PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 26 June 2014

(Extract from book 9)

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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 17 March 2014)

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 Local Government and Minister for Aboriginal Affairs	The Hon. T. O. Bull, MP
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Minister for Sport and Recreation, and Minister for Veterans' Affairs	The Hon. D. K. Drum, MLC
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Minister for Public Transport and Minister for Roads	The Hon. T. W. Mulder, MP
Minister for Energy and Resources, and Minister for Small Business	The Hon. R. J. Northe, MP
Minister for Liquor and Gaming Regulation, Minister for Corrections and Minister for Crime Prevention	The Hon. E. J. O'Donohue, MLC
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 Higher Education and Skills	The Hon. N. Wakeling, 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	Mrs I. Peulich, MLC

Legislative Council committees

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

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

Legislative Council standing committees

Economy and Infrastructure Legislation Committee — Mr Barber, Mrs Coote, #Ms Crozier, Mr Finn, #Ms Hartland, #Mr Leane, Mr Lenders, Mr Melhem, Mr D. D O'Brien, #Mr Ondarchie, Ms Pulford, Mr Ramsay and #Mr Scheffer.

Economy and Infrastructure References Committee — Mr Barber, Mrs Coote, #Ms Crozier, Mr Finn, #Mr Leane, Mr Lenders, Mr Melhem, Mr D. D O'Brien, #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 Lewis, Mrs Millar, Mr D. R. J. 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 Lewis, Mrs Millar, Mr D. R. J. O'Brien, #Mrs Peulich, #Mr Ramsay and Mr Viney.

 # Participating member

Joint committees

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

Dispute Resolution Committee — (*Council*): Mr D. Davis, Mr Drum, 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 Millar and Mr Ronalds. (*Assembly*): Mr Burgess and Mr McGuire.

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 Delahunty.

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

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

House Committee — (*Council*): The President (*ex officio*) Mr Eideh, Mr Finn, Ms Hartland, Mr D. R. J. O'Brien 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 Kanis, Mr Kotsiras, Mr McIntosh 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 D. R. J. 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 D. R. J. O'Brien. (*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 D. R. J. O'Brien, Mr Ondarchie, Ms Pennicuik, Mr Ramsay, Mr Tarlamis

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

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

Leader of the Opposition:
Mr J. LENDERS

Deputy Leader of the Opposition:
Mr G. JENNINGS

Leader of The Nationals:
The Hon. D. K. DRUM (from 17 March 2013)
The Hon. P. R. HALL (to 17 March 2013)

Deputy Leader of The Nationals:
Mr D. R. J. O'BRIEN (from 17 March 2013)
Mr D. K. DRUM (to 17 March 2013)

Member	Region	Party	Member	Region	Party
Atkinson, Hon. Bruce Norman	Eastern Metropolitan	LP	Lovell, Hon. Wendy Ann	Northern Victoria	LP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Melhem, Mr Cesar [2]	Western Metropolitan	LP
Broad, Ms Candy Celeste [9]	Northern Victoria	ALP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Coote, Mrs Andrea	Southern Metropolitan	LP	Millar, Mrs Amanda Louise [4]	Northern Victoria	LP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	O'Brien, Mr Daniel David [8]	Eastern Victoria	Nats
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 [5]	Eastern Victoria	LP	Pakula, Hon. Martin Philip [1]	Western Metropolitan	ALP
Drum, Mr Damian Kevin	Northern Victoria	Nats	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Petrovich, Mrs Donna-Lee [3]	Northern Victoria	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Elsbury, Mr Andrew Warren	Western Metropolitan	LP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Ramsay, Mr Simon	Western Victoria	LP
Guy, Hon. Matthew Jason	Northern Metropolitan	LP	Rich-Phillips, Hon. Gordon Kenneth	South Eastern Metropolitan	LP
Hall, Hon. Peter Ronald [7]	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
Lenders, Mr John	Southern Metropolitan	ALP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP
Lewis, Ms Margaret [10]	Northern Victoria	ALP			

[1] Resigned 26 March 2013
[2] Appointed 8 May 2013
[3] Resigned 1 July 2013
[4] Appointed 21 August 2013
[5] Resigned 3 February 2014
[6] Appointed 5 February 2014
[7] Resigned 17 March 2014
[8] Appointed 26 March 2014
[9] Resigned 9 May 2014
[10] Appointed 11 June 2014

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THURSDAY, 26 JUNE 2014

Thursday, 26 June 2014

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

RETIREMENT OF PARLIAMENTARY OFFICER

Giuliana Bilic

The PRESIDENT — Order! I take this opportunity this morning to wish well in retirement Giuliana Bilic. Giuliana, who is with us on the sound board this morning, joined Hansard on 7 September 1981. She comes from the old school of Hansard typists who were so good at their jobs that, using mechanical typewriters, they could type as fast as reporters could dictate their shorthand notes and still have the time to let them know when they got something wrong. In the early 1990s computerisation changed everything in the Hansard area, as many of us know, and typists were eventually phased out as reporters did their own keying. But Giuli was too valuable to let go, and in the years since she has worked principally as an audio monitor in the Legislative Council chamber, where she has become almost part of the furniture — no offence, Giuli — and is instantly recognised and appreciated by members and staff alike.

Giuli has a strong personality and is not afraid to air her views, whether it be complaining about the temperature of the Hansard office, refusing to work in the Assembly chamber — and we can all understand that one! — or relating how hard it is to stay awake during some of the speeches in the house. One might gather from her comments that she is often tempted to use the dump button. Some of the longest serving Hansard reporters recall Giuli giving them a hard time when she worked with them as a keyboarder. A common experience when reporters had trouble reading their notes was Giuli making a point about their competence by nodding off with her finger on the 'z' key while she was waiting.

It is a tribute to Giuli and a mark of her resilience that she was able to transition from a job that became redundant to take on a new role and continue to give many years of valuable service to Hansard and the Parliament of Victoria. Giuli, you will certainly be missed. Can I say that I am losing a twin, because Giuli's birthday is the same date as mine.

Honourable members interjecting.

The PRESIDENT — She does look younger! Modesty prevents me from saying which of us is the younger. At any rate, Giuli, thank you for over 30 years of service to this place, particularly in this chamber. It really is appreciated. If you look behind the closed door, you will find — a bouquet of flowers.

Honourable members applauded.

PROCEDURE COMMITTEE

Reference

The PRESIDENT — Order! I inform the house that I have received the following letter from the Speaker of the Legislative Assembly. It reads:

> Inquiry into the establishment of an independent parliamentary commissioner for standards in Victoria
>
> The Legislative Assembly has referred to its Standing Orders Committee an inquiry into the establishment of an independent parliamentary commissioner for standards in Victoria. The terms of reference require the committee to undertake the inquiry in consultation with the Legislative Council Procedure Committee.
>
> The committee met this week to commence its inquiry. The committee has requested the committee staff to prepare background material on the systems operating in other jurisdictions and options that may be relevant to consider for Victoria. This initial research will be presented to the committee at its next meeting.
>
> The committee would like to invite yourself and the members of the Legislative Council Procedure Committee to attend this meeting to review the initial research and discuss the best way to proceed with the inquiry.

There follow details of the meeting, which is to be convened on Wednesday, 6 August 2014, at 11.00 a.m. in the Legislative Council committee room. The letter is signed by the Honourable Christine Fyffe, Speaker, and is dated 25 June. Given that I have received that letter, I refer an inquiry into the establishment of an independent parliamentary commissioner for standards in Victoria to the Procedure Committee.

The Assembly Standing Orders Committee will next meet, as I have indicated, on 6 August 2014 at 11.00 a.m., and I will contact Procedure Committee members over the winter break with further information and to determine whether members are agreeable to meet at that time. I draw the attention of members of this house to the fact that, as 6 August 2014 is a sitting day, in order to attend the meeting the Procedure Committee will require a resolution of the Council granting leave for it to meet while the house is sitting.

AUDITOR-GENERAL

Reports 2012–13

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer), by leave, presented government response.

Laid on table.

PAPERS

Laid on table by Clerk:

Auditor-General's report on Impact of Increased Scrutiny of High Value High Risk Projects, June 2014.

Auditor-General's Office — Annual Plan, 2014–15.

State Owned Enterprises Act 1992 — Constitution of State Trustees Limited.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule No. 58.

Victorian Government Report on Multicultural Affairs — Whole of Government Report, 2012–13.

Workplace Injury Rehabilitation and Compensation Act 2013 — Ministerial order of 29 May 2014 pursuant to section 122(2) approving compliance codes.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 5 August 2014.

Motion agreed to.

MEMBERS STATEMENTS

Retirement of Clerk and Deputy Clerk

Mr ELASMAR (Northern Metropolitan) — My members statement is about two individuals well known to us all in this chamber. I refer to Mr Wayne Tunnecliffe, Clerk of the Legislative Council — my understanding is that today is his last day in the chamber — and the Deputy Clerk, Mr Matthew Tricarico. These two men have been an invaluable and rich source of information and advice to each and every one of us. For this they have my sincere respect and gratitude. It is my earnest wish that Mr Tunnecliffe and Mr Tricarico have a rewarding retirement and many years of enjoyment in the company of their families and friends outside this place. Their many years of service, expertise and professionalism will be their lasting legacy to this Parliament.

I also congratulate Mr Andrew Young. I am sure he will fulfil his new position in a professional way. I also pay my respect to Giuliana Bilic and wish her all the best.

The PRESIDENT — Order! I emphasise that Mr Young's position is not yet confirmed. At this point it is my recommendation to the Governor in Council.

Ramadan

Mr ELSBURY (Western Metropolitan) — As we are not meeting over the next five weeks, I take this opportunity to wish members of the Islamic community a blessed and holy Ramadan. In our community it is important to respect different cultures. I look forward to joining with many of those of the Islamic faith at the many Iftar dinners which will be taking place during Ramadan.

East Werribee employment precinct

Mr ELSBURY — I also raise the issue of the East Werribee employment precinct, a project that is being brought forward by this government and which was delayed for many years under Labor; for 11 years Labor members did nothing. The first two parcels of land have now been sold at the gateway site, and expressions of interest are now open for the town centre stage. This week I was pleased to join the Minister for Health and the Minister for Planning at the announcement that St Vincent's Private Hospital will establish a new Werribee campus at the East Werribee site.

This project and others — including transforming Essendon Fields and Airport West into a leading-edge technology precinct, the Orica site in Deer Park, the City of Brimbank's Sunshine Rising project, the Footscray rejuvenation project in the city of Maribyrnong and the Werribee town centre project in the city of Wyndham — will create further job opportunities for Melbourne's west, emphasising yet again that this government is doing all it can to increase the number of jobs in Melbourne's west.

Manufacturing

Mr SOMYUREK (South Eastern Metropolitan) — I rise to condemn the Napthine government for failing to stem the tide of manufacturing job losses in Victoria. The Australian Bureau of Statistics manufacturing figures released last week show that full-time employment in the industry crashed by 9.7 per cent,

with 24 000 jobs lost, in the 12 months to May. At the same time Queensland gained 2900 full-time manufacturing jobs, an increase of 2.1 per cent, and South Australia gained 3500 full-time jobs, a massive increase of 28.2 per cent.

Thompsons Road duplication

Mr SOMYUREK — On another matter, I congratulate Daniel Andrews, the Leader of the Opposition in the Assembly, on committing Victorian Labor to the duplication of Thompsons Road between EastLink and Clyde Road in Cranbourne. Over the years, I have asked for the duplication of Thompsons Road on many occasions. My constituents and I, who face increased traffic congestion every year, are relieved that this stretch of road will finally be duplicated.

Monash Children's

Mr SOMYUREK — On another matter, I condemn the Napthine government for reneging on its promise to match the Labor Party's commitment before the 2010 state election to fund $240 million for the redevelopment of the Monash Children's facility by the end of 2014. Much to the chagrin of my constituents, the Napthine government has allocated a miserly $47 million instead of the full amount. Furthermore, the government will not declare when the development of the children's facility is expected to be completed.

Renewable energy target

Mr BARBER (Northern Metropolitan) — If even Clive Palmer gets it, you have to wonder what is wrong with the Victorian Liberal Party. At a joint press conference with former US Vice-President Al Gore, Mr Palmer noted that $415 billion of investment and 18 400 jobs were at risk if the renewable energy target were to be scrapped — a subject which generated some debate here in the Parliament yesterday. Hopefully the Liberal Party can now get over it and learn to live with the renewable energy target.

Mrs Millar needs to throw away her talking points from the Institute of Public Affairs (IPA); the cost of wind power is not, as she stated yesterday, $80 to $120 per megawatt hour but more like $50 to $75 per megawatt hour, according to that other somewhat conservative institution known as the International Energy Agency (IEA). It is the IEA, not the IPA, that she ought to be taking her lead from. I urge all the members on the other side of the house to spend the next five weeks going around and talking to people who work in the renewable energy industry or receive their power from their own renewable energy installation, perhaps paying a visit to the Hepburn community-owned wind farm, and think about changing their attitude to this important issue.

Al Gore

Mr ONDARCHIE (Northern Metropolitan) — I thank Mr Barber for the lovely segue this morning, because I wish to talk about the Australian visit of former US Vice-President Al Gore. Some of those here, and some in the past, have taken every opportunity to talk up the credentials and credibility of Al Gore and his climate change expertise. Today, 26 June, Mr Barber talked about it; Mr Barber talked about it on 10 December 2013; Mr Jennings on 13 December 2012; Mr Leane on 29 July 2009; Mr Lenders on 12 June 2008; Ms Mikakos on 19 April 2007; former member for Chelsea Province Mr Smith on 13 September 2006; and Mr Jennings waxed lyrical on 14 March 2000. They have all been great proponents of Al Gore and his environmental opinions. But overnight we saw Al Gore in Canberra watering down his commitment to climate change and not supporting the carbon tax in its current form. What is more, during his time here in Australia he is not meeting any of the Australian Greens, and for the Greens that is an inconvenient truth.

Mount Waverley police station

Mr TARLAMIS (South Eastern Metropolitan) — It is now clear that, despite its rhetoric, the Liberal government was never really committed to delivering an upgrade to Mount Waverley police station to enable it to become a 24-hour station. The government has been caught out breaking its 2010 election commitment, which was supposed to be delivered in its first term. But, let us face it, this is not an isolated incident. It adds to the growing list of promises broken by this government.

What makes it even worse is that this commitment was reiterated time and again, beginning with the member for Mount Waverley in the Assembly, Michael Gidley, and the then Liberal leader, Ted Baillieu, the member for Hawthorn in the Assembly, as one of the coalition's first promises of the election campaign. Then on 31 October 2011 the member for Mount Waverley was reported as having said to the local newspaper:

> I can't give you an exact date, I wish I could, but it will happen in this first term of government …

The commitment was reannounced in 2013 by the Minister for Police and Emergency Services alongside the Premier, Denis Napthine, and the member for

Mount Waverley. Despite this it has now emerged, with confirmation from the police minister, that the Mount Waverley police station will only provide the 'capacity' for a 24-hour service, as the nearby Glen Waverley police station already provides a 24-hour counter service for the local community. The Liberals' continued attempt to convince the community that a 24-hour police patrol is the same as a 24-hour station will fail, as people are not that stupid.

While this government has been busy reannouncing this promise — a promise which has now been abandoned — community safety in Mount Waverley has decreased, with the crime rate increasing in the local area in categories such as crimes against the person, drug offences, family violence, assault, theft of a motor vehicle and burglary. Michael Gidley and this government must apologise to local families and businesses for breaking this promise and breaching their trust while continuing to preside over increasing crime rates in the local area.

Retirement of Clerk and Deputy Clerk

Mrs PEULICH (South Eastern Metropolitan) — I also extend my very best wishes to Mr Wayne Tunnecliffe and Matthew Tricarico on their retirement and for the many years of faithful and dedicated service they have offered this chamber.

Queen's Birthday honours

Mrs PEULICH — Yesterday I outlined a long list of Queen's Birthday honours awarded across the south-east. The list was so long I did not get a chance to finish going through it. Today I therefore extend the congratulations of the south-eastern community to Mr Christopher Jebaratnam Lawton, of the city of Casey — Narre Warren South, precisely — who received an Order of Australia Medal for his service to the Sri Lankan community; Mr John Bennie, top of the tree, CEO of the City of Greater Dandenong and an amazing public servant, who received a Public Service Medal for outstanding public service in the pursuit of excellence in local government management. He is certainly a standout.

Afghan community

Mrs PEULICH — I also had the great pleasure of attending several Afghani events, including launching the inaugural Australian Afghan Business Council conference and gala dinner, organised by Mr Bashir Keshtiar, president and CEO of the Australian Afghan Business Council, as well as a number of notable people from Afghanistan and the community here. The events I attended include an Omagh celebration organised by Taqi Khan in collaboration with Multicultural Arts Victoria.

What a rich contribution the Afghan community has to make here, and what enormous opportunities exist as we focus on how to rebuild Afghanistan. Hopefully Australia and Victoria in particular will have a role to play, should all the stars align, because certainly that community is worthy of support, and there are enormous trade opportunities to explore for Victoria.

Robert Iskov

Ms LEWIS (Northern Victoria) — Last Friday I attended a family funeral in Wangaratta for 93-year-old Robert Francis Iskov, known as Bob. He was one of Victoria's last Kokoda Track veterans. Bob was a young Glenrowan farmer before he joined the Australian Defence Force in 1940. He served with the 2/14th Australian Infantry Battalion in the Middle East before participating in the New Guinea campaign from July 1942 through to January 1943. Last year Bob, along with other veterans, returned to New Guinea to commemorate the 70th anniversary of the Kokoda Track campaign. I acknowledge the sacrifices Bob and other young men like him made during the Kokoda campaign to protect Australia. I extend my condolences to Bob's children, grandchildren and great-grandchildren.

Bendigo mosque

Ms LEWIS — On another matter, I endorse the comments of my colleague in the other place, Jacinta Allan, the member for Bendigo East, in relation to the proposal to build a mosque in Bendigo. I commend the City of Greater Bendigo councillors on their stance.

Bendigo and central Victoria have a long history of multiculturalism and diverse religious beliefs. The Chinese brought Buddhism to the area in the 1850s and 1860s. Muslim Afghani peddlers travelled around the farms in the 1890s, and I recall an Indian Hindu travelling salesman who was a regular visitor to our district in the 1950s and 1960s. Our communities are richer for the diversity that has come to us from around the world, and we hope that we are able to continue to respect our fellow citizens.

Country Fire Authority

Mrs MILLAR (Northern Victoria) — Last week I was privileged to join the Minister for Police and Emergency Services, Kim Wells, my colleague the Minister for Housing, Wendy Lovell, and The

Nationals candidate for the newly created Legislative Assembly seat of Euroa, Stephanie Ryan, for the launch of the new Country Fire Authority (CFA) radio dispatch service in Whiteheads Creek, which is close to Seymour. This was a hugely important launch of a $66.24 million digital communications system that will significantly enhance the CFA's emergency management response capability in regional Victoria, even in mobile black spots like those around Whiteheads Creek.

It is critical to ensure that our CFA brigades, which are staffed by volunteers who do so very much to protect lives, property and our communications infrastructure, have the most up-to-date communications systems, particularly in a fire event. That is why the government has invested so heavily in this project and in better equipping the CFA.

I regularly visit CFA units in my electorate, and in many of them I have seen a legacy of neglect left by Labor in outgrown and dilapidated fire stations, ageing trucks and other equipment. This was the legacy of Labor, which is now being addressed right across regional Victoria. This financial year the CFA budget is $457 million, $58 million more than under the last Labor budget. There is also more than $29 million being allocated to the CFA to purchase 78 new trucks.

I pay tribute to all communications officers in our CFA units. They truly are a committed group of people, many of whom have been on call 24/7, season in and season out, remaining vigilant for when their brigade may be needed. The new radio dispatch system will not change the need for dedicated CFA communications officers, but it will ensure that we have a system that works more effectively to underpin CFA communications at all times.

Youth Connections

Mr EIDEH (Western Metropolitan) — I was disappointed to hear that funding for the Youth Connections program was cut in this year's federal budget. Youth Connections is a vital program that links vulnerable young people to outreach activities through personal support with youth workers. The program has provided much-needed assistance to youth from different backgrounds by building relationships and working to develop an understanding of the individual needs of young people to help get them back into school, training or employment.

Young people in my electorate in the west of Melbourne and all over Victoria face mental illness, drug and alcohol issues, financial pressure and poor literacy and numeracy skills, and they can easily become disconnected from school or work. This vital program has been cut with very little thought for the impact the cut will have on vulnerable youth in the western suburbs, where a significant number of young people have become disconnected. A report conducted by LeadWest has shown that 57 per cent of people aged 15 to 19 in the western suburbs are not in education, training or employment.

Clearly the Abbott government does not see the increase in the number of children dropping out of formal education as an important issue. The Youth Connections program was established to address this issue in the first place, and it is disappointing that we will be losing this great resource and leaving behind so many vulnerable young people.

Retirement of Clerk and Deputy Clerk

Mr FINN (Western Metropolitan) — I begin this morning by paying tribute to Mr Wayne Tunnecliffe, the Clerk of the Legislative Council, and Mr Matthew Tricarico, the Deputy Clerk of the Legislative Council, for their service to the Parliament over such a long period of time, and I thank them for their service not just to the Parliament but indeed to Victoria.

Al Gore

Mr FINN — When I first saw the discredited former US Vice-President Al Gore on my television set last night and saw who he was with, my immediate response was, 'Al Gore will do anything or go anywhere with anyone for a free feed'. Upon reflection I might be right, because Mr Gore does not go anywhere without there being a dollar in it for him. He has made hundreds of millions of dollars out of the climate change scam, and he may well be the greatest fraudster the world has ever seen. Nonetheless Mr Gore is still taken seriously by an ever-diminishing number of people. It is hard to believe, but some people still take this snake oil salesman seriously. However, for the majority, Mr Gore's credibility is shot, and that is not surprising.

At the same time that Gore was rubbing shoulders with members of our federal Parliament in Canberra yesterday, back in Washington, DC, the co-founder of Greenpeace, Mr Patrick Moore, was giving evidence to the US Senate that there is no proof of man-made global warming. Mr Moore poured cold water on man-made global warming theories and testified to the Senate that a hotter earth would actually be better for human beings. It is little wonder that Al Gore chose to be on the other side of the earth. While he is here,

maybe he could join Tim 'Sandbags' Flannery on a tour of the still comatose desalination plant in Wonthaggi as a tribute to the fraud that is global warming.

Committee for Greater Shepparton

Ms DARVENIZA (Northern Victoria) — I congratulate the Committee for Greater Shepparton for the launch of its *Strategic Directions Draft 2014 to 2016* document. The committee is a not-for-profit member-funded network that aims to drive initiatives, policies and projects that foster positive outcomes for the region. The committee believes that the region can make a significant additional contribution to both the Victorian and Australian communities. The draft sets out four strategic focus areas: productive community, connected community, creative community and inclusive community.

The committee's vision is to be the Australian centre for dairy and horticulture, supplying Australia and the world with reliable, premium, quality, fresh and value-added produce via innovative practices and a world-class irrigation system. The committee also aims to connect the region, which is a major business centre, to the world through modern infrastructure, supported by a thriving and educated community that embraces its rich cultural diversity. The committee is now seeking feedback from its members and the wider community on its draft document. I commend to the house the work of the committee in preparing its draft document, and I look forward to reporting on its progress in later months.

WORKING WITH CHILDREN AMENDMENT (MINISTERS OF RELIGION AND OTHER MATTERS) BILL 2014

Statement of compatibility

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) 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 Working with Children Amendment (Ministers of Religion and Other Matters) Bill 2014.

In my opinion, the Working with Children Amendment (Ministers of Religion and Other Matters) Bill 2014, 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 Working with Children Amendment (Ministers of Religion and Other Matters) Bill 2014 (the bill) makes a number of amendments to the Working with Children Act 2005 (the act), including:

introducing an overarching principle that ensures the protection of children is to be the paramount consideration when the secretary or the Victorian Civil and Administrative Tribunal (VCAT) make a decision or perform an action under the act;

requiring 'ministers of religion' who have contact with children to obtain a working-with-children check;

changing and expanding the categories of offences, including making attempted murder and attempted rape category A offences and relocating a number of offences in other categories, thereby affecting the test that the secretary applies to people to determine whether they will be granted an assessment notice on application or reassessment;

adding accommodation services specifically provided for students in connection with the operation of a student exchange program under part 4.5A of the Education and Training Reform Act 2006 to the services, bodies and activities that comprise child-related work under the act;

providing the secretary with a power to make inquiries or obtain information about an individual following the issuing of a negative notice and an appeal to VCAT;

allowing the secretary to notify an organisation when an individual requests the secretary to remove this organisation from their record; and

replacing the secretary's power to suspend an assessment notice with a power to revoke an assessment notice in situations where a request to an applicant for further information has been ignored.

Charter act issues

A number of charter act rights are relevant to the bill. However, it is my view that the provisions are compatible with the charter act for the reasons set out below.

Privacy and reputation

The right not to have privacy unlawfully or arbitrarily interfered with under section 13(a) of the charter act and the right not to have reputation unlawfully attacked under section 13(b) is potentially relevant to the following provisions of the bill:

clause 9(9) inserts section 9(3)(fa) into the act, adding 'accommodation services' specifically provided for students in connection with the operation of the student exchange program under part 4.5A of the Education and Training Reform Act 2006 to the services, bodies, places and activities that comprise child-related work, thereby expanding the circumstances in which a person may need to apply for and obtain an assessment notice under the act and therefore to provide personal information to the government;

clauses 6(4), 9(12) and 9(13) amend the act to provide that work engaged in as a 'minister of religion' is included in the definition of 'child-related work' under the WWC act unless any direct contact with children is incidental to the work, and if the minister is an appointed leader of a local congregation, that the congregation does not contain any children. This expands the circumstances in which a person may need to apply for and obtain an assessment notice under the act and therefore provide personal information to the government;

clauses 11 to 13 and 43 change and expand the categories of offences, including making attempted murder and attempted rape category A offences and relocating a number of offences in other categories, thereby expanding the circumstances in which a person must provide personal information to the government and in which they may be refused an assessment notice or have their assessment notice revoked following a reassessment;

clause 20 inserts section 20A(3) into the act, providing the secretary with the authority to notify an organisation that an applicant for, or holder of, an assessment notice has notified the secretary that they no longer engage in child-related work with that organisation;

clause 26 amends section 21B of the act, which currently requires the secretary to suspend a person's assessment notice upon being made aware that the person has been charged with or been convicted or found guilty of a category 1 or category 2 offence. Despite other provisions expanding the offences under these categories, the bill preserves the current situation by specifying that the relevant offences for automatic suspension are those contained in new schedule 3, which is comprised of offences that are currently specified as category 1 and category 2 offences. The bill also clarifies that becoming subject to reporting obligations or supervision or detention orders under sex offender legislation is a circumstance requiring automatic suspension;

clause 41 inserts section 42A into the act, giving the secretary the authority to request information in relation to individuals whose matters are going to be heard by VCAT.

In my opinion, any interference with a person's privacy or reputation which may arise from these provisions will be neither unlawful nor arbitrary. The ability of the secretary to require, disclose and request information in the above circumstances will be specifically authorised by the act. This is necessary to ensure that government agencies and VCAT can assess whether, and people who engage individuals, including ministers of religion, in child-related work can be assured that, these individuals who wish to engage in child-related work have been subject to a criminal history check which does not suggest they pose an unjustifiable risk to the safety of children. Consequently, in my view the bill does not result in an arbitrary or unlawful interference with the right to privacy.

Presumption of innocence; right not to be tried or punished more than once and *right not to have a penalty imposed for a criminal offence, which is greater than that which applied at the time of commission of the offence*

The bill amends the application categories under the act and increases the range of offences under the act:

clauses 11 and 43 add to new category A the offences of attempted murder, rape and attempted rape as well as pending charges for all offences in the new category A. This means that only VCAT can grant an assessment notice to people who have been convicted of or have pending charges for these offences;

clauses 12 and 43 add a number of offences to the new category B, including 'armed robbery', 'upskirting' offences, 'child stealing', 'leave child unattended', 'fail to protect child from harm' and offences relating to 'installing, using or maintaining optical surveillance devices' as well as pending charges for all offences in category B. This means that the test that the secretary applies to these people to determine whether they will be granted an assessment notice on application or reassessment will be more restrictive than is currently the case.

These provisions do not limit the rights set out in section 26 of the charter act (right not to be tried or punished more than once) or section 27 (right not to have a penalty imposed for a criminal offence, which is greater than that which applied at the time of commission of the offence), because they do not impose punishment or penalties on offenders for a criminal offence. Preventing a person from engaging in child-related work cannot properly be called a punishment or penalty for a criminal offence as the purpose and effect of the working-with-children provisions is not to punish persons for a criminal offence but to protect children.

Adding pending charges to the list of offences in category A and more pending charges to category B will mean that a person charged with an offence specified in those categories may not be able to engage in child-related work in circumstances where they have not had their guilt or innocence of the charge determined by the relevant court. This does not limit the right set out in section 25(1) because these provisions do not alter the fact that the person is innocent of any offence charged until judged guilty by a court.

Protection of families and children

The introduction of an overarching principle that ensures the protection of children is to be the paramount consideration when making a decision or acting pursuant to the act (clause 5) and the introduction of a requirement for ministers of religion engaged in child-related work as defined by the act to apply for and obtain an assessment notice (clauses 9(12) and (13)) is consistent with and promotes the rights set out in section 17 of the charter act.

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

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

Children should be safe from harm. The sexual and violent abuse of innocent and vulnerable victims can inflict a lifetime of pain and suffering. Protecting children from the risk of harm requires constant vigilance. Parents and family, the government and employer and volunteer organisations all have important roles to play.

Working-with-children checks are an important element of this protection. The checks seek to provide an independent assurance that persons who work with our children do not have criminal convictions or face criminal charges that would create an unacceptable risk to the children entrusted to their care.

The Working with Children Amendment (Ministers of Religion and Other Matters) Bill strengthens the existing mechanisms under the Working with Children Act 2005 (the act) to ensure that the safety and wellbeing of children is and remains paramount.

Purposes of the act amendments

The main purposes of these amendments are to:

set out in legislation that the protection of children is to be the paramount consideration when administering the act;

make it clear that a working-with-children check provides a 'minimum' check rather than a 'suitability' check, so as to avoid any suggestion that requiring working-with-children checks means an employer or other organisation has no further responsibility to assess or monitor the suitability of their staff or volunteers;

clarify the definition of 'child-related work';

require all ministers of religion who have contact with children to obtain a working-with-children check;

revise the working-with-children check assessment procedures; and

make a range of other improvements to the operation of the act.

Protection of children is paramount

The High Court has made clear that where legislation is intended to prioritise one right above another, this must be explicit in the legislation. The bill introduces an overarching principle that specifies that the protection of children is to be the paramount consideration when a decision-maker under the act (namely, the secretary or VCAT) is assessing an application or reassessing an individual. The introduction of this principle will put beyond doubt that the protection of children is a more important consideration than any other consideration, such as the individual's right to work.

This will bring the act into line with other legislation that protects children, such as the Children, Youth and Families Act 2005, which states at section 10 that 'for the purposes of this act the best interests of the child must always be paramount'.

A 'minimum' check

The bill makes clear that a working-with-children check is in fact a 'minimum' check that screens individuals in relation to their criminal history, so that persons convicted of or charged with certain offences are not granted an assessment notice allowing them to work with children. The bill makes clear the working-with-children check is a minimum requirement, it does not replace appropriate assessment and monitoring by the employer or organisation of an individual's 'suitability' in other respects to work with children.

Clarify the definition of 'child-related work'

A working-with-children check is only required when an individual is undertaking 'child-related work' as defined in the act. This current definition, however, is unnecessarily lengthy and complex, and requires simplification.

The bill amends the act to:

split the term 'child-related work' and define 'child-related' and 'work' as two distinct concepts;

remove redundant provisions that were included in the act to assist the introduction and implementation of the scheme;

simplify the concept of 'direct contact', refine the definition of 'supervision' and remove the term 'regular'.

Ministers of religion

In November 2013, the Family and Community Development Committee released the report of the parliamentary inquiry into the handling of child sexual abuse by religious and other non-government organisations (the inquiry), entitled *Betrayal of Trust*. The inquiry, amongst other things, recommended the Victorian government clarify the requirements for religious organisations to ensure ministers of religion have a current working-with-children check in view of the broad and unspecified nature of their work, work which involves contact with children in their communities.

The government accepts that ministers of religion occupy a unique place within the community that places them in a role of trust and authority and accordingly, is amending the act to provide for a specific requirement relating to ministers of religion.

The amendments will apply to persons who are ordained or appointed as a recognised religious leader in an organised religious institution or who are the appointed leader of, and have general authority over, a local religious congregation, such as a church, mosque, synagogue or temple. The bill requires all ministers of religion to apply for and obtain a

working-with-children check unless any direct contact with children is incidental and, if the minister is an appointed leader of a local congregation, that congregation does not contain any children.

Revise the category application process

Currently under the act, an individual found to have a criminal history that may present a risk to the safety of children is assessed according to the severity of this criminal history. This assessment is categorised as either a category 1, 2, 3, or as an exceptional circumstances application.

The bill amends and simplifies the current category and exceptional circumstances provisions by replacing them with a revised three-category classification system. The key change to these categories is that pending charges for serious sexual or violent crimes will also be included in the assessments for an assessment notice.

The revised system will consist of three categories, A, B and C. Each category will be assessed against the current 'unjustifiable risk' and 'reasonable person' tests.

Category A will consist of applicants who have committed the most serious offences. This will include applicants who are subject to reporting obligations under the various sex offenders legislation, and adults who have on their record sex offences against children or child pornography offences. This category will also include applicants with pending charges for these offences and applicants who have been convicted of the offences of murder, attempted murder, rape and attempted rape and those who have pending charges for these offences. The Secretary to the Department of Justice will be required to refuse applicants a working-with-children check.

