that a broader range of more flexible methods should be at the commissioner's disposal.

Third, flexibility is good for small businesses, but governments can do more to clarify their own obligations to help small businesses get back on track. Currently, the act is unclear about the commissioner's role with regard to the resolution of disputes between businesses and government agencies. As such, the reforms I am introducing today expressly provide that the commissioner has the jurisdiction to assist small businesses in resolving their disputes with both state and local government agencies.

This reform reflects the Victorian government's commitment to ensure that there is not one set of rules for business and another set of rules for government.

I note, in passing, that the Productivity Commission's recent report entitled *Regulator Engagement with Small Business* makes a number of useful findings and observations about the need to remove red tape from small businesses. This bill complements and supports the Productivity Commission's key point, being that governments should ensure low cost mediation services for the resolution of small business disputes, particularly with local government.

This bill encourages greater participation in dispute resolution by government agencies and businesses in two ways:

Firstly, the bill provides for the commissioner to issue certificates verifying that alternative dispute resolution has taken place. This means that where a larger business or government agency is the subject of a complaint from a small business, provided the complaint is legitimate, there will be some form of public record as to whether each of the parties participated to resolve the matter.

Secondly, the bill aims to foster greater cooperation by providing for the commissioner to name businesses and government agencies that have failed to make reasonable endeavours to participate in alternative dispute resolution each year in the annual report on the basis of the issued certificate.

There will be no binding requirement for either of the parties to participate. This measure is simply intended to show if larger businesses or government agencies are failing to make reasonable endeavours to resolve disputes with small businesses by placing this on the public record.

Before the commissioner publishes a certificate, the parties to a dispute will have the opportunity to make written submissions to the commissioner by a stipulated deadline explaining their reasons.

Overall, these reforms are considered to strike a reasonable balance to achieve the aims of successful alternative dispute resolution and provide the commissioner with powers to place information on the public record. This will be done through cooperative and non-coercive means, which experience shows are the most reliable methods for resolving disputes.

Finally, this bill also makes a number of minor amendments to the act to facilitate enhanced delivery of the commissioner's services to small businesses.

The bill provides the commissioner with the ability to seek an advisory opinion from the Victorian Civil and Administrative Tribunal. This is intended to provide that, if complex matters of law are raised by a dispute under any of the acts under which the commissioner operates, an advisory opinion may be sought.

An advisory opinion is an opinion given by a presiding member as to how a legal dispute would be likely to be resolved by the tribunal. Such opinions may have broader relevance to the small business sector. So this development will simply provide a means for promoting and communicating legal issues that may have broader relevance, should they arise from time to time.

The bill also provides that, in addition to investigating compliance with industry codes of conduct, the commissioner may assist in the development and provision of dispute resolution outcomes under such codes.

Finally, the bill provides the small business commissioner, and mediators working for the commissioner, with statutory immunity from liability provided they perform their legislative functions reasonably and in good faith. The

immunity is not intended to apply to any standard of conduct that would not be in good faith, such as fraud, for example.

I would like to commend the current and previous small business commissioners for the contribution they have made over the past 10 years to support a fair and competitive business environment in Victoria. With the reforms I have just outlined, the Victorian government is ensuring that Victoria will continue to lead in this area for the coming decade and that our state will remain the best place in Australia to be a small business owner.

I commend the bill to the house.

Debate adjourned on motion of Mr MELHEM (Western Metropolitan).

Debate adjourned until Thursday, 27 February.

DRUGS, POISONS AND CONTROLLED SUBSTANCES (POPPY CULTIVATION AND PROCESSING) AMENDMENT BILL 2013

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Drugs, Poisons and Controlled Substances (Poppy Cultivation and Processing) Amendment Bill 2013 (the bill).

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

Overview of bill

The purpose of the bill is to amend the Drugs, Poisons and Controlled Substances Act 1981 (the act) to provide for a licensing scheme for poppy cultivation and processing and to make other minor and consequential amendments.

Human rights issues

Right to privacy

Section 13(a) of the charter act provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with. Several clauses of the bill provide the Secretary to the Department of Environment and Primary Industries (the secretary) and the Chief Commissioner of Police (the chief commissioner) with broad powers to access the private information of individuals in order to determine licence applications, renewal applications and regulate licences. Additionally, the bill provides inspectors with powers of entry, search and seizure that may interfere with the privacy of individuals.

Obtaining, using and sharing the personal information of applicants, licence-holders and their associates

Clause 4 of the bill inserts a new 'Part IVB — Licences to cultivate alkaloid poppies and process poppy straw' into the act, which sets out the application processes for poppy cultivation licences and poppy processing licences, as well as for the renewal of such licences.

New section 69O concerns the application process for a poppy cultivation licence. An application for a poppy cultivation licence must be accompanied by prescribed particulars and evidence that satisfies the secretary that the applicant is a fit and proper person to be given a licence. Similarly, applications for a poppy processing licence under new section 69P must be accompanied by evidence to the satisfaction of the secretary that the applicant is a fit and proper person to be given a licence. Applications for the renewal of a poppy cultivation licence under new section 69OG, and renewal of a poppy processing licence under new section 69PG, must also be accompanied by prescribed particulars and any information relevant to whether or not the applicant is a fit and proper person. A person granted a poppy cultivation licence or a poppy processing licence is required, under the terms of the licence, to provide the secretary with specified information concerning their licensed activities, including on any matter that the secretary reasonably requires in relation to the licence or licensed activity (sections 69OC(6)(e) and 69PC(7)(d)).