Category B will consist of applicants who have committed serious sexual, drug and violent offences not coming within category A. This includes applicants who have committed serious offences including armed robbery, upskirting and child stealing as well as pending charges for an offence in this category. The test used in category B requires the secretary to refuse a working-with-children check unless satisfied that giving it would not pose an unjustifiable risk to the safety of children.

The bill adds a final category, C, which consists of applicants with relevant disciplinary findings as well as charges, convictions or findings of guilt for any other offences that the secretary has notified to Victoria Police as offences relevant to the working-with-children check.

Jurisdiction of VCAT

A person who has been given a negative notice on a category A, B or C application or reassessment may apply to VCAT for the giving of an assessment notice. In making an order for the giving of an assessment notice, VCAT must have regard to the current 'unjustifiable risk' and 'reasonable person' tests. If VCAT is satisfied that giving an assessment notice would not pose an unjustifiable risk to the safety of children, VCAT may, by order, direct the secretary to give the assessment notice if it is satisfied that, in all the circumstances, it is in the public interest to give the notice.

General improvements to the operation of the act

The bill also makes a number of amendments aimed at generally improving the operation of the act, including grouping all the reassessment provisions together to enable an easier reading of the legislation.

The bill removes the three-month grace period following the expiration of an individual's working-with-children check. This will prevent an individual from engaging in 'child-related work' during this three-month period, given the risk that during this time they may commit an offence that the secretary is unable to act upon. The bill, however, will retain the ability for an individual to renew their working-with-children check during this period, thereby avoiding the more complex new application process.

The bill provides that an applicant or cardholder who has been issued a negative notice cannot avail themselves of any exemptions set out in the act. Provisions under part 3 of the act exempt people such as parents, teachers and police officers from obtaining a working-with-children check. The bill makes it clear that if an exempt person chooses to make an application for a working-with-children check and that application is refused and the person receives a negative notice the person cannot then seek to rely on his/her exempt status.

The working-with-children check has strong public acceptance and support by the Victorian community. The amendments made by this bill further strengthen and improve the operation of the scheme to enhance the protection of children from physical and sexual harm, in line with the government's ongoing commitment to protect children, support their families and build stronger, safer communities.

I commend the bill to the house.

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

Debate adjourned until later this day.

MELBOURNE MARKET AUTHORITY AMENDMENT BILL 2014

Second reading

Debate resumed from 11 June; motion of Hon. M. J. GUY (Minister for Planning).

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to make some remarks on this bill, the Melbourne Market Authority Amendment Bill 2014. It is clear that the Melbourne Markets play an important part in our economy and community, particularly in regional and rural Victoria, where a lot of this produce is grown, as well as in a 50-kilometre arc around Melbourne. The markets are an important feature of our lives and of our economy. Over 3000 businesses use the West Melbourne market on a daily basis to bring their fresh produce to market. Around 1300 small and large fruit and vegetable retailers come to the market every day to buy that produce. The turnover is some $1.6 billion in fruit, vegetables and flowers, each and every day. It is an incredibly important cog, particularly for regional and rural Victoria, as the markets allow

farmers the opportunity to sell their produce to Victorian consumers and allow Victorian families to purchase fresh fruit and vegetables.

The attitude of this government is somewhat surprising, given that this is such an important part of our social and economic life, particularly for regional Victoria. It is surprising how badly this project, the people who work there and the people who rely upon it have been treated by this government. I was just looking at an article about the markets in the *Saturday Age* of 22 February 2013; it reported on the government's attitude to the markets, stallholders and indeed regional Victorians, who are so dependent on this market to facilitate the sale of their product. It was interesting, as I said, to read the *Saturday Age* of 22 February 2013, in which it said the then Minister for Major Projects, Denis Napthine:

> … has declared war on fruit and vegetable traders furious about the Baillieu government's handling of the … relocation of Melbourne wholesale market.

So we have the then major projects minister, the now Premier, Denis Napthine, declaring war on these traders, declaring war on the farmers and declaring war on the process. Fresh State, the organisation representing many of the stallholders, then called for:

> … Mr Napthine to resign —

saying —

> … that morale in the industry has been 'shattered', claiming that almost one-third of traders will lose their life's investment, while consumers will face higher prices and less choice …

This is followed by a quote from Fresh State's newsletter, which states:

> Obviously the government doesn't care much for industry as no discussions have taken place and the government's rents and charges announced at Christmas time will force many in the industry to the wall at Epping …

Mr Ondarchie — You have to be kidding me. Did you wake up just this morning?

Mr TEE — I will take up Mr Ondarchie's interjection. I am setting the scene and reflecting on the government's attitude — his government's attitude — to the markets and to the people who live and rely upon them. We start off with a government that has declared war on the livelihoods of this community. Then the question is: what happens when you declare war on a whole industry, on a whole component of regional Victoria?

Mr Ondarchie — You are saying, 'It is not my fault'.

Mr TEE — I will take up Mr Ondarchie's interjection. When the government was elected it had two choices in terms of how it dealt with the relocation of the markets. The first option was to work with the stallholders and those communities to make sure that it got the best outcome for Victorians. That is the high road, and that is not the road that this government chose. That is not the road that Dr Napthine took because, as the *Saturday Age* accurately reported, the then Minister for Major Projects instead decided to take the low road and declare war.

What happens when you leave stallholders with no choice? What happens when you decide to take the low road, to take an adversarial approach, and you decide to declare war? These stallholders, who are standing up for their families, standing up for their livelihoods and standing up for their way of life, have no choice; they are backed into a corner. One of their few options is to commence litigation, and that is what they did. A lengthy legal stoush is the result of this government's approach. The government has been taken to the Supreme Court, and the allegation is that its conduct is unconscionable. That is the charge. The charge is that the conduct of the then Minister for Major Projects, the now Premier, was unconscionable. That is the charge that was laid out and taken to the Supreme Court.

A couple of important issues came from those proceedings. The first thing is what the now Minister for Major Projects admitted at the Public Accounts and Estimates Committee (PAEC). He said that what occurred as a result of those legal proceedings and of the approach this government took that led to those proceedings was costs. The government had to spend $9.2 million defending those legal proceedings. The claim before the Supreme Court related to the unconscionable conduct of the then Minister for Major Projects, Denis Napthine. That was the claim before the Supreme Court, and the consequence of that action was a $9 million legal fee. Again, that is not my view.

Mr Ondarchie interjected.

Mr TEE — No, hang on. Mr Ondarchie might allege that this is not of the government's making, but these proceedings — —

The PRESIDENT — Order! I know there is perhaps room for interjection in this issue, because this project goes back over more than one government. However, as I understand it, Mr Ondarchie is the lead speaker for the government on this bill, and therefore he

will have plenty of opportunity to frame some of the issues he has been trying to put into the debate by way of interjection. It is not helpful to the chamber. I call Mr Tee to continue without assistance.

Mr TEE — As I said, as a result of the way in which the government conducts itself, we had litigation before the Supreme Court. The consequence of that was revealed at PAEC hearings this year when the now Minister for Major Projects said the consequence of the litigation brought by the government was a $9 million legal bill and a 10-month delay in the project. That is the evidence of the now Minister for Major Projects.

The third aspect is the cost of the delay. The evidence the government put before the Supreme Court proceedings was that the monthly cost of this delay could be up to nearly $700 000. Not only do you get a 10-month delay; you get this nearly $700 000 cost. And who pays for that? That was the question rightly asked at PAEC. Of course the traders pay for that. The stallholders pay for that through increased rents. Those costs then well and truly flow through to consumers. It is consumers and Victorian families who have to pay the cost of the decision by the now Premier to declare war on the sector. That is what happens when you act in an irresponsible way. That is what happens when you take the low road rather than the high road. That is what happens when you decide to whack people rather than try and work with them on what is always going to be a difficult transition.

This is a difficult project that involves moving from one site to another after many years at the previous site. However, that is no excuse. The fact that this is a difficult project and that it takes time is no excuse to take a belligerent attitude, because what flows from that is this enormous cost, which will not be carried by Dr Napthine, by the government or by the Liberal Party. The government can sit there, make its decisions and say, 'We will bang them over the head and take the big stick. Don't worry about it'. It is Victorian families that have to pay this price. That is the first thing — the cost of the litigation and who pays for it.

The second thing is: what did the courts find in terms of the allegation of unconscionable conduct? Guilty. The court granted an injunction. The court stopped the process in its tracks, because the then Minister for Major Projects, now the Premier, Denis Napthine, did not act in a conscionable way. The process was stopped and the clock was stopped. There was a delay, which the government now admits was 10 months, so that the minister could conduct himself in a conscionable way, so that he could provide the information that the stallholders needed in a timely fashion and so that they could make an informed decision on their future. That is all that was asked of the courts, and that is what the courts granted: for the then minister to act in an honourable way, to provide information so that people could make a decision about their livelihoods.

As I said, the court found that the government acted in an unconscionable way in its dealings with the fresh fruit and vegetable wholesalers and growers, and that was a unanimous decision. All three judges agreed that the then Minister for Major Projects acted in a way that was unconscionable. What flowed from Dr Napthine's actions was further legal costs. The government, on behalf of the Victorian taxpayers, had to pay the legal costs of the then minister because of his unconscionable conduct. Dr Napthine then left that position and we got a new minister, and after a 10-month delay the process is now back on track.

We then come to the government's legislation that we are dealing with today. Let us look at what the bill does to fulfil the government's commitment to this project. What we have is another turning point in the process. Early on we had the then minister, Dr Napthine, declaring war; we had the Supreme Court litigation; and we had the outcome of that, which was disastrous for Victorian families. Now we have a new page. There is now an opportunity for the government to have a fresh start and to take the high road rather than the low road. We have an opportunity for the now Premier to say, 'Hang on a minute, we have learnt from our mistakes. We have learnt that taking a belligerent approach just hurts Victorian families. Let us start all over again'. That is really the context in which this legislation is drafted.

What has the government decided to do? Has it decided to take the high road, to sit down to try to work through the issues with people? No, of course not. It has taken the low road. What does the legislation do? It empowers the minister, at any time from a nominated date, to take away the rights of all the stallholders. The bill takes away any common-law rights that they might have — they are gone. Any leases, licences, interests or rights associated with the West Melbourne market can come to an end with the stroke of a pen. That is the power that this bill gives to the Minister for Major Projects.

But there is another crucial part of the bill. Not only does it remove, on a date to be nominated by the minister, all the existing rights, but also all future rights. If as a result of the relocation, the government, the Melbourne Market Authority or the Crown — which is the language used in the bill — acts in a way that harms the stallholders or the traders because it acts

negligently, the bill enables the government to continue to act negligently, because it has removed the ability of traders to make a claim.

Clauses 19 and 22 of the bill are very clear that any liability for the Crown for anything arising from the relocation of the market will cease on the date nominated by the minister. That is an alarming clause at the best of times, but when you look at it in the context of the actions of Premier Napthine and his unconscionable conduct, as found by three judges of the Supreme Court, and when you think about the fact that we have a 10-month delay because of those actions, you find that on top of that the relocation is yet to occur, so we have got form and unconscionable conduct. However, in case there is unconscionable conduct going forward — in case there is a claim that arises going forward — this bill inserts a proviso that there be no liability on the Crown for anything arising from the relocation of the market.

As I said, that is not connected necessarily to the relocation of the market, because once this bill is enacted the minister can declare those rights extinguished at any time. Any date can be nominated. It is not connected necessarily to the relocation. It is not the case that once the relocation is done the minister will extinguish all rights. This is a pre-emptive strike in case the government acts as it has in the past — negligently and unconscionably. In case it continues with that behaviour it wants to rule out any future claims such as those that have been successful in the past. We will not be party to legislation that allows this government to trash the rights of stallholders. We will not be party to that process.

If that is not offensive enough, the sting in the tail is that there was no consultation with any of the stallholders in relation to these provisions in the bill. They are aware of it now, and there is a mixture of anger and concern because what this bill does is provide a blank cheque and a removal of the rights of these stallholders, for many of whom this is now a second or third-generation enterprise. Their rights are trashed and legally extinguished without any consultation.

It is the opposition's view that the bill ought not to proceed until there has been consultation with the stallholders and they have had an opportunity to understand the impact of this bill on their rights and entitlements. We are talking about people's livelihoods. We are talking about people's ability to pay the mortgage and send their kids to school. That is what is at stake here, and it is the view of the opposition that before extinguishing those rights the government ought to have the decency to sit down, consult and look stallholders in the eye.

We will be moving a reasoned amendment that the bill be withdrawn until there has been consultation with the stallholders on the provisions in the bill that remove their rights. We think that is the right and fair thing to do, and we think that is what the government ought to have done in the first place. Even if we are unsuccessful with that amendment, we do not think the bill should proceed in its current form. As I said, we believe it ought to be deferred, and I will move a reasoned amendment to that effect now.

The reasoned amendment has been provided to both the Greens party and to the Government Whip. I ask that it now be circulated to members in the house. I move:

> That all the words after 'That' be omitted with the view of inserting in their place 'this house refuses to read this bill a second time until there has been consultation with Melbourne market stallholders on provisions removing their rights'.

It is a very simple proposal. It does not pass any judgement on the merits of the bill. It does not pass any judgement on whether or not this is an appropriate way to act. We have very carefully drafted it to avoid any value judgement on what is set out in the bill, but we think there ought to be consultation with groups that will be affected in such a dramatic way. Once that consultation is complete, then the bill ought to be brought back — and it might be brought back in its current form; we do not have a view on that. It might be brought back amended, having taken into account the views of those most directly affected by the bill. But we think that the bill ought not to proceed in its current form until there has been some time to consult with stakeholders.

It is a very important step to take away people's rights in such a dramatic way. Before the Parliament gives consideration to that, before that occurs, we think there ought to be some consultation with the affected groups, because it may result in changes and then again it may not. We might have a different view once there has been that engagement. Clearly that has not taken place at this stage, so for that reason we have moved the reasoned amendment, for that reason we oppose these clauses and for that reason we cannot currently support the bill.

Mr BARBER (Northern Metropolitan) — I am at a loss as to why it was that the decision was taken to move wholesale fruit and vegetable marketing from its central position at the port, with access to good infrastructure, to potential future rail freight development and of course to the increasingly

important aspect of fresh fruit and vegetable and other rural commodity exports. It is now to be exiled to a location on an outer ring-road where in future we know, amongst other problems, the market will be totally dependent on road freight for its logistics. However, the bill before us is not intended to unscramble that omelette. That decision was taken by the Labor Party long ago, and this simply cleans up a number of aspects of that transition.

What absolutely amazes me though is that the Labor Party is putting up no opposition to the aspect of this bill that facilitates the construction of the east–west road tunnel. Right here in the second-reading speech, where it should be fairly obvious, it says in relation to a number of clauses in this bill:

> By permitting the West Melbourne site to be used for purposes other than a market, the bill will facilitate stage 1 of the east–west link connection from the Eastern Freeway to CityLink. East–west link requires the manufacture of tens of thousands of precast elements as well as lay-down access for construction equipment and resources. The West Melbourne site presents as an exceptional opportunity for use as an ancillary works area for the east–west link in the short to medium term before any decisions about the longer term future of the site are made. This is expected to lead to substantial cost benefits.

On that last point, it would have to lead to substantial cost benefits, because we know the cost benefits of the east–west road tunnel are highly negative. We know the project is a waste of public money and will return many fewer benefits than its own cost. We know this because in every attempt by both the Labor and the Liberal parties to make the economics of this project stack up, they have failed. I do not want to reprise the debate that we had earlier this week and that we have had many times before, but suffice it to say that if you are taking three highly congested freeways and connecting them to each other, you are not going to solve Melbourne's traffic problems.

On the basis of those clauses, which Mr Tee did not even mention in his contribution, that is a deal breaker. The Greens cannot support a bill which is designed to facilitate the construction of the east–west road tunnel, with all the loss of amenity, loss of economic benefits, loss of opportunity to spend the same amount of money on public transport and loss of inner city parkland to be carved up once construction gets under way, and with the ongoing 24-hour construction impacts that will run for years and the long-term legacy of having just a series of off ramps spread right around the inner city as they attempt to take all this new traffic and somehow get it off their tollway and back onto suburban streets and into the CBD, which after all is the destination for the vast majority of traffic using those existing freeways.

On that basis the Greens will not be supporting this bill. We understand that there are some important tidy-up aspects of this bill in relation to the transition of the Melbourne Market Authority, and we are perfectly happy for the government to bring back a bill that deals with just those provisions. However, since it is absolutely clear that a key plank of the east–west road tunnel plan is being put into place through the clause that extends the purposes for which the site can be used — that is, from being a market to also being a construction depot for the east–west road tunnel — we cannot support this bill.

Mr ONDARCHIE (Northern Metropolitan) — What a pleasure it is to rise this morning to speak on the Melbourne Market Authority Amendment Bill 2014. I congratulate Mr Tee on his epiphany this morning that governments should be doing the right thing by Victorians. We know that the Construction, Forestry, Mining and Energy Union-aligned Labor Party left this state in a mess. Those opposite were irresponsible. They did not have appropriate financial management in place, and they left Victorians vulnerable again. They made a litany of poor decisions. They were financial amateurs who exposed taxpayers and served their union mates instead of observing their fiduciary responsibility to Victorians.

Let us not forget that the Labor Party left us the desalination plant, for which older Victorians and their children and grandchildren will pay $1.8 million a day for the next 28 years. Older Victorians who have worked hard all their lives and paid their taxes now find themselves, their children and their grandchildren paying $1.8 million a day for a failed set of contracts on the desalination plant. They can thank Labor for that. Labor also left us the myki ticketing system, which this government has had to put more money into fixing. Can members imagine our older Victorians trying to navigate their way round the myki ticketing system, that basket case of a transport ticketing system that was left to us by the Labor Party? We will not forget and we will not let Victorians forget the mess that Labor left this state in. The Napthine coalition government has had to fix that mess.

Mr Tee said that we should be taking the high road, and we are. Is it not interesting that Mr Tee has discovered that a high road actually exists after driving the financial health of this state so low during his 11 years in government? After 11 years in government that is what Mr Tee left for our older Victorians and for their

children and grandchildren, who will continue to pay for his government's 11 years of mismanagement.

On a very hot day in January this year I was delighted to join the Premier, the Honourable Denis Napthine, and the Minister for Major Projects, the Honourable David Hodgett, for a visit to the soon-to-be-bustling Epping market in my electorate. We spoke with those involved in managing the project and with people who have recently purchased lots out there, and there was genuine excitement about the opportunities the market will create. The new market will meet current and future demands for warehousing space, cater for modern logistics and encourage innovation in transport, in equipment and materials handling, in storage, in information technology and in the fresh food industry.

Mr Tee interjected.

Mr ONDARCHIE — I will pick up Mr Tee's interjection. Mr Tee is in denial. He completely forgets the legacy of mismanagement that his government left for the people of Victoria. He stood up and said that nothing happened yesterday. For 11 years his party drove down the state of the economy and the financial health of this state, and he stands up today and wants to lecture us about taking the high road. There is an epiphany. It is about time the Labor Party woke up to what it left this state.

The market in Epping will be fully developed over the next 10 to 20 years. The new market precinct will add value to the market's core trading facility and its warehousing and distribution centres, and value-added business is expected to drive about $1 billion of investment in that site and beyond, creating over 10 000 jobs in that precinct of my electorate of Northern Metropolitan Region, in the suburb of Epping and beyond.

Relocating the market is also expected to provide substantial economic benefits to the state through a more efficient market precinct and by freeing up the existing Footscray Road site for port and rail development and other projects over the next 20 years. This bill is an important piece of legislation. It is needed to enable the market's transition to Epping, and tenants have signed up because they want to move. Further delays to this will cost the community.

Mr Tee interjected.

Mr ONDARCHIE — To pick up Mr Tee's interjection, no doubt his notes are being written by John Setka of the Construction, Forestry, Mining and Energy Union. Mr Tee should get behind this project because it is good for all Victorians.

The ACTING PRESIDENT (Mr D. R. J. O'Brien) — Order! I am advised that it is unparliamentary to impugn Mr Tee by suggesting that someone other than Mr Tee is the author of his notes. I ask Mr Ondarchie to withdraw that allegation.

Mr ONDARCHIE — I withdraw, Acting President. Stallholders have settled on this initiative. They have understood that the move to Epping is in their best interests and have now all signed up for Epping market licences. A deed of release has been included so that they will not take any further legal action, and this has been agreed to. Let us go through the interim steps so Mr Tee understands what is going on, because whoever writes his speeches is ill informed. Stallholders have signed up to a deed of release committing them to not taking any further action as part of their licences.

Honourable members interjecting.

Mr ONDARCHIE — As we are being lectured from across the chamber, let us not forget that Labor did not consult with any market tenants when deciding to move the market to Epping. They did not consult with any of them, and Mr Tee stands here today saying, 'You need to consult more'. We will reject Mr Tee's reasoned amendment because it does not make sense. All stallholders have signed licences for Epping.

An honourable member interjected.

Mr ONDARCHIE — They do not have rights to the land at the market, so I do not quite know what the member is talking about. They have signed licences to lease their premises. This government has been in close consultation with the advisory committees on this transition over a long period of time. Johnny-come-lately over there stands up and says we need to consult more, but those opposite did not consult at all before they took the decision. That sort of thing was not uncommon given the way the Labor Party operated while in government. Unless, of course, the consultation that they purported to undertake was artificial, like that regarding the Windsor Hotel. Mr Tee forgot to use that as an example when he talked about consultation today.

To correct Mr Tee so he knows where things stand, there are no common-law rights on the land at West Melbourne. This bill heralds the closing of the 33-hectare site on Footscray Road, West Melbourne, home to a wholesale fruit, vegetable and flower market, and facilitates the move of the market to the brand-new, purpose-built facility at Cooper Street, Epping. The Footscray Road site has been the home of the Melbourne Wholesale Fruit and Vegetable Market for

over 46 years. Commenced by the Bracks government in 2004, this project has been a very difficult one because, not surprisingly, Labor stuffed up the budget associated with it. This government has had to come through, redo the debt facility and find out how to fund this project properly. We have done it. It took us to fix it. To the Labor government and to Mr Tee and his cronies, I say, 'Thanks for nothing', because we had to fix it up.

Wholesaling activities have evolved over time, and the West Melbourne site simply does not provide an environment conducive to the long-term growth of businesses engaged in the wholesaling of fresh produce. The site was designed for the use of pallets and forklifts. Warehousing is limited, and the current facilities do not appropriately accommodate the maintenance of either the cold-storage chain or the strict hygiene standards. Space is limited for B-double and B-triple vehicles that are increasingly being used for long-distance haulage of vegetables.

The many attractions at Epping include up to three times the amount of warehousing in close proximity to the trading floor; provision of cold-storage chain management and security; the ability to cater for modern logistics and hygiene; capacity to facilitate innovation in transport, equipment, materials handling, storage and information technology in the fresh food industry; improvements in access to ensure separation of pedestrians, forklifts and trucks, which is a health and safety matter; and the opportunities and benefits that come from being part of a proposed interactive and integrated fresh food-related business precinct.

The people in the city of Whittlesea, the council in the city of Whittlesea and the traders in the city of Whittlesea, the city of Hume and surrounding areas are quite excited about what could come of this project, and we need to get on with it.

Given the timing of the delivery of supporting warehousing to Epping and the number of businesses in that area that are dependent on warehousing, it is necessary to preserve as much flexibility in the relocation arrangements. Businesses affected include wholesale fruit and vegetable store traders. Specialised warehousing facilities, such as fumigation and ripening rooms, will be available to them. The move to Epping must be managed in a timely way and must take into account the particular circumstances facing each business and the new facility.

The bill recognises the complexities of the move to Epping and provides for the responsible minister to nominate a date no later than 30 June 2015 when interests at West Melbourne will come to an end. Interests that should continue, such as easements for utilities, will be preserved. After the nominated date the Melbourne Market Authority will be able to deal with market participants with certainty and as market circumstances at the time allow.

The bill removes current restrictions on use of the West Melbourne land and allows the Melbourne Market Authority to permit the land to be used for non-market purposes. At the same time the bill preserves the ability of the Melbourne Market Authority, after the nominated date, to use the West Melbourne land for market-related operations and arrangements if necessary to support a smooth transition to Epping.

By permitting the West Melbourne site to be used for purposes other than a market, the bill will facilitate stage 1 of the very important east–west link connection from the Eastern Freeway to CityLink. The east–west link requires the manufacture of tens of thousands of precast elements as well as lay-down access for construction equipment and resources. The West Melbourne site presents as an exceptional opportunity for use as an ancillary works area for the east–west link in the short to medium term before any decisions about the long-term future of the site are made. This will to lead to substantial cost benefits.

In addition the bill clarifies the ability of the Melbourne Market Authority to manage the market land at Epping, which is held under a lease from the Secretary of the Department of State Development, Business and Innovation. Lastly, the bill includes minor and technical amendments to the Melbourne Market Authority Act 1977 to improve its operation.

This is a very important bill for the future of Victoria, for the future of our agribusiness and for the future of Melbourne market operations, its traders and its customers. We reject Mr Tee's very badly thought out reasoned amendment. I commend the bill as it stands to the house.

Mr LEANE (Eastern Metropolitan) — I am pleased to support Mr Tee's reasoned amendment. It makes a lot of sense, and I think the house should accept it. I want to make a contribution regarding the second-reading speech for this bill. I find it strange that the second-reading speech went into how the market site in West Melbourne is to be used to facilitate the first stage of the east–west link. There may be some drawings for the first stage — who knows. The site will be used for access for construction equipment and resources and for ancillary works.

We on this side of the house could not think of a worse purpose for this historic site. We are on the record as saying that the east–west link is a dud. The community thinks the east–west link is a dud. In any poll that has been taken, people say their preference is way ahead on the metro rail tunnel project and way ahead on the project to remove 50 dangerous level crossings. They think the east–west link is a dud, and that is why it is so far down the list of people's preferences — at the bottom — that it hardly registers.

What a shame it is that we are coming to a point when this historic site is going to be used as a dumping ground for the contaminated soil that will be dug up and to locate all sorts of equipment needed by the international tunnelling company that will be flown over here and paid a fortune to do this type of work. Government members talk about job creation, but they will again be creating jobs for overseas workers, not locals, because the equipment, and indeed the expertise, needed for the east–west link project will not able to be sourced in this country. This is the best the government can do. Its vision for this historic site is a dumping ground for contaminated soil from a dud project no-one wants.

Mr ELSBURY (Western Metropolitan) — Once again it seems that Mr Leane is on a completely different planet to everyone else. That contribution was bizarre, to say the least. In any case, I remind Mr Leane that it was the Labor Party which, in 2004, started the process of moving the market, because it was in that year that the former government announced it was looking for a new location for the fruit, vegetable and flower markets. Contracts were signed in late 2009 for the facility to move to Epping. I have my views on that, as I am a member for Western Metropolitan Region. I know that a site at Werribee South — —

Mr Ondarchie interjected.

Mr ELSBURY — Mr Ondarchie has made his contribution. A site at Werribee South was considered. Considering that that site is next to the largest market gardens in the Southern Hemisphere, I feel that it would have made a lot of sense to locate the market site at Werribee, but alas, once again Labor members turned their backs on the western suburbs and the people of the west. Certainly Mr Leane has turned his back on the people of the western suburbs with the absolute rant he conveyed to the house moments ago. He said that we should not have an east–west link and that we should not be able to provide the people of the western suburbs with adequate transport options.

We also need to consider that when this government came to office this project was in dire straits, behind its anticipated completion dates. Labor had underfunded the project, which was carrying a level of debt that would have resulted in unsustainable rent levels for tenants. Labor had not planned it through at all and had not consulted with the leaseholders. It had not done any work on the finances behind this project. It was not until we came to power that we were able to rectify many of these problems. I also point out that Labor had not made any provision for warehousing at the site. Last time I checked, when bulk produce is brought into a market area, it helps to have a place to store that produce.

Mr D. D. O'Brien — You leave it out in the paddock, don't you?

Mr ELSBURY — You leave it out in the truck or the paddock. I am sure that is what you have to do, Mr O'Brien. Labor had not provided any of the warehousing that was going to be needed, which was one of the reasons the move was put forward. It was because of the need to improve warehousing and the storage of materials coming to that site.

Over the last 12 to 18 months we have made huge progress. At Epping there has been practical completion of the trade floor complex construction, the rents have been finalised and announced, flower market stands have been balloted and licensed, and deposits for the licences have been paid. Civil contractor Hansen Yuncken has been appointed to deliver the market warehousing. The expression of interest for fruit and vegetable stands has been held after a majority vote of stallholders and further consultation with the Growers Authority Committee. Ballots for smaller warehousing spaces of less than 900 metres were conducted in April, with 56 businesses participating.

As members will understand, this project is well advanced on where it needs to be for the move to Epping, an exercise that will involve around 3000 market businesses and 7000 individuals. This is a huge move of people and resources. That is why the Melbourne Market Authority Amendment Bill 2014 will amend the Melbourne Market Authority Act 1977, which governs the operations of the wholesale fruit and vegetable and flower markets.

The bill deals with the complexities of the move to Epping and provides for the responsible minister to nominate a date when interests at the West Melbourne site will come to an end. The bill also removes current restrictions on the use of the West Melbourne site land and permits the land to be used for non-market

purposes, which will be very important when undertaking redevelopment of the site. At the same time, the bill preserves the ability of the Melbourne Market Authority to continue to use the West Melbourne site for market-related operations as they are arranged during that period, because some businesses will need a bit more time to fit out their new premises. Some aspects of some businesses are not easily moved. Some businesses will need a bit of extra time to move their operations either to Epping or close to Epping after the official closure of the West Melbourne site.

This bill is also an opportunity to make a few other technical amendments which will improve the operation of the Melbourne Market Authority Act 1977. This is certainly a massive undertaking; it is a massive project. It is a shame that the previous government could not get it right. It took us getting into power and being able to manage this project before it came to the fore. It is a shame that those opposite continue to put forward their views in opposition to the project — a project that they started — and that we now have this ridiculous amendment being put forward by Mr Tee. I have made it very clear that I will not be supporting the amendment, but I will be supporting the bill.

Mr D. D. O'BRIEN (Eastern Victoria) — It is a great pleasure to rise to speak on this bill, the Melbourne Market Authority Amendment Bill 2014. As I am a new member of Parliament, perhaps my colleagues might be able to help explain a few things to me later because I am totally confused by the reasoned amendment from Mr Tee and also by the rather extraordinary contribution we heard earlier from Mr Leane. If I did not know better, if I had not done a bit more research, I might have come in and thought that the Labor Party actually opposed this project to remove the Melbourne market from West Footscray. We are talking about dumping soil on a market that is not going to be used anymore because the former Labor Party decided to move the market from West Footscray to Epping. I was very surprised about that, but perhaps I am starting to learn that I should not be surprised by the positions the Labor Party takes. Mr Ondarchie referred to Labor having more positions than a certain Indian book. That put all sorts of horrible visions in my mind which I did not want, particularly in relation to Mr Leane.

Mr Barber — I've never read it. I'm not too sure what you mean.

Mr D. D. O'BRIEN — I do not think you read that one, Mr Barber; I think you just look at the pictures. But I will not go any further on that. I am digressing from the bill, so perhaps I should come back to it.

Unfortunately this is another one that we can add to the catalogue of Labor disasters. The coalition government is once again picking up the pieces and fixing what was an absolute disaster. That can be seen from reading the Auditor-General's report entitled *Melbourne Markets Redevelopment* in 2012. I will pick out a couple of quotes from that report. It reported that:

> The project budget will be more than double the $300 million included in the 2004 business case.

That in itself I found interesting — that the Labor Party actually had a business case — because for most of the other big projects that it messed up in its term of government, it never bothered. The Auditor-General's report also states:

> The project will be six years late …

It was started in 2004 under the Bracks government. It goes on to say that the:

> … procurement process was not demonstrably fair and it is likely the government paid more for the trading floor than it should.

That is one of the things we find constantly with Labor Party management. It pays more than is needed, largely because it has no regard for or perhaps no understanding of the importance of getting value for money and efficiency for taxpayers dollars. It continues:

> The project was not fully costed prior to seeking funding.

That is, again, fairly consistent with Labor Party past practice. It states:

> The price bid by the unsuccessful tender was $40 million less than the successful tender.

I am the first to admit that you do not necessarily always take the cheapest tender, but that is yet another example of the problems with this project produced by the Labor Party. It also states:

> … poor probity management resulted in a procurement process that did not demonstrate fairness or appropriate management of conflicts of interest.

That highlights some of the things the Auditor-General had to say about this particular project, but frankly we could apply these statements to any number of projects that the Labor Party touched in its 10 or 11 years in government under former Premiers Bracks and Brumby. We could apply them to the desalination plant, myki or the north–south pipeline — another classic example.

Having stood here and had a go at the Labor Party for its incompetence and for playing partisan politics, I will give some credit to Tim Pallas, the member for Tarneit in the other place, who was quoted in the *Australian* of 14 March 2012 as saying:

> We're prepared to accept our share of the blame in terms of the management of this project …

I say quite genuinely that too often in recent years people have lost faith in politicians because they are always trying to defend the indefensible, but in this case I give credit to Mr Pallas for accepting that the Labor Party really messed this one up. It has taken a considerable amount of work on the part of the coalition government to fix this. It has required the coalition to allocate $600 million to ensure that this project can be delivered properly and that we do the right thing by those many businesses and industries that rely on Melbourne Markets.

I will turn briefly to the east–west link and the relevance of this bill to that project. Clearly the Melbourne market where it is currently located, in West Footscray, is in line with the east–west link project and, as has been outlined by Mr Elsbury and others, this is a good opportunity to use the site — a significant and a long area of land — for construction of the east–west link. We heard an extraordinary contribution from Mr Leane about that particular aspect. This just makes common sense. It is an opportunity to use an area of land that will be vacant, following the removal of the market, to assist with the construction of the east–west link.

It is extraordinary to hear what Labor members are now saying about the east–west link compared to what they have said in years gone by. This week we have debated a motion on the east–west link, but I will go through some of those matters again because of what Labor members have said. In the past Mr Melhem, who is not in the chamber at the moment, declared that it would be crazy not to build the east–west link. Sadly, he has been left hanging by the Leader of the Opposition and member for Mulgrave in the Assembly, Mr Andrews, who said, 'Sorry — it's not going to happen'. Mr Melhem has been hung out to dry. Mr Andrews was reported as saying at the Melbourne Press Club in October 2012:

> West–east is the way this project should be viewed.

He was fully in favour of it. Wade Noonan, the member for Williamstown in the other place, is reported as saying:

> Reducing the reliance on the West Gate Bridge is absolutely critical for Melbourne's growing western suburbs.

And further:

> The WestLink project is as vital to Melbourne's west as the construction of the West Gate Bridge was back in the 1970s.

These are quite astounding comments, given the position the Labor Party has now taken. I refer also to some comments from the former Premier, Mr Brumby:

> I think what is undeniable, in Rod Eddington's report, is that the city does need a second east–west crossing …
>
> … one way or another we've got to address this issue of a second east–west crossing …

I go on to Mr Pakula, the member for Lyndhurst in the Assembly and a former member in this place. This has been referred to this week, but I will quote it again:

> … the Greens have told motorists in the middle and outer west to 'stick it' — no new river crossings and no new roads for them. Car drivers in the west are to be punished, sacrificed on the altar of green ideology.

I could not agree more with Mr Pakula. Now his party, the Labor Party, has also sacrificed itself on the altar of green ideology and is being led around by the nose by the likes of Mr Barber who, as I said the other day, is grinning like the Cheshire cat on this issue because he has the Labor Party exactly where he wants it, doing his bidding, to the great detriment of the people of Victoria, particularly those in the western suburbs and in western Victoria. Geelong and Ballarat have been left behind by the Labor Party, which has suddenly decided to focus on those Greens preferences and those people protesting in Richmond, North Fitzroy and Brunswick. Labor is concerned that it might lose the lower house seats of Melbourne and Richmond, so it has dumped the people of the western suburbs, who have faithfully supported Labor for 100 years, in favour of some Greens preferences and the inner city latte set. It is really rather extraordinary.

I look forward to this bill passing. I am also reminded of the reasoned amendment that has been put forward. The Auditor-General's report quite rightly points out that the Labor Party had a very poor stakeholder engagement process. It is now telling us 10 years after Labor started the process that we should not proceed and that we should actually talk to the stakeholders before we proceed. This is an extraordinary piece of hypocrisy from the Labor Party. I certainly will not be supporting the amendment. I am confident the coalition will not be supporting it. I look forward to the speedy passage of this bill, and I commend it to the house.

House divided on amendment:

Ayes, 16

Barber, Mr	Lewis, Ms
Darveniza, Ms	Melhem, Mr (*Teller*)
Eideh, Mr	Mikakos, Ms (*Teller*)
Elasmar, Mr	Scheffer, Mr
Hartland, Ms	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lenders, Mr	Tierney, Ms

Noes, 19

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

Pairs

Pulford, Ms	Crozier, Ms
Viney, Mr	Kronberg, Mrs

Amendment negatived.

House divided on motion:

Ayes, 18

Atkinson, Mr	Millar, Mrs
Coote, Mrs	O'Brien, Mr D. D.
Davis, Mr D.	O'Brien, Mr D. R. J. (*Teller*)
Drum, Mr	O'Donohue, Mr
Elsbury, Mr	Ondarchie, Mr
Finn, Mr	Peulich, Mrs
Guy, Mr	Ramsay, Mr (*Teller*)
Koch, Mr	Rich-Phillips, Mr
Lovell, Ms	Ronalds, Mr

Noes, 16

Barber, Mr	Lewis, Ms
Darveniza, Ms (*Teller*)	Melhem, Mr
Eideh, Mr	Mikakos, Ms
Elasmar, Mr	Scheffer, Mr (*Teller*)
Hartland, Ms	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lenders, Mr	Tierney, Ms

Pairs

Crozier, Ms	Pennicuik, Ms
Dalla-Riva, Mr	Pulford, Ms
Kronberg, Mrs	Viney, Mr

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 12 agreed to.

Clause 13

Mr BARBER (Northern Metropolitan) — Clause 13 proposes a substitute section for the existing section 26. Subsection (1)(b) of the proposed section reads:

> The Authority may permit the whole or any part of the West Melbourne market land to be used for any purpose.

My understanding of the current legislation is that the purpose of the land is for a fruit and vegetable wholesale market and associated activities — the Crown land is reserved for that purpose — so from the government's point of view this section is necessary in order to permit the site, when it is vacated, to be used for a giant construction and loading depot for the proposed east–west link. Can the minister confirm that that is the purpose for proposed section 26(1)(b), as described in the second-reading speech?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I say to Mr Barber that the purpose of the clause he is referring to is to allow the site to be used for any purpose other than its current purpose as a market, and that would include the activities Mr Barber referred to and any other activity that is not market activity. The intent of the clause is to recognise that the land will no longer be used as a market in the future and to make it available for other purposes, one of which, as the second-reading speech points out, the government has indicated could be — and I stress 'could be' — the facilitation of the east–west link construction.

Mr BARBER (Northern Metropolitan) — Is it correct to say that without this clause that could not be the case?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Without this clause the land could not be used for any purpose other than as a market.

Mr BARBER (Northern Metropolitan) — In the voluminous documents that have been created for the comprehensive impact statement (CIS) on the east–west toll road, not to mention reviews and extra supplements that have been added to that material tabled during the hearings themselves, which I admit I have been unable to keep up with as the full swathes of material now run to many thousands of pages, was this proposal flagged by any of the proponents — that is, the use of the market for this purpose?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am unable to advise the committee what is in the CIS in respect of the east–west link. I can tell Mr Barber that the Linking Melbourne Authority (LMA) has advised both parties bidding on the project that this site could be available for the types of works outlined in the second-reading speech.

Mr BARBER (Northern Metropolitan) — Therefore the importance of this clause to that project is, in some ways, hidden away in your secret tender process. If what you are indicating is the case, that there has not yet been public discussion of this proposal, it must be that the bidders themselves are considering whether this is necessary for their bids.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I say to Mr Barber that I cannot really go beyond what I have already said. LMA has indicated that this site is potentially available, and it would be a matter for the bidders as to whether they saw it as necessary or desirable in putting together their bids. Obviously that will come through in the final tender process.

Mr BARBER (Northern Metropolitan) — I am not asking the minister to disclose discussions that have been had during the bids. The government has described this as an exceptional opportunity, so I am simply asking the minister to indicate where within the confines of the tender processes the government would be talking to tenderers about this, because it does not seem to have been played out in the public process.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am not sure that I follow Mr Barber's question. My understanding is that this opportunity has been flagged with the bidders and may or may not be reflected in their final submissions to government.

Mr TEE (Eastern Metropolitan) — On the use of the site for the east–west link, I note that at the Public Accounts and Estimates Committee the Minister for Major Projects indicated that there was a 10-month delay in the relocation of the markets from West Melbourne to Epping. I am wondering if that delay might impact on the use of the site for the east–west project. Does the government have a date in mind for the use of the market site for any part of the east–west project, and could that date be deferred if the move of the market is delayed?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Mr Tee's question assumes the successful bidder wants to use this site for those purposes. As I indicated to Mr Barber, the potential of this site has been flagged as part of that tender process, and the bidders will determine whether they wish to use this site as part of their bid. That will be determined once the tender process is concluded and a bidder is selected. In many respects, that is a hypothetical question because at this stage there is no commitment to use that site for east–west link purposes.

Mr TEE (Eastern Metropolitan) — Taking up Mr Barber's point that the second-reading speech says that use of the market site will lead to substantial cost benefits, is there a risk that those benefits might not be realised if the market is delayed?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am conscious of not straying into talking about a live tender process. What I have indicated is that the potential of that site has been flagged to the bidders. They will put together their bids having regard to what they see as the value of that site and potential other opportunities around that project, and they will make a decision on the best way to put the project together, so I do not want to get into hypotheticals about the impact this site may or may not have. The second-reading speech flags that the government sees this as a potential use of the site for that project, but ultimately it will come down to the final bids that come in respect of that project and the final decision around that project.

Mr BARBER (Northern Metropolitan) — The second-reading speech goes a bit further than that. It describes it as an exceptional opportunity leading to substantial cost benefits. I think we will let the record stand on that one. Since the sole purpose of this clause is to facilitate the east–west road tunnel, I indicate that the Greens will not be supporting this clause.

Committee divided on clause:

Ayes, 19

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

Noes, 16

Barber, Mr (*Teller*)	Melhem, Mr
Darveniza, Ms	Mikakos, Ms
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Scheffer, Mr
Hartland, Ms	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lewis, Ms	Tierney, Ms (*Teller*)

Pairs

Crozier, Ms	Lenders, Mr
Kronberg, Mrs	Pennicuik, Ms

Clause agreed to.

Clauses 14 to 18 agreed to.

Clause 19

Mr TEE (Eastern Metropolitan) — Clause 19 inserts new section 36A, which refers to a nominated day. On the nominated day the minister can make a declaration and then the section is actioned. Are there any conditions in terms of matters that the minister needs to consider before determining what is the nominated day?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — No, there are not.

Mr TEE (Eastern Metropolitan) — On page 9 clause 19 inserts new section 36A, and I am just looking at paragraph (a), which talks about a common-law right. I attended the briefing with the department and the minister's adviser, which was very helpful and in which that common-law right was referred to. The concern about that is that apparently an English decision has been picked up in Australia. I did not make a note of that decision. I wonder if the minister or someone in the advisers box is able to give me a reference to that English decision that says there may be a common-law right, which this clause seeks to extinguish.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that it was a Supreme Court decision in 1969 with respect to entitlements of stallholders at the Queen Victoria Market.

Mr TEE (Eastern Metropolitan) — I thank the minister. I ask whether — not now, obviously, but at some stage — I could get a reference to the decision so I can follow it up.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I can certainly get that for Mr Tee.

Mr TEE (Eastern Metropolitan) — Just moving through clause 19, proposed section 36B(2), on page 10 of the bill, talks about the Crown. I am wondering whether the reference to the Crown there is a reference to the state of Victoria, the Melbourne Market Authority or both.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — That would be the state of Victoria.

Committee divided on clause:

Ayes, 18

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

Noes, 16

Barber, Mr	Melhem, Mr
Darveniza, Ms	Mikakos, Ms
Eideh, Mr (*Teller*)	Pulford, Ms
Elasmar, Mr	Scheffer, Mr
Hartland, Ms (*Teller*)	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lewis, Ms	Tierney, Ms

Pairs

Crozier, Ms	Lenders, Mr
Kronberg, Mrs	Viney, Mr
Peulich, Mrs	Pennicuik, Ms

Clause agreed to.

Clauses 20 and 21 agreed to.

Clause 22

Mr TEE (Eastern Metropolitan) — Clause 22 inserts new part IVA, and my question relates to new section 38D(1). I am trying to get a sense of how that section operates, because paragraph (a) says that on the nominated day any leases, licences et cetera come to an end and paragraph (b) says that any lease is taken to end. I am just wondering what the distinction is and what additional powers are generated between the two. Similarly I look for guidance in terms of the third paragraph which also talks about a licence. Paragraph (a) talks about a lease and a licence, as do paragraphs (b) and (c), and I am wondering what is added by (b) and (c).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that paragraphs (b) and (c) relate to specific known leases and licences and paragraph (a) is essentially a catch-all to ensure that none are overlooked. It is basically the construction of parliamentary counsel to ensure that all leases and licences are covered by this clause.

Mr TEE (Eastern Metropolitan) — Focusing on paragraphs (b) and (c) as a second question and not related to the areas we have covered, paragraph (b) refers to 'no extension, further term, renewal or holding over'. I am trying to understand what is encompassed

by (b) and (c) which use a similar wording. Would an example be a lease in (b) or a licence in (c) which has, say, an option to extend the period? If someone has an existing licence, is that the sort of thing that may be encompassed in that clause?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Yes, it is.

Mr TEE (Eastern Metropolitan) — The minister indicated that paragraphs (b) and (c) relate to existing leases and licences. I take it then that it is anticipated that a number of existing leases and licences will extend beyond the move to Epping, so in effect you need this clause to terminate a licence because the date is such that it may extend past the move to Epping.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that the expectation is that in practice that will not occur because those entitlements will have been wound up by negotiation by the operative date, being 30 June next year. The expectation is that this clause will not terminate those entitlements because they will have been resolved through negotiation prior to that, to the extent that there are entitlements which extend beyond that date anyway.

Mr TEE (Eastern Metropolitan) — To the extent that there is no agreement and there is an entitlement beyond the move to Epping, does this bill ensure that there is no entitlement to compensation, so that in effect people are not entitled to the remainder of their lease or licence?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Yes, it does. It provides that there is no residual entitlement beyond the nominated date.

Mr TEE (Eastern Metropolitan) — I refer the minister to new section 38D(3), to be inserted by clause 22, which talks about a preserved interest, which is defined in new section 38B headed 'Definitions', as being VicTrack land, and I understand that, and then anything else that is declared by the Governor in Council. What sorts of interests are envisaged in that?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that the preserved interests would be in the nature of easements, utility access and that type of thing.

Mr TEE (Eastern Metropolitan) — Is it not intended that there will be any preserved interests in terms of the stallholders or anything that is beyond the move?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — No. That is correct.

Committee divided on clause:

Ayes, 18

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

Noes, 16

Barber, Mr (*Teller*)	Lewis, Ms
Darveniza, Ms	Melhem, Mr
Eideh, Mr	Mikakos, Ms
Elasmar, Mr	Pulford, Ms (*Teller*)
Hartland, Ms	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lenders, Mr	Tierney, Ms

Pairs

Crozier, Ms	Scheffer, Mr
Kronberg, Mrs	Viney, Mr
Peulich, Mrs	Pennicuik, Ms

Clause agreed to.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Gaming machine entitlements

Ms PULFORD (Western Victoria) — My question is to the Minister for Liquor and Gaming Regulation. I refer to the minister's announcement of a review into the term of electronic gaming machine (EGM) entitlements in Victoria. Given that those entitlements do not expire until 2022, can the minister explain why the industry has been given only two weeks to respond and why the government has indicated that the review will be concluded within three months — that is, a full eight years prior to the expiration of the entitlements?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am very pleased to answer a question from Ms Pulford of the Labor opposition about the allocation of electronic gaming machine licences in Victoria, because we know from the Auditor-General that Victorians have been short-changed to the tune of $3 billion.

Mr Ondarchie — How much?

Hon. E. J. O'DONOHUE — Mr Ondarchie asked the question by interjection, 'How much?'. It is $3 billion, according to the Auditor-General. In this year's budget, which starts on 1 July, it will be

approximately $300 million — $300 million that could be spent on new schools, new hospitals, more nurses, more police and better infrastructure across Victoria. In next year's budget it will be another $300 million. Indeed in each year of the forward estimates it will be an additional $300 million approximately. We know that the former government absolutely botched the electronic gaming machine auction process and short-changed Victorian taxpayers and the Victorian community. We also know from the Auditor-General's report that it was the large EGM operators that had, in his words, the 'windfall gain' from Labor's botched electronic gaming machine licence auction process.

The government has received representations from the industry, from clubs and from various operators of these entitlements about the length of the 10-year licence term and the challenges that poses to capital investment over the term of the licence. The government has not formed any view about these matters. In the press release Ms Pulford referred to I specifically say that there may be no change to the current term. However, we have responded to concerns and are seeking feedback about the appropriateness or otherwise of that term.

The fundamental point here is that the electronic gaming machine auction process by the Labor government was one of the greatest financial disasters in Victoria's history, costing the state $3 billion. As I have said to the house before, only the Labor Party could take a $4 billion asset and turn it into $1 billion. It is an absolute disgrace, and every Victorian can mourn the schools, hospitals, roads, trains and various other pieces of public infrastructure that cannot be built because of Labor's financial incompetence, Labor's mismanagement and Labor's disgraceful — —

The PRESIDENT — Order! It is my view that the minister is debating. The minister has made his point, and continuing to use that rhetoric takes us into the realm of debate. I thought the question was fairly straightforward.

Hon. E. J. O'DONOHUE — I will respect your ruling, President. The government has issued a discussion paper and has formed no view about an extension or otherwise. We look forward to feedback from interested parties.

Supplementary question

Ms PULFORD (Western Victoria) — I note that the minister in no way even attempted to answer my question, which was really about why there has been such a rush. By way of a supplementary question, I ask: given that the government goes into caretaker mode a mere four months from now, can the minister assure the house that any proposal to extend EGM entitlements — perhaps by up to 25 years — will be put before the Victorian people at the November state election?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Again, it is a bit rich for the Labor Party and Ms Pulford to offer advice on how to consider these options, given the context in which Ms Pulford put her question. The government has issued a paper for discussion. We look forward to receiving feedback from those who are interested in this matter, whether they be industry representatives or those who have a concern about gaming in our community. We look forward to receiving those submissions and considering them in due course.

Royal Victorian Eye and Ear Hospital

Mr FINN (Western Metropolitan) — My question without notice is directed to the Minister for Health. Will the minister update the house on the Royal Victorian Eye and Ear Hospital redevelopment?

Hon. D. M. DAVIS (Minister for Health) — I thank Mr Finn for his question and for his advocacy for major health projects around the state, in this case the Royal Victorian Eye and Ear Hospital, one of our premier hospitals and an important statewide provider of services. It is over 150 years old now, and it is a gem in terms of its capacity to deliver services and undertake, in partnership with the Centre for Eye Research Australia, world-beating research as well.

Prior to the last state election the state government and the opposition at the time were very proud to make a commitment of $165 million to rebuild the eye and ear hospital. Those who have been through the eye and ear hospital will understand the run-down state of that hospital, which had been left to dilapidate without suitable repairs under the previous government and the previous Minister for Health. The state government went about the work of costing the redevelopment of the eye and ear hospital, and $165 million was allocated to that project.

I can indicate that not only have the tenders been let but early works on the project have now been completed. Construction works in the Peter Howson wing on the ground floor are well advanced, with a temporary cafe, pharmacy and security facilities, and completion is due in June. The Aubrey Bowen building refurbishment work, including a temporary loading dock and stores facilities, will be completed in the next month.

Mr Jennings — What about the commonwealth money?

Hon. D. M. DAVIS — I am going to say something about that in a moment. Level 5 demolition works are well advanced for new teacher training and research facilities, I welcome the contribution by the commonwealth government, confirmed by the Abbott government, of $100 million towards this project. It took a state government to take the lead on the project and to make that commitment, but we welcome the support that has come from the commonwealth in recent times, and we believe it is significant support. Given the importance of the eye and ear hospital to the future of eye health in Victoria and more broadly in Australia as Australia's pre-eminent eye and ear hospital, this is a project of national significance.

Thirty per cent of the overall project budget is committed, and I ask members to understand that this project is very complex. It requires a sequence of decanting and movements of different parts of the hospital to keep it operational through this project. I pay tribute to Ann Clark and the administrative staff at the eye and ear hospital, as well as to the clinicians, who are working through these difficult processes. I can tell the house that this will deliver a first-rate facility that will set the eye and ear hospital up for the next 150 years as it celebrates the enormous contribution it has made.

The project provides a mix of new and refurbished facilities, allowing for major improvements in the operating theatres, specialist clinics and emergency department — a very busy emergency department, carrying a significant load — as well as in same-day recovery areas. There will be a full upgrade of the hospital's engineering infrastructure and plant, and this will make a major difference. There will be a new central sterile supply department and pharmacy as well as electronic medical records. There will be a full upgrade of the hospital's engineering structure and central plant with co-located general support areas. As I pointed out before, the teaching, training and research facility will be improved.

I welcome the contribution made by the Auditor-General today. This is an important — —

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

Gaming machine entitlements

Ms PULFORD (Western Victoria) — My question is to the Minister for Liquor and Gaming Regulation. I refer to the June 2011 Auditor-General's report on the allocation of electronic gaming machine entitlements, which the minister has referred to on countless occasions, not least of all in his answer to my previous question. On page 17 of that report the Victorian Auditor-General's Office (VAGO) stated:

> … we performed our own calculation of the fair market value of the entitlements.

The office arrived at a midpoint of $4.1 billion over 10 years. Can the minister advise the house whether the government is using that VAGO methodology in determining the value of entitlement extensions?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am extremely grateful to Ms Pulford for quoting from the VAGO report of June 2011 on the way the Labor Party, when in government, short-changed the Victorian community by $3 billion. Let me quote from the VAGO report. On page x it says:

> The industry paid $980 million for the right to operate EGMs over a 10-year period. This is equivalent to around a third of the total revenue generated by EGMs in a single year, and a quarter of the estimated fair market values of the entitlements.
>
> We valued the EGM entitlements in the range of $3.7 billion to $4.5 billion, with a midpoint of $4.1 billion.

Interestingly the VAGO report also says:

> As a result of this very significant difference, the allocation largely failed to meet its intended financial outcome of capturing a greater share of the industry's supernormal profits. This was due to the lack of demand at auction, combined with a low reserve, inadequate information and training for venue operators, and poor — —

Mr Lenders — On a point of order, President, the minister is debating the question. Ms Pulford's question to the minister was specifically about whether the government accepted that part of the report's methodology. The minister has read from the report, but now he is debating something quite different. He is not talking about whether the government accepts the methodology but is debating about what, in his view, a previous government should or should not have done. I ask you to bring him back to the question, which was: does the government accept the VAGO methodology?

Hon. E. J. O'DONOHUE — On the point of order, President, as Mr Lenders just said, Ms Pulford specifically asked me about the methodology. I am quoting what was said about that methodology and about some of the failures of that methodology that led to the Victorian community being short-changed by $3 billion.

The PRESIDENT — Order! Ms Pulford's question referred to the VAGO report, and therefore the minister is quite entitled to refer to that document as part of his answer. He was, in effect, invited to do so by the question. In the context of his remarks so far, I do not believe he is debating at this point. I was more concerned about his previous answer. In fact I asked him to come back to a substantive answer in his response to the previous question. On this question I think he is quite within the limits at this time.

Hon. E. J. O'DONOHUE — I continue quoting from the VAGO report:

> This was due to the lack of demand at auction, combined with a low reserve, inadequate information and training for venue operators, and poor decisions made during the auction. Large venue operators, rather than the community — —

Mr Leane interjected.

Hon. E. J. O'DONOHUE — Let me say that again for Mr Leane's benefit:

> Large venue operators, rather than the community, are the beneficiaries of this windfall gain.

The report goes on to say:

> There was a lack of decision review points, particularly when significant unplanned changes occurred … DPC and DTF —

the two relevant departments —

> appropriately raised concerns on the merits of proceeding with the auction — —

Ms Pulford — On a point of order, President, my question was very straightforward. I asked the minister if it was the government's intention to use the VAGO methodology, not any alternative methodology. I would appreciate an answer.

Hon. E. J. O'DONOHUE — On the point of order, President, again I submit to you that I am actually going through some of the associated issues that VAGO identified, and that will inform the balance of my answer to the question.

The PRESIDENT — Order! The minister still has almost 2 minutes to complete his answer and to respond to the specifics of the question. I would be concerned if we were to have the entire report read to us in those 2 minutes, but the minister has indicated in his response to the point of order that he is establishing the context for the answer that he will provide to Ms Pulford. On that basis I find it acceptable at this point. We do not, however, want the whole report read.

Hon. E. J. O'DONOHUE — This point is particularly relevant to Mr Lenders, because he was the Treasurer at the time:

> DPC and DTF appropriately raised concerns on the merits of proceeding with the auction with their respective ministers. However, no formal review was undertaken.

Ms Pulford asked me whether the government will be informed by the findings of this VAGO report. In a general sense I think the community can have a great deal of confidence in the way the coalition approaches these sorts of financial management issues as opposed to Labor. Whether we are talking about this process, where ministers such as Mr Lenders ignored the advice of their department, whether we are talking about the myki fiasco or whether we are talking about the Wonthaggi desalination plant financial black hole, or indeed the north–south pipeline, as referred to by Mrs Coote, this government has demonstrated in its AAA credit rating, in the way it is delivering infrastructure as part of — —

Honourable members interjecting.

The PRESIDENT — Order! The minister, without assistance. I suggest the minister is teetering on the edge of debating — in fact, more than teetering.

Hon. E. J. O'DONOHUE — We are focused on being financially responsible. As part of being financially responsible, we will take the learnings from this report and take the advice of the Auditor-General as we proceed with this process.

Supplementary question

Ms PULFORD (Western Victoria) — The minister has failed to answer why this is being done in such an extraordinary hurry. The only conclusion that I can draw from the minister's answer is that the government will indeed be using the VAGO methodology, which the minister has been so reliant on and has spoken of with such fondness on so many occasions. My supplementary question is: can the minister assure the house that the value of the entitlement extensions to taxpayers will be at the very least an average of $410 million per year of extension?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — There are many issues with Ms Pulford's supplementary question. I take no pleasure in the fact that large venue operators had the windfall gain rather than the Victorian community. Ms Pulford says I have fondness in quoting this report. I would prefer to be talking about a new school in my electorate, a road upgrade or an extension to an

emergency department at a hospital that has been funded by this $3 billion that should have been in the Victorian — —

Honourable members interjecting.

Hon. E. J. O'DONOHUE — It gives me no pleasure, and I am sure the Treasury ministers have even less pleasure in the fact that the Victorian community has been short-changed by $3 billion. Ms Pulford referred to an extension. As I said in my substantive answer to the previous question, the government has formed no view about any extension. In fact in the press release the Treasurer and I released, I was explicit about that.

Homelessness funding

Mr ONDARCHIE (Northern Metropolitan) — My question is to the Honourable Wendy Lovell in her capacity as Minister for Housing. Can the minister advise the house of any innovation action projects that are designed to help young people at risk of homelessness?

Hon. W. A. LOVELL (Minister for Housing) — I thank the member for his question and his ongoing interest in those who are more disadvantaged than we are ourselves. I take the opportunity not only to update the house on innovation action projects but also to advise the house that this morning the Premier signed the national partnership on homelessness with the federal government, which will contribute to providing services for homeless people in Victoria and provide certainty for our sector — a fantastic result for those who are disadvantaged.

Our innovation action projects are funded under our $86.2 million Victorian homelessness action plan. Recently I visited the Detour program, which is being run in Frankston, in Shepparton and also in Sunshine. I visited Frankston together with our candidate for the Assembly seat of Frankston, Sean Armistead. This project is run by Melbourne Citymission in conjunction with Kids Under Cover and UnitingCare Cutting Edge. Detour's early intervention model is extremely promising. It allows young people to remain engaged with their family and with education while addressing the issues that might otherwise drive them to a crisis point. Young people help to design their own future by identifying where they want to go and the steps they need to take to get there. Detour has established essential partnerships since launching in Frankston late last year, including co-locating with other relevant community services.

It is exciting to see the innovation action projects working and to meet some of the young people who are involved, particularly with that Detour project. I congratulate Melbourne Citymission, Kids Under Cover and UnitingCare Cutting Edge on the great work that they are doing in the three locations where they are running this project.

Members would be interested to know that when I arrived in Frankston at that particular briefing Ms Mikakos was on the footpath. I was absolutely delighted to see her there. I was surprised to see her there, but delighted. I hoped she was joining us for a briefing on the Detour project, which she would have learnt a lot from, but I was disappointed in that before I got out of the car Ms Mikakos scurried off. I discovered later in the day where Ms Mikakos had scurried off to, when she tweeted that she had arrived for afternoon tea at Helen Constas's mum's place, where they put on a light spread. Instead of being interested in learning about homelessness action projects, Ms Mikakos was visiting a disgraced Labor candidate's mum's home for afternoon tea, probably with a few other bullies. Ms Constas was hand-picked by Daniel Andrews, the Leader of the Opposition and member for Mulgrave in the Assembly, as Labor's candidate for Frankston. This is demonstrated — —

The PRESIDENT — Order! I think the minister has got away with a fair amount already. There will be no further on that line in terms of Mr Andrews's and the Labor Party's preselection processes. We are talking about government administration. As I said, the minister has done quite well.

Hon. W. A. LOVELL — It did look like a very nice afternoon tea, though. The innovation action projects are really kicking goals. We chose 11 innovation action projects that were put to us from the sector as stage 1. Seven of those have been — —

Mr Leane interjected.

The PRESIDENT — Order! Mr Leane is not being helpful.

Hon. W. A. LOVELL — Seven of those have been continued into stage 2 and have had their funding increased to demonstrate what can be achieved by intervening early when people are experiencing homelessness. We are working with the sector, using its expertise to make sure that we can help those who are more disadvantaged than us.

Peninsula Health aged-care facilities

Ms MIKAKOS (Northern Metropolitan) — My question is to the Minister for Ageing. Will the minister rule out privatising Peninsula Health's 30-bed high-care Carinya Residential Aged Care and 18-bed Michael Court Hostel, both of which are aged persons mental health facilities, in Frankston and Seaford?

Hon. D. M. DAVIS (Minister for Ageing) — The member will be well aware that the government is prepared to look at proposals that come from local health services or communities to see new partnerships formed in the aged-care sector. Presumably the member has seen the media release dated 16 June from Peninsula Health, which is headed 'Peninsula Health seeks residential aged-care partner'. As she would understand, Peninsula Health has previously successfully found partners in Southern Cross Care. In April 2013 it was successful in finding such a partner and, as I understand it, was seeing significant capital activity to support people at what is now the Southern Cross Care group. Peninsula Health has said:

> We are seeking expressions of interest from … both the not-for-profit and private sectors and hope to commence a new partnership before the end of the year.
>
> The successful transfer last year of our residential aged-care operations in Rosebud to Southern Cross Care (Vic.) indicates there are highly qualified non-government organisations willing and able to expand in this sector of health care.
>
> The organisation we choose will be a quality provider who is able to provide excellent care for residents and invest in new and enhanced facilities in the future.

Jan Child, the aged-care chief operating officer at Peninsula Health, has very much the best interests of the community at heart, as does Peninsula Health. They are prepared to work with private providers to ensure that we get very good capital projects and very good outcomes in terms of aged care on the peninsula. Peninsula Health is seeking a residential aged-care partner, so it will depend what proposals come forward from Peninsula Health.

I am of course interested that Ms Mikakos in her sweep around the peninsula obviously sought to have afternoon tea at Helen Constas's mum's house, where they certainly put on a light spread for friends. What I can be very clear about is Peninsula Health — —

The PRESIDENT — Order! Mr Ondarchie's behaviour is not on.

Mr Ondarchie — I am reading the notes on the back, President.

The PRESIDENT — Mr Ondarchie is within a whisker of being sent out of the chamber for that. He knows the rules, and there was not very much on the back to read, so it would not have taken that long.

Hon. D. M. DAVIS — Importantly the organisation will also have the opportunity to acquire a further 42 licences for future residential aged-care expansion. This will see an expansion in the number of operational residential aged-care beds in the Mornington Peninsula and Frankston local government areas. Peninsula Health is working to see better services and more services in its local area.

As the member will understand, aged care is funded and regulated directly by the commonwealth, but the state has some significant interests in ensuring that people have good quality aged care. I have confidence — particularly given that Peninsula Health has successfully negotiated with Southern Cross Care — that it may well be able to negotiate with another partner, or indeed perhaps with Southern Cross Care. I do not know the particular partners that it is negotiating with, but I am hopeful it will be able to successfully negotiate in the interests of its community.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — The minister has effectively endorsed this privatisation process and his department is on the tender evaluation group. I point out that Peninsula Health's own website group describes Carinya as providing:

> … high-level specialist nursing care to residents with complex mental health diagnoses who are unable to be managed effectively in a generic aged-care facility.

I ask again: will the minister take any steps at all to prevent the privatisation of the only aged persons mental health facilities that service Frankston, Seaford and the surrounding area?

Hon. D. M. DAVIS (Minister for Ageing) — I do not think the member was listening. In fact what we might see is an expansion of capacity in aged persons mental health facilities. I do not think people should be jumping to conclusions in any of this. What we know is that we are very successfully seeing the involvement of Southern Cross Care in the arrangements with Peninsula Health, and I compliment Peninsula Health on its professionalism and the way that it went about that process. That will see a stronger residential aged-care service on the peninsula into the future. In the same way the process that they are engaged in now may well see a stronger residential aged-care service with more places as part of an expansion, and

potentially even more aged persons mental health facilities on the peninsula.

Asian Cup

Mrs PEULICH (South Eastern Metropolitan) — My question without notice is directed to Mr Drum in his capacity as Minister for Sport and Recreation, which is very dear to my heart. I ask: could the minister inform the house of any recent announcements regarding the 2015 Asian Football Confederation Asian Cup? I ask as a soccer fan. Go soccer!

Hon. D. K. DRUM (Minister for Sport and Recreation) — I thank Mrs Peulich for her question. As many in the house would be aware, early in May we had the opportunity, along with the Premier, to travel to Ballarat to announce that the Bahrain team is going to take up residence at the Novotel at Creswick in preparation for the Asian Cup and use the facilities at Ballarat to train and acclimatise in readiness for the Asian Cup. Today we had an amazing secondary announcement made that will see the team from the country of Jordan taking up residence for its training facility at Mazenod College in the city of Monash. This is an amazing coup for the school itself. Father Michael Twigg has in effect single-handedly gone out and chased some of the biggest world football powers in relation to every country associated with the Asian Cup to try to make sure that the college could show off its amazing community facilities on the world stage.