New section 69NB sets out the matters to be considered by the secretary in determining whether an applicant is a fit and proper person to hold a licence. Under subsection 69NB(1), the secretary must not issue a licence unless the secretary is satisfied that the applicant, or any associate of the applicant, has not been found guilty in respect of a serious offence during the 10 years preceding the date of the application, and the applicant and each associate of the applicant is a suitable person to be concerned in or associated with the cultivation of alkaloid poppies or the processing of poppy straw as the case requires. Similarly, under subsection 69NB(2), the secretary must not renew a licence unless satisfied that the licence-holder, or any associate of the licence-holder, has not been found guilty in respect of a serious offence during the last three years preceding the renewal application, and the licence-holder and each associate of the licence-holder is a suitable person to be concerned in or associated with the cultivation of alkaloid poppies or the processing of poppy straw as the case requires. Without limiting subsection 69NB(1) or (2), subsection 69NB(3) provides that the secretary may consider whether the applicant or

licence-holder, as well as each associate of the applicant or the licence-holder, is of good repute, having regard to character, honesty and integrity. The secretary may also consider whether the applicant or licence-holder, or any of their associates, has, within the 10 years preceding the date of the application, been found guilty by a court of any offence.

Upon receiving an application for a poppy cultivation licence or a poppy processing licence, or the renewal of a licence, the secretary must, under sections 69OA, 69OH, 69PA and 69PH, carry out all investigations the secretary considers necessary to determine the application, and may require information to be provided in order to assess licence and/or renewal applications where reasonable. Additionally, the secretary must provide copies of applications made under these sections to the chief commissioner. The chief commissioner must inquire into and report to the secretary on any matters concerning the application that he or she believes are appropriate or reasonably necessary, as well as on any matters concerning the application that the secretary requests. For applications for a poppy cultivation licence or a poppy processing licence, the secretary may also require the applicant or any associate of the applicant to submit to a police record check (new sections 69OA and 69PA).

With respect to the applicant for a poppy cultivation licence, poppy processing licence, or a renewal of a licence, the information-gathering powers in clause 4 of the bill operate as a direct consequence of their application. Applicants will be aware that the secretary and the chief commissioner will obtain, review and share their personal information for the purpose of assessing the application. As such, applicants will not have a reasonable expectation of privacy in relation to the information provided to the secretary, or that which the secretary or the chief commissioner may obtain in order to assess the application. Given that there is no expectation of privacy in this context, and the private information is obtained in accordance with the law, there will be no arbitrary interference with privacy where the relevant information is obtained, reviewed and shared within the confines of the relevant provisions.

In assessing whether an applicant for a licence or licence renewal is a fit and proper person, the secretary must consider personal information of the applicant's associates, including their criminal record and character. 'Associate' is defined in new section 69NA as a person who holds a relevant financial interest or entitlement to exercise power and is able to significantly influence the management or operation of the applicant's business (to which the licence relates), a person who holds a relevant position in the applicant's business, or a person who is a relative of the applicant. 'Relative' is defined to include an adult who is a spouse, parent, step parent, child, step child, adopted child, sibling or step sibling of an applicant or licence-holder. The definition of relative also includes an adult in a registered caring relationship or registered domestic relationship with the applicant or licence-holder (within the meaning of the Relationships Act 2008), and an adult domestic partner who lives with the applicant or licence-holder as a couple on a genuine domestic basis.

As with the applicants for a licence or licence renewal, persons who involve themselves in a poppy growing or processing business by holding a relevant financial interest or power will likely be aware of the strict regulations of the industry. As such, these categories of associates are likely to have a relatively limited expectation of privacy regarding the personal information lawfully obtained and reviewed by the secretary in processing an application for a licence or licence renewal. However, a relative of an applicant may have an expectation of privacy in relation to their personal information, and clause 4 will consequently interfere with the privacy of such persons.

To the extent their associates can be said to have an expectation of privacy in relation to their personal information, I consider any interference with privacy to be neither unlawful nor arbitrary. The circumstances in which such personal information will be considered by the secretary are clearly set out in the bill. The purposes of the licensing scheme established by the bill are to prevent the cultivation and processing of alkaloid poppies for criminal and improper purposes, and to regulate poppy cultivation and processing for therapeutic and research purposes. The secretary and chief commissioner's power to consider the personal information of an applicant's associates is directly linked to these purposes, and is necessary to allow the secretary to make informed decisions about an applicant's eligibility and suitability for a licence or licence renewal, and to identify and reduce the risk that alkaloid poppies may be accessed for use in criminal activity. Additionally, in exercising these powers, the secretary and chief commissioner will be subject to the obligation under s 38(1) of the charter act, and therefore cannot act in a manner that would unjustifiably limit human rights.

Alkaloid poppy register

New section 69T provides that the secretary must establish and maintain an alkaloid poppy register (the register), which is to include specified details of contracts between licensed growers and licensed processors. Not all information disclosed in the register will be of a private nature. Nevertheless, to the extent that the information listed on the register engages the right to privacy, I believe that any interference is lawful and not arbitrary.

The particulars of a contract to be listed on the register are clearly set out in new section 69T(2). The listing of these particulars is necessary to monitor compliance with the bill, and to allow the secretary to fulfil his or her obligation to notify all poppy growers or cultivators who have a contract with a person whose licence to cultivate or process poppies is cancelled within seven days of the suspension or cancellation taking effect. Furthermore, access to the register is restricted to persons authorised by the secretary to access the register (section 69TB), and it is an offence for persons with access to the register to disclose personal information from it (section 69TC).

Reporting obligations of licensed growers and licensed processors

New sections 69S and 69SA establish offences for the failure of a licensed grower and licensed processor (respectively) to report to the secretary any amendment to, or cancellation of, a contract registered on the register or a relevant commonwealth licence. Section 69SB makes it an offence for a licensed grower or licensed processor to fail to report specified information to the secretary, including information as to any change to the grower or processor's details, and any associate other than those identified in the application for a poppy cultivation licence or poppy processing licence.

I consider that any interference with the right to privacy occasioned by sections 69ZZA, 69ZZB and 69ZZC is neither unlawful nor arbitrary. The obligations of licenced growers and processors to provide information to the secretary are necessary to monitor compliance with the bill. This duty to assist is consistent with the reasonable obligations of these individuals as persons who operate a business within a regulated scheme. For the same reasons, to the extent that these provisions engage the right to freedom of expression under section 15 of the charter, they fall within the exceptions to the right in section 15(3) as reasonably necessary for the protection of public order.

Search powers of inspectors

Division 5 of new part IVB sets out the powers of inspectors authorised by the secretary to monitor compliance and investigate potential contraventions of the bill. New section 69RB provides that an inspector may, for the purposes of determining compliance with the bill, enter and inspect any place occupied by a licensed grower or processor, inspect or examine any alkaloid poppy or poppy straw in that place, intercept, inspect or examine a vehicle or machine which the inspector reasonably believes is being used for the harvest and transport of poppy straw, or require the production of a document the inspector reasonably requires to determine compliance with the relevant licence and the bill.

In the course of an inspection, an inspector may require an employee of a licensed grower or licensed processor on the premises to produce their employee identification certificate issued by the relevant licensed grower or processor. An inspector may use equipment on the premises to access information stored on a device on the premises, if the inspector believes the device contains information relevant to determine the licensed grower or processor's compliance with the bill. An inspector may also copy information on a storage device on the premises that the inspector believes is relevant to the licensed grower or processor's compliance with the bill (new section 69RE).

In my view, while the exercise of these powers by an inspector may interfere with the privacy of an individual in some cases, any such interference will not be arbitrary. As noted above, the purpose of the inspection powers is to ensure compliance with the bill and the relevant licence conditions, which are designed to ensure the cultivation and processing of alkaloid poppies and poppy straw occurs only for therapeutic or research purposes. The search powers of inspectors are also strictly defined and contain safeguards. For example, pursuant to new section 69RB, an inspector cannot enter and inspect premises used as a residence, and must produce his or her identification certificate on request.

Right to freedom of association

Section 16(2) of the charter act provides that every person has the right to freedom of association with others.

Under section 69NB, the secretary must not issue a licence if an associate of the applicant has been found guilty in respect of a serious offence during the 10 years preceding the making of the application, and must not renew a licence if an applicant's associate has been found guilty in respect of a serious offence during the three years preceding the making of the application. When deciding whether to grant an application for a poppy cultivation licence, poppy processing licence or the renewal of a licence under new part IVB, the secretary must also consider the character of the applicant's associates, and whether the associate has a history of non-compliance with the bill or has been found guilty by a court of any other offences during the relevant period. Further, under new section 69QA, the secretary may suspend a licence if the secretary is satisfied that any associate of the licensed processor or grower has been found guilty of a serious offence by a court, or is no longer a fit and proper person to be concerned with or associated with the cultivation or processing of alkaloid poppies or poppy straw.

As these provisions permit, and in certain instances require, the secretary to determine a person's application for a licence or licence renewal on the basis of their associations, they may discourage the applicant for a poppy cultivation licence, poppy processing licence or the renewal of a licence from associating with certain persons who fall within the definition of 'associate' in section 69NA. In other words, persons may consider that they are prevented from associating with certain persons, if they intend to apply for or renew a relevant licence. To the extent that this may limit applicants' freedom of association, I consider any such limitation to be reasonable and demonstrably justified under section 7(2) of the charter act.

In deciding whether to issue or renew a licence, the secretary must ensure that the cultivation of alkaloid poppies and processing of poppy straw only occurs for therapeutic or research purposes, and in accordance with the provisions of the bill. In this context, the provisions concerning the associates of an applicant or licence-holder are necessary to identify any risk of alkaloid poppies and poppy straw being accessed for criminal purposes, including in circumstances where the applicant or licence-holder is not a party to any potential criminal activity. As persons who seek to establish or continue a business within a regulated scheme, applicants and licence-holders will be aware that the consideration of the criminal records and characters of their associates constitutes a condition of approval. Furthermore, a person may also apply to the Victorian Civil and Administrative Tribunal (VCAT) for review of a decision of the secretary to refuse to issue or renew a licence on the basis of the person's associates.

Right to property

Section 20 of the charter act provides that a person must not be deprived of their property other than in accordance with law. This right requires that powers which authorise the deprivation of property are conferred by legislation or common law, that these powers are confined and structured rather than unclear, are formulated precisely, and are accessible to the public.

Seizure and detention powers of inspectors

The bill provides that authorised inspectors may, in certain circumstances, detain or seize documents and other items located on premises they search. Under new section 69RB, an inspector may take or remove for examination a document the inspector reasonably requires to determine whether a licence is being complied with, for as long as is reasonably necessary to make copies or take extracts. An inspector may also take or remove for examination samples of or from, or specimens of, soil, any alkaloid poppy or poppy straw, or any other plant or crop to determine whether the cultivation, processing or

possession of alkaloid poppy or poppy straw has occurred in compliance with the relevant licence. Pursuant to new section 69RH, an inspector may detain or seize any alkaloid poppies, poppy straw or material derived from alkaloid poppies or poppy straw if the inspector believes on reasonable grounds that a licensed grower or processor has contravened the terms of their licence or the provisions of the bill, or has had their licence suspended or cancelled.

The powers of an inspector to seize documents or items and take samples or specimens under section 69RB are strictly confined. For instance, an inspector cannot search, and therefore cannot seize or take, any document, item, sample or specimen from a part of the premises that is used for residential purposes. Furthermore, an inspector who seizes a document or item, or takes a sample or specimen of or from a thing, must provide a receipt to the licensed grower or processor from whom it was taken, identifying the document, thing or sample taken, the name of the inspector who took it, and the reason why it was taken.

The powers of an inspector under section 69RH are similarly circumscribed and only permit seizure or detention of seized material necessary to investigate contraventions of the relevant provisions. Upon the detention or seizure of any material under section 69RH, an inspector must make a record of the detention or seizure, and provide a receipt to the licensed grower or processor identifying the material seized or detained, the name of the inspector who seized or detained the material, and the reason why it was seized or detained. Moreover, the bill limits the period for which material may be seized or detained, requires that any extension of this period may only be made by way of an order of the Magistrates Court, and otherwise requires the secretary to take reasonable steps to return the seized material to the licensed grower or processor if the reason for its seizure or detention no longer exists (new sections 69RK and 69RL).

Given the restrictions and safeguards on the power to seize property, I consider that any deprivation of property occasioned by these provisions is in accordance with law.