That announcement was made this morning with Gerard Whateley, an old boy of Mazenod, and Peter Le Grand, who is the school council president. It was an amazing school assembly, with 1200-odd students in attendance to hear the announcement that the Jordan team will move into the area in late December in readiness for the Asian Cup, which is going to start on 9 January. We understand that all of the 16 teams will be assembling in Melbourne in readiness for the opening game between Australia and Kuwait at AAMI stadium, and that is going to be an amazing start to the new year.

This comes on top of the Ballarat announcement, and there is further expectation that another Victorian region may be able to secure yet another country in readiness for the Asian Cup. It is certainly going to be the biggest soccer or football tournament ever held in Australia, and I think once we tick over into the new year the people of Victoria and Australia are going to understand just how big this will be.

Mr D. R. J. O'Brien — It's great for the economy.

Hon. D. K. DRUM — It will be amazing for the economy, Mr O'Brien. I think the people around the Ballarat region and the Monash area, eastern Melbourne, will derive the benefits of seeing these world-class soccer players — these world-class footballers — making their areas their home.

This is the result of a government that invests in community facilities. While investment in these facilities is primarily for the benefit of our smaller clubs — our junior clubs, our community clubs and even our representative clubs in the regions — what we will find is that many of them will double the size of their elite training facilities to cater for some of the best countries in the world. When China, Japan, North Korea and South Korea bring their teams into Australia, hundreds of thousands of fans are going to come with them. That will be an incredible economic driver for this city when we host not only the first game but seven other games as well.

It looks like it will be an amazing start to the new year with the Asian Cup. Today's announcement is a great one for Mazenod College and eastern Melbourne.

Casey Hospital

Mr JENNINGS (South Eastern Metropolitan) — My question is to the Minister for Health. Earlier this week the minister made some commentary about Labor's commitment to providing hospital care for the community of Casey. I refer to a project which was commissioned by the outgoing Labor government in Victoria and agreed to by the then federal Labor government to commit $22.2 million to build a new subacute facility at the Casey Hospital, which is about to be completed and about to be opened. That care in stroke neuro rehabilitation and orthopaedic rehabilitation was a measure of Labor's commitment to that community to generate the funds for that project. With one week before 1 July, can the minister indicate whether he has the funds to fund the operation of that facility — which is about to open — due to the Abbott cuts and the minister's inability to provide certainty about subacute funding?

Hon. D. M. DAVIS (Minister for Health) — I have been very clear about the challenge faced by states around the country. The four-year time-limited agreement signed by the two previous Labor governments falls to zero on 30 June. Let us be quite clear about that. The budget papers make that point. We understand that.

What I have also been quite clear about, and I will step through this matter quite carefully and methodically for

the benefit of Mr Jennings, is that what matters to our health services is the aggregate funding they get. The large health deal is the most important source of funding to our health services, and that large health deal has calculations which are not yet complete. The Victorian government has advocated very fiercely and is in fact making significant progress. What I will be quite clear about too is that when the funding numbers from the federal government are confirmed, it will be very clear that we have more money than Mr Jennings's calculations suggested, and we will see the final number when the calculations are finalised.

We have sought to move that process as fast as we can, and the Victorian government has been very active in assisting federal authorities and advocating strongly for Victoria's position.

Mr Jennings — You ripped money out of Victoria.

Hon. D. M. DAVIS — It is very different from the behaviour of Labor when $107 million was cut by the former federal Minister for Health, Tanya Plibersek, and the then Prime Minister, Julia Gillard. Like toadies, Labor members advocated for those cuts. They supported those cuts. We do not support any reductions in funding to Victoria, and there will be a significant net increase in funding to Victoria. That significant increase will be much greater than Mr Jennings thought and certainly much greater than what was shown on the spreadsheets that Mr Melhem referred to and which were concocted in Labor's own offices.

I am confident that Monash Health, which operates Casey, will have a significantly increased budget in aggregate this year, and that significantly increased budget will enable the — —

Honourable members interjecting.

Hon. D. M. DAVIS — There is going to be a significantly increased budget to Monash Health this financial year. The final number is not yet known because the final calculations at commonwealth level have not yet been completed. But we know the funding will be greater than what Mr Jennings has asserted and what Labor federal candidates around the countryside have asserted, as they have plugged their fanciful, fantasy numbers into their little word processors to make up notional allocations and, as Mr Melhem admitted, the table created out of Labor's own office.

What I am being clear about here is that there will more capacity at Monash Health this financial year coming than in the financial year we are currently in. Monash Health will see a record number of patients this year, and it will see even more patients next year. It will of course be up to Monash to decide the exact mix of services, but one thing I know about Casey is that it will have special-care nursery beds — —

The PRESIDENT — Order! The minister is out of time. Does Mr Jennings have a supplementary question?

Mr Jennings — I do not feel that the Parliament or the people of Victoria need to hear any further from the minister on this matter today.

Hon. D. M. Davis interjected.

The PRESIDENT — Order! From my point of view it has been ruled out because there was no question.

Crime prevention

Mr FINN (Western Metropolitan) — My question without notice is to the Minister for Crime Prevention, and I ask: can the minister inform the house about some of the latest projects the Napthine government is funding to improve community safety and to build a better, safer Victoria?

Hon. E. J. O'DONOHUE (Minister for Crime Prevention) — I thank Mr Finn for his question and his interest in the crime prevention portfolio, a portfolio the coalition government is proud to have.

Mr Finn — It impacts on all of us.

Hon. E. J. O'DONOHUE — Indeed, Mr Finn. Through the crime prevention portfolio the coalition government is partnering with local communities to identify and solve local issues about crime and perceptions of crime.

Ms Pulford interjected.

Hon. E. J. O'DONOHUE — I note the interjection from Ms Pulford. An additional $3 billion would help prevent a lot of crime. An additional $3 billion would enable the coalition government to partner with a lot more local communities when it comes to crime and perceptions of crime. It would enable the coalition government — —

Ms Pulford interjected.

Hon. E. J. O'DONOHUE — Ms Pulford continues to interject, but I am looking forward to hearing from Mr Lenders about why he ignored the advice of the Department of Treasury and Finance — but I digress.

As I was saying, the coalition government is very pleased to partner with local communities to respond to local concerns of crime and perceptions of crime. As part of our crime prevention portfolio agenda, under the Public Safety Infrastructure Fund grants stream I have been very pleased to announce recently a number of innovative community projects responding to individual community concerns about crime and perceptions of crime. Recently, with the mayor of the City of Kingston, Cr Paul Peulich, and the member for Mordialloc in the Assembly, Lorraine Wreford, I was pleased to announce $30 000 to install higher grade lighting to increase surveillance at a busy thoroughfare linking the beach with a station and Nepean Highway. It was a fantastic announcement.

I was very pleased to join with Shannon Eeles to announce $250 000 for the Port Phillip City Council for an upgrade in Fitzroy Street, St Kilda, which will provide new lighting, pavement and seating to improve the amenity and attractiveness of that space and to deter antisocial behaviour.

I was very pleased to join with the member for Narracan in the other place, Mr Gary Blackwood, to announce $250 000 to upgrade Memorial Park in Drouin. I was pleased to be there with the mayor of the Baw Baw Shire Council and the RSL. I note that this project was endorsed by Christine Maxfield. I thank Ms Maxfield for her letter of support and her endorsement of the project on behalf of the Drouin community.

It was a great pleasure to see the result of a previous Public Safety Infrastructure Fund investment with the completion of the upgrade of Bourke Park in Pakenham. Together with the mayor of the Cardinia Shire Council, Graeme Moore, the members for Bass and Gembrook in the other place, Ken Smith and Brad Battin, and the outstanding candidate for Bass, Mr Brian Paynter, it was great to see the fantastic work of the project.

There is a lot more. The Greater Shepparton City Council recently switched on its new CCTV camera project as a result of a grant from the coalition government, which has already led to crime being stopped and criminals being detained — —

The PRESIDENT — Time!

Western Hospital

Ms HARTLAND (Western Metropolitan) — My question is to the Minister for Health. On 29 May the National Health Performance Authority released data on the time patients spent in emergency departments in 2012–13. It found that Footscray hospital is the worst performing hospital in Victoria and the second worst in Australia for emergency room wait times. The minister will be aware that Footscray is not keeping up with the demand and that the aged infrastructure is at the end of its useable life, having been constructed in the 1950s. Regardless of how fantastic the nurses and doctors are, the hospital infrastructure limits their ability to deliver timely health care. The government has supported Western Health to undertake a feasibility study for redevelopment. I ask the minister: in light of these terrible performance figures, will the government now commit to redeveloping Footscray hospital's emergency and inpatient precinct?

Hon. D. M. DAVIS (Minister for Health) — I thank the member for her question, and I thank her for understanding that there is ageing infrastructure at Footscray hospital. The old Western General, as people knew it, is a hospital that was built many decades ago. Mr Finn, Mr Elsbury and I have seen the hospital many times, and we are very aware of the challenge that is faced. After 11 years of neglect by Labor, this is a significant problem. There is no question of that.

The government has been prepared to support significant improvements at hospitals like Williamstown to ensure that some capacity can be managed there and to support the significant expansion of services at Sunshine to also ensure that some services can be managed there, particularly the provision of intensive care unit facilities at Sunshine. That has been a significant challenge for Western Health, which previously has only had intensive care facilities at Footscray hospital, but ultimately it needed to build intensive care capacity at Sunshine as well because of the additional capacity and additional activity at Sunshine. I have opened a number of new facilities, and new maternity capacity at Sunshine has been funded. There has also been, as I said, increased intensive care capacity that was so notably not funded by Labor. Instead, in fact disgracefully, Labor used the preplanned intensive care capacity at Sunshine as a film studio.

The government has been making significant steps there, and I have been made very much aware of the work that Western Health is doing, and I pay tribute to the work of the management team there. The board has played a very significant role in that work, and I pay tribute to the commitment and work of Ralph Willis over a number of years. I can indicate that on 30 June he is retiring from his position as chair of Western Health. Given that we are talking about Western Health, I take the opportunity to formally put on the

record my thanks and appreciation for the remarkable contribution he has made at Western Health.

An honourable member interjected.

Hon. D. M. DAVIS — I genuinely want to record the appreciation of this government and, I have no doubt, the previous government for the work that Ralph has done as chair of the board. Ralph has also talked to me about the need for refurbishment at the Footscray hospital. I understand that in the longer term that is where things will need to go. The government is working through many of these challenges. Part of that is the process of managing patient flows when a major redevelopment would occur, and part of that is ensuring that there is sufficient capacity at Sunshine to ensure that whatever works occur at Footscray in the longer term they will occur safely whilst the hospital continues to provide services.

Mr Finn and Mr Elsbury were with me at the recent opening of the upgraded surgical capacity at Williamstown Hospital, and whilst the challenge of capacity and the challenge of timely care are significant at Footscray, I can indicate that Williamstown is actually one of the best performing hospitals in the state, and I pay tribute to the work of the people there.

My point is very much that I understand the need and I understand the requirement over the long term. The government is working through many of these issues with Western Health. The pity is that a lot of the background work was not done under Labor, and the pity is that the lack of activity for 11 years has left a real challenge.

Supplementary question

Ms HARTLAND (Western Metropolitan) — Unfortunately, as usual, the minister did not answer my question. I was talking about Footscray hospital, not Williamstown or Sunshine hospitals. The coalition has been in government for three and half years. According to Western Health, to delay the upgrade of Footscray hospital for another five years will cost an extra $100 million. This does not seem to be an economically viable thing to do. The emergency room is now in a total state of disrepair. When will the government commit to making an announcement about Footscray's emergency room? The staff at the hospital are amazing, but that emergency room is beyond derelict. I ask the minister: where is the commitment?

Hon. D. M. DAVIS (Minister for Health) — I thought I provided a very full and generous answer. Ms Hartland needs to understand that it is an integrated network, and it actually does a significant amount of work between the campuses. They cannot be seen in isolation. Ms Hartland needs to understand that if significant works are to occur at Footscray, we need to have the capacity to move some services into Sunshine and related services nearby. What I am being very clear about is that we need a strong outcome for Footscray hospital in the longer run, and I note the neglect — —

Ms Hartland interjected.

Hon. D. M. DAVIS — Under Labor, Ms Hartland was silent for years on this issue. She stands condemned by her lack of commitment to speaking up on behalf of her area. I note the importance of this significant upgrade, and I note the significance of Footscray hospital. I will be working with Western Health to achieve a very good outcome.

Digital technology

Mrs MILLAR (Northern Victoria) — My question is directed to the Minister for Technology, the Honourable Gordon Rich-Phillips. Can the minister explain how the government is positioning Victoria to capture the benefits and opportunities generated by digital technologies?

Hon. G. K. RICH-PHILLIPS (Minister for Technology) — I thank Mrs Millar for her question and her interest in and recognition of the role that the near ubiquitous penetration of digital technology is having in our society in respect of our social interaction, our economy, our research and development institutions and government activities and of the role that digital technology will play in the future in driving productivity and driving innovation.

Mr Jennings interjected.

Hon. G. K. RICH-PHILLIPS — It is particularly relevant that the question came from Mrs Millar, as she represents an area of regional Victoria and the potential for digital technology to transform economic activity in regional Victoria is so very significant. The Victorian government recognises that potential for digital technology to transform the way in which we undertake economic activity, and this week I was delighted to announce that the Victorian government will develop and put in place a digital economy strategy, which will outline the platforms and supports the Victorian government will put in place to further encourage the development and uptake of digital technology to drive productivity and innovation in our economy.

The digital economy strategy will cover seven themes: the issue of digital inclusion — that is, to take up Mr Jennings's earlier interjection, the near-ubiquitous

penetration of digital technology, ensuring that we do not leave elements of our society behind; productivity and competitiveness among our small and medium enterprises; digital infrastructure; digital innovation and entrepreneurship; workforce skill development to harness the potential of digital technology; telecommuting, and the very important role it can play in regional communities; and indeed the role of government leadership in the further development of digital technologies in our state.

As with other strategies the government has put in place in the technology area, this strategy will be developed through collaborative dialogue with industry and the Victorian community. As part of that collaborative dialogue, I was pleased to launch the digital-economy.vic.gov.au website, which sets out the key themes for the digital economy strategy and invites feedback from the community over the next six weeks through to the end of July.

We see collaboration with the Victorian community and the Victorian ICT industry as crucial to getting this policy right. We welcome the input of industry in developing this policy. I look forward to formally launching the Victorian government's digital economy strategy later in 2014 to ensure that we can work with the ICT industry and the technology sector more broadly in Victoria to drive productivity and drive innovation in the Victorian economy.

MELBOURNE MARKET AUTHORITY AMENDMENT BILL 2014

Committee

Committee resumed.

Clauses 23 and 24 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

That the bill be now read a third time.

In doing so, I thank members for their contributions.

The PRESIDENT — Order! The question is:

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

House divided on question:

Ayes, 18

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

Noes, 16

Barber, Mr	Lewis, Ms
Darveniza, Ms	Melhem, Mr (*Teller*)
Eideh, Mr	Mikakos, Ms
Elasmar, Mr	Pulford, Ms
Hartland, Ms	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lenders, Mr	Tierney, Ms (*Teller*)

Pairs

Crozier, Ms	Scheffer, Mr
Kronberg, Mrs	Viney, Mr
Ramsay, Mr	Pennicuik, Ms

Question agreed to.

Read third time.

Sitting suspended 1.03 p.m. until 2.08 p.m.

ROAD SAFETY AMENDMENT BILL 2014

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

Hon. M. J. GUY (Minister for Planning) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Road Safety Amendment Bill 2014.

In my opinion, the Road Safety Amendment Bill 2014, 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 main purpose of the bill is to expand the circumstances in which a drink-driving offender will be subject to an alcohol interlock requirement and a driver licence or learner permit cancellation. To ensure the workload of the court is not adversely affected by this reform, the bill will also create a new VicRoads-operated administrative process for the imposition and removal of alcohol interlock licence conditions for first time drink-driving offenders with a blood or breath alcohol concentration (BAC) of less than 0.10.

The bill provides for the introduction of new interlock camera technology to identify the driver. This will assist VicRoads and the courts to determine whether alcohol readings detected by an alcohol interlock device should be attributed to the offender or other persons sharing the vehicle. This information will help to determine whether an offender has successfully learned to separate drinking and driving behaviour.

The bill provides for the introduction of a cost recovery fee to recover from drink-driving offenders the cost of operating the expanded Victorian alcohol interlock program.

The bill will also create a new combined drink and drug driving offence.

The bill will amend the Transport Accident Act 1986, the Accident Compensation Act 1985 and the Workplace Injury Rehabilitation and Compensation Act 2013. Under current legislation, a person can lose some or all of his or her entitlement to particular kinds of compensation if he or she is convicted or found guilty of a drink-driving or a drug-driving offence related to the circumstances of the injury. These amendments will ensure that a person who is convicted or found guilty of the new drink and drug driving offence receives a reduction in compensation payments equal to what he or she would have received if he or she had committed a drug-driving offence alone or a drink-driving offence alone.

The bill will provide for the imposition of a 30-day vehicle impoundment sanction on first-time drink drivers with a blood or breath alcohol concentration of 0.10 or more. The power of police to impound vehicles will remain discretionary.

The bill will also extend a zero BAC requirement and introduce a mandatory carriage of licence requirement for motorcyclists subject to a restricted licence.

The bill will provide that where police officers are forced to enter and remove vehicles which are causing an obstruction, or are unlawfully parked or left standing so as to cause danger or traffic congestion, Victoria Police can recover the costs of doing so from the registered operator of the vehicle. Currently, they are only entitled to recover these costs from the owner.

The bill amends the Rail Management Act 1996 to enable access arrangements to continue beyond their expiration date in May 2015. Access arrangements set out the terms and conditions on which the transport service providers provide access to the service, including the price for access and the standards to which infrastructure must be maintained.

All declared rail transport services require access arrangements to be approved by the Essential Services Commission. Allowing access arrangements to continue beyond their expiration date in May 2015 will allow time for a complete review of the Victorian rail access regime, which is currently being undertaken by the Department of Transport, Planning and Local Infrastructure, to be finalised.

Human rights issues

Section 8 of the charter act provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination. This includes protection from age-based discrimination.

The bill restates certain provisions in the Road Safety Act 1986 that impose stronger driver licence sanctions on drink-driving offenders under 26 years of age. Therefore, the right to equality is relevant.

However, the right is not limited because the bill does not, of itself, impose any new age-based discriminatory measures. It merely restates provisions that already specify licence sanctions that vary according to the age of the offender. The rationale for imposing stronger licence sanctions on drink-driving offenders under 26 years of age is that this group of offenders is more vulnerable due to inexperience compared with other driver groups and is overrepresented in traffic crashes resulting in serious injuries and deaths.

Section 12 of the charter act provides that every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live.

The bill provides that a broader range of drink-driving and new drink-drug-driving offenders will be subject to sanctions including the cancellation of driver licences and learner permits and disqualification from driving in Victoria for a specified period. The imposition of these sanctions is relevant to the right to freedom of movement under section 12 of the charter act because they prevent a person driving a vehicle for a specified period.

However, the right to freedom of movement is not limited because the affected person is free to use other forms of transport such as walking, cycling and public transport. In addition, they are free to travel as passengers in private vehicles provided that another person drives the vehicle.

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.

The bill provides for the introduction of new types of interlocks that will assist VicRoads and the courts to determine whether alcohol readings detected by an alcohol interlock device should be attributed to the offender or other persons sharing the vehicle. That technology might, for example, consist of a camera module that forms part of the alcohol interlock device and records photographs of persons using the alcohol interlock device. Therefore, the right to privacy is relevant.

The fitment of an alcohol interlock device to a vehicle that is capable of recording the identity of the driver can only be done with the consent of the vehicle owner. Furthermore, it will be readily apparent to any person who uses the vehicle that driver identification technology has been fitted to it. Therefore, any person using the vehicle will be effectively providing their consent to the recording of driver

identification information when they enter and use the vehicle.

The bill does not limit the right set out in section 13 of the charter act because the requirements relating to driver identification technology are authorised by law. Furthermore, the recording of driver identification information is not done arbitrarily. Driver identification information is only recorded in specific vehicles where the vehicle owner has consented to the installation of an alcohol interlock device that incorporates driver identification technology. Furthermore, the collected information is used for the specific purpose of monitoring the relevant offender to determine whether he or she has successfully separated drinking and driving behaviour. The collected information can only be used in accordance with the strict use and disclosure of information regime set out in part 7B of the Road Safety Act 1986.

The collected information also benefits the offender by providing him or her with evidence in the event that another driver was responsible for a positive breath test reading that otherwise may have resulted in an extension of their interlock condition.

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

The extension of the current vehicle impoundment scheme to include immediate roadside impoundment for all drivers who record a BAC of 0.10 or more is relevant to the right to property. People who drive a motor vehicle with a BAC of 0.10 or more may have their vehicle immediately impounded by Victoria Police members for a period of 30 days, thus depriving the person of their property. As the person can only be deprived of his or her property under the impoundment process in accordance with the law, the right to property is not limited in any way.

The creation in the bill of a new combined drink and drug offence is relevant to property rights as a person who commits this offence may have his or her vehicle impounded by Victoria Police. As the person can only be deprived of his or her property under the impoundment process in accordance with the law, the right to property is not limited in any way.

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

The bill creates a new offence of combined drink and drug driving. The separate offences of drink driving and drug driving already exist in the Road Safety Act 1986. To assist with proving these offences there are evidentiary provisions contained in section 48 of the Road Safety Act 1986. These evidentiary provisions state that if it is established within 3 hours after the alleged offence that a person had a certain concentration of alcohol in his or her blood or breath, or that an illicit drug was present in his or her blood or oral fluid, then it is presumed, until the contrary is proved, that the alcohol or drug was present in the person's body at the time the offence was committed. The new offence of combined drink and drug driving is subject to the same evidentiary provisions that are currently available for the separate offences of drink driving and drug driving.

The evidentiary provisions in section 48 of the Road Safety Act 1986 reverse the onus of proof because, following a positive result in a test for alcohol or drugs, a person is presumed to have alcohol or drugs in his or her system at the time the offence occurred, until the contrary is proved. This is relevant to the presumption of innocence. Although action against a person, in the form of immediate licence suspension and vehicle impoundment, does happen prior to a conviction or finding of guilt in court, a person must first test positive to alcohol or illicit drugs before any action can be taken.

The presumption of innocence is not removed by the evidentiary provisions that reverse the onus of proof. Ultimately a court will hear the matter and the accused remains innocent until proven guilty. The evidentiary provisions are important because they relate to evidence (such as when and how much alcohol and drugs a person consumed) that may be solely within the knowledge of the accused. The reversal of the onus of proof in this instance is a reasonable limitation on the presumption of innocence and assists with the prosecution of persons who pose a road safety risk by drinking alcohol and taking illicit drugs and then driving a vehicle. There is not a less restrictive means reasonably available that would similarly assist with the prosecution of these types of offences.

Section 27(2) of the charter act provides that a penalty must not be imposed on any person for a criminal offence that is greater than the penalty that applied to the offence when it was committed.

The bill provides for the imposition of cost recovery fees to recover from drink-driving offenders the cost of operating the Victorian alcohol interlock program. The fees will be payable by any person that has an alcohol interlock fitted under the program, including where the relevant offence was committed before the commencement of the bill.

The imposition of a cost recovery fee does not limit the right set out in section 27(2) of the charter act because the purpose of the fee is to recover the costs of operating the Victorian alcohol interlock program and it is not punitive in nature. Therefore, there is no issue of an increased penalty for a criminal offence.

Matthew Guy, MLC
Minister for Planning

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

Victoria continues to lead the way in road safety

Victoria is an international leader in road safety. We have taken great strides in reducing deaths from 1000 per year in the 1970s to less than 250 now, but more can and is being done. Reductions in serious injuries lag behind reductions in deaths. Serious injuries are estimated to cost the Victorian community $2.4 billion per year.

Through Victoria's road safety strategy 2013 to 2022 the government has committed to reducing the number of deaths and serious injuries on our roads by 30 per cent.

Reducing drink driving and drug driving is a major priority in Victoria's Road Safety Action Plan 2013–2016. Drink drivers are responsible for 25 to 30 per cent of deaths and 11 per cent of serious injuries on Victoria's roads. Illicit drugs are a factor in 20 per cent of driver deaths.

This bill helps to achieve the government's targets by expanding the reach of alcohol interlocks and vehicle impoundment for drink drivers, preventing reoffending and protecting other road users. The bill also introduces a new offence with tough penalties for drivers under the combined influence of alcohol and illicit drugs; and it extends zero blood or breath alcohol concentration limits applying to motorcycle riders to enable the introduction of stage 1 of the government's commitment to the new motorcycle graduated licensing system.

Expansion of the alcohol interlock program

The government is responding to community views and the ongoing need to fight drink driving by expanding the alcohol interlock program from only drivers with repeat and high blood or breath alcohol concentration (BAC) readings to all convicted drink drivers. Interlocks are a vital tool in addressing drink driving. Research shows interlocks reduce repeat offending by around 60 per cent when offenders are required to use them.

Alcohol interlocks are devices fitted to motor vehicles that require drivers to provide a breath sample prior to starting the vehicle and at random times during a journey. If there is alcohol present the vehicle will not start. If alcohol is later detected or a retest is not completed while the vehicle is being driven, a violation is recorded and the vehicle lights and horn may activate.

Currently interlock fitment ranges from six months for a first offence to four years or more for serious and repeat offences. Offenders must return to court at the end of the fitment period for the interlock condition to be removed.

More than 35 000 interlocks have been installed in Victoria since the program commenced in 2002, preventing driving under the influence of alcohol more than a quarter of a million times. Interlocks are currently mandatory for:

all offences with a BAC of 0.15 or more;

most repeat offences;

first offences by young drivers with a BAC of 0.07 or more;

refusing a breath test or driving under the influence of alcohol; and

other serious offences under the Sentencing Act 1991, such as culpable driving involving alcohol.

Other offenders may be required to fit interlocks at magistrates' discretion.

The changes are being introduced in two stages, to allow swift implementation for higher risk drink drivers.

This bill addresses stage 1 and will make interlocks mandatory for:

every first offender who has a probationary licence or learner permit;

other drivers who have a BAC of 0.07 to 0.15;

drivers with a BAC under 0.07 whose licences are cancelled, including professional drivers of buses and taxis, as well as first-year motorcycle riders who are subject to a zero BAC limit;

all repeat offenders with a BAC reading under 0.07; and

serious alcohol-related vehicle offences under the Sentencing Act 1991, including first offences.

The bill will make licence cancellation mandatory for learner and probationary drivers with a first offence below 0.07 BAC and all repeat offenders with a BAC below 0.07. The minimum licence cancellation for a first offence under 0.05 BAC will be three months.

The minimum interlock period for first offences will be six months, consistent with current provisions. As now, a driver relicensed with an interlock condition on his or her licence will also have a zero BAC licence condition, which lasts at least three years.

A bill to enact stage 2 will make interlocks mandatory for all remaining drink drivers not captured by stage 1. This bill will be prepared after further work is undertaken on how best to manage this group, which includes offenders with a BAC under 0.07 who are not subject to mandatory licence cancellation.

The first stage of the expanded interlock program will commence from October 2014.

Expanding the interlock program to include first offences and low-level BAC offences is expected to result in an increase in the number of drivers required to have an interlock, from 5400 to 10 700 per year.

To ensure that courts are not overloaded with additional cases, VicRoads will establish a new administrative process to manage first-time drink-driving offenders with a BAC below 0.10. This is expected to reduce offences managed at court by up to 1600 to 2000 per year.

In all cases, the alcohol interlock condition will not be removed until the mandatory minimum period has passed and the offender can show he or she has successfully separated drinking from driving.

Assessment will be based on interlock data including alcohol breath test readings when attempting to start the vehicle, confirmation of driving with the interlock fitted and evidence of tampering.

Interlocks that can take photos of whoever tries to start the vehicle or that can otherwise identify the driver will become mandatory. This will assist VicRoads, courts and offenders to resolve who is responsible for attempting to start a vehicle with alcohol present.

Affordability for offenders has been considered. Offenders pay interlock suppliers to install, maintain and remove

interlocks. The current legislation provides concessions for health-care card holders. Concessions will also be made available to holders of a pensioner concession card or Department of Veterans' Affairs gold card through supporting regulations.

All offenders will pay for the costs of establishing and operating the expanded alcohol interlock program. The cost recovery fee is expected to be $40 per month. A 50 per cent concession on this fee is proposed for the abovementioned card holders. Again, this will be addressed in supporting regulations.

VicRoads will monitor alcohol interlock fitment rates to ensure compliance with the requirement remains at a high level. If fitment declines, VicRoads will work to identify potential improvements to the program.

Immediate impoundment for BAC of 0.10 or more

Around 70 per cent of drink drivers killed in crashes have a BAC of 0.10 or more, and police detect a BAC reading at these levels in one-third of the drink drivers that they stop. For most of these high-level drink drivers, it is their first drink-driving offence.

Research indicates that vehicle impoundment or immobilisation is an effective drink-driving countermeasure. Drink-driving offenders with a BAC of 0.10 or greater already face immediate licence loss on their first offence. Research shows that a combination of immediate licence loss and vehicle impoundment or immobilisation significantly reduces drink-driving offending and crashes.

The bill extends the ability of police to impound vehicles of not only second offenders but also first-time drink drivers with a BAC of 0.10 or higher. This bill will give police the discretion to impound or immobilise the vehicles of first-time drink drivers with a BAC of 0.10 or higher for a period of 30 days consistent with other first offences that attract impoundment.

The existing impoundment provisions for a second drink-drive offence with a BAC of 0.10 or greater remain at 30 days immediate impoundment by police, plus additional time applied by the courts. This is consistent with other second offences that attract impoundment.

An estimated 3800 to 4800 additional vehicles are expected to be impounded in the first three years after commencement of the bill. The bill includes measures to assist Victoria Police to manage more efficiently the vehicle impoundment scheme. Amendments proposed will improve immobilisation, vehicle abandonment and court hardship application processes.

New combined drink and drug driving offence

There is increasing evidence of driving whilst under the influence of both alcohol and illicit drugs and its involvement in road trauma. Victorian Coroners Court data on drivers and motorbike riders killed with alcohol in their system over a four-year period (2008–2011) showed that 8 per cent also had at least one illicit drug present.

Research indicates that when drivers combine alcohol and illicit drugs they are on average 23 times more likely to be killed in a crash compared with drivers who are drug and alcohol free. Drivers killed with both alcohol and illicit drugs in their system are also more likely to be responsible for the crash than those who only have alcohol in their system.

Currently offenders can only be charged separately with drink-driving and drug-driving offences. This bill creates a new combined drink and drug driving offence.

The penalties for the new combined offence will reflect the seriousness of the offending behaviour. Offenders will incur a mandatory minimum 12-month licence cancellation, with longer periods at higher BACs and for repeat offences. The maximum fines for the combined offence will be 50 per cent higher than the maximum fines for drink driving alone.

Under the current transport and work-related injury compensation, a person can lose some or all of his or her entitlements to particular kinds of compensation if he or she is convicted or found guilty of a drink-driving offence or a drug-driving offence related to the accident circumstances. The bill provides that a person who commits the new combined drink and drug driving offence will be treated in the same manner and will face the same loss of entitlements.

Newly licensed motorcycle riders

The government has been working with the motorcycle community and road safety experts towards implementing a new graduated licensing system for motorcyclists in Victoria. The high crash risk of inexperienced riders has highlighted the need to update licence conditions applied to novice riders.

The bill provides that, for inexperienced motorcycle licence holders, the rider will be subject to a zero BAC requirement for three years rather than the current 12 months. This requirement will apply whether or not the person already held a car driver licence. The motorcycle rider will also be subject to a mandatory licence carriage requirement for that three-year period.

Recovering costs of vehicle removal

The bill amends the Road Safety Act 1986 to ensure that where police are forced to enter and remove vehicles which are unlawfully parked, or causing an obstruction, danger or traffic congestion, they can recover the costs of doing so from the registered operator of the vehicle. Currently they are only able to recover these costs for the owner of the vehicle, who may be different from the registered operator.

Access arrangements under the Rail Management Act 1996

The bill amends the Rail Management Act 1996 to enable the access arrangements to continue beyond their expiration date in May 2015. Access arrangements set out the terms and conditions on which the transport service providers provide access to the service, including the price for access and the standards to which infrastructure must be maintained.

All declared rail transport services require access arrangements to be approved by the Essential Services Commission. Allowing access arrangements to continue beyond their expiration date in May 2015 will allow time for a complete review of the Victorian rail access regime, which is currently being undertaken by the Department of Transport, Planning and Local Infrastructure, to be finalised.

> This bill is a significant step toward addressing the unacceptably high level of drink and drug driving related deaths and serious injuries on Victorian roads.
>
> The measures contained in this legislation will send a strong message to the community that drink driving and drug driving will not be tolerated.
>
> I commend the bill to the house.

Mr LENDERS (Southern Metropolitan) — In speaking on this bill I will firstly say that the Labor Party will not be opposing the bill for the reasons outlined by my colleague Mr Donnellan, the member for Narre Warren North in the Assembly. My colleague Mr Melhem will also contribute to the debate today.

I wish to speak primarily about the process used to introduce this bill into this place, the speed with which it got here and why it is here today. The bill contains important public policy. However, the government has treated this place with remarkable contempt. I choose my terms very deliberately. At this point I will do something unusual, and that is actually praise Ms Lovell. Ms Lovell has been thoroughly courteous in her dealings with non-government parties in this place by trying to keep us in the loop about the urgency of this bill and relaying to us the information she has had available to her. My comments are not a reflection on her.

I will reflect on the process that got the bill here. This bill was introduced in the Legislative Assembly three sitting weeks ago — and with much fanfare, I might add, about the bill and how this dynamic government was saving the inner solar system from a whole range of evils and from years of Labor neglect. It told us about all these things that were going to be done and, basically, how important it was that the grown-ups were in charge. That was three weeks ago. At no stage was this bill deemed to be urgent. At no stage was it something that required the urgent attention of the Parliament. When you look at the bill, as we did, you see its start-up date is 1 October, so one would think there is no particular urgency in getting that bill through.

That all happened three sitting weeks ago. The government had the ability to say the bill was urgent when it introduced it in the Legislative Assembly. It could have asked that it be considered in less than the normal two weeks. There was an option to again consider the bill and have it dealt with urgently during the second week it was in the Assembly. During its third week in the Assembly the bill was actually debated on the Tuesday night and adjourned to be dealt with as part of the guillotine on Thursday. Only then was the opposition told that this was an urgent bill and it needed to get through both houses.

We are not opposing this bill, because we agree with it. Our shadow cabinet and our caucus agreed to support the bill based on the provisions in front of us.

I want to make two comments on this bill. These comments might sound gratuitous and government members might not like them, but I will make them anyway. The first comment is: by all means come to the opposition and seek its support for urgent bills. We did that on numerous occasions while in government. It is not rocket science. It is not one side of politics only that makes mistakes. However, there are a couple of things I will say about this. If the government does seek the cooperation of the opposition, it should not then as soon as the bill is passed gloat about how the opposition did not give the legislation enough attention, which has happened with the budget; read things into the opposition's cooperation that are not there, which has happened with the budget; or mock the opposition for being weak, disorganised or whatever because it actually cooperated — as a series of members of the government, from the Premier down, have done.

That is an important point to make. We are cooperating today. We understand mistakes have been made and — heaven forbid — we understand that the government has been distracted in the Parliament in the last few weeks. However, when the government asks for favours, it should show a bit of respect. This is a robust chamber. We expect to be dealt with politically harshly for things we do — do not get me wrong on that — but let me be so bold and condescending as to say that it is not smart for the government to ask for a favour on a bill and then as soon as it is granted kick the living daylights out of the other side about how weak, pathetic and hopeless it is and say that it did a whole lot of other things and then come back a few days later and say it needs another favour. That is the first point I make. That is gratuitous advice.

The second comment is that I ask the government not to preach to us about how Liberals manage things well and Labor does not. If three people are to provide the interlockers and the government is worried that, if a bill does not get through until early August, these people will not have time to manufacture the interlockers in time for the legislation to come into operation on 1 October, then it is not rocket science and it is something that would have been known some weeks if not months ago through the government process. I would have thought someone would have planned for that and put it on the legislative agenda. It has not happened — mistakes are made — but please do not

tell us that Liberals can manage well and Labor cannot. The government has not done so on this occasion, as Labor has often not managed well either. I am not pretending we are the repository of good management. However, the government should give us a break from preaching about it for a few days when it is asking for a favour. That is the second thing I advise.

I am glad Mr David O'Brien and Mr Somyurek are in the chamber, because yesterday during general business the Labor Party moved a motion on the steel industry. Mr O'Brien yesterday and Mr Finn two or three weeks ago took unbelievable delight in filibustering for an hour or an hour and a quarter, and their colleagues were thinking how clever and smart it was that the filibusters went for so long. I say, again gratuitously, if a filibuster is funny, detailed or organised, then it is not even bad listening to it, but these were not even that good.

The point I make again is that we have a memory that goes beyond the last 5 minutes. We are not pretending we are pure — we have done a lot of crazy things in our time — but I am saying that there are shades of grey and that on this occasion people have crossed the line in the shades of grey. It would be easy for us to say, 'Let's make the Parliament come back tomorrow or next week if it is so urgent for the government', but why would we do that? We would be adding expense, and it would not change the way we vote. We are seeking to make the point today that it requires cooperation. No-one has completely clean hands in this, but the government has crossed a line. If when we cooperate people mock us for being weak et cetera, that does not help.

It is interesting that this is Mr Tunnecliffe's last day. Yet again we have a bill that has not darkened the notice paper. The government has come into the house today and sought support for the bill to be introduced. If anyone is a student of history and looks at the notice papers, they will ask, 'Where did this bill come from?'. It never appeared; it never darkened our notice paper. We understand that. We do not oppose the bill, and we do not think there is anything tricky.

I will conclude my remarks. The Labor Party does not oppose this bill. We understand that mistakes are made, but we ask the government to provide us with a bit more respect. If it does so, it will get a much better outcome on these issues, and more and more of them will come. I urge the house to support the bill.

Ms HARTLAND (Western Metropolitan) — I support the remarks of Mr Lenders. We were informed last night that this bill would be proceeding. I had a briefing on this bill at 11 o'clock this morning. I particularly thank Mr Mulder's office for organising that, and Ms Kenny in particular. I also thank the staff who did the briefing, because it was very comprehensive. Given the short amount of time I had and that I had to leave the briefing five times for divisions, it was a difficult process. If we are going to introduce these important bills, respect should be shown for the Parliament and for the people in the Parliament who try to do the best they can. Telling us about the bill last night and having a briefing on it today does not provide members with enough time to do justice to what is a particularly important bill.

The other point, as Mr Lenders said, is that this bill came into the lower house on 27 May. There have been three sitting weeks since then. If there were such urgency, why was this bill not discussed during those three sitting weeks? I would like to understand the process the government undertook on this bill, so I would appreciate it if someone from the government would explain that process during their contribution.

This is an extremely important bill. Interestingly, when it came into the house on 27 May, I received a phone call from Margaret Markovic, who I have worked with quite a lot in the last six months. She is from an organisation called Road Trauma Families Victoria. She was very pleased that this legislation had finally come into the house. I will summarise the email that Margaret sent to me that day.

Daniel Markovic was killed by a three-time convicted drink driver on 27 May, so the day this bill was read a first time in the Assembly was the anniversary of his death, which for his mother was particularly important. His mother, Margaret, and sister, Lisa, have worked tirelessly to save other parents, siblings, families and friends from experiencing the shattering experience of road trauma, especially from drink driving. They co-founded Road Trauma Families Victoria to assist families and advocate for change. The introduction of this legislation — which, as I said, occurred on 27 May — in relation to alcohol interlock devices was announced on the 10th anniversary of Daniel's death. The timing was amazing, and it gave Daniel's family and friends enormous hope for the future that such a tragedy would not happen again.

They say in the email that they can imagine how many lives this will save, turning a very solemn and difficult day into a brighter one, with a reason to smile and walk with a spring in each step. They also talk about how amazing it would have been to have been able to call it Daniel's law. I explained to Margaret that we cannot name bills after individuals, but it is poignant that this bill came into the lower house on 27 May, the 10th anniversary of Daniel's death. Having worked

with Margaret, I know how much work she has put into this to try to make sure that it does not happen to other families.

The Greens absolutely recognise the importance of this bill. The fact that there will be more scope with the interlock devices means more people will be required to use them. I found the briefing very interesting. One of the aspects around the identification of the person using the device was the fact that their photo would be taken so that in the future people will not be able to get someone else to start their car for them; it would always be traceable. Clearly the technology has improved quite dramatically in the last few years.

I am also interested to note that the bill provides that the requirement for interlock devices will no longer apply just from the second offence. It will not get to a second time; it will apply to the first offence. There are some real improvements in this regard. Also, what I did not realise and what I found quite interesting in the briefing is that it is very expensive for someone to have to use an interlock device in their car. It costs roughly $250 a month, so you would think that would also contribute to making sure that people do not repeat the offence. Hopefully the average time of use will be only six months, but I was informed that some people can have devices on their cars for up to four years, and clearly some people never learn about the dangers of drink driving. The bill will cover some drugs as well.

Honourable members interjecting.

Ms HARTLAND — This is quite a serious bill, and it would be appropriate to have some decorum. It is interesting to note that at this stage the bill lists three drugs for which testing can be undertaken. It enables police to ascertain whether someone is impaired by alcohol and then have their blood tested for other drugs as well. That is very important.

There is one element of this bill that the Greens do not agree with, and in committee we will vote against clause 57, which contains provisions regarding workers compensation. This position is consistent with what we have done on every single workers compensation bill in the eight years we have been in the Parliament. I will read out what my colleague Sue Pennicuik said on 9 March 2010, because it totally explains our position. She said:

> I am concerned about the new provisions in the bill which introduce a sliding scale of reduction in compensation for injured workers who have committed a drink-driving or drug-driving offence. Certainly that is at odds with the no-fault principle of workers compensation, and it forms a relationship between whether the person has had a drink-driving or drug offence and their workplace injury which may not actually exist. It also has the effect of punishing a worker twice, because if the person has committed a drink-driving or drug-driving offence, they will be dealt with under the Road Safety Act, and that should not affect their ability to be compensated and rehabilitated under the WorkCover scheme.

Ms Pennicuik expressed it very well then, and I do not think the situation is any different now, so when we go into the committee stage the Greens will be voting against clause 57. But overall we think this is a very important bill. It supports the work of people like Margaret and Road Trauma Families Victoria. They can see that all the work they have done in the last 10 years is coming to fruition and that they will be able to assist other families and help in stopping other families from going through the terrible grief they have gone through because of drink driving.

The ACTING PRESIDENT (**Mr Ondarchie**) — Order! Thank you, Ms Hartland. Our thoughts go to that family.

Mr D. R. J. O'BRIEN (Western Victoria) — It is with great pleasure that I rise to speak on the Road Safety Amendment Bill 2014, which is an important bill. I note it will not be opposed by the Labor Party, and the Greens have made their comments about the clause they have indicated they will oppose. I will respond briefly to Mr Lenders's contribution, which related more to the process than to the content of the bill itself — I think he indicated he would leave that to Mr Melhem. I firstly thank the members of the Labor Party for their cooperation in enabling the bill to be brought in and debated forthwith in Parliament and in this house today. I thank them for the reason that this is an important bill that is designed to reduce road trauma and to make our roads safer and hopefully therefore save lives.

In relation to drink driving and the interlock devices, it is hard to estimate these things, but there has been reference to around 20 to 30 lives a year being potentially saved. We know that 25 to 30 per cent of deaths and 11 per cent of serious injuries on our roads are the fault of drink drivers, and repeat drink drivers make up 20 per cent. That is a significant number of victims who have suffered the trauma, and I acknowledge the victim that Ms Hartland mentioned in her contribution — and I join you, Acting President, in sending my condolences to that family. Unfortunately there are many other victims, and still there will be many more, as we know. The reason this bill is being debated with a level of urgency is the desire to prevent further road trauma, be it death or injury, as a result of the type of behaviour this bill will hopefully reduce by

the extensions that are provided, and I will turn to those shortly.

I am forced to briefly respond to some of the other suggestions Mr Lenders made in his contribution, particularly those directed at me, in relation to a motion moved yesterday. We do not wish to beat up Labor any more than we have to in relation to its mismanagement of the economy or its budgets when it was in government. I note that Mr Lenders raised in his contribution that the Labor Party is unable to seriously debate any problems with the current budget, be it in speeches on the budget or indeed in question time. We understand there have been very few questions from the Labor Party in either this place or the Assembly on the budget.

Mr Leane interjected.

Mr D. R. J. O'BRIEN — My comments are directed to Mr Lenders. He seemed also to express some objection to my contribution yesterday — again, this is away from the bill, but I am compelled to respond to it because he referred to me personally — saying that somehow the contribution I made on the manufacturing motion that Mr Somyurek moved was not a worthy contribution. It is a subject I feel very passionate about; jobs are very important to my electorate.

Mr Koch interjected.

Mr D. R. J. O'BRIEN — I have read the *Hansard* record and, as Mr Koch kindly says by interjection — and it is hard to be humble in this place — but speaking humbly, it was one of my better contributions because I canvassed a number of issues that I had been wishing to canvass. Relevantly, Mr Lenders raised the concept that somehow that contribution of mine had prevented this sort of bill being debated. I note that my contribution yesterday was made on a motion raised during opposition business, so there is no way that contribution, whether it was short, long, good or bad, could have affected the passage of an important bill like this on government business day. Having made those comments, I do not wish to otherwise respond to the allegations that Mr Lenders made about me, so I will not try to elevate my defence higher than his criticism. I return to expressing my thanks to the opposition for its support of this bill. I will return to the important features of this bill, but it should be borne in mind that the bill will benefit people on our roads who could have been victims.

It is important to go back to the overall objective of this bill, which expands the use of mandatory alcohol interlocks upon relicensing to a broader group of drink drivers; establishes a combined drink and drug driving offence; extends the discretionary powers of Victoria Police to impound the vehicles of drivers with a blood-alcohol content (BAC) of .10 or more; extends the zero BAC requirements; introduces a mandatory carriage of licence requirements for novice motorcyclists subject to a restricted licence; and makes a number of other minor amendments.

Picking up on Ms Hartland's contribution to the debate, I agree with her that the introduction under this bill of camera technology, whereby camera-activated ignition interlocking devices will be used by offenders, is an important innovation. It has been a concern — and I do not know how extensive the practice has been — that without the camera a potential drink driver could have another person blow into the interlock device thereby giving a false negative reading and allowing another person to drive that vehicle under the influence of alcohol. This is an example of technology that will combine with legislative force to ensure that the intention of the interlocking regime is implemented.

I should say that my knowledge of the interlock regime is that it is a good regime that has proved to be very successful in preventing drink drivers from getting behind the wheel, thereby altering the habits and practices of persons who have previously been drink drivers and who are otherwise offenders. That is very much in keeping with this government's philosophy of doing whatever it can as a legislature to ensure that the Victorian community is protected, because protection of the community is a paramount consideration in much of the legislative activity of this government.

Under this bill the use of alcohol interlocks will be extended to become mandatory upon licensing for, firstly, all repeat offenders with a BAC under .07; secondly, serious offences involving alcohol under the Sentencing Act 1991 — for example, those with a culpable driving conviction for an offence which was committed whilst under the influence of alcohol; all probationary and learner first offenders at all BAC levels; first offenders with a BAC of .07 to .15; and first offenders with a BAC under .07 whose licences are cancelled.

Another reason for the urgent need to deal with this bill at this point of the legislative cycle is that today is the last sitting day before the suspension of Parliament for the so-called winter recess. With 1 October being the commencement date for amendments relating to alcohol interlocks and motorcyclists, it is important that this last day for government business is used to pass important legislation such as this, which is not opposed

by the other parties except for the clause that Ms Hartland has indicated she will oppose for the same reasons that the Greens have opposed other provisions in other bills. Given that the bill is going to the committee stage, I will probably leave that debate for the minister to respond to.

Apart from that, this bill is not opposed. It is important that this effective prevention device is implemented. It is part of a two-stage process, and this is stage 1. That was identified when the bill was put on the notice paper on 27 May. This first stage will allow, as the second-reading speech suggests, the swift implementation of these changes for high-risk drink drivers. The structure of the amendments has been carefully considered so that the worst offenders, the high-risk drink drivers whom we need to tackle with as much urgency as possible, will be captured with the urgent passage of this bill. It is not opposed, and that is a reason to get on with the implementation of these important reforms. I know Mr Dalla-Riva was formerly a policeman and has for a long time campaigned for measures such as this and for a greater awareness of these matters.

Briefly, other provisions in the bill relate to additional measures that provide for a new combined drink and drug driving offence. This has also proved to be a matter of increasing concern. The ice scourge that has plagued a large part of Victoria, particularly regional Victoria, has for some time meant that people are driving who are not only affected by alcohol but also by crystal methamphetamine, also known as ice, and other drugs, and it can be the case that they are also severely sleep deprived when they get behind the wheel and may be in an aggressive state. Ensuring as much as possible that this new combined drink and drug driving offence will prevent those people from driving, or at least provide an appropriate penalty were they to be caught, is a significant part of the bill.

It also introduces immediate 30-day impoundment or immobilisation for first offenders with a BAC of .10 or more, not just second offenders, and extends the zero BAC requirement from one to three years. The bill also introduces a mandatory carriage of licence requirement for motorcyclists subject to a restricted licence.

As the first stage of those reforms, it is an important piece of legislation. I too will pick up something that Mr Ondarchie in his capacity as a member for Northern Metropolitan Region often says: as we go into the winter recess I urge all road users and all Victorians to take as much care as they can to ensure as much as possible that the road toll is kept down. We thank the Labor Party and the Greens for their support of this bill. All Victorians and indeed the entire Parliament support the important message of talking the toll down. I commend the bill to the house.

Mr MELHEM (Western Metropolitan) — The opposition supports measures designed to address road safety and reduce the road toll and serious injury. As Mr Lenders has indicated, we will not be opposing this bill. As previous speakers in the debate have said, the bill creates a new offence of drink driving and drug driving, expands when an alcohol interlock condition may be applied, allows for new interlock technology, provides for the immediate impoundment of vehicles for drivers with a BAC of .10 or more and introduces safety measures for newly licensed motorcycle riders.

An alcohol interlock is a device fitted to motor vehicles that requires drivers to provide a breath sample prior to starting the vehicle and at random times during a journey. If alcohol is detected while the vehicle is being driven, the vehicle lights and horn may be triggered. Laws imposing an interlock condition on drink drivers were first introduced in 2002 by the Labor government. Currently only disqualified drivers found to be over .15 or repeat offenders or those under the age of 26 who record .07 are required to have the devices fitted to their vehicle in order to regain their drivers licence after serving the disqualification period.

In February 2013 the government announced it would toughen laws so any driver caught over the legal limit would be required to have an interlock, except in exceptional circumstances. The government has said it expects that interlocks could eventually become standard in all new vehicles. As Mr Lenders suggested, production of such vehicles may have already started, prompting the urgent introduction of this legislation.

Drug testing of drivers was introduced in Victoria 2004. The bill amends the Road Safety Act 1986 to create a new combined drink and drug driving offence. Presently they are two separate offences. The offence is made out when a driver is tested and is shown to exceed the prescribed concentration of alcohol and/or the prescribed concentration of a prescribed drug — for example, cannabis. The penalty for the offence will be a mandatory minimum 12-month licence cancellation and a fine of up to $4500 for a first offence and a more serious penalty for repeat offenders. The bill also amends the Transport Accident Act 1986 to include the new offence as an offence that can result in a reduction of compensation, which Ms Hartland referred to.

Currently the alcohol interlock program applies to drivers with repeat and high BAC readings. The government plans to expand this to all convicted drink

drivers in two stages. Stage 1 is in this bill and will make interlocks mandatory for first-time offenders who blow .07 or above and probationary and professional drivers and those caught driving on a cancelled licence who blow between .05 and .07. Stage 1 will commence in October 2014. Stage 2 will apply to all remaining drink drivers, meeting the government's 2013 promise, but this will be subject to further work, and another bill will be introduced in 2016, according to the minister. It is estimated this will mean around 17 000 interlocks will be installed each year. The current figure for these devices is, I understand, around 6500 per annum.

There are currently three approved suppliers of interlock devices in Victoria. They are required to install and monitor the devices and keep records, including the number of times offenders have tried to start their car while under the influence of alcohol. All interlocks are installed, maintained and recovered on a cost-recovery basis. The bill allows for the approval of a type of alcohol interlock. From 2015 interlocks that can take photos of whoever tries to start the vehicle will be mandatory, which is not a bad system to have in place. The bill also expands the circumstances where a person will be subject to a mandatory driver licence cancellation, including all repeat offenders regardless of their BAC.

The bill establishes a new administrative process whereby first-time drink-driving offenders who have a BAC below .1 and are subject to an interlock condition can apply directly to VicRoads to get their drivers licence back after the period of disqualification, replacing the need to obtain an eligibility order from the Magistrates Court prior to applying to VicRoads. The offender can also apply direct to VicRoads to have the interlock removed without a court order.

The bill also gives police the discretion to impound or immobilise vehicles of drink-driving offenders with a BAC of .10 or more. The discretion is necessary to manage storage limitations.

A new graduated licensing system for motorcyclists will be introduced in October. The bill provides for a zero BAC requirement for motorcycle riders, which will apply for three years — up from one year currently — as well as mandatory carriage of licences for those three years.

Any measures designed to address road safety, cut the road toll and reduce road trauma are supported by the opposition. No-one can argue against measures like this that reduce trauma, injuries and deaths on the roads. We want to spare countless families the pain, grief and suffering of road trauma. Drink drivers are a danger on our roads, and severe penalties, including interlocks, are an acceptable response. Some 30 per cent of fatalities in Victoria had alcohol in their system, showing how much of an effect it has on road fatalities.

Obviously taking illicit drugs is illegal and is discouraged, but driving under the influence of drugs is the height of foolishness. Some of the common effects of drug taking can include reduced peripheral vision, meaning tunnel vision, dizziness, blurred vision and loss of concentration. There is also often a false sense of alertness, which can lead to overconfidence and the inability to make quick and good decisions. The advice is for someone to allow a minimum of 48 hours after taking drugs before getting behind the wheel. Driving whilst on illicit drugs is currently detected using a saliva sample, and testing takes about 5 minutes. Drivers who return a positive roadside screening test will have their sample confirmed by laboratory testing before any enforcement action can be taken. It must be said that this is not a foolproof system. Some drugs are not tested for, including cocaine and heroin, due to the inaccuracy of tests, and there have been instances of drivers returning a positive saliva test that has then been proved to be incorrect via a blood test.

A Road Safety Victoria study last year showed that 83 per cent of respondents favour increasing the use of interlock devices. The report claimed that if alcohol interlocks were a standard feature in cars sold in Victoria last year, around 50 deaths out of 282 and 500 serious injuries out of somewhere around 5500 would be prevented each year.

I want to quote now from an editorial in the *Herald Sun* of 25 February. It reads:

> The *Herald Sun* supports what it regards as life-saving legislation. Lives lost to drink-driving demand changes to the law. This is not a law banning alcohol, but a sensible and common-sense approach to road deaths and the injuries that are the mostly hidden cost of accidents.
>
> Last year a sobering 282 people died in accidents on Victorian roads.
>
> Alcohol was involved in too many of those accidents. If some social drinkers find they are forced to suffer the embarrassment of having an interlock fitted to their car because they have had one too many, so be it.
>
> Better a red face than a dead face. Better one drink less on a night out than causing a lifetime of grief for others.

I wholeheartedly agree with these comments, and I think every Victorian would support them. The introduction of this bill is a welcome development that will make our roads safer.

In concluding, I just want to make a few comments about the other side of this debate. While this legislation is worthy, the Napthine government's inconsistencies on road safety must not be forgotten. I want to talk about a number of things. One is the cutting of more than 500 staff from VicRoads in the last year or so. This includes the removal of over 1000 years of engineering experience, as Professionals Australia has pointed out. In addition, most recently $16 million has been cut from upgrading the VicRoads IT system — and the list goes on.

Cuts have also been made to road funding. There is funding for some of the major projects government members have been talking about, but I am talking about existing roads. The most important aspect of ensuring better road safety is having safe roads to drive on. Unfortunately, cuts by the Napthine government to road funding and road resurfacing targets have resulted in more Victorians driving on unsafe roads. Over $100 million was cut from the roads management budget in 2012, delaying and backlogging much needed safety upgrades across the state. Funding is yet to return to previous levels. Over 8 per cent of roads across Victoria are now listed as being in a distressed state. Hopefully the Napthine government will start investing to make sure that existing roads are up to scratch, up to standard and safer to drive on. I think it is very important that parties on both sides of politics support safer roads for Victorian drivers. I commend the bill to the house.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 56 agreed to.

Clause 57

Ms HARTLAND (Western Metropolitan) — I will be very brief. The Greens do not need to ask any questions of the minister. This is a position we have taken on a number of bills around the issue of workers compensation. We do not believe this clause is necessary. In previous times we have spoken about the fact that we believe provisions like this are at odds with the no-fault principle of workers compensation. This clause forms a relationship that does not actually exist between whether the person had a drink-driving or drug-driving offence and a workplace injury. It also has the effect of punishing the worker twice, because if a person had committed a drink-driving or drug-driving offence, they would be dealt with under the Road Safety Act 1986 and this should not affect their ability to be compensated or rehabilitated under the WorkCover scheme. It is for these reasons that the Greens will be voting against clause 57. We have been quite consistent over the eight years we have been in Parliament in voting against clauses like this one in a number of different bills.

Hon. M. J. GUY (Minister for Planning) — First of all, I thank those who have participated in the second-reading debate. I think there have been some very positive contributions.

The government does not support the Greens in seeking to omit clause 57. Our view is that if the clause is not passed, a person who commits a combined drink and drug driving offence will not face the same consequences in terms of the impact upon their compensation entitlements that they would if they were separately charged with a drink-driving or drug-driving offence. This clause adds the new offence of combined drink and drug driving to the existing Transport Accident Act 1986 outside the workplace injury laws, and we believe it is an essential part of the bill. I respect the points that Ms Hartland makes, but the government will not be supporting her in this. We believe it is important that the bill is passed as it stands for the law to operate in the way the government intends.

Committee divided on clause:

Ayes, 33

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

Noes, 2

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

Pairs

Darveniza, Ms	Pennicuik, Ms

Clause agreed to.

Clauses 58 to 64 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

FINES REFORM BILL 2014

Second reading

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

Ms MIKAKOS (Northern Metropolitan) — I rise today to speak on the Fines Reform Bill 2014, and I outline from the outset that the Labor opposition will not oppose this bill. Whilst the vast majority of people do the right thing, acknowledge they made a mistake and pay their fines on time, it is entirely appropriate that the system be fair but firm with those who do not. There are some individuals and companies who consistently ignore their responsibilities and continue to accrue fines, hoping their responsibility to repay will go away.

We do not condone that behaviour, and we believe in those circumstances the judicial response should be firm. Under this government fees, fines and charges are being jacked up year on year, yet there is still around $110 million in outstanding revenue that has not been collected because of cutbacks and understaffing. Last year the Ombudsman pointed out the deficiencies in the Sheriff's office, so we believe that reform is overdue. These issues highlighted by the Ombudsman come on the back of $48.6 million being cut from the Department of Justice in last year's state budget. The total figure cut from the justice department is in excess of $455 million.

I turn to the bill itself. The bill provides for the establishment of the position of the director, Fines Victoria, within the Department of Justice and confers powers on the director to collect unpaid fines. It also makes amendments to the Infringements Act 2006, the Sheriff Act 2009 and the Magistrates Courts' Act 1989 as well as consequential amendments to many other acts.

The bill creates a new model of collecting and enforcing all legal debts, whether they arise from infringement fines, unpaid court fines, civil judgement debts or victims compensation orders, and it consolidates and streamlines the current system into one common enforcement system. The second-reading speech states that the focus of these reforms is on the total amount of fines owed by any one individual as opposed to the current transaction-based approach.

There are no changes to the procedures of agencies to issue fines and infringements. The physical appearance of all fines will become more consistent, and there will be shorter time lines for notification of payment or the commencement of a payment plan and enforcement.

Part 2 of the bill provides for the creation of the position of director, Fines Victoria, and in doing so abolishes the Infringements Court. If an individual does not pay the fine or infringement with the relevant issuer, it will be registered with this new central administrative body, Fines Victoria, within the Department of Justice. Fines Victoria will provide a single point of entry for the public and provide consistent payment options and methods.

Part 3 of the bill proposes that people who have multiple infringements from different enforcement agencies, registered court fines and fines at various stages will have their fines consolidated into a single account and managed by Fines Victoria. They may have these fines dealt with by way of a payment plan.

I note that fines issued to children will continue to be dealt with by the Children's Court under the children and young persons infringement notice system rather than by the director, Fines Victoria. The management and enforcement of fines imposed on a child by a court will also continue to be under part 5.3 of the Children, Youth and Families Act 2005.

It is important to recognise that some vulnerable people accumulate multiple infringement fines due to disability, mental illness or homelessness. The bill proposes a new work and development permit scheme to be provided in conjunction with approved community organisations — for example, the Salvation Army and health practitioners. This will mean that vulnerable people with special circumstances or in acute financial hardship may enter into an arrangement to clear their infringement and fine debt by agreeing to participate in an approved plan of activity or treatment.

As set out in part 17 of the bill, these plans could include unpaid work, medical or mental health treatment, drug or alcohol treatment or financial counselling or courses. For young people aged under 25 years a plan could also include participating in youth mentoring programs. I thought this was particularly interesting in light of the fact that this government has done away with the dedicated former funding that

existed for youth mentoring programs during its term of office, so I am concerned about how young people will be able to participate in these opportunities.

The bill also incorporates all of the existing sanctions applicable to fine defaulters and, as the second-reading speech indicates, makes some changes to 'enhance their effectiveness'.

There are many driver and vehicle sanctions already in existence — for example, suspending a drivers licence or car registration and wheel clamping — but the bill adds a new power to the sheriff to remove numberplates. The second-reading speech refers to these powers as becoming 'more automated'.

The bill also removes the requirement to personally serve a driver with a seven-day notice before a fine is issued and a drivers licence or car registration is suspended. The Magistrates Court can currently order an attachment of earnings order requiring the debtor's employer to deduct instalments from the debtor's wages, but it cannot make such an order if the debtor receives Centrelink benefits or if the debtor is self-employed.

The bill gives the director power to make an attachment order unless the order would cause financial hardship or their fine default as earnings falls below the prescribed level of income. The director will also have broad information-gathering powers to obtain financial information about people who have unpaid fines.

The statement of compatibility refers to these powers under clause 59 of the bill. Part 15 of the bill — in particular clauses 174 and 175 — enables the director or the sheriff to request address information from specified agencies, including public sector bodies and councils. Clause 178 goes further by referring to other information other than address information. Clause 177 gives a new power to authorise a credit reporting body to disclose identification information to the director or sheriff in response to a written request.

The bill also repeals section 161A of the Infringements Act and removes the capacity for prisoners to apply to the court to serve a term of imprisonment in lieu of paying outstanding fines. I know that the Federation of Community Legal Centres has raised some concerns around this provision of the bill.

The bill also reduces the time periods for enforcing infringements, taking the total time — that is, for service, time to pay, reminder notice and final demand — involved from 168 days to just 77 days.

The bill also amends the Infringements Act in respect of internal reviews and removes the default-to-court mechanism that currently exists. This instead will place an onus on enforcement agencies to take an active decision to prosecute so that only matters that should be prosecuted in the courts enter the courts. This means that vulnerable people may be identified before receiving a notice to attend court. The bill provides that enforcement agencies will be required to report to the director on their infringement activities and internal reviews to enable oversight and monitoring.

Finally, the bill waives some sheriff warrant fees relating to the execution of civil warrants to enforce compensation orders.

In conclusion, this is quite a lengthy bill, which runs to 238 pages. It is quite a considerable bill. We on the opposition side have a number of questions relating to how this new bill will operate in practice, so I will be seeking to take this bill into the committee stage to enable some further issues to be explored and to get some further information and clarity around how this bill will operate in practice. Rather than going through all of those issues in the course of my second-reading contribution and doing so again in the committee stage, I think it is best to save that for the committee stage itself. However, I indicate to the house that the opposition has a number of questions about how this bill will operate in practice, because it is a significant rewrite of how the fines regime will operate in Victoria in the future.

I do point out, however, that the default commencement provision in this bill is not until, if I recall, 30 June 2016, so there is some considerable period of time for all relevant agencies to get this right. Given that this has the potential to impact a great number of people, including very vulnerable people, it is important that the government gets this right. For that reason I wish to explore some of these issues during the committee stage. With those words, I conclude my contribution.

Mr BARBER (Northern Metropolitan) — The Greens certainly concur with the last few remarks made by the spokesperson from the opposition. It is for those reasons — the wide-ranging nature of the bill, its complexity, the sensitivity of the reforms and their impact on some of our most vulnerable groups — that the Greens believe the Fines Reform Bill 2014 could do with some further scrutiny. Apparently it zipped through the lower house with very little scrutiny, but our suggestion is that a bill of this nature, which, as Ms Mikakos pointed out, is not due to enter into force until next year anyway, could be scrutinised by the

Legal and Social Issues Legislation Committee. We have a referral motion to that effect.

This is a complex bill with significant provisions tightening up the enforcement side of the infringement system, which itself is quite complicated. This is a matter I have spoken on in Parliament before, in relation to the tens of thousands of fines that are handed out for fare evasion on public transport, along with the many thousands of those that are subsequently quashed or overturned or for which people for some reason are given a pass. There are ads on TV saying there is no excuse, but it turns out that, if you know the right words to use, there are many excuses that can be given that allow you to get off your fare evasion fine, although they are not documented by the Department of Transport, Planning and Local Infrastructure.

We know there are situations where people who might be homeless or suffering from mental illness can accrue massive numbers of fines effectively for the same action or the same group of actions. There is no real prospect of those fines ever being collected, but they nevertheless push a person who is living on the fringes of society into an even more difficult situation. An example is a person who is homeless and living in their car starting to get parking fines. That person is never going to pay those fines; they are eventually going to end up in jail. Most parties in this Parliament have said for a long time that there need to be some changes made to the way the fines system operates. There are some internal bureaucratic measures that are sometimes used — a codification, if you like, of how discretion might be used. It is not clear how an officer issuing a fine would use their discretion, but nevertheless this issue has been debated for some time.

There are a number of stakeholder groups that regularly work with these sorts of vulnerable people and have them as clients. As Ms Mikakos indicated, these groups have some concerns about what is being proposed in this bill. There has been some consultation on this year's Sentencing Advisory Council (SAC) report entitled *Imposition and Enforcement of Court Fines and Infringement Penalties in Victoria*, but not on the bill itself. One would think good practice is to consult broadly on the issues, produce an exposure draft of the legislation, put that around to the same interested parties and then bring it to this Parliament, at which point the ground should be pretty clearly laid out and most members would have a very clear view as to how they should be voting on particular provisions. But the government has for some reason short-circuited that process, and that means that, if the Greens motion to refer this bill to the Legal and Social Issues Legislation Committee is unsuccessful, we are going to have to spend some time today as a committee of the whole going through the bill clause by clause.