Harvest and destruction orders

Under section 69RM, the secretary may apply to the Magistrates Court for an order permitting the harvesting or destruction of material detained or seized under section 69RH. The secretary may apply for a harvest and destruction order if satisfied on reasonable grounds that a licensed grower or processor, whose licence the secretary has cancelled, has contravened the cultivation and processing provisions of the bill.

The application by the secretary for a harvest and destruction order is a necessary consequence of the cancellation of a person's licence to cultivate alkaloid poppies or process poppy straw, and the person may apply to VCAT for review of the secretary's decision to cancel their licence. Moreover, a harvest and destruction order must be issued by a magistrate, following the consideration of the rights and interests of the parties affected. As any deprivation of property which occurs as a result of section 69RM will occur by way of a court order, it will be in accordance with law. Accordingly, I consider section 69RM to be compatible with section 20 of the charter act.

Right to a fair hearing

Section 24 of the charter act provides that a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The concept of a 'fair' hearing is a mutable one which requires a balancing of competing interests and depends on the circumstances of each particular case.

Under new section 69UA, a person who has been refused a poppy cultivation licence, poppy processing licence, or a renewal of their licence, or whose licence has been suspended, cancelled or amended, may apply to VCAT for a review of the secretary's decision. If this decision was based on protected information (defined in new section 69N to include, for example, information that may identify an investigating police member or information that may reveal police investigative techniques), the special procedure outlined in new sections 69UC to 69UF applies. In accordance with this procedure, VCAT must appoint a special counsel to represent the interests of the person seeking review. It must also determine whether or not the information is protected information, and may decide to hold part or all of this hearing in private. If VCAT determines that the information is not protected information, the person seeking review must be admitted to the remainder of the proceeding. VCAT may publish reasons for its decision to the extent that those reasons do not relate to information it has determined to be protected information.

Although these provisions of the bill prevent a party to a hearing from accessing certain information, the bill nevertheless ensures that the person seeking review is afforded natural justice. The interests of the person seeking review are represented by an appropriately qualified special counsel appointed by VCAT. The special counsel may be provided with a confidential affidavit relating to the proceeding, may attend the hearing, and may make submissions to VCAT on matters including the grounds for the secretary's decision and the character of the person seeking review. A person seeking review may provide information or instructions to the special counsel before the special counsel attends the hearing or obtains any confidential affidavit. Special counsel may also seek further instructions following VCAT's determination that evidence is protected information by submitting written questions for the approval of VCAT. Moreover, the determination of whether evidence supporting the secretary's decision is protected information, and whether the secretary's decision should stand, is to be made by VCAT following examination of all relevant evidence and consideration of all relevant issues, including the rights and interests of the person seeking review. Finally, the purpose of restricting the disclosure of protected information is to protect police investigative techniques, avoid compromising an ongoing police investigation, and to ensure the safety of investigating officers and informants.

For these reasons, I consider that the provisions of the bill relating to the review by VCAT of a decision based on protected information does not limit the right to a fair hearing under section 24(1) of the charter act.

Right to be presumed innocent

Pursuant to section 69SL(1), it is an offence for a person to, without reasonable excuse, hinder or obstruct an inspector in

the exercise of a power under the relevant provisions. Similarly, section 69SL(2) provides that it is an offence for a person to, without reasonable excuse, fail to comply with a direction, requirement or order of an inspector made in accordance with their inspection powers.

As section 69SL creates offences and provides excuses upon which an accused may rely (thereby requiring the accused to present or point to evidence that suggests the reasonable possibility of the existence of facts that will establish the excuse), it imposes a reverse evidentiary burden of proof. However, in my view, these do not limit the right to be presumed innocent. In accordance with section 72 of the Criminal Procedure Act 2009, an accused must simply point to evidence; the prosecution will still carry the burden of proving the elements of the relevant offence and to rebut the evidence pointed to by the accused. Further, whether an accused has a reasonable excuse will be entirely within that person's knowledge. Consequently, even if new section 69ZZM was found to limit the right to be presumed innocent by imposing a reverse evidential onus, it would be reasonable and justified under s 7(2) of the charter act.

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

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill amends the Drugs, Poisons and Controlled Substances Act 1981, by inserting a new part into the act.

This bill allows for the commercial-scale cultivation of alkaloid poppies in Victoria for therapeutic and research purposes. The key elements of this bill are that it:

> establishes a fully licensed framework for poppy growers and processors; and
>
> creates an effective compliance and enforcement framework to oversee the industry.

This bill represents a significant opportunity for regional Victorian growers and meets the alkaloid industry's need to expand production and diversify its production base. Alkaloid poppies are a high-value crop, can be integrated into existing Victorian farming systems and have been successfully tested in the state over the last two years.

Australia, as signatory to the international Single Convention on Narcotic Drugs of 1961, and a major global producer of licit raw narcotic material, supplies approximately half of the world's demand. Under the convention the commonwealth is required to report to the International Narcotics Control Board on national production statistics. Licensing and control of the cultivation and processing of alkaloid poppies is a state government responsibility and has since 1971 been confined to Tasmania.

The alkaloid poppy industry in Australia is thriving and is recognised internationally as a well regulated supplier of high-quality alkaloids. These matters have been taken into account in the development of the bill which ensures that any Victorian poppy industry:

> will meet its reporting obligations to the commonwealth and therefore Australia's international obligations under the convention;
>
> maintains and enhances Australia's reputation as an efficient and well regulated producer of licit alkaloid products; and
>
> is mindful of community safety.

The Minister for Agriculture and Food Security will have responsibility for the new provisions, and the framework will be administered and enforced by Department of Environment and Primary Industries (DEPI).

In this bill the term 'processing' excludes any extraction of opiates other than for the purposes of chemical assay. Victoria has an existing regulatory framework under the Drugs, Poisons and Controlled Substances Act 1981, for the manufacture and extraction of opiates and this framework will continue to be administered and enforced by the Department of Health.

Poppy straw is the upper parts of the alkaloid poppy, including the stem and capsule, harvested after mowing. Processing is the preparation or treatment of poppy straw. It is, for example, common industry practice to deseed harvested capsules, and then to crush and compress the remaining poppy straw.