The bill overhauls the current infringement system and introduces a new model for the collection and enforcement of fines in Victoria. There are some good moves in it, but they generally do not go far enough or are not as effective as they could be. There are also quite a few concerning provisions with little or no rationale except to collect fines — that is, revenue. It is a detailed bill, and that is why we think the referral to the committee is appropriate. While there are some good reforms, there are quite a few concerns, and the bill suffers from not establishing a truly independent central agency and not making the good bits come into play earlier. That might be at the time of the initial infringement, when someone is deciding whether to issue a fine or not, and not the enforcement stage. We are concerned as to whether this bill is more bad than good.

In submissions to the SAC report, stakeholders said the system is overwhelmingly complex and therefore difficult to navigate, particularly for people with multiple fines. The infringements working group of the Federation of Community Legal Centres in its submission to the SAC fines project pointed to issues that arise from the number of infringement matters heard in open court, including:

> The disproportionate impact of the current system on people experiencing poverty — people who can afford to deal with their infringements by payment can avoid the stress of going to court, contesting an infringement and potentially receiving a criminal record. People experiencing poverty cannot afford to exit the system …

Then I suppose there is a third group of people with so much money that they just do not care, or they live interstate. The submission goes on to say:

> People with special circumstances are pleading guilty to offences where they did not have control over the behaviour that resulted in the fine;
>
> the system imposes a significant resource burden on services, courts and enforcement agencies;
>
> officers who issue fines are not supported to use their discretion to issue warnings rather than fines;
>
> applications for internal review on the basis of special circumstances frequently result in the matter being referred to open court;
>
> victims of domestic violence struggle to deal with fines incurred by violent partners;
>
> people have significant difficulty consolidating matters at different stages and are often required to attend multiple court hearings …

The Sentencing Advisory Council hopes that a centralised system will assist to ensure that people can address their infringements earlier and, where appropriate, exit the system.

The government says in the second-reading speech that the current mechanisms available to enforce legal debts in Victoria are costly, inconsistent and outdated. There are a range of legal debts commonly incurred by individuals, including fines, victim compensation orders and civil judgement debts, each of which are owed either to the community on account of breaches of the law or to other individuals in recompense for wrongs done or to satisfy liabilities incurred. The complexity and inefficiencies of existing enforcement mechanisms mean that recovery of these legal debts can be costly and uncertain — in other words, the government and the Greens are agreeing, but we are pointing to it from different perspectives.

Hon. R. A. Dalla-Riva interjected.

Mr BARBER — It might make Mr Dalla-Riva worried if it keeps happening!

The government says that the new model introduced by this bill makes it clear to people who seek to avoid their responsibilities that payment of legal debts is an obligation, not an option. It also says that the model will provide 'options for vulnerable people to prevent them from accumulating spiralling debts'. That is from the Attorney-General's press release. The government says that the reforms are supported by $34.6 million in capital and recurrent funding over four years to upgrade IT systems and increase enforcement capacity.

In summary, the changes include the creation of the position of director, Fines Victoria; the Infringements Court attached to the Magistrates Court being replaced with the director, Fines Victoria; and the Department of Justice overseeing the state's fines system. In principle that is a good reform, though ideally the central agency would deal with fines at the initial infringement stage, as in New South Wales, instead of different agencies still being able to deal with them at this stage. The new Fines Victoria will deal with them only at the enforcement stage, though in some cases individuals can get a consolidated payment plan registered.

I am also a bit concerned that Fines Victoria will be part of the Department of Justice, not an independent agency. The oversight and review role of Fines Victoria will involve reviewing decisions of enforcement agencies, developing guidelines to ensure consistency for enforcement agencies that are conducting internal reviews and monitoring and reporting of the fines process. When we read the Ombudsman's report into transport infringement fines we learnt that there was just one officer dealing with thousands of internal reviews, to the point where the Ombudsman calculated that there could only be a few seconds devoted to each individual fine and determining whether or not it should be upheld or reviewed. That illustrates some of the problems we have here in addressing this issue.

A single integrated system to track and collect fines is a good reform. Shorter time lines and notifications for collection and enforcement of fines could help in some cases, but it would be certainly difficult in others. For example, shorter time frames may assist a special-circumstance application to be resolved much sooner; on the other hand, shorter time frames for someone trying to pay a fine makes it harder for them to pay. That is a real concern.

The bill provides for the consolidation of fines into a single account, focusing on the total amount owed by individuals rather than on the separate debts for each fine or infringement. Fines will be consolidated into a single account. This is supported by stakeholders, but with some qualifications. The provision no longer allowing prisoners to serve a term of imprisonment in lieu of paying outstanding infringement fines is a repeal of section 161A of the Infringements Act 2006. That is referred to in the second-reading speech, which notes that in many cases the term of imprisonment ordered for the unpaid fines is served concurrently with the prisoner's existing sentence and that the law currently gives the option to apply for an order in the Magistrates Court to serve a term of imprisonment in lieu of paying infringement fines.

The government says the introduction of a work and development permit scheme will provide more options for vulnerable people and people in acute financial hardship to clear their financial debts through approved activities, financial counselling, drug and alcohol treatment and, for persons under the age of 25, mentoring. It is a good scheme but will be available only at the enforcement stage. The Department of Justice informed stakeholders that it will eventually apply at the infringement stage. This is essential, particularly for persons who are experiencing homelessness or who are at risk of homelessness, as often due to their special circumstances they may not be able to deal with a fine issue or seek legal assistance until the enforcement stage.

In respect of court fines or infringement fines the bill provides for registrars of the Magistrates Court to issue, recall and cancel enforcement warrants. Fines and infringements imposed on or issued to children will be

enforced under the current legislative regimes; they will continue to be enforced by the Children's Court and the young person's infringement notice system rather than the director.

The bill waives certain fees relating to the execution of civil warrants to enforce victim compensation orders. This makes it easier for victims to enforce compensation orders.

With regard to civil warrant enforcement, the hours during which the sheriff may use reasonable force to execute civil warrants at residential premises are extended to between the hours of 7.00 a.m. and 9.30 p.m. Further, the bill provides that where a sheriff executes a criminal warrant outside the hours of 7.00 a.m. to 9.30 p.m., the sheriff may also execute a property seizure warrant at those residential premises.

The expansion of the use of sanctions available to enforce compliance with the law includes wheel clamping. I refer to my earlier comments about a homeless person living in their car. The ability to make a direction to suspend a licence or vehicle registration and similar dealings between fine defaulters and VicRoads are enforcement tools available in the bill, and they will become more automated to facilitate their broader use. The bill also provides the sheriff with the power to remove numberplates, which will be used where wheel clamping is not possible. That might be useful for the guy who drives a Lamborghini and has thousands of dollars worth of fines he is not worried about, but it is a different situation where a homeless person — almost 50 per cent of those being women, often with children — has taken to living in their car, possibly because they are escaping from domestic violence.

As I have said so far, the bill itself seems to have missed some major opportunities to actually make this aspect of our fines system a lot better for the most vulnerable whilst also dealing with those people you would simply call scofflaws — people who do not care about fines.

Hon. R. A. Dalla-Riva — What do you call them?

Mr BARBER — Scofflaws. It is an American term — people who scoff at the law. I note that sanctions also include debt attachments, which currently exist, but now banks will be required to protect debt amounts in bank accounts, and the director will be given powers to deal with banks through provisions that are not under the current Infringement Act.

On internal review, the bill establishes a new administrative process called enforcement review to replace the revocation process where individuals at the enforcement stage had the right to apply to a registrar of the infringements court to have an enforcement order revoked. An enforcement review is supposed to mirror internal review and will require enforcement agencies to opt in. Stakeholders say the reforms in this area provide a more consistent and flexible approach to internal review. They welcome that, and they also welcome the introduction of better and more flexible options for people if an internal review application is refused. The enforcement review process is also favoured by stakeholders.

In summary, the problems with the bill — in addition to the problems with the new model for Fines Victoria itself — include the shorter time frames for notification and payment of fines and in particular certain clauses that reduce the time frame for notification from 14 days to 7 days and reduce the time frame for payment from 28 days to 21 days; clause 240(2), which repeals the section of the Infringements Act that allows prisoners to serve sentences in lieu of paying fines; the prospect of sheriffs executing warrants at times of the day when people, including children or anybody else in the home, might be sound asleep; the expanded use of sanctions, in particular those concerned with debt attachment provisions in relation to banks; and clauses 95 to 102, which allow charges over land, as they do not limit this to cases where licence suspension has not been successful.

Then there are a number of missed opportunities — things that the bill should do but does not — including amending the definition of 'special circumstances' to include circumstances that contribute to the offending behaviour, rather than requiring the offence to be a result of the special circumstances, and also to include being a victim of family violence as a special circumstance, as well as allowing for concession-based fines. Fines should be in proportion to what a person can afford, as was recommended by stakeholders to the Sentencing Advisory Council's fines project and supported in the council's report.

I am sure that a lawyer like Mr O'Donohue would be familiar with the code of Hammurabi, which as far as we know was the first-ever system of written laws. It was carved on a stone tablet that survives to this day. It is the origin of the expression 'An eye for an eye, a tooth for a tooth', which I do not necessarily agree with. That code laid out different fines for different people according to their incomes. I point out to the minister that this is from back in the BC era. If the principle was understood even then that to punish a rich person and a

poor person with the same fine is actually to punish them differently — that is, to punish the poor person more harshly — then why not, as the code said in its wisdom, set up a differential schedule of fines according to a person's circumstances?

The bill does not allow for a central agency to deal with fines right from the very beginning — at the infringement stage — like the New South Wales system does. It is not clear to us why that is the case. It does not allow for the work and development permit scheme to apply at the infringement stage — that is, to allow someone to work off their fine after receiving it. It does not abolish imprisonment for non-payment of fines. Stakeholders say New South Wales does not allow for imprisonment, and there is no evidence to date to suggest that that has interfered with fine collection.

Should we have people in prison for non-payment of fines? I am sure the minister, who is also responsible for prisons, would be perfectly happy to see a few prisoners who perhaps just have a collection of parking fines released from prison — at some saving to the community — to make way for much more hardened criminals who ought to be kept in jail. But perhaps he lost the argument with the Attorney-General on this bill. I give credit to those public servants who may have had to argue on behalf of both ministers against each other in cabinet. We will never know, but — —

Hon. E. J. O'Donohue interjected.

Mr BARBER — Back in the good old days there was one minister for one department; now there are these super departments with all these different groups of ministers responsible for different things. I would have thought that tipped the balance against the ministers.

In the alternative, prison should be made strictly a last resort for matters such as these. The Sentencing Advisory Council report noted this, and it was also advocated for by PILCH Homeless Persons Legal Clinic.

Clauses 79 and 82 deal with the involvement of banks. I am talking about clauses we will not be supporting, but I may save this for when we go through the bill clause by clause in the committee stage, speaking briefly to each clause. I know some members already have one eye out the door and are thinking about what they can get home to. The Nationals might have to help with the milking or something.

An honourable member interjected.

Mr BARBER — None present, okay.

Hon. R. A. Dalla-Riva — Better than a soy latte on Brunswick Street.

Mr BARBER — Those soy lattes are not going to drink themselves, Mr Dalla-Riva, so that is where we come in.

I commenced my speech by saying this is a set of reforms that it seems almost everybody agrees have been necessary for a very long time. The bill had not been scrutinised by stakeholders and those with expertise in the system until it arrived in the Parliament. The system does not come into force any time this year; it will be into the next electoral cycle — and who knows, possibly even a new government — before such provisions can be enacted. That is why it is the Greens position that the deal should be referred to the Legal and Social Issues Legislation Committee. If that is unsuccessful, I would suggest that the Greens would vote against the second reading of the bill.

Hon. R. A. DALLA-RIVA (Eastern Metropolitan) — I am conscious of the time and of the contributions made by Ms Mikakos and Mr Barber, although I understand that Mr Barber made his contribution on behalf of Ms Pennicuik, who often deals with this type of legislation. I have to say that the Fines Reform Bill is one fine reform bill because what we have here is a situation in which the system was dysfunctional, and now we have the Attorney-General, the Honourable Robert Clark, working tirelessly to deliver what I would say is pretty significant reform to an area that has been a frustration for law enforcement not only in recent times but probably for decades.

I can only draw from my previous experience working in the warrants and fines office in the then Broadmeadows constabulary. We would go out and, as Mr Barber rightly pointed out, work with people who had received fines but were unable to pay them, and we would negotiate for them to come and serve time in the police jail. That was a waste of time for the police. Other uniformed police officers and I would be assigned to that task, wasting time driving back and forth, visiting people who had unpaid court and interstate fines and outstanding warrants. There was also the use of the watch-house and of the police cars that could have otherwise been out on the road. There was a whole range of impositions.

We all had to serve at some point, so when you were in the divvy van for a while they would give you a stint on warrants and fines. I remember the freedom of not having to do night shifts, and the freedom of having a

car to get around and basically be your own boss. However, it did always strike me that it was a waste of police time and resources. It also struck me — and I am pleased that this legislation changes this — that a significant number of outstanding fines would be wiped. If somebody who was convicted of an offence and was doing some time in Pentridge had outstanding fines, they would be able to have their fines wiped while serving their sentence. All their fines would be expunged.

Mr Barber — Is that good?

Hon. R. A. DALLA-RIVA — Mr Barber asks if that is good. From a police perspective, we did not want to be involved in getting rid of fines. This is great legislation for a system that was very confusing and involved a whole range of different agencies. I do take Mr Barber's point that this legislation does not address the issues of the vulnerable. I am sure the minister will go into more detail, but I think it is important in the confines of this debate to note that there will be a capacity for the director of Fines Victoria, which will be a newly created role as part of the $34.6 million overhaul, to remove driver and vehicle sanctions at their discretion when hardship is established, thereby reducing the potential for a sanction to have a disproportionate impact on a vulnerable person. Mr Barber gave the example of a female with children who was dealing with a domestic violence issue. I would suggest that that would clearly be an area where discretion would be used to remove driver and vehicle sanctions.

I understand that the Federation of Community Legal Centres Victoria and the Financial & Consumer Rights Council are both supportive of the introduction of a work and development permit scheme in Victoria, but both have been critical of the restriction of the scheme to the pre-enforcement stage for infringement fines. I think the issue Mr Barber raised was valid. However, that is the reason there is a long-term start process. When you introduce a significant piece of legislation that reforms the way in which fines have been collected in this state for decades, there needs to be a long lead time. The other important thing is — and I want to put this on the record to balance the concerns of Mr Barber — that confinement of the scheme's initial operation will enable the required operational and information technology solutions to be developed, and then further consideration — —

Mr Barber interjected.

Hon. R. A. DALLA-RIVA — I will take up the huff from Mr Barber because I love the way the Greens think they can see into the future. It is almost their being able to see a drought in the future 10 years ago. Remember that? I take up the interjection because Mr Barber is not a mind-reader. The Greens always profess that they can see the future. I was going to be a mind-reader once, but I could not see a future in it! That took me a while; I have been waiting 12 years to get that one in. I think it is important to note that there will be further consideration given to the development of the scheme. So the issue that Mr Barber legitimately raised about ensuring the pre-enforcement stage for infringement fines can be dealt with through counselling or by identifying the triggers and drivers of infringements. It may be similar to the discussion we had yesterday in terms of the gambling bill whereby a gambling addiction is creating a certain level of fines. I think that type of analysis needs to be worked out.

We should not assume within the confines of the Parliament that we know it all. Mr Barber wants to have legislation which codifies every potential event, activity or action that may occur and lead to a fine. I have worked in the real world, and I have experienced people in very vulnerable areas who have received fines. I have gone to their homes and tried to work with them. I worked in Broadmeadows for three years.

Mr Barber interjected.

Hon. R. A. DALLA-RIVA — There we go. Mr Barber has worked in a legal centre; therefore he has the wealth of all knowledge. Do not get a copper talking about solicitors, because the two never agree. Let us be blunt. The ideal world of a solicitor in the confines of a courtroom has no bearing on what happens in the real world. A fine might be issued by a court, and then poor old Mr Plod has to go out there and deal with it.

Mr Barber expresses his view that solicitors know it all and therefore everyone else in society is irrelevant. This demonstrates a lack of knowledge and shows why it is difficult for the Greens to gain credibility. They always argue about the same issue on a Thursday afternoon, expressing their point of view on a piece of legislation, but they do not understand real-world experiences. Spending 3 hours in a solicitor's office may be Mr Barber's experience of dealing with hardship, but he should be out there day in, day out walking the streets and seeing the real issues with vulnerable people. He might then understand what I am getting at. We have had these discussions before. I do not want to get all feisty about it, but it staggers me that Mr Barber continues to talk as if he knows it all. For the record, he does not. I will let Mr Barber in on a secret — even I do not. There might be other people in this chamber who

also do not know it all, but the realities are that as a Parliament we have to work together to come to a solution.

The Attorney-General has a very clear, methodical approach. You could not meet a person who is more methodical than Mr Clark, the Attorney-General. I am sure he would have thought about this. I am sure the minister in the committee of the whole would also have discussed this. I think this is the right approach, because it is through this process that we are able to work out what the issues relating to the pre-enforcement stage will be. That is what I was saying earlier. I did not need the huff from the Greens. I am agreeing with Mr Barber, and I am agreeing with the Greens.

Mr Barber interjected.

Hon. R. A. DALLA-RIVA — Mr Barber is arguing that he knows it all and that he is going to codify every potential event, activity or action that could cause a fine. It does not work that way. In the committee stage I would love Mr Barber to be cross-examined about what he is proposing. He thinks it would be easy for him to stand there and receive the questions, but he would not have the answers, because he does not know.

Mr Barber — Make me Attorney-General and see how I go.

Hon. R. A. DALLA-RIVA — There is the agenda: 'Make me the Attorney-General', he interjects. That is what it is about. At the end of the day, even the Greens want the big white car. He would probably have a V8.

An honourable member — They want to keep petrol taxes low.

Hon. R. A. DALLA-RIVA — They want to keep petrol taxes low. I will finish by saying that the staged approach to the establishment of the scheme in Victoria was outlined to key stakeholders by the department in a series of three workshops with the infringements standing advisory committee in late 2013, and broad support was provided for a staged approach. That is very clear.

Mr Barber — According to the government.

Hon. R. A. DALLA-RIVA — 'According to the government' — I love it. Somebody should have picked up Mr Barber in a limousine and brought him along, thrown the rose petals down as he walked in, given him a full audition so he understood exactly what was going on and then as he left given him the flower petals again, put him back in the limousine and driven him back home with champagne on ice so that he actually understood the legislation.

Sorry, back to the solicitor's office. I have to be careful, because I am surrounded by solicitors. Ms Mikakos, with due respect, is a solicitor, as is Mr Barber — even the minister is. Mr Ronalds is not a solicitor.

Mr Ronalds — I studied economics.

Hon. R. A. DALLA-RIVA — I am thankful for that. I am only surrounded by three solicitors.

Mr Barber — Biological science at La Trobe University.

Hon. R. A. DALLA-RIVA — Biological science!

Mr Barber — Followed by an MBA. No LLB over here.

Hon. R. A. DALLA-RIVA — No LLB? You learn something every day. I thought he was a professor of everything. That being said, we support the bill and look forward to its speedy passage.

House divided on motion:

Ayes, 32

Atkinson, Mr	Mikakos, Ms
Coote, Mrs	Millar, Mrs
Dalla-Riva, Mr	O'Brien, Mr D. D.
Davis, Mr D.	O'Brien, Mr D. R. J.
Drum, Mr	O'Donohue, Mr
Eideh, Mr (*Teller*)	Ondarchie, Mr
Elasmar, Mr	Peulich, Mrs
Elsbury, Mr	Pulford, Ms
Finn, Mr	Ramsay, Mr
Guy, Mr	Rich-Phillips, Mr
Jennings, Mr	Ronalds, Mr
Koch, Mr (*Teller*)	Scheffer, Mr
Leane, Mr	Somyurek, Mr
Lewis, Ms	Tarlamis, Mr
Lovell, Ms	Tee, Mr
Melhem, Mr	Tierney, Ms

Noes, 2

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

Pairs

Pennicuik, Ms	Kronberg, Mrs

Motion agreed to.

Read second time.

Referral to committee

Mr BARBER (Northern Metropolitan) — On behalf of Ms Pennicuik, I move:

That the Fines Reform Bill 2014 be referred to the Legal and Social Issues Legislation Committee for inquiry, consideration and report by 6 August 2014.

Just to clarify that, I think we may have circulated the version suggesting 20 August. However, it has been expressed to me that there might be more support for something that appeared in a shorter time frame. This is the shortest possible time frame because of the five-and-a-half-week break that we are about to have. Therefore, for the reasons I outlined during the second-reading debate, I seek the support of the chamber for this motion.

Ms MIKAKOS (Northern Metropolitan) — I indicate to the house that the Labor opposition will be supporting this referral motion. I express my gratitude to Mr Barber for being agreeable to bringing forward the reporting date to the first sitting week after the winter recess. We take the view that this bill is quite a comprehensive rewrite of the legislation. As I said earlier in my contribution, this bill is 238 pages long and contains 331 clauses. The default commencement date is not until 30 June 2016, so there is a considerable amount of time for government agencies to get this right. It is important that the bill be explored further to make sure that they get this right, because if they do not, there is potential to present quite a significant number of people in the community with legal difficulties down the track. It is for those reasons that we are supportive of the referral motion.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The government will be opposing the motion moved by Mr Barber of the Greens. As Mr Barber articulated in his contribution to the second-reading debate, wide-ranging consultation has occurred in the lead-up to the bill being brought before this place. I am advised that organisations such as the homeless persons legal centre, the Salvos and a range of others have also been consulted about these reforms. Again, as has been acknowledged by the opposition and by the Greens, this is an area where reform is long overdue. The government has consulted widely and has taken input from a range of stakeholders and therefore seeks to have the legislation passed through the house.

Mr BARBER (Northern Metropolitan) — Is there an opportunity for reply in this case?

The PRESIDENT — There is.

Mr BARBER — Just briefly, it is disappointing that the government will not be supporting the referral. We did set up this gee-whiz, whiz-bang system of committees, each of which had a committee known as a legislation committee, the purpose of which was to consider legislation. I take the point that the government has done general consultation on the issue through the Sentencing Advisory Committee, but one of the benefits of having a legislation committee system is that you can refer legislation to it. In the three and a half years that we have been here I think only two bills have ever been referred to a legislation committee: I drafted one of them, and the other was to do with wills, I think.

Ms Hartland — International wills.

Mr BARBER — International wills; it is a subset of wills. You can say that this system is somewhat underused. That is a function of the government not wanting to have further scrutiny of its bills routinely, though such scrutiny routinely works in the Senate and I am sure will continue to work in the Senate. But, who knows, 156 days from now the fortunes might change a little bit, the numbers in this upper house might shift a little bit, and maybe the legislation committee system will spring into life.

House divided on motion:

Ayes, 14

Barber, Mr	Lewis, Ms
Eideh, Mr	Mikakos, Ms (*Teller*)
Elasmar, Mr	Pulford, Ms
Hartland, Ms	Scheffer, Mr
Jennings, Mr	Somyurek, Mr
Leane, Mr	Tarlamis, Mr
Lenders, Mr	Tee, Mr (*Teller*)

Noes, 18

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

Pairs

Darveniza, Ms	Crozier, Ms
Pennicuik, Ms	Ramsay, Mr
Viney, Mr	Kronberg, Mrs

Motion negatived.

Committed.

Committee

Clause 1

Ms MIKAKOS (Northern Metropolitan) — Having regard to the general purpose of this bill, which is to

collect fine revenue, can the minister advise how much fine revenue is currently outstanding?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I do not have that figure on hand. As Ms Mikakos would no doubt appreciate, the amount that is outstanding varies from day to day depending on the number of new fines that have been issued and the fines that have been paid et cetera. However, I am happy to take that question on notice.

Ms MIKAKOS (Northern Metropolitan) — Perhaps it will assist the minister if I were to give him a date — say, from 1 June this year. If the minister does not have that figure as of 1 June, I am happy for him to take that on notice and advise me at a later stage.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I will seek advice and come back to Ms Mikakos.

Ms MIKAKOS (Northern Metropolitan) — Do the budget estimate figures for fine revenue contemplate the improved collection methods outlined in this bill?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised they do.

Ms MIKAKOS (Northern Metropolitan) — What is the estimate of additional fine collection annually as a consequence of the changes being introduced by this bill?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — As was discussed during the second-reading debate, this is a staged implementation process. Those changes will accrue over time. I will again take the specifics on notice and come back to Ms Mikakos.

Ms MIKAKOS (Northern Metropolitan) — I would appreciate it if the minister could provide those figures at those various stages, if that is what he is suggesting.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I will do so. I make the point that it will depend on the commencement date. There is a default commencement date, but it depends on whether commencement is brought forward and on the impact that will have on the current financial year.

Clause agreed to.

Clause 2

Ms MIKAKOS (Northern Metropolitan) — Can the minister advise why the default commencement date, which is 30 June 2016, is so late?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — It is because the implementation of these reforms is staged. That allows sufficient time for various parts of the act to be proclaimed.

Ms MIKAKOS (Northern Metropolitan) — The minister intimated in a response to a question on the previous clause that the commencement date might be brought forward. Can the minister advise whether that is the case and whether there are particular parts of the bill that he would anticipate would be brought forward?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — As is noted in the Attorney-General's media release of 8 May and as was discussed in the second-reading debate, these reforms are backed by $34.6 million of capital and recurrent funding over four years to upgrade IT systems and increase enforcement capacity. The bringing on of these reforms will depend upon the underpinning IT systems. As they come on board, and as various agencies indicate their ability to adopt the new framework, various parts of the act will be proclaimed.

Ms MIKAKOS (Northern Metropolitan) — What the minister is suggesting then is that the various agencies will be subject to a common IT platform. Is that correct? Will similar software be shared across the agencies, and is that required to be rolled out here?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that there will be a new IT system for the new entity, Fines Victoria, but there will be a great deal of data to be migrated from various agencies across to the new platform that Fines Victoria will have. Of course there will need to be interaction with the courts as well, and a great deal of data migration will be associated with that. I think it is more a matter of getting the new system that will operate up and running and then allowing data migration and handover to the new entity of Fines Victoria.

Ms MIKAKOS (Northern Metropolitan) — I thank the minister for that clarification. He did not indicate whether there are particular parts of the bill that are likely to commence at an earlier stage. Can he indicate which parts that might be or which parts might be held back until 2016?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I think the answer to that question will be in the underpinning development of the new IT infrastructure. The government will make

decisions about the implementation of various parts of the bill as that work progresses.

Clause agreed to; clause 3 agreed to.

Clause 4

Ms MIKAKOS (Northern Metropolitan) — How is the director of Fines Victoria going to be appointed?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that with the passage of this bill and once the bill receives royal assent there will be an extensive recruitment process to appoint someone suitably qualified. It is likely that in the interim, while that process is under way, the sheriff will fulfil that function.

Ms MIKAKOS (Northern Metropolitan) — I thank the minister for that response. Is it envisaged then that the recruitment process will appoint someone who is external to the Department of Justice but that temporarily, as the minister said, the sheriff will be acting in that position?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I would not want to prejudge that outcome, save to say that the government will be looking for someone who is appropriately qualified to fulfil the new role.

Ms MIKAKOS (Northern Metropolitan) — I am not clear from the bill whether this is a Governor in Council appointment or the Attorney-General will just announce the successful appointee at the time.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — As clause 4 identifies, the director of Fines Victoria will be employed pursuant to part 3 of the Public Administration Act 2004.

Ms MIKAKOS (Northern Metropolitan) — How may the director be terminated once they have been appointed?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — These matters are detailed in the Public Administration Act.

Ms MIKAKOS (Northern Metropolitan) — Just to be clear, does the director have any independence at all, in the nature of an independent statutory authority, or are they simply answerable to the Secretary of the Department of Justice and the Attorney-General?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Again, I draw Ms Mikakos's attention to the Public Administration Act, which deals with those matters. I would make the additional point that this is fundamentally an administrative function.

Ms MIKAKOS (Northern Metropolitan) — Essentially the minister is saying that the director will be accountable to the Secretary of the Department of Justice. Is the director nothing more than an employee of the department with a fancy title?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I again refer Ms Mikakos to the Public Administration Act.

Clause agreed to; clause 5 agreed to.

Clause 6

Ms MIKAKOS (Northern Metropolitan) — I refer the minister to the words of the clause:

> The Director has power to do anything that is necessary or convenient to be done for or in connection with the carrying out of the Director's functions.

What does this mean exactly? Who is the arbiter of what is necessary or convenient?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that this is a standard provision. The bill itself provides a great deal of guidance about the role, function and powers of the director.

Ms MIKAKOS (Northern Metropolitan) — The minister says this is a standard provision. Is he suggesting that this is replicated in other acts? I do not recall seeing this, although it may well be replicated in other acts. It would be helpful if the minister were able to give a bit more guidance as to what this provision is envisaged to cover. Perhaps he could flesh it out a bit more in regard to what it will cover and what safeguards will be put in place to ensure that what is really quite a broad power is not abused in the future.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — This is a substantial bill, as both Ms Mikakos and Mr Barber said. It provides a great deal of structure in relation to the way this new system will operate. By its very nature it gives very clear directions about the role and function of the director.

Clause agreed to.

Clause 7

Ms MIKAKOS (Northern Metropolitan) — This clause relates to staff. It says that 'any employees that are necessary' may be employed under the Public

Administration Act. Can the minister advise the house what the total budget will be for the office?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that that will be a matter for the Secretary of the Department of Justice.

Ms MIKAKOS (Northern Metropolitan) — I am obviously trying to be cooperative here, but the minister is not giving me much information. Can he give an indication of roughly how many employees will be employed by Fines Victoria?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Again, I wish to provide appropriate answers to Ms Mikakos. I am not attempting to be difficult, but it is a matter for the Secretary of the Department of Justice to provide appropriate staff resources for the director to discharge his or her functions.

Clause agreed to; clause 8 agreed to.

Clause 9

Ms MIKAKOS (Northern Metropolitan) — What matters will the director consider in deciding whether to waive or reduce costs or fees under this clause?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Those decisions will be a matter for the director, who will take each and every case and the particular circumstances that apply to each and every case into account, noting the structure and matters referred to in the bill, which will also provide guidance.

Ms MIKAKOS (Northern Metropolitan) — That is a very unhelpful response. Will guidelines be developed by the director so that there is some consistency in the application of this very wide discretion to waive or reduce costs or fees?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that publicly available guidelines will be developed, and of course, as the bill outlines, there will also be the opportunity for judicial review.

Ms MIKAKOS (Northern Metropolitan) — To take this to the next step, will there be any consultation with stakeholders around the development of these guidelines? Will they be put out in the same manner as, for example, a regulatory impact statement, and will they seek to elicit views? I raise that because, as Mr Barber and I noted in our second-reading contributions, some very vulnerable people are being dealt with here. Will there be an opportunity for stakeholders to have some input into the development of any guidelines that might relate to these discretionary powers?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — To pick up the point Ms Mikakos made, part of the driver of this bill and some of the new ways of looking at these matters are to provide those who do not have the means to pay a fine with alternative ways to discharge the liability that has been incurred. That has been a driving force in the development of this bill. As I mentioned in debate on the referral motion that Mr Barber moved, there has been extensive consultation with a range of stakeholders, including the Salvation Army, the Homeless Persons Legal Clinic and others. I envisage that there will be appropriate consultation in the development of those guidelines with interested stakeholders.

Clause agreed to; clause 10 agreed to.

Clause 11

Ms MIKAKOS (Northern Metropolitan) — As I said in my second-reading contribution, I understand that it is not intended that minors be covered by this, but just for the purposes of certainty, can the minister advise whether this clause, which refers to part 3, or any part of the bill will make any change to current practices that relate to minors?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — No.

Clause agreed to.

Progress reported.

SENTENCING AMENDMENT (BASELINE SENTENCES) BILL 2014

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 Sentencing Amendment (Baseline Sentences) Bill 2014 (the bill).

In my opinion, the bill, 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 bill introduces baseline sentences for the offences of murder, sexual penetration of a child under 12, persistent sexual abuse of a child under 16, incest with a child and culpable driving causing death in the Crimes Act 1958. It also introduces a baseline sentence for the offence of trafficking in a large commercial quantity of a drug or drugs of dependence in the Drugs, Poisons and Controlled Substances Act 1981.

The bill amends the Sentencing Act 1991 to provide that the baseline sentence for an offence is the sentence that Parliament intends to be the median sentence for sentences imposed for that offence under the baseline sentencing provisions. This means that Parliament intends that sentencing practices will adjust so that, over time, half of the sentences imposed for the offence will be less than the baseline sentence and half will be greater.

When sentencing an offender for a baseline offence, regardless of whether the court is imposing a custodial sentence, the court must act compatibly with Parliament's intention. If the court is sentencing an offender who has committed multiple offences including one or more baseline offences, it must still consider the baseline sentence for each of the baseline offences.

The bill requires the courts to consider the baseline sentence, in addition to all other sentencing considerations, when sentencing an offender found guilty of a baseline offence. A court will be required to provide reasons as to why it has imposed a sentence equal to, greater or lesser than the baseline sentence, as the case requires.

If a court is imposing a sentence of imprisonment in respect of a baseline offence or a case that involves a baseline offence, it must fix the non-parole period in compliance with the new minimum ratios introduced by the bill.

Human rights issues

Section 21 of the charter act relevantly provides that a person must not be deprived of his or her liberty except on grounds, and in accordance with procedures, established by law. Section 24 relevantly provides that a person charged with an offence has the right to have the charge decided by an independent and impartial court after a fair hearing.

These rights are not limited. Any deprivation of liberty will arise, as it does now, from a sentence imposed after conviction for an offence by an independent court after a fair hearing. The bill introduces an additional statutory consideration (the baseline sentence) into the sentencing process. The bill also introduces minimum ratios for the non-parole period to the individual sentence for baseline offence or to the total effective sentence for offences which include a baseline offence — these ratios are consistent with the ratios under current sentencing practices. The bill does not introduce mandatory sentences and the bill does not alter the existing instinctive synthesis process for sentencing.