This manner of cultivating poppies for legitimate alkaloid production from poppy straw is carried out in several other countries across the globe. This production method has proven itself to be unattractive to large-scale illegal diversion. The simple logistics of the volume of poppy straw required, the scale of operations to convert it into narcotics and the complexity of refinement mitigate interest by organised crime.

The bill provides for various interventions to prevent the involvement of unsuitable persons in any future Victorian poppy industry. The bill:

> provides that applicants for grower and processing licences must be deemed fit and proper by the secretary, DEPI, before a licence can be issued;
>
> applicants and their associates who have for example been found guilty, within 10 years preceding the application, of a serious offence will not be issued with a licence;
>
> licence applicants will be required to demonstrate that their property or premises are suitable for the activities authorised under a licence;
>
> key tests for suitability of premises will be largely governed by security and community safety concerns.

The bill provides that the secretary, DEPI, must consult with the Chief Commissioner of Police before issuing licences to cultivate alkaloid poppies or process poppy straw. The Chief Commissioner of Police must inquire into and report to the secretary on any matters concerning the application that the secretary requires.

The bill makes provision for the Chief Commissioner of Police to oppose issuing the licence, including on the basis that the applicant is the subject of criminal intelligence such that he or she is not a fit and proper person to hold a licence.

Drug manufacturing companies who hold a relevant commonwealth licence to either manufacture or export narcotic substances will likely be applicants for a licence to process poppy straw. A processors licence is to be issued for up to one year and will specify the maximum quantity of alkaloid poppies that may be processed by the licensee, which will be informed by a processor's expected sales for the forthcoming year and will be agreed to in consultation with the commonwealth government.

The bill provides that no cultivation of alkaloid poppies for commercial purposes may take place until there is a current contract, registered with DEPI, between a licensed grower and a licensed processor or any person in another jurisdiction authorised to process poppy straw. This ensures that the poppies are not grown in excess of processors' requirements and limits.

The bill provides for the establishment and maintenance of a register. The register will include details of all individuals involved in the industry, growing and processing sites, and details of contracts. The register will be confidential with access limited to authorised persons, inspectors and members of the Victorian police force.

Licences will be subject to various terms, conditions, limitations and restrictions including relating to the variety of alkaloid poppy to be cultivated, security and surveillance measures, the keeping of records, provision of information to the secretary, notification to the secretary, DEPI, of changes in ownership or management of the business of the applicant, the disposal of harvested material and crop residues, and the requirements for inspections, supervision and surveillance by inspectors.

The secretary, DEPI, may authorise appropriately qualified people to be inspectors, including members of the Victorian police force, for the purposes of the new part. Inspectors have broad powers to ensure compliance with the new provisions and licences issued under the new part, including the power to detain poppy material.

The secretary, DEPI, is provided with the power to direct the harvest and disposal of alkaloid poppies or poppy straw if the secretary is satisfied on reasonable grounds that the part or a licence is being contravened.

Discretionary powers are proposed for the secretary of DEPI, authorised DEPI inspectors and Victoria Police to effectively mitigate risks to the community, including risks of criminal activity. Close monitoring and evaluation of the scheme, once implemented, will be important.

Provision is made for appeal to the Victorian Civil and Administrative Tribunal (VCAT) for a review of a decision of the secretary to refuse to issue, renew, suspend, cancel or amend a licence; refuse to register a contract on the alkaloid poppy register; issue a direction to harvest and dispose of poppy material.

Provision is also made for appeal to VCAT for a review of a refusal of a licence on the grounds of protected information. This part of the bill seeks to prevent the release of criminal intelligence on which a decision was based, while at the same time allowing an unsuccessful applicant the right to bring review proceedings in VCAT.

The bill provides for the Governor in Council to make regulations with respect to the growing of poppies and processing of poppy straw. This includes, but is not limited to, regulations with respect to the setting of fees and levies, suitability of a licensee's premises, geographic restrictions, security arrangements and record keeping.

The bill will make several minor housekeeping amendments that are administrative in nature.

I commend the bill to the house.

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

Debate adjourned until Thursday, 27 February.

TRAVEL AGENTS REPEAL 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 (the 'charter act'), I make this statement of compatibility with respect to the Travel Agents Repeal Bill 2013.

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

Overview of bill

The bill will repeal the Travel Agents Act 1986, giving effect to a commitment on 7 December 2012 by a majority of Australian governments, including Victoria, to repeal existing state and territory travel agents' legislation by 1 July 2014 and wind up the Travel Compensation Fund.

The bill will also give effect to the Victorian government's commitment to reduce the costs of licensing and registration

for businesses, as outlined in the Minister for Consumer Affairs' statement of expectations on 18 April 2013.

Human rights issues

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

The bill does not raise any human rights issues.

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

As the bill does not raise any human rights issues, it does not limit any human rights and, therefore, it is not necessary to consider section 7(2) of the charter act.

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:

The bill will repeal the Travel Agents Act 1986 and remove references to that act in other Victorian legislation. It implements a key recommendation in a national travel industry transition plan approved by a majority of Australian governments on 7 December 2012.

The bill illustrates the government's ongoing commitment to remove unnecessary red tape for businesses and promote efficient and adaptable regulation.

The transition plan recommended sweeping changes to existing travel agents regulation, which has been in place since 1986, following the introduction of a cooperative scheme for the uniform regulation of travel agents, known as the national scheme.

The terms of the national scheme required jurisdictions to enact uniform legislation requiring travel agents to be licensed and for those agents to become and remain members of the Travel Compensation Fund, or TCF.

The TCF monitors the financial position of travel agents and administers compensation to consumers who have suffered financial loss because their travel agent has failed to pay a travel or travel-related service provider on their behalf.

Now, after over two decades in operation, the national scheme has steadily become ill suited both to modern industry practices and to how consumers purchase travel today.

The rise of electronic commerce in particular has fuelled the growth of direct distribution channels. Making travel arrangements is now predominantly an online business, with consumers cutting travel agents out of many transactions.

It is now estimated that two-thirds of travel and travel-related expenditure — or $18 billion out of $27 billion — is now made without relying on a travel agent. Growth forecasts predict that this trend is likely to continue.

As a result, a significant number of consumer transactions are currently falling outside the scope of the existing regulatory scheme and the pool of consumers who are eligible to access compensation by the TCF is shrinking.

However, the compliance burden associated with satisfying the TCF's prudential oversight requirements remains high relative to its declining benefit to consumers. In March 2011, PricewaterhouseCoopers estimated the cost to industry of complying with the TCF's requirements alone at around $19.3 million; in 2012, KPMG put this cost at $18.4 million.

The industry itself is also increasingly globalised, with many overseas players entering the local market, bypassing the national scheme altogether.

Recent collapses of well-established, local agents controlled by offshore corporations indicated how complex ownership arrangements are undermining the effectiveness of the TCF's prudential oversight. These are circumstances which the national scheme cannot prevent and future similar incidents are not unlikely.

In addition to its shrinking coverage, the national scheme also raises concerns about regulatory duplication.

Travel agents — particularly those that are incorporated or publicly listed — are already subject to financial controls under laws of general application and other industry-led mechanisms such as accreditation obtained through the International Air Transport Association, IATA.

In practice, these controls cover the majority of the travel agent market, which is dominated by a small group of large companies.

It was in light of these challenges that Victoria and New South Wales — in collaboration with all other jurisdictions — developed a Travel Industry Transition Plan, taking into account two independent cost-benefit analyses, and two rounds of public consultation.

The transition plan envisages a regulatory scheme for travel agents informed by contemporary market conditions.

These reforms consist of two key changes, to be implemented by the end of 2015.

The first change removes the TCF's prudential supervision function and puts measures in place that would trigger the closure of the fund. This was achieved through changes to the TCF's governing trust deed on 1 July 2013.

The second change involves repealing travel agents' licensing legislation by 1 July 2014.

This bill will achieve this requirement and will also preserve, for a limited time, certain powers relating to the TCF.

These powers provide for additional matters that are not included in the TCF's governing deed, such as the right of the TCF trustees to sue and be sued in the name of the TCF.

Other provisions that will be preserved are the minister's original power to declare the TCF as an approved compensation scheme, and the right to appeal any decision of the TCF about a claim for compensation.

The limited continuation of these provisions is required in order to align with the TCF's termination date. This is currently either 31 December 2015, or as soon after 30 June 2015 as the TCF's obligations are met and the fund is officially closed.

Removing the national scheme will not leave travel agents unregulated and consumers without redress.

The bill will enable fuller reliance on the Australian Consumer Law and existing company laws, as well as industry-led regulatory mechanisms and remedies such as credit card chargebacks.

A key advantage of the ACL is that it applies existing levels of consumer protection to transactions with all travel agents as well as travel providers.

Complementing these measures will be a new industry-led accreditation scheme, to be administered by the Australian Federation of Travel Agents, or AFTA.

The scheme is required to be implemented from 1 July 2014, coinciding with the proposed commencement date of the bill.

With the help of a one-off grant of $2.8 million funded by the TCF, AFTA has significantly progressed its voluntary scheme. It has also negotiated with UK insurer, International Passenger Protection, to introduce new insurance products into the Australian market covering defaults by both travel agents and suppliers.

Such developments have not been possible in the presence of the national scheme, with travel agents already subject to TCF and licensing costs.

TCF funds will also be used to support the creation of a consumer voice.

The transition plan recommended that a one-off grant be made for the purposes of consumer research and advocacy to assist in empowering consumers who transact within a globalised travel industry. A tender process to award that grant is under way.

The bill is the culmination of a lengthy process of collaborative reform on foot since early 2009.

All jurisdictions are cooperating to achieve the passage of similar legislation within the required time frame.

I note that New South Wales is at the same stage of implementation as Victoria and thank my counterpart, the Honourable Anthony Roberts, MP, for his ongoing support of this process.

The bill will enable travel agents to transition into an environment that is appropriate for contemporary market conditions and existing regulatory coverage. It will also enable an experienced, well-established industry to play a central role in overseeing the activities of its representatives in the absence of more prescriptive regulation.

Importantly, the bill will help place the Australian Consumer Law centrally as the most appropriate form of protection for consumers, and regulation for travel agents both at present and in the foreseeable future.

I commend the bill to the house.

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

Debate adjourned until Thursday, 27 February.

ADJOURNMENT

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

That the house do now adjourn.

Department of Human Services case management

Ms MIKAKOS (Northern Metropolitan) — My matter is for the Minister for Community Services. The matter I raise relates to the interactions of particular parents, whom I will not name for the purposes of *Hansard*, with the Department of Human Services (DHS) in relation to their eight-month-old baby son, Brayden. For reasons of privacy I will not be providing the Christian names or surnames of this family, but I will be providing a letter to the minister tonight with their full particulars.

I note that the member for Yan Yean in the Assembly wrote to the minister about this particular case on 18 December 2013. I am advised that for a short period in October last year the Department of Human Services arranged short-term out-of-home care for Brayden through the agency. This was done with the parents' consent. At the end of this short-term placement Brayden was reunited with his parents.

A few weeks later Brayden's parents were offered a weekend of respite care by the same foster carer who had cared for Brayden. I understand that Brayden was not returned to his parents on the Monday morning. I am advised that the foster carer claimed to have been instructed by DHS not to return the baby. The family advise that the foster carer informed the parents that the mother was unable to care for her son. It was only when legal action was threatened that Brayden was returned, and on that same day. Understandably this whole event has caused considerable stress for Brayden's parents.

The Parliamentary Secretary for Families and Community Services, the Honourable Andrea Coote, wrote to the member for Yan Yean in response to the member's letter. That letter states that the parents were

offered a meeting on 14 January, but they could not attend. It goes on to say that the department would endeavour to make another time to meet as a matter of urgency.