The bill contains a number of safeguards to protect the rights provided for in sections 21 and 24. For example, the bill does not limit the process for appeals against sentence. Also, the bill requires the provision of reasons for the sentence being greater or lesser than or equal to the baseline which promotes transparency and consistency in sentencing.

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

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill delivers the government's commitment to introduce a baseline sentencing regime for serious crimes. This groundbreaking reform will for the first time give Parliament on behalf of the community a far greater say in the overall level of sentences that are imposed in our courts, while still allowing the courts to take into account the facts of individual cases in determining the sentence for each case.

The government has already introduced a range of significant sentencing reforms to ensure stronger and more effective sentencing in Victoria. These include abolishing home detention, replacing the previous range of community orders with a new flexible community correction order, introducing statutory minimum non-parole periods for offences of gross violence and abolishing suspended sentences.

With the introduction of baseline sentences, the government is acting to ensure that sentences for a wide range of serious crimes will better deter offending and protect the community.

Traditionally, it has been Parliament's role to define a criminal offence and to set the maximum penalty for that offence. The maximum penalty indicates the sentence that can be imposed for the very worst instance of a crime and is also intended to set the relative severity of crimes. However, the maximum penalty itself is rarely imposed.

Below the maximum, the sentencing court imposes a penalty that it considers appropriate, by reference to a range of aggravating and mitigating factors specific to each case, and by reference to cases that have gone before, in accordance with current sentencing practices. Other than setting the maximum penalty, Parliament at present has little say as to what sentences the common or mid-range instances of any particular crime should receive.

It is clear that sentences for a number of crimes are out of step with community expectations and out of step with what is required to deter crime effectively and protect the community.

Child sex offences are considered to be amongst the worst kinds of offences and this is reflected in the maximum penalties. Sexual penetration of a child under 12 and persistent sexual abuse of a child under 16 are both punishable by a maximum penalty of 25 years.

Despite the high maximum penalties, between 2006–07 and 2009–10, the median sentence for the offence of sexual penetration of a child under 12 was three and a half years in jail. The median sentence for persistent sexual abuse of a child under 16 was six years imprisonment. These figures are unacceptable.

The baseline sentencing reform changes this. Through this bill, the Parliament is asked to set baseline sentences for six serious crimes that will serve as a guidepost for judges whenever they impose a sentence for those crimes.

The baseline sentence is the figure that Parliament expects will become the median sentence for that offence. This requires sentencing practices to change so that, over time, for sentences to which baseline sentencing applies, half the sentences imposed for the offence should be less than this figure, and half should be greater.

Thus, the sorts of instance of the offence concerned that have in the past incurred a sentence of median length — that is, at the midpoint of relevant sentences imposed for that offence — should in future receive a sentence equal to the baseline sentence. In other words, the bill requires courts to increase sentences for the sorts of cases that incur a midpoint sentence from the current median sentence length to the sentence length specified as the baseline sentence. Sentences for cases that deserve to incur a higher or lower sentence than the median will then be set having regard to the median sentence length required by the baseline sentence.

This bill sets baseline sentences that are unashamedly higher than the current median sentences. This will serve to influence the entire range of sentences imposed for each baseline offence so that most sentences imposed for baseline offences under this bill will move higher to a greater or lesser extent as a result of the change to sentencing practices that the bill requires.

To the extent that current sentencing practices are inconsistent with the baseline sentence, the court must depart from current sentencing practices and give effect to Parliament's intention. Acting compatibly with the Parliament's intention that the baseline sentence should be the median sentence is to prevail over consistency with existing sentencing practices.

The bill does not seek to specify what factors involved in a particular instance of an offence should result in a sentence greater or lower than the median. This is something that will continue to be determined in accordance with existing sentencing principles. Judges will be able to have regard to the sorts of instances of the offence that have incurred a median sentence and then determine whether the instance of offending before the court is deserving of a greater or lesser sentence than instances of offending that have incurred a median sentence. However, the individual sentence imposed must be consistent with the baseline sentence being the figure that Parliament expects will become the median sentence for that offence, and the court will be required to state its reasons as to why a sentence imposed for a baseline offence is equal to or greater or lesser than the baseline sentence.

It is expected that judges may draw on their experience in sentencing for that offence and may seek submissions from counsel as to where the instance of offending before them stands in relation to an instance that would incur a median sentence. Judges may also have regard to sentencing data and other materials relating to the relevant offence published by the Sentencing Advisory Council, the Judicial College of Victoria or other sources to ascertain instances of offending that have incurred a median sentence. It is the government's intention that relevant statistical records will continue to be updated and that statistics will be prepared and published on a basis consistent with section 5B as proposed to be inserted by the bill.

The bill introduces baseline sentences for the following offences:

murder — 25 years;

trafficking in a large commercial quantity of a drug or drugs of dependence — 14 years;

incest with a child under 18 — 10 years;

sexual penetration of a child under 12 years — 10 years;

persistent sexual abuse of a child under 16 years — 10 years; and

culpable driving causing death — 9 years.

The government has selected these offences as they are serious offences that the community has particular concerns about. This is the first tranche of baseline legislation. Once this legislation has commenced and the use of baseline sentences has become established, the government intends to extend baseline sentencing progressively to apply to a wider range of serious offences.

The baseline sentence lengths set by the bill are higher than those recommended by the Sentencing Advisory Council in its 2012 report on baseline sentencing. This is because the model being put forward in this bill is different to the model initially recommended by the SAC. Amongst other differences, the baseline sentences in the bill apply to the actual sentence imposed for an offence, rather than to the non-parole period that must be served.

However, the bill ensures that baseline sentences are reflected in the minimum non-parole periods that offenders must serve by requiring that when the court is imposing a sentence for a baseline offence, or for a bundle of offences that includes one or more baseline offences, it must ensure that the relationship between the sentence and the non-parole period is consistent with ratios that are being introduced in this bill.

The bill provides that:

for a life sentence, the non-parole period must be at least 30 years;

for sentences 20 years or greater, the non-parole period must be at least 70 per cent of the sentence (for example, a sentence of 25 years for murder, must have a non-parole period of no less than 17½ years);

for sentences under 20 years, the non-parole period must be at least 60 per cent of the sentence (for example, a

sentence of 10 years for culpable driving must have a non-parole period of no less than 6 years).

The ratios do not prevent the courts from setting a longer non-parole period than the minimum required by these rules if that is appropriate.

In every case, the court will be required to explain why it has imposed a particular sentence that is equal to, greater or lesser than the baseline sentence, as the case requires.

The baseline sentence regime will not apply to any offence determined summarily, or if the offender was aged under 18 when the offence was committed. The regime will apply to offenders who are aged 18 to 20 who would be eligible for a youth justice centre order or youth residential centre order, but it does not prevent young adult offenders from receiving these orders unless that cannot be done consistently with the requirements of the regime.

Appeals against sentences will proceed in the normal way, and the Court of Appeal is expected to ensure the baseline sentence requirements for an offence have been properly applied in deciding an appeal against a particular sentence. Similarly, the guideline judgement provisions will be available, so that the Court of Appeal may provide guidance on the operation of the baseline sentence scheme if the requirements for guideline judgements are met.

As mentioned earlier, the government requested advice from the Sentencing Advisory Council when developing this reform. The council produced a comprehensive report with valuable analysis and advice on many aspects of the implementation of baseline sentencing. I thank the council for its assistance.

With this reform, the government is enabling Parliament to make clear the level of sentences it expects to be imposed across a range of serious offences, while still providing flexibility for the courts to apply the law to individual cases in accordance with the intentions expressed by Parliament.

I commend the bill to the house.

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

Debate adjourned until Thursday, 3 July.

WATER AMENDMENT (FLOOD MITIGATION) BILL 2014

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

For Hon. D. K. DRUM (Minister for Sport and Recreation), 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 Water Amendment (Flood Mitigation) Bill 2014.

In my opinion, the Water Amendment (Flood Mitigation) Bill 2014 as introduced to the Legislative Council, is compatible with the human rights set out in the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill amends the Water Act 1989 to provide for a legislative scheme to authorise the maintenance of flood mitigation works (or levees) on specified Crown land. The bill provides authorisation by the issue of a permit for access and maintenance, which may be subject to conditions. The Crown land to which the scheme applies is land, not being a natural catchment area or a reference area, which is:

land reserved under the Crown Land (Reserves) Act 1978;

reserved forest within the meaning of the Forests Act 1958;

unreserved Crown land under the Land Act 1958;

land in the several specified schedules to the National Parks Act 1975 other than the specified areas as set out in the bill (wilderness zones, remote and natural areas and designated water supply catchment areas); and

any state wildlife reserve or nature reserve within the meaning of the Wildlife Act 1975.

The bill also amends the Crown Land (Reserves) Act 1978, the Forests Act 1958, the Land Act 1958, the National Parks Act 1975 and the Wildlife Act 1975 to insert offences relating to the unauthorised construction, removal, alteration or maintenance of a levee.

The bill also amends the Conservation, Forests and Lands Act 1987 to enable certain additional functions created by the bill to be delegated to Parks Victoria or its employees.

Human rights issues

Right to be presumed innocent (section 25)

Exception if performing a function under an act

Clause 9 of the bill inserts a new subsection 21AA(2) and (3) into the Crown Land (Reserves) Act 1978 that provides an exception to the offence in proposed 21AA(1) of constructing, removing, altering or carrying out maintenance on a levee. The exception under proposed subsection 21AA(2) applies if the person does these activities in the performance of a function under the Crown Land (Reserves) Act 1978, regulations made under that act or under any other act or related regulations.

This exception will in practice apply to water authorities and catchment management authorities. On the face of the provision it could potentially also apply to a committee of management under the Crown Land (Reserves) Act 1978

with flood management responsibilities. While a committee of management under the latter act can be a body corporate or a group of individuals, in practice a committee of management made up of individuals does not have and will not be given responsibilities for flood management activities under legislation. The levee maintenance permit will be the sole mechanism to authorise individuals to carry out such activities. On this basis proposed section 21AA(2) does not apply to individuals and so does not engage the charter.

This similarly applies to the same exceptions provided in the identical offence provision inserted in the Forests Act 1958, Land Act 1958, National Parks Act 1975 and Wildlife Act 1975 by clauses 10, 11, 13 and 14 respectively.

Exception if acting under a levee maintenance permit

Proposed section 21AA(3) of the Crown Land (Reserves) Act 1978, proposed section 96F(3) of the Forests Act 1958, proposed section 190A(3) of the Land Act 1958, proposed section 44B(3) of the National Parks Act 1975 and proposed section 21AAA(3) of the Wildlife Act 1975 being inserted by the bill, each provide an exception to the offence of carrying out maintenance on a levee if the person carries out the maintenance in accordance with a levee maintenance permit. In each instance the exception engages section 72 of the Criminal Procedure Act 2009 to require an accused to present or point to evidence to suggest a reasonable possibility of the existence of facts that, if they existed, would establish that he or she were acting under and in accordance with a levee maintenance permit. The right to be presumed innocent under section 25(1) of the charter is relevant because the provisions place the evidential burden on an accused to raise evidence of the exception. Placing the evidential burden on the accused in these instances is considered reasonable because the accused is best placed to point to the reasons for their conduct and that it falls within the exception. However, this does not transfer the legal burden of proof, because once the accused has adduced or pointed to some evidence in support of the exception, the burden is on the prosecution to prove beyond reasonable doubt that the exception is not satisfied. Further the prosecution must prove beyond reasonable doubt all the elements of the offence. Consequently these provisions do not limit the right to the presumption of innocence.

This equally applies to the exception inserted respectively by clauses 5, 6, 10, 12 and 15 of the bill of acting under or in accordance with a levee maintenance permit in relation to certain existing offences. Specifically they are the offence under section 208(1) of the Water Act 1989 that prohibits the undertaking or erection of unauthorised works or structures on a floodway or between a building line and a designated waterway, land or works; the offence under section 218(11) and (12) of the Water Act that relates to unauthorised obstruction or interference with a drainage course; offences under section 96(h), (j) and (o) of the Forests Act 1958 of cutting, digging or being in possession of forest produce without a licence or being authorised; the offence under section 21(1) of the Wildlife Act 1975 of removing sand, soil or other material from, or of depositing material in, a state wildlife reserve or nature reserve; and the offence under section 191 of the Land Act 1958 of depositing rubbish on Crown land.

Right to property (section 20)

Proposed part 5AA of the Water Act 1989 being inserted by the bill engages section 20 of the charter on the basis that a levee maintenance permit can be issued in respect of a levee that is located on or adjacent to Crown land that is leased to an individual. However, the right is not limited because the proposed provisions require the consent of the lessee of the land on which the levee is located or over which access is required. As such, no arbitrary interference with the lessee's rights will be possible under new part 5AA.

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

The Hon. Damian Drum, MP
Minister for Sport and Recreation
Minister for Veterans' Affairs

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 Water Amendment (Flood Mitigation) Bill 2014 will improve the management of existing levees on Crown land to help regional Victorians protect themselves against the risk of floods.

Between September 2010 and February 2011 Victoria received record rainfall. In total, the flood events that occurred in that time affected a total of 172 towns and localities. Of these, 24 were affected more than once, some many times. Damage was estimated to be $1.3 billion.

In 2011 the Legislative Assembly of Victoria charged the Environment and Natural Resources Committee (ENRC) of Parliament with inquiring into matters relating to flood mitigation infrastructure. The committee's report was published in August 2012 and included 40 recommendations for improving the management and maintenance of that infrastructure.

The response to the ENRC report was tabled in Parliament on 17 October 2013. This government fully supported or supported in principle all of the recommendations set out in the ENRC report. These included recommendation 4.6 in regard to streamlining access to levees for the purpose of conducting works. In response the government stated that:

> … where a levee is not going to be maintained by a public authority and is sited on public land, local beneficiaries should be entitled to enter the land to maintain the levee. If this is not possible under existing legislation and governance process, DEPI (Department of Environment and Primary Industries) will investigate the most appropriate way for maintenance to occur safely and to have regard for the conservation or preservation of certain historic, Indigenous and natural values for the different types of Crown land. Consideration will be given to the need for such work to

be undertaken in consultation with the land manager and the appropriate degree of regulation.

This bill gives effect to this part of the government's response. Specifically, the bill will enable the minister responsible for the Water Act 1989, following referral of an application by the minister to the relevant statutory Crown land manager, to issue permits to authorise a person to access certain types of Crown land to carry out maintenance on levees that are not maintained by a public body.

As a consequence, this bill will enable a person, who considers that they will benefit from maintaining a levee on Crown land to minimise damage caused by flooding, to obtain a permit to do so.

The permit will only allow for the maintenance of existing levees. It will not authorise existing levees to be lengthened or made higher or wider, nor allow for the construction of new levees on Crown land.

The issuing of a permit is at the discretion of the minister. This will ensure that where a levee on Crown land is already being maintained by, for example, local government, a water corporation or a statutory Crown land manager, the application for a permit can be refused.

The bill will ensure that levee maintenance activities do not have a detrimental effect on Crown land values by enabling the Crown land manager to require reasonable conditions be imposed on the levee maintenance permit to protect those values. This is in addition to the continued operation of existing environmental regulations, such as the Flora and Fauna Guarantee Act 1988 and the Wildlife Act 1975. Cultural and Aboriginal values will also continue to be protected by the application of the relevant legislation.

To achieve a more streamlined application process, as recommended by ENRC, a holder of a levee maintenance permit will not need to obtain other authorisations usually required under various Crown land acts to enter land to carry out maintenance works.

It is anticipated that the minister's power to issue or revoke a permit or to vary a condition of the permit will be delegated to an authority with functions under part 10 of the Water Act. These authorities have detailed knowledge and experience of waterway and flood plain management, and can provide a single point of contact for applicants in the administration of permit applications on all types of Crown land.

The minister will be able to vary the conditions of the permit on his or her own initiative (which may arise from a request of the Crown land manager) or at the request of the permit-holder. This could occur, for example, in response to unforeseen circumstances.

The Crown land manager will be responsible for enforcing compliance with a permit and compliance with activities authorised by a levee maintenance permit.

In conclusion, the bill will improve the ability of regional Victorians to protect themselves against flood risks. It will improve the ability of rural Victorians to protect their farms and to protect the production of food and fibre in Victoria.

The introduction of a streamlined permit scheme will also reduce red tape related to obtaining approval to enter various categories of Crown land to carry out maintenance on rural levees. At the same time, the bill will ensure that any maintenance is carried out with appropriate protection for the relevant Crown land.

I commend this bill to the house.

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

Debate adjourned until Thursday, 3 July.

CRIME STATISTICS BILL 2014

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 Crime Statistics Bill 2014.

In my opinion, the Crime Statistics Bill 2014, 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 bill provides for the publication of crime statistics and the employment of a chief statistician for that purpose.

Human rights issues

Right to privacy

The right to privacy is protected by section 13 of the charter act. The charter act only prohibits unlawful and arbitrary interferences with privacy.

Clause 7 of the bill gives the chief statistician access to law enforcement data to perform his or her functions. Law enforcement data is defined in the Commissioner for Law Enforcement Data Security Act 2005 and includes personal or identifying information about individuals collected by Victoria Police.

The power to access this information is limited in two ways. Firstly, the chief statistician may only access information that is necessary for the performance of his or her functions — that is, the information is necessary for the publication and release of crime statistics, conducting research into crime and criminal justice trends and any other functions under other acts.

Secondly, the chief commissioner may refuse to provide access to this information under the circumstances set out in clause 7(3) of the bill. These grounds are designed to protect public safety and uphold the operational independence of the chief commissioner.

Several other safeguards apply to ensure that any information received by the chief statistician under the bill is handled appropriately and securely. The chief statistician and any staff or consultants:

will be required to comply with standards and protocols developed by the commissioner for law enforcement data security for the secure management of crime statistics data and systems pursuant to the Commissioner for Law Enforcement Data Security Act 2005; and

will be subject to the offence provisions for unauthorised disclosure of information contained in clauses 8 and 9 of the bill; and

must handle personal information in accordance with the ten information privacy principles in the Information Privacy Act 2000.

The provisions relating to collection and disclosure of information are clearly defined in the bill and serve a legitimate purpose, as discussed above. To the extent that the provisions in clause 7 of the bill may interfere with personal privacy, I consider that the interference is neither unlawful nor arbitrary.

Right to be presumed innocent

Section 25(1) of the charter act provides that a person charged with a criminal offence has the right to be presumed innocent until proven guilty in accordance with the law. This right is relevant where a provision shifts the onus of proof from the prosecution on to the accused.

The offence provision in clause 8 of the bill provides that it is not an offence to access, use or disclose information obtained during the performance of functions under the bill if the person has a reasonable excuse. This imposes an evidential onus on the accused to point to evidence that suggests a reasonable possibility of the existence of facts that would establish the excuse. The prosecution then bears the legal burden of disproving the issue beyond reasonable doubt.

The evidentiary onus is a lesser burden on the accused than would be the case under a 'legal' onus of proof, which would require that the accused demonstrate on the balance of probabilities that the reasonable excuse exists. For this reason, clause 8 of the bill is compatible with the right to be presumed innocent.

Further, whether a defendant had a reasonable excuse for an act or omission is a matter within the knowledge of that defendant. It would be difficult for the prosecution in all cases to be burdened with proving beyond reasonable doubt that the defendant did not have a reasonable excuse, and may undermine the effectiveness of the offence provisions.

In relation to the offence provision under clause 8 of the bill, it is appropriate that a defendant bear the responsibility of pointing to evidence to suggest a reasonable possibility that they had a reasonable excuse for accessing, using or disclosing information. Accordingly, even if this provision was found to limit the right to be presumed innocent by imposing evidential onuses upon defendants, it would be reasonable and justified under section 7(2) of the charter act.

Matthew Guy, MLC
Minister for Planning

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The government is committed to increasing community confidence in crime statistics and improving public access to crime statistics in Victoria.

This bill is an important step in supporting the new Crime Statistics Agency, which will commence operations on 1 January 2015, led by Victoria's first chief statistician, Ms Fiona Dowsley.

In 2009 and 2011, the Ombudsman recommended that an agency, independent from Victoria Police, be responsible for the publication of crime statistics. In 2011, the former Office of Police Integrity also recommended that the government consider establishing a crime statistics agency. This bill gives effect to these recommendations.

One of the primary objectives of the Crime Statistics Agency is to make crime statistics more accessible for individuals and local communities. The Crime Statistics Agency, under the leadership of the chief statistician, will be responsible for the publication of quarterly and annual crime statistics reports instead of Victoria Police. Victoria Police will continue to have its own internal statistics function to support police strategy and operational decisions.

The bill creates the role and functions of the chief statistician, who will be responsible for publication and release of crime statistics information and undertake research into crime and criminal justice trends in Victoria.

The bill provides a power for the chief statistician to access crime data as necessary for the performance of her functions, while providing appropriate safeguards to protect public safety. For example, the chief commissioner may withhold law enforcement data if he or she believes that giving access to the data would, or would be reasonably likely to, prejudice criminal investigations or legal proceedings, disclose a confidential source or endanger life or physical safety.

The bill also ensures that law enforcement data is handled securely and appropriately in two ways. First, the bill creates a summary and an indictable offence for the unauthorised access, use and disclosure of information by the chief statistician, staff and consultants of the Crime Statistics Agency.

Secondly, the bill amends the Commissioner for Law Enforcement Data Security Act 2005 to allow the

commissioner to establish standards and protocols and conduct monitoring activities in relation to crime data held by the chief statistician, staff and consultants of the Crime Statistics Agency.

This bill gives the chief statistician a clear statutory role and basis to perform her functions independently of Victoria Police. The establishment of the Crime Statistics Agency is an important step towards improving public access to crime statistics.

I commend the bill to the house.

Debate adjourned on motion of Ms TIERNEY (Western Victoria).

Debate adjourned until Thursday, 3 June.

CORRECTIONS AMENDMENT (SMOKE-FREE PRISONS) BILL 2014 (No. 2)

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.

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

That the bill be treated as an urgent bill.

Motion agreed to.

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 Amendment (Smoke-Free Prisons) Bill 2014.

In my opinion, the Corrections Amendment (Smoke-Free Prisons) Bill 2014 ('the bill'), 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.

Prohibition of smoking in prisons

Clause 5 of the bill will insert new sections 112(1)(1)(ab) and (ac) into the Corrections Act 1986. These sections will enable the Governor in Council, subject to disallowance by Parliament, to make regulations for or with respect to the following matters —

the prohibition and regulation of smoking in prisons;

the prohibition and regulation of the entry, use and possession of tobacco products and tobacco-smoking accessories in prisons.

Clause 3 defines the terms 'smoke', 'tobacco-smoking accessory' and 'tobacco product'.

Currently, there is a partial ban on smoking in prisons, in that staff and prisoners are permitted to smoke in designated open air areas. The intention of the new regulation-making power is to amend the Corrections Regulations 2009 ('corrections regulations') to bring about a total ban on smoking in Victorian prisons and to prohibit the entry and possession of tobacco products and tobacco-smoking accessories at a prison unless authorised by the governor.

To this end, clause 7 of the bill will amend the Tobacco Act 1987 to remove the current exemption in that act that enables smoking to take place in a personal sleeping or living area, or an exercise yard, of a prison. These amendments will come into operation on 1 July 2015.

The policy objectives of the smoking ban are as follows —

to ensure a safe and healthy living environment for prisoners and workplace for prison staff;

to protect prisoners and prison staff from second-hand smoke;

to decrease the risk of injury to prison staff and prisoners from fires and violence as a result of the misuse of lighters and other smoking accessories;

to remove tobacco as a commodity in prison, a factor that currently contributes to incidents of violence;

to reduce, in the long term, the burden of disease on the health system.

The ban will commence on 1 July 2015, as this will allow for a period of transition and consultation. Staff and prisoners will be supported to reduce their tobacco dependency before the ban commences. More specifically, in relation to prisoners, the support to quit smoking will include access to nicotine replacement therapy and counselling.

In my view, the regulation-making power and the removal of the exemption in the Tobacco Act are compatible with the human rights of prisoners and prison staff, and in particular rights to equality, humane treatment when deprived of liberty and privacy. I consider these rights below.

Recognition and equality before the law

Discrimination is defined in section 3 of the charter act as meaning discrimination within the meaning of the Equal Opportunity Act 2010, on the basis of an attribute set out in section 6 of that act. Section 6(e) lists 'disability' as a protected attribute, and is defined in section 4 to include a 'malfunction of a part of the body, including a mental or psychological disease or disorder'.

Some cases of addiction have been regarded as covered by the definition of disability for the purposes of discrimination legislation in Australia, for example opioid dependency or methadone addiction (see, for example, *Marsden v. HREOC & Coffs Harbour & District Ex-Servicemen & Women's Memorial Club Ltd* [2000] FCA 1619). However, it is

unlikely that nicotine addiction or the symptoms of nicotine withdrawal would meet the threshold definition of disability in the Equal Opportunity Act, in the sense of amounting to a 'malfunction of a part of the body', or more specifically a 'mental or psychological disease or disorder'. In any case, whilst smoking may involve or result from nicotine addiction, this does not mean that a smoking ban is discriminatory. It is possible to deal with the nicotine addiction by other means, such as wearing patches, rather than smoking.

Even if nicotine addiction was considered to be a disability, and a smoking ban was considered to have the effect of disadvantaging prisoners and staff with that attribute, the policy is 'not unreasonable' for the purposes of indirect discrimination. This is because of the important long-term health and safety objectives of the smoking ban, the benefits of which outweigh the short-term discomfort associated with nicotine withdrawal. Furthermore, alternative strategies, such as the current partial ban, are less effective in achieving those objectives. A partial ban still gives rise to the health risks associated with smoking and second-hand smoke, and is far more difficult to enforce than a total ban.

Humane treatment when deprived of liberty

Section 10 of the charter act protects a person against cruel, inhuman or degrading treatment or punishment. Section 22(1) of the charter act provides that persons who are deprived of liberty must be treated with humanity and respect.

In other jurisdictions where smoking bans have been implemented in prisons and other closed environments such as psychiatric hospitals, courts have rejected the proposition that a ban could amount to cruel treatment or inhumane treatment of a person deprived of their liberty. This is because a program designed to meet an entirely worthy social goal — public health — cannot be said to be cruel in purpose or effect (see, for example, *McNeil v. Ontario* (1998) 126 CCC (3d) 466). Furthermore, the implementation of nicotine replacement and other therapies to assuage the effects of non-smoking has been found to be a humane and meaningful treatment (see *B. v. Waitemata District Health Board* [2013] NZHC 1702).

Accordingly, in my view, given the public policy purposes of the bill as well as the way in which the smoking ban is proposed to be implemented, with support being provided to prisoners, I do not consider that these charter act rights are in any way limited.

Privacy

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

In *R(N) v. Secretary of State for Health and Nottinghamshire Health Care NHS Trust* (2009) EWCA Civ 795, a majority of the Court of Appeal of England and Wales rejected an argument that a total ban on smoking in a mental hospital infringed the right to respect for private life. This was because, whilst the hospital could be considered a 'home', it was not the same as a private home; it was a public institution, where supervision is intense for safety and security reasons. Furthermore, the majority held that the importance and proximity of smoking to a person's identity and integrity was not sufficiently close to qualify as an activity meriting the protection of the right to respect for private life.

For the same reasons, in my view, prisoners and prison staff do not have a reasonable expectation of privacy in relation to smoking in a prison context, whether it is considered to be their 'home' or their workplace. In any case, the regulation-making power and the removal of the exemption in the Tobacco Act are neither arbitrary nor unlawful under section 13(a) of the charter act.

Seizure powers in relation to tobacco products and tobacco-smoking accessories

Property rights

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

Clause 4 will insert new sections 46(1)(ab) and 46(ba) into the Corrections Act. These sections will enable prison officers to seize tobacco products and smoking accessories found on a person or in a person's possession or on a prisoner or in a prisoner's possession, unless the person or prisoner is authorised to possess those items under the regulations or a governor's direction.

These seizure powers apply in relation to searches carried out under section 44 and 45 of the Corrections Act, and therefore apply to visitors wishing to enter or remain in a prison as well as to prisoners and staff in a prison. The responsibilities of the governor in respect of seized articles is set out in the corrections regulations, namely regulation 73 (keeping a record of seized articles) and 74 (dealing with seized articles or substances, including, for example, the return or disposal or storage of the article or substance).

It is envisaged that visitors and staff will be authorised (through regulations or a governor's direction) to enter prison land with tobacco products and smoking accessories, but to be required to store them in a locker or leave them in their car before entering spaces in which prisoners are located. Visitors will be advised in this respect by prison staff and signs.

The purpose of the seizure powers are to prevent tobacco products and smoking accessories from coming into contact with prisoners and, more generally, to enforce the smoking ban inside the prison. There will be no deprivation of property in circumstances where tobacco products and smoking accessories are simply stored and returned to their owners. To the extent that the powers can result in a deprivation of property, they are for a proper purpose and enable prisoners, staff and visitors to understand their obligations in relation to the smoking ban.

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:

The Corrections Amendment (Smoke-Free Prisons) Bill implements the coalition government's policy to deliver smoke-free Victorian prisons. Smoking is the largest contributor to preventable death in Victoria and increases the risk of developing a number of chronic health conditions. A total smoking ban in Victorian prisons will reduce the health risks for prisoners and prison staff associated with smoking and will eliminate the risk to prisoners and prison staff of exposure to second-hand smoke.

In December 2013 a total smoking ban came into operation at the Malmsbury Youth Justice Precinct. On 1 March 2014 all areas of railway stations and raised platform tram stops were made smoke free in Victoria. Smoking has been prohibited at patrolled Victorian beaches since 2012. These reforms reflect the commitment of the government to provide a safe and productive workplace, safe, clean public transport and improve health outcomes.

A smoking ban in Victorian prisons will also provide for a healthier and safer workplace for prison staff, reducing their exposure to second-hand smoke and preventing injury caused by the misuse of smoking paraphernalia such as matches and lighters.

The prohibition on smoking in Victorian prisons is to commence on 1 July 2015.

The bill will implement the coalition government's smoke-free prison policy by:

amending the Corrections Act 1986 to permit the making of regulations prohibiting smoking in prisons; and

amending the Tobacco Act 1987 to remove the exemption from the offence of smoking in an enclosed workspace that currently applies in relation to prison cells and exercise yards.

The bill also permits regulations to be made concerning tobacco-smoking accessories such as pipes, and methods of tobacco ignition such as cigarette lighters. This will allow regulations to be made restricting the entry of tobacco-smoking accessories to prisons and will reduce the incidence of prisoner fire setting. Restricting the entry of these items will also make it more difficult for prisoners to make weapons.

To ensure that prison staff have the powers necessary to enforce the smoking ban the Corrections Act will also be amended to make it clear that tobacco products and tobacco-smoking accessories can be seized.

The government is aware that persons visiting prisons and even some prison staff may have tobacco products in their cars, or otherwise in their possession, when they attend a prison. For this reason, prison governors will be able to authorise the possession of tobacco products and related items such as lighters in limited areas, such as the prison car park, or require them to be kept in lockers in an area away from cells and prisoners. Visitors will be informed of the ban on tobacco products and smoking accessories at the entrance of the prison by signs and by prison staff.

The new regulation-making power will commence on the day after the bill receives the royal assent in order to permit the preparation of regulations. The regulations prohibiting smoking in prisons and the amendment to the Tobacco Act will both commence on 1 July 2015.

Banning smoking in Victorian prisons will ensure Victoria's correctional system remains consistent with contemporary correctional practice and reflects community attitudes.

This government recognises that high smoking rates are contributing to health and financial inequalities for one of the most disadvantaged groups in our communities. A total ban on smoking in prisons will improve the health of prison staff and prisoners.

The smoking ban will commence on 1 July 2015. This will allow for a period of transition and consultation. In addition, prisoners will have access to smoking cessation programs and nicotine replacement therapy products. The government is working with health organisations such as VicHealth, Quit and others on the provision of health promotion and smoking cessation support to assist prisoners who smoke to adjust to a new healthier lifestyle.

I have also requested the justice health ministerial advisory committee to provide guidance on the implementation of the smoke-free prison policy, in particular the promotion of the health benefits of the ban and the provision of smoking cessation supports to prisoners and prison staff.

The aim of the smoking ban is to ensure more prisoners complete their sentence and return to the community smoke free. The government is confident that the smoking ban will provide healthier outcomes for prison staff, a safer and healthier prison environment and a healthier community.

I commend the bill to the house.

Hon. G. K. RICH-PHILLIPS — Pursuant to sessional orders, I make the following statement declaring that the bill is the same in substance as the Corrections Amendment (Smoke-Free Prisons) Bill 2014 previously read a second time by the Council in this session. I inform the house that the Corrections Amendment (Smoke-Free Prisons) Bill 2014 No. 2, as passed by the Legislative Assembly, is a bill in identical terms to the Corrections Amendment (Smoke-Free Prisons) Bill 2014 that has been debated and read a second time in this house.

The PRESIDENT — Order! I am of the opinion that the bill is the same in substance as the Corrections Amendment (Smoke-Free Prisons) Bill 2014 previously read a second time by the Council in this session. Therefore pursuant to standing order 14.33 the remaining questions will be put without amendment or debate.

Motion agreed to.

Third reading

Motion agreed to.

Read third time.

CORRECTIONS AMENDMENT (SMOKE-FREE PRISONS) BILL 2014

Withdrawn

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

RETIREMENT OF CLERK

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

> That this house notes —
>
> (1) the recent announcement that Mr Wayne Ronald Tunnecliffe will retire from the office of Clerk of the Legislative Council and that this day is the last day that Mr Tunnecliffe will sit at the table as the trusted adviser to the President and members of the Legislative Council;
>
> (2) that Mr Tunnecliffe commenced his service to the Parliament with the Legislative Assembly in February 1967 and has served as Clerk of the Legislative Council since December 1999; and
>
> (3) that Mr Tunnecliffe has carried out the role of Clerk as a custodian of the finest, centuries old tradition of being authoritative, impartial and discrete;
>
> and places on record its high appreciation of the long and valuable services rendered by him to the Parliament and the state of Victoria.