I understand as of today that the parents did subsequently have an informal meeting with the department, but they are concerned that their request for a more formal, sit-down meeting with all parties involved in making decisions in this case has not been heeded. They want to be assured that steps have been taken by DHS to ensure that circumstances such as these never happen again to them or anyone else. Therefore I ask the minister to ensure that as a matter of urgency the department offers a formal meeting of these parents and all parties involved to discuss their particular concerns.

Ballarat security cameras

Mr RAMSAY (Western Victoria) — I raise a matter for attention of the Minister for Crime Prevention, the Honourable Edward O'Donohue. It is a request that he visit Ballarat to see the benefits to the community since the installation and upgrade of CCTV cameras throughout the city.

Prior to the 2010 state election a series of financial commitments were made to local government areas that if elected the coalition would contribute to the purchase and installation of CCTV cameras to augment public safety. One of these commitments was made to the City of Ballarat, in this case for funding of $200 000 to support the upgrade of the existing CCTV system, including the installation of 11 new cameras and the integration of the system into one monitoring station at the Ballarat police complex.

Some weeks ago the Minister for Corrections visited Ballarat, and I was able to join him in announcing a number of other crime prevention grants which will improve safety in Ballarat. Among them was $1870 for the Ballarat Community Garden to repair a boundary fence to help prevent vandalism of the gardens and to deter future thefts. Ballarat Regional Multicultural Council Inc. will receive $3195 to install an alarm system at the Australian Croatian Society facility, which has suffered burglaries and break-ins. The Ballarat Fish Acclimatisation Society has also suffered break-ins and property damage, and will receive $7898 to install security window grilles to prevent further crime at this facility.

The action I seek in relation to the minister's visit is that he inspect the benefits and hear about the increase in feelings of community safety, the CCTV implementation and other crime prevention projects that have been built and provided around Ballarat. Community safety is crucial to a harmonious society, and I am pleased it has been a priority of the coalition government. I commend the minister for the work he has undertaken in this area and for making funds available to local councils for infrastructure projects to enhance community safety. It is important that the minister attends and is able to meet with those community members who have benefitted from the projects which have been implemented in and around Ballarat.

Grampians tourism

Ms PULFORD (Western Victoria) — I wish to raise a matter for the attention of the Minister for Tourism and Major Events. It relates to the efforts undertaken by the government to support the Halls Gap community following the bushfires last month.

Tourism in the Grampians provides many things, including some 2300 direct jobs and 6300 indirect jobs; $949 million in total tourism; and $240 million in direct and $1676 million in indirect tourism output, which is $1916 million in total tourism output. Since 2008 domestic tourism to the Grampians has increased at an average rate of 8 per cent per annum, which leaves all other parts of the regional tourism economy looking on in perhaps some admiration of the far greater growth occurring in the Grampians. Indeed in the year ending 2012 there were some 800 000 domestic day trips to the Grampians and overnight visitors numbered 727 000.

I have been contacted by local business operators in and around Halls Gap who are concerned by the lack of responsiveness to their situation by the minister. The government has provided $250 000 in the way of support for the Grampians, which is quite a contrast to the $5.5 million the government was able to find for the same area after the floods in 2011.

There are iconic tourist attractions that were damaged or destroyed by floods, reopened, then burnt in the fires. This community urgently needs the government to show some leadership and to provide assistance, in particular in marketing to spread the word that the Grampians is open for business and that operators are ready to welcome visitors with open arms. The reports that came out of Halls Gap and the Grampians more broadly after the fires have perhaps convinced prospective visitors that the area is not safe or that it is somehow not as nice as it once might have been. This is not the case, and I urge the minister to take some immediate action to support specific marketing and

campaigning initiatives to encourage a return of visitors to the Grampians.

Victoria Legal Aid

Ms TIERNEY (Western Victoria) — My adjournment matter this afternoon is for the Attorney-General, and it is in relation to funding cuts that were introduced at the beginning of last year. We are now seeing the impact of those cuts being played out in the court system.

This afternoon I want to focus on family law matters. The implications of the cuts we have seen so far include the accused not knowing the rules of evidence or what information is relevant and should be put before the court. This can result in irrelevant and sometimes prejudicial information being provided to the court, and it can affect the final orders being made in relation to children. The second thing is that, without party representation, parents are able to cross-examine each other in relation to parenting disputes and children. In some cases this leads to victims of severe family violence being questioned by the perpetrator of that violence. I do not think anyone in this chamber would support situations like that.

We have also had incidents of family violence and child abuse undermining the interests of the children. Having a domestic violence victim questioned by the perpetrator of that violence is simply unacceptable as it not only opens the door to intimidation but also severely diminishes the court's ability to extract the real evidence.

Laypersons with no representation also take up more time in the courts because they are unfamiliar with the workings of the court. I believe the slow progress of matters involving self-represented parties puts an extra financial burden on the court and state resources, including the costs of judges, bench clerks, witnesses and police.

The action I seek this afternoon is for the Attorney-General to listen to what the entire criminal justice system is saying on this issue and immediately reinstate the funding that has been cut from the Victoria Legal Aid service. If he is not able to do that immediately, then I certainly ask him to take action in relation to restoring that funding in the forthcoming May 2014 state budget.

Government vehicle procurement

Mr SOMYUREK (South Eastern Metropolitan) — I raise a matter for the minister at the table, the Assistant Treasurer, Mr Gordon Rich-Phillips, concerning the Victorian government's purchase of Australian-manufactured vehicles. In November 2012 Victorian Labor, understanding that the local auto industry needed urgent assistance, announced the policy that mandated that all state government agencies and departments, including outer agencies, purchase locally manufactured vehicles where a fit-for-purpose vehicle was available.

For 14 months the coalition government consistently and obstinately refused to follow our lead, insisting that our policy was unnecessary because it claimed — Mr Gordon Rich-Phillips claimed in this place more than once — that 98 per cent of state government purchases were of Australian-made vehicles. He was pretty clever with his use of language. I have asked him specifically in this place during question time what that figure was when a broader definition was applied — that is, when it was applied to more than just the government fleet. He was very oblique in his answers. Under the cover of Mr Bernie Finn's question posed during question time on 6 February, Mr Gordon Rich-Phillips came into this place and announced another policy and sort of slipped in under the radar the fact that the government would now be adopting the Labor Party's policy. I congratulate him on that.

Dragged kicking and screaming, the government has done a spectacular backflip and adopted Labor's policy by mandating that central government departments and outer agencies purchase locally manufactured vehicles. It has taken the government 14 months and the exit of Ford and Holden for it to follow our lead. I ask the minister why it took so long, when it has been obvious for so long that the auto industry has been under extreme stress.

The PRESIDENT — Order! Mr Somyurek has 36 seconds to rephrase his matter in terms of an action. This is not question time; it is the adjournment. Mr Somyurek has posed a question to the minister; he has not sought an action. He has 36 seconds in which to frame a request for an action by the minister. The minister should not simply be asked to respond to a question. The way Mr Somyurek has put it, this matter ought to have been raised at question time rather than on the adjournment.

Mr SOMYUREK — By his actions and through the introduction of this new policy the Assistant Treasurer, Mr Rich-Phillips, has admitted that when I asked the question, the percentage of state government purchase of locally manufactured vehicles was not 98 per cent. At that stage I quoted a 59 per cent figure. What was the state government's purchase rate of

Australian manufactured vehicles at that point? That is another question.

The PRESIDENT — Order! Absolutely. Time has expired, and I am afraid that was another question rather than an adjournment matter asking for action. I therefore rule the matter out of order and ask the minister not to respond, albeit he may want to.

Honourable members interjecting.

The PRESIDENT — Order! Unfortunately he does, but the matter does not fit within the adjournment debate. I cannot allow a question such as that to stand in the adjournment debate without in future debates facing a dilemma when members pose a similar question as distinct from meeting the requirements of our standing orders in relation to the adjournment debate.

Volunteer West

Mr MELHEM (Western Metropolitan) — My adjournment matter is for the attention of Minister Wooldridge. This matter is of concern to all Victorians as it relates to the continued encouragement and support of volunteer organisations in the state.

Hon. G. K. Rich-Phillips — Which portfolio?

Mr MELHEM — I am coming to that. I do not think there is a particular portfolio. I do not think there is a minister for volunteers.

Mr Elsbury — On a point of order, President, Mr Melhem has just put forward a matter that he wants to raise for the attention of Ms Wooldridge, but he cannot identify the portfolio area under which he is asking for the action. I cannot see how this can be an adjournment matter either.

Mr MELHEM — On the point of order, President, I am about to call on the minister to take action. I have not got to that point yet; I am just giving a bit of background. I will be asking for an action. If Ms Wooldridge is not the appropriate minister, I am happy to be told which minister I should address the action to. The action I was about to ask for was that the minister provide some support and a grant to a particular volunteer organisation in the west of Melbourne. That is the action I am seeking. As I said, I am happy for the government to clarify whether Ms Wooldridge is the appropriate minister. I understand the Labor Party, the Labor opposition — —

The PRESIDENT — Order! This is becoming a conversation instead of a point of order. It is important to indicate at the outset of an adjournment item not just the name of the minister but the responsibility of the minister under which the request is to be lodged. I assume that it is the responsibility of the Minister for Community Services — is that right? It is not a housing organisation, which would relate to the Minister for Housing, Ms Lovell.

Mr MELHEM — I think it would be community services; that would probably be the most appropriate portfolio.

The PRESIDENT — Order! All right. Mr Melhem to continue.

Mr MELHEM — Thank you, President. I will start again. My adjournment matter is for Ms Wooldridge, the Minister for Community Services, and it relates to the provision of assistance to the volunteer resource centre (VRC) based in Altona, Volunteer West. The centre is about to run out of funding provided by the federal government, and the loss of that funding will put a lot of stress on the organisation. I understand the VRC has requested a meeting with Minister Wooldridge in relation to this matter, but it is still waiting for a response. As a matter of fact I understand Mr Finn has made a similar request in the past.

I ask that the minister meet with Volunteer West to ensure it is not without funding once June is upon it, either by lobbying the federal government to renew its current grant for Volunteer West or by providing a grant of the same amount from the state government. That is the action I am seeking, and I hope the minister will give the organisation a good hearing.

Mitcham and Ringwood railway stations

Mr LEANE (Eastern Metropolitan) — My adjournment matter is directed to Terry Mulder, the Minister for Public Transport. In recent days the member for Mitcham has claimed that it was not feasible to install lifts at the new Mitcham station earlier than the estimated date of September. As someone who has worked on all types of construction jobs I was surprised by that, as I always thought it was a lot easier to install such things while work on the site was being done.

The lifts at Nunawading station opened a bit later than the official opening date, but it was only a matter of two days after that date. There is a similar issue at Ringwood station which involves the same member of Parliament. It has been said that the lifts will be installed later than the opening date. This will disadvantage those people with disabilities and elderly people who want to access the station.

The action I seek from the Minister for Public Transport is to release the building programs of the Mitcham and Ringwood stations to show that the builder who had the contract to build either or both of these stations planned to install a lift after the stations were actually opened.

Responses

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — A small number of matters were raised this evening. Ms Mikakos raised a matter for the Minister for Community Services, which I will pass on.

Mr Ramsay raised a matter for the Minister for Crime Prevention.

Ms Pulford raised a matter for the Minister for Tourism and Major Events with respect to the Halls Gap region after the recent fires and the government's commitment to that area. I can tell Ms Pulford that the Minister for Tourism and Major Events is very committed to supporting tourism businesses that are in fire-affected areas, as she has shown in the past.

Ms Tierney raised a matter for the Attorney-General.

Mr Somyurek raised a matter for me, which the President has ruled out, so I do not have the opportunity to respond to it to clarify the record.

Mr Melhem raised a matter for the Minister for Community Services.

Mr Leane raised a matter for the Minister for Public Transport.

I will pass those matters on to the responsible ministers.

The PRESIDENT — Order! On that basis, the house stands adjourned.

House adjourned at 5.01 p.m. until Tuesday, 11 March.