I have known Wayne Tunnecliffe since I came into this place in 1996. I have been through a series of governments with him where he has loyally served this Parliament and this chamber in particular. It is important to place on the record — and I will say more about this in a moment — his long commitment to this chamber as much as to parliamentary democracy in this state. He has served also through several administrations and seen the highs and lows of political cycles as they affect political parties and individuals, but through all of that he has retained good grace, sense, decency, proportion and wisdom.

In 1967 Wayne, then a very young officer in the records section of the Public Service Board, applied for the position of clerk, class E, administrative division, with the Legislative Assembly. They had long titles in those days. Wayne was subsequently asked to 'report for interview with Mr Speaker'. Wayne's appointment was an interesting example of a very different time for the administration of Parliament. Following Wayne's successful application for a very junior administrative position with the Assembly, the secretary of the Premier's department wrote to the Clerk of the Legislative Assembly to inform him that:

> His Excellency the Governor in Council approved of the creation of an office of clerk, class E, administrative division, Department of the Legislative Assembly and of the appointment of Wayne Ronald Tunnecliffe … to the position so created … The relevant order in council will be forwarded to the Auditor-General for notation.

It was a very administratively rich time.

In 1968 and 1969 Wayne transferred twice between the Council and the Assembly, gaining experience with the papers office and the public accounts committee, then in the position of assistant reader — also an interesting title. Because Wayne was only 19 years old — again a sign of the times — it was suggested to the Speaker that the position of assistant reader be lowered in classification until Wayne reached the age of 21. This was subsequently approved by the Governor in Council. In 1974 Wayne was appointed assistant clerk of papers and committee clerk in the Assembly. In 1975 Wayne transferred — an enlightened move — to the Legislative Council, to the position of assistant clerk of papers and assistant committee clerk. Three years later the Governor reclassified this position to a higher grade based on the Clerk's advice that Mr Tunnecliffe's service during the three years had been of a very high calibre indeed.

By 1982 Wayne had been assigned the duty of secretary of the Standing Orders Committee, thus bringing together Wayne's love of the Council and of standing orders. Wayne has always maintained that he keeps a copy of the standing orders on his bedside table — as a Christian, I do not think Wayne can quite replace the Bible. All of us who have served over time on the Standing Orders Committee — now the Procedure Committee — will understand Wayne's particular focus on standing orders and the procedures of the place and his weather eye to the future as well.

Throughout these years Wayne was not idle in his spare time, undertaking a bachelor of business in public administration and umpiring football — when not barracking, as we all know, for his beloved Carlton Football Club. Wayne was appointed to the position of Usher of the Black Rod and Clerk of the Records in 1983, a position he held until 1988, when he was appointed clerk assistant and clerk of committees. In December 1999 — and I remember this very well — the Clerk of the Council, Alan Bray, retired. Wayne applied for the position to the then President, the Honourable Bruce Chamberlain. Wayne was successful, and on 7 December 1999 he swore the oath

of office before His Excellency the Governor. He declared in that oath:

> … I will at all times and in all things discharge the duties of Clerk of the Legislative Council according to law and to the best of my knowledge and ability without fear, favour or affection.

Wayne became just the 15th Clerk of the Legislative Council in its almost 150-year history.

Wayne advised the President in March 2014 of his intention to retire from parliamentary service. He stated in his letter:

> When I first walked through the door of Parliament House in early 1967 as a 17-year-old junior clerk in the Legislative Assembly I had no idea where the journey ahead would take me.

Wayne, I have always said people start in the car park and move through — but that is a different story. He stated further:

> My time with the Parliament has been exceptionally happy. It has been an enormous privilege to have worked for the Parliament of Victoria and to have spent most of that time at the Legislative Council. It has also been a rare honour to have served as Clerk of the Legislative Council for just over 14 years. There have only been 15 of us in 157 years.

It is interesting to think of the changes that have occurred in this place since 1967. I regard the Constitution Act 1975 as a very important change. The eligibility to vote at 18 years was introduced in 1973. We had Victoria's first female Premier, and indeed I think the first woman elected to the Legislative Council, in 1979. Wayne would have seen the Council in the old days as a male-only bastion. The Parliament celebrated its 150th year in 2006, and Wayne has seen the more recent constitutional changes.

Wayne was the inaugural president of the Australia and New Zealand Association of Clerks-at-the-Table, formed in 2001, which is a reflection of his admirable drive to establish a professional organisation committed to promoting professional development and communication between parliamentary officers in parliaments far from each other. It is a credit to Wayne's vision that the association has thrived in terms of its activities and relevance.

Most importantly, I want very much on behalf of the government and the Liberal Party to put on the record our thanks and sincere appreciation for Wayne's remarkable service and for his innovation and development of procedures. I think Wayne quite likes it when we develop new procedures; he gets the opportunity to write another paper and to put these things on the record. This has been a time of great innovation. We saw just now the development of a new procedure to harmonise bills and bring two bills together, which is a very clear example of a tiny incremental change in the capacities of our parliamentary system and its adaptation. Wayne, with your wisdom, your thoughtful advice, your decency and importantly your depth of knowledge — it does help to have seen things and to have observed the changes and movements that have occurred over a period — you will be a great loss. I wish you very well. You deserve a very happy and long retirement.

Mr LENDERS (Southern Metropolitan) — It gives me great pleasure to support the motion. I wholeheartedly endorse the comments made by Mr David Davis, who very thoroughly outlined the official milestones of Wayne Tunnecliffe in this house. I would like to make a few observations above and beyond those.

When I was first elected to this place, probably like many people, I had no idea what a clerk was. When I ran for Parliament, it was an exciting time for me. I was going to be an MP, I was going to change the world and all those sorts of things. When you come into the Parliament you see that the place actually hums — it operates and works and has a continuity that I certainly did not give a great deal of thought to. Wayne personified so much of that and the history and tradition of the place.

I can probably confess that, like him, I made an error in my youth and went to the Legislative Assembly, and like him, I saw the error of my ways and made my way to this house.

Wayne's experience says a lot. As David Davis said, his has been a traditional career, where he started at the age of 19 and did many jobs before ending up in the key job he is in now. That is a different world to what we see today. However, the experience and knowledge Wayne has built up over that time and the understanding he has of the institution is something we will seldom, if ever, see again.

We need to reflect on how long Wayne has been here, because he deserves a medal. I did a rough calculation of how many days he has been here. Within a few percentage points — because I have made some assumptions — it is like he has been here continuously for six years and five months, listening to us. It is quite frightening to behold. If that does not deserve a medal, I do not know what does. Imagine listening to 40-odd politicians speaking endlessly on the same bills, with the same notes, repeating the same things and often saying them badly.

Wayne is polite and stoic. He has listened. Always the great trigger with Wayne is when you or someone else has said something that is a bit different. He tries to remain remarkably neutral, but his eyes occasionally light up when something different or new is being said. Unfortunately for Wayne, there could not have been many moments like that in those six years and five months of continuous sitting, but he has stoically been there.

David Davis touched on the standing orders and how the place runs. For many people the standing orders are the most boring thing on the planet. I am one of those strange people who actually enjoys them, and I have enjoyed discussing them with Wayne. Wayne sees the standing orders as a tool that regulates our behaviour, regulates the institution, drives the way we operate and think, and makes this place work better. I have spent almost 12 years on the Standing Orders Committee in this house and 3 years on the committee in the other house. I must admit that those years, the active years in particular when we would have a meeting of the Standing Orders Committee with Wayne almost every Thursday lunchtime, are years I genuinely enjoyed.

I love the place. I have found Wayne's interest in how the Parliament works and his knowledge of other parliaments truly amazing. I often jokingly refer to him as the Oracle, and I do so for a reason. He has an amazing knowledge of those standing orders.

We in this Parliament should never talk of junkets, but I refer to a two-day visit we took to the Senate and the New South Wales Legislative Council to see those houses in operation and to talk to their clerks, their presiding officers and their standing orders committees. Wayne and I went on a junket with a number of other people. For me, those two days with the Senate and the Legislative Council of New South Wales were an amazing time spent with colleagues from all parties in this house but particularly with Wayne. We reflected on how other parliaments worked; we stood back and saw how they operated; we looked at their committee systems and at a range of other things. The knowledge Wayne brought to that — his passion for it, his interest and counsel on it — has helped me in my development. In particular it put into perspective what some of us — we temporaries, who fly in and out for a few years and form views — could learn from someone who has been here for a long time and worked in the best traditions of the place.

The procedure bulletins are also fascinating. I always tease Wayne endlessly about the six-monthly procedure bulletins he prepares. As David Davis said, he might have the standing orders on his bedside table, because when something different happened in this place, Wayne recorded it. When something novel or new happened, he recorded it. A lot of us flit in and out of here and pay a bit of attention during the day — perhaps we focus on a bill or on other things in the building. Getting that right provided me with an amazing anchor. What he has taught us has been very good.

I will not go on for too long, because there should be a chance for others to speak. We all talk of Wayne's knowledge of history, and I will just touch on two areas which reflect that. Members of this house, particularly party leaders, periodically have the job of speaking on condolence motions. If you know the person, it is a fantastic privilege to do so; you can reflect on a person you know. If you do not know the person, you read their inaugural speech, or you find things out from colleagues or whatever, and you make the best contribution you can. Wayne always had some knowledge of all the people, and the insights he often brought about people, always positive — an insight as to how they operated in the chamber or something else about them such as where they went — was knowledge that was very valuable to me.

I turn to a final comment I will make about working with Wayne. As I said, he knows what is going on. He thinks a number of steps ahead to where things are going to take us and what is happening on a day. He also, however, was a great source of gossip and, you know, a bit of information — and I say that in the nicest sense — —

Hon. D. M. Davis — Anecdotes.

Mr LENDERS — A source of anecdotes; that is far better, Mr Davis. The other day, for example, for reasons I will not bore the house with, I was looking through a 1979 *Hansard*, as you do, and I saw that Bill Landeryou, a former member for the then Doutta Galla Province, moved the annual Labor Party Abolish the Legislative Council Bill. I did not know that. I thought I knew a bit of history of this place and of a bit of history of the Labor Party. I thought, 'That would have been interesting', so I said to Wayne, 'How did the government — the coalition members — respond to the Labor Party bill to sack them all each year?'. Members can ask Wayne for the answer themselves, but that is just an illustration. If you heard that something happened in the past, or you saw something in one of these dull books — these tomes of writing — Wayne could flesh it out and add life. He was part of history.

We will miss the Oracle. Wayne has been a great source of wisdom to us all; we will miss him very

much. We wish him well in his retirement, and we thank him for a job well done.

Mr BARBER (Northern Metropolitan) — For the last time ever I have heard the Clerk, Mr Tunnecliffe, stand up first thing in the morning and read out a list of items the Parliament might consider, something he does in a way that never betrays any emotion or even particular anticipation about what those items may be. In fact I truly believe that if a bill came up from the lower house that enacted Mr Tunnecliffe's own death warrant, he would deal with that item of business in a completely unflappable fashion!

There is a very good historical reason that the Clerk stands up and reads those items out in the way he does. It comes from the history of the House of Commons. I read this, in fact, in a book about the history of the clerks of the House of Commons, a very interesting book suggested to me by Wayne himself. Many centuries ago, when the Parliament originally consisted of the court of the king made up of his feudal lords, those lords were all illiterate. The Clerk therefore had to stand up and read the item they were all going to be debating that day so that, without their being able to read it themselves, they could go on and debate the matter, saying what they thought about it.

Honourable members interjecting.

Mr BARBER — Members can tell from the little interjections I am getting that some people recognise the wisdom of that procedure. In some ways what that points to is that the Parliament and its institutions have come out of many centuries of testing, often consisting of massive civil ructions, yet those institutions have survived and grown out of that, and they are still here today and all the more useful for having been tested in those ways. The position of Clerk and the way Wayne himself has dealt with it have protected, maintained and enhanced this institution.

The first thing about the way Wayne has done that is that he has done it in a completely unbiased fashion. It is very hard to find out from Wayne whether he might have his own personal view on matters, because he is so committed to not anticipating the will of the house but simply serving the Parliament in the amazing fashion he has over 47 years. But with that, of course, he is always very helpful when you come to ask him for a bit of assistance with anything you might be proposing to put before the house.

Even when he holds a different view himself or has given advice that is of a different view, he is still incredibly helpful when it comes to implementing the thing that you nevertheless want to put before the house and have tested. My colleague Ms Hartland can verify this because she has put forward many bills that have attempted to test some quite important provisions of the Victorian constitution and of the way the two houses operate together. Even though Wayne is not going to be around to see this, Ms Hartland's gift to him in his retirement would be to actually get one of those bills passed through both houses, if she could, and once and for all resolve the issues so that she does not have to keep coming back, asking the same question over and over again, getting the same answer and nevertheless proceeding with it.

Part of that helpfulness is how approachable Wayne is. The Parliament itself — the institutions and even the physical structure of it — can be very intimidating and mysterious, certainly to an ordinary citizen who comes here for the first time; there is a bit of a home-ground advantage sometimes for those who know their way around. We three Greens approached Wayne before we even entered the Parliament, following the reforms that created the house of review that seemed pretty likely to put us here. We sought Wayne Tunnecliffe out, knowing he was the Clerk and that this was an important position. As for the intimidating nature of entering the Parliament for the first time, Wayne could not be more opposite. He could not be more welcoming and approachable than any person you would ever expect to meet around here. That was incredibly important to the three of us, because we had no history in this place. It was the Greens entering the Parliament for the first time. Even as we arrived we already knew that we had one person here whose job was to help us do our jobs.

Around here, to make all of this work, you need a sense of humour. The particular brand of humour that Wayne has, you would have to say, is fairly dry. That is probably better than slapstick if you are looking to have a bit of a joke with the Clerk, even in the middle of an otherwise difficult debate you are having. The warm but dry nature of his humour has always helped me when I have been dealing with some quite complicated matters. Over the last two terms the evolution of this place as a new house of review has very often been breaking new ground for all of us.

Most important, I think, is Wayne's commitment to this place as a house of review. I know that is what he would like all of us to continue on his behalf in the future. The tour to the Senate and the New South Wales Legislative Council that Mr Lenders referred to was a fact-finding mission to work out how other houses operated as houses of review. It was an incredibly important piece of the evolution of this house. By

continuing to work on that particular project, all of us can work to live up to the enormous record of service of over 47 years that Wayne has given here. Unfortunately, unlike some of the other people who we have recently been able to see off and bid adieu, I do not believe Wayne is going to be able to get up and speak in reply, unless there is some precedent buried away in the annals of time somewhere. If there is, he would know about it. We will find out.

I thank Wayne very much for everything he has done for the three members of the Greens personally and certainly for everything he has done for this very important institution over the last 47 years.

Hon. D. K. DRUM (Minister for Sport and Recreation) — The Nationals are going to be voting against this motion.

Honourable members interjecting.

Hon. D. K. DRUM — As Mr Lenders mentioned, I was just trying to see if I could somehow get a raised eyebrow from Mr Tunnecliffe!

I first met Wayne Tunnecliffe about eight months after I came to the Parliament, which was my doing, not Wayne's. You do get rather busy in this place, and unlike the Greens, I did not feel the need to meet with the Clerk when I first came here. However, on our first trip away, I sat down with him. In that kind of situation you actually get to know somebody, and I found him to be incredibly welcoming and very insightful.

We all need to reflect on the debt we owe Mr Tunnecliffe. As parliamentarians we value what we do, and we value the chamber, because it gives us the vehicle to do what we do. If that is the case, that we have a special affection for this chamber, then I think we owe a double debt to Wayne Tunnecliffe, because he enables the Legislative Council to maintain its high status as a house of review and an important part of the Victorian Parliament. As parliamentarians and politicians we are always trying to change things. We would always argue that we are trying to change things for the better. Sometimes Wayne would have an alternative view. His ability to maintain what is important and to hang onto the important parts of the Westminster system is a very important legacy that he will leave us as he moves into retirement.

Like Wayne, Bill Baxter, a former member for North Eastern Province in the Legislative Council, was in this place for about 150 years! I asked him about Wayne, and he said, 'He is a very straight man, Mr Tunnecliffe, but he was rather upset just after the 2002 election because there were a range of MPs who wanted to throw away their "honourable" titles, and Wayne thought that would diminish somewhat the standing of the chamber'. Mr Tunnecliffe had the view that this place would be held in higher regard if members of Parliament were to maintain their traditional titles.

As I said, when you travel with colleagues you get to know them. I would like to share a few things I have learnt about Wayne. I have learnt that he actually listens to the speeches in this house. Whilst many of us may stand here thinking we are saying something important — and members opposite would tell us differently — and that no-one is listening to us, Mr Tunnecliffe is listening. While he is listening to us he is forming opinions of us, and if you can speak to him at a quiet moment many thousands of miles away from here, he may pass those opinions on to you — but he will probably not; he will probably keep those opinions to himself.

I have also learnt that Mr Tunnecliffe likes to get away to his cabin up near Moama and Echuca. He likes to relax up there with his wife and family. I have learnt that he likes Carlton — or loves Carlton — and then he hates Carlton. I have learnt that the third of his loves — making up the triangle — is of course the standing orders. I refuse to attempt to place them in priority. I will let Wayne do that.

When you come into the continually heated environment of this house with great passion and a belief in your own views, which you express daily in this chamber, and you have such disbelief that the people opposite you could make such rambling speeches — how could they possibly believe what is coming out of their mouths? — it is absolutely critical to have an umpire with total fairness and impartiality. As the keeper of all the debates, the President is the umpire, but the umpire's adviser has certainly been Wayne Tunnecliffe. He has done an amazing job in being able to make sure that all the emotions that are raised here are dealt with extremely fairly.

I imagine, Wayne, as you finish your 47 years you will have a whole range of different emotions. I will let you worry about your emotions of glee, happiness and sheer elation, if you have them, but if at any stage you happen to delve into melancholy, we can help you there by reinforcing that you are extremely well liked, you have been incredibly fair and you are certainly leaving this place in a far better or at least as good condition as you found it. You have done an incredible job and, on behalf of The Nationals, we thank you.

Mr JENNINGS (South Eastern Metropolitan) — I join the debate on this motion not in the spirit, as

Mr Drum, who preceded me, said, of opposing the motion but in the spirit of being a member of the house of review. My concern about the motion, which I thought was to be a fulsome reaffirmation of the work ethic and commitment of Mr Tunnecliffe and his contribution to the Victorian Parliament, is that it contains within it a backhander. In the second paragraph it identifies the fact that he commenced in the Legislative Assembly, which is probably unworthy to be included in the motion before the chamber. It is potentially worth moving an amendment to the motion. However, the procedures we would have to adopt might be so cumbersome as to keep us until dawn, so I will not seek to amend the motion but I will say that it is a chink in the armour of the motion.

In the spirit of this being the house of review, I let members know that before I am finished I will identify a chink in the contributions of the four people who have spoken before me in this debate.

I volunteer that Mr Tunnecliffe is irrevocably associated with two of the worst days of my life in 1999. The day that I was elected to the Victorian Parliament was preliminary final day, and Carlton beat Essendon in a most unworthy result, which made me lament and not focus on the election result at all. All through the night, as members of the Labor Party were celebrating the imminent arrival of a Labor government, I was suffering as a consequence of what his Blues had inflicted on my team.

I then arrived in the Parliament. One of my responsibilities as Cabinet Secretary of the incoming government was to organise the members of the ministry into an orderly fashion on the first sitting day of the Parliament. For as long as I have memories, I will not forget that my ministerial colleagues were perhaps not as orderly as I was hoping they would be in arriving in the north library to meet the Governor, so I was sweating profusely before we got into one of the hottest environments that I have ever endured, which was the Legislative Council. On the first sitting day of the Parliament, I had extra reasons to be sweating, and it was thanks to the calm engagement of Mr Tunnecliffe that eventually some form of equilibrium was established.

In terms of my nitpicking in relation to my listening to the contributions, I know that Mr Tunnecliffe listens to contributions — and I have no doubt about that. Having drawn attention to that, I will start with Mr Drum's contribution. I want Mr Tunnecliffe to know that my best contributions in this Parliament have been during the committee stages of bills, but Wayne never heard them. He has heard me speak at great length in this place, but he did not hear the quality of contributions I made for hour after hour in the committee stages of a series of bills.

I know that Mr Tunnecliffe noticed that Mr Davis inadvertently bumped Mr Tunnecliffe's original appointment upstairs by referring to it having been approved by the Governor-General rather than the Governor in Council, and I thought Wayne was sufficiently impressed by that. Perhaps he was not so comfortable with the contribution of the Leader of the Opposition, who identified him as a gossip!

I think that is one of the last ways that Mr Tunnecliffe would want to be thought of as, and it is certainly not consistent with my engagement with him over the journey in terms of the times we have shared here. It is absolutely crystal clear from my dealings with him that Wayne is extremely circumspect. I have a sense that I can detect his view on certain subjects — I believe that I can — but that is only because I think I am particularly perceptive, not on the basis of anything that he has volunteered explicitly to me now or in the past. I have never seen him with any electronic recording equipment, I am certain that his actions are exemplary in relation to that.

I am not sure what he thought of late-night sittings when he arrived in this Parliament in his younger days. He may have enjoyed them in the fulsomeness and raw enthusiasm of youth. I have a sneaking suspicion that in his later years he did not think that late-night sittings were much chop. I think you can determine that position for a variety of reasons, but one of the reasons I am absolutely crystal clear that he arrived at that position is that he is applying his public administration and business skills. He has studied and achieved a qualification in relation to financial budgetary control. I think one of the prime drivers of the fact that Mr Tunnecliffe gets extremely uneasy as we get closer to suppertime is the cost of those suppers and the cost of overtime. I am certain there are people in the building who are acutely aware of his views on this subject, but I find them imputed rather than explicit.

I have no doubt that Mr Tunnecliffe's innovation has been done in the name of scrutiny and being prepared to move with the times in terms of proper administration, not only within the Parliament of Victoria but also in playing our role in assisting emerging democracies or democracies that need additional assistance, whether they be in the Pacific region or whether it be in partnership with other parliaments. From the very beginning Wayne has been the prime mover in supporting the best elements of parliamentary democracy, the best elements of review

and the best ways we can open up the Parliament to activities.

There are mixed blessings that come with that. The amount of work that has been associated with regional sittings over the years has been absolutely extraordinary. We expect an extraordinary effort of all of the officers of the Parliament in delivering Parliament to the regions. I am not quite sure the Victorian community fully appreciates that. While it was our ambition and original intent to go to the people, the people may not have risen up and responded fulsomely, but I have no doubt about the amount of work that has been required to make those sittings happen.

I also know that Mr Tunnecliffe has a particular view about the way in which a house of review should work with goodwill and common sense in terms of the collaborative arrangements that should apply between the parties on either side of the chamber. I certainly know of his work to revise the standing orders. We have had at least two revisions of the standing orders within the last 15 years. Hopefully Wayne has signed the copy of the standing orders that is on his bedside table. In terms of the importance of that work of revision upon revision in the name of improvement, whilst it creates a foundation, it is only a foundation, and our respect, goodwill and ability to collaborate should sit on top of that. I think sometimes we have fallen short of that, but hopefully we will reflect on that over time. The gesture of goodwill that we demonstrated during the course of the constitutional review in 2006, warts and all, did at least demonstrate some degree of goodwill and generosity of spirit that has led to better representation within the Victorian community, even though it may make the administration of government very hard.

That is the issue that I will not accept from the Greens contribution today — Mr Barber's contribution — that he hopes one day Ms Hartland's money bills generated in the Council are passed and transmitted to the Assembly. As a matter of principle that is something I am not that comfortable with. It is something about which I might have a different view from Mr Tunnecliffe. I apply that standard and view whether I am in government or in opposition. I do not like the idea of them that much. I put that on the public record in debate as part of the government. Now I put it on the record from the opposition benches. It is not the strongest contribution I will ever make, but nonetheless it is something that separates us.

I conclude on the following point. In relation to the oath taken by Wayne Tunnecliffe to work in Parliament without fear or favour or affection, in my view he has complied with that totally. So fulsomely has he carried himself in that manner that when he wrote in his resignation letter to the President that he has been extremely happy here, it was the first time that I had detected it. It is the first time that I could ever actually have said that that was his true feeling. Wayne, through you, President, if that is your true feeling, then I am very pleased to hear it. I can also say to you that when your predecessor Alan Bray came back and sat in the gallery recently, he looked to me to be the same as he was in 1999, and I think that is a very good message to go out on. I look forward to your coming back and being in that pristine condition every time you return.

The PRESIDENT — Earlier this week we had a farewell for Brian Bourke, who was here for decades — I think it was 50 years — as building and grounds supervisor. With Brian, and now with Wayne leaving, we lose our connection with the turning of the first sod for this building. They have been here forever.

Indeed though, 1967 was a landmark year. It was the year when Lulu topped the charts with *To Sir with Love*; Nancy and Frank Sinatra had *These Boots Are Made for Walking* — actually, it was *Something Stupid*; Van Morrison had *Brown Eyed Girl* and Procol Harum had *A Whiter Shade of Pale*. The movies were *The Graduate*, *Bonnie and Clyde*, *Casino Royale*, *To Sir, with Love* and *In the Heat of the Night*. *Bellbird* started on the ABC. Geelong beat Richmond in the AFL Grand Final.

That was the year that a young fellow turned up at Parliament in a junior role. I was talking to somebody about this in the building the other day, and it was back in the time when no doubt there would have been tea ladies at Parliament, not just a canteen but tea ladies. Certainly at the time there were tea ladies rattling their trolleys through all the different government departments. It was a very different time. It was a time when even for the most junior positions, as the Leader of the Government has pointed out, it was necessary to get Governor in Council approval that this fellow was worthy of a job even at the entry level. What a good decision the Governor made; it was in fact Sir Rohan Delacombe. When we reflect on the history of Victoria, there is a distinguished man.

He showed very good judgement in accepting that advice and saying, 'Yes, this young fellow deserves to be employed in the Parliament, and he possibly has a career with it'. As it turned out, Wayne developed an extraordinary career that has spanned decades, has won him a lot of friends along the way and, dare I say, has won him virtually no enemies, which is a remarkable

thing in any career. He has piled on quite a number of achievements through his influence not just within this place but more broadly, and he deserves and indeed has the respect of parliaments throughout Australia and the Pacific because of the work he has done.

Some people would see Wayne as a great traditionalist, and I think that is true for the most part, although he had one moment of great reform. However, as I sit up here in the President's chair I do not really understand that moment of great reform because I think it could be something he might reconsider from this perspective. That reform was abandoning the wig. Alan Bray was the last Clerk to wear the wig, but Wayne decided, 'No, we are moving on, we are not going to have the wig'. He does have it in the closet, but as I pointed out to Wayne recently, I had a look at all the photos of the Presidents at the front of the chamber, and I think it is a really dangerous thing to wear wigs because all of those former Presidents are dead, bar one. So it was probably a reasonable decision to make.

Wayne has served this Parliament with distinction, and in doing so he has seen many of the great characters of Victorian politics and observed some of the significant figures in politics around Australia, even in his early years in the Parliament. In 1967 Harold Holt was the Prime Minister. He died in December 1967 — either that or he disappeared into a submarine and went to another country; we are not quite sure. Lord Casey was Governor-General, Sir Rohan Delacombe was the Governor of Victoria and Henry Bolte was the Premier of Victoria at that time. We have since had quite a number of distinguished premiers from both sides of politics whom Wayne has had the opportunity to observe at close quarters. Although he has been in this place rather than the other place for most of his career, he has had some input into the advice that has informed the Legislative Assembly's approach to the Parliament and some of the decisions that have been made and the procedures that have been created.

I will share with you a little bit about Wayne's entry to the Parliament in 1967. The Leader of the Government mentioned Wayne was coming in for the position of clerk, class E, administrative division, Legislative Assembly. As I said, not only was it the Governor in Council's responsibility to agree to these appointments but there was also a very rigorous selection process. There was a testing process that included health checks and an assessment of the individual. We have the scorecard from when Wayne presented: health, good; general appearance, good; typing, fair; handwriting, fair — legible.

Wayne's appointment was indeed an example of quite different times in this place. In that sense he has ridden the wave of change that has been the Victorian and Australian political landscape over the years since 1967. He has contributed greatly to some of those changes, not just in this place, as has been touched on by a couple of the other speakers, but also in terms of other organisations like the Commonwealth Parliamentary Association and the Australia and New Zealand Association of Clerks-at-the-Table (ANZACATT), which he was instrumental in founding. He was its first president.

Whilst ANZACATT is perhaps not recognised by many people, it is an association that involves officers of parliaments throughout Australia and New Zealand and provides a support base and a network for clerks in relation to the procedures and activities of parliament. It has been a particularly useful tool for some of the newer and less experienced clerks as they have taken up their positions. They all owe a great deal to Wayne for his stewardship of that organisation.

So too with the Commonwealth Parliamentary Association (CPA), which is better known to all of us. Wayne has carried a considerable workload in conjunction with the Clerk of the Legislative Assembly over a number of years in supporting the CPA. We also see his influence in organisations like the Australian Study of Parliament Group, where he has made a significant contribution.

Wayne has been a great mentor to many people beyond this Parliament, in Pacific parliaments in particular. He went with a small delegation — including Phil Davis, a former Leader of the Opposition in this place, and the current Leader of the Opposition, John Lenders, and me — to Kenya to help them to prepare for what was a massive change in their political landscape of introducing a senate at the national level and also 47 new county councils. They were grappling for assistance in how to go about establishing this new structure in their country. On that occasion Wayne made a very significant contribution to their learning.

One of the measures I always take of people when they are to leave an organisation is who they have left behind. Did the organisation all of a sudden have a vacuum because they had taken all of the credit for things? Had they been the person who wanted to do everything themselves and had not allowed other people to learn, to gain experience and to step up on occasions to get the experience they needed to assume the mantle at an appropriate time? In this case we are better placed now — and Wayne has relayed to me that this is his judgement, and I concur — in the depth of

our ranks, particularly in the Legislative Council, and with the people we have in our employ supporting the chamber, its committees and the other aspects of its operation, because of Wayne's leadership, mentoring and encouragement of those people.

Not only is Wayne a calm and unflappable person, a rock in the storms that occur at different times and a person who has been there with good, sage advice and with experience and knowledge over a long period, he is also someone who has shared his experience and knowledge and encouraged other people to step outside the envelope to learn more, to extend themselves and to build their skills so that in the future they might assume further positions as they move along in their careers. He has been a terrific mentor, and I say that on behalf of all the staff who recognise that they owe a great deal to Wayne — as do this chamber and its members of over almost five decades — for the work he has done.

He is a football tragic with Carlton. He has some other interests. I would not want to be one of the radio commentators taking talkback about how football teams are going, because while Wayne has been known to ring in in the past, now he will have a lot more time to prepare his arguments before he rings in to discuss Carlton's misfortunes.

Lorraine gets Wayne back. One of the wonderful things about retirement is that it means you get to spend more time with your family and friends, and particularly with your partner. Wayne will have time to spend with Lorraine, who has had some health issues in recent years. Wayne has always been there for her as indeed she has been there for him. But now they can enjoy retirement together. I know Wayne is also going to spend a lot of time with young Sam, his grandson, whom he loves very dearly. He is a fine young man who hopefully one day will break the mould and play for Melbourne.

There is just one other thing about Wayne that some of you may not be aware of, which is that he is a very thorough planner. He plans a long way ahead. If there was a delegation that we had to take somewhere, or if the idea was even floating around in the air, Wayne was getting Linda or Jessica onto the travel agent and trying to book at the very first instant. I can tell you right now that in 2031 Wayne has a trip booked on 17 July. For those who worry about Qantas's future, he has booked it with Qantas. That is almost true, because he actually has a trip planned for Wellington next year.

Wayne has shown that thoroughness, that forward planning, that ability to think ahead and that level of preparation to make sure that things go well in all things he has done in this place, and his contribution has been massive. Every one of us, as we have come into this place on our respective entry dates, has learnt from Wayne, as was spoken about in a couple of the speeches today, and has appreciated the grounding that he has provided, which has allowed us to take up our seats. We have been able to take them up in a positive and effective way because Wayne has been there with the advice, the encouragement and without a doubt the extraordinary wisdom and experience that he possesses. Fortunately he is still only a phone call away if we get into strife; nonetheless, Lorraine might hang up on us.

Wayne, what an extraordinary career you have had. I do not think that in the future many people will forge the sorts of careers that you and Brian Bourke have forged in terms of longevity. You have made an extraordinary contribution to this place. You will long be remembered. You are valued by each of the members in this place and those who have gone before, including in particular my predecessors Bob Smith, Monica Gould and Bruce Chamberlain. In recognising this milestone for you now we hope this is the start of a very happy and healthy retirement, one that you will no doubt live out to the fullest with Lorraine. And good luck on that trip in 2031.

I have the great pleasure of inviting members to stand in their places to support the motion moved by the Leader of the Government.

Motion agreed to, honourable members showing unanimous agreement by standing in their places.

Honourable members applauded.

The PRESIDENT — Wayne has passed me a note in which he asks me to thank members for their remarks and the show of acclaim for the work he has done. On behalf of Wayne, in taking up his note, I express his appreciation to each of the speakers for the remarks they have made and also his appreciation for the relationship he has enjoyed with each member of this place. I know he has valued them because we have talked about it on many occasions. I know Wayne will also miss this place, but he is allowed in the door. We will make sure that he comes in from time to time for events or for a cup of coffee with his old mates.

Wayne, again, thank you, and I am delighted to express your appreciation to everybody on your behalf.

FINES REFORM BILL 2014

Committee

Resumed from earlier this day.

Clause 12

Ms MIKAKOS (Northern Metropolitan) — I take this opportunity to wish Mr Tunnecliffe well. He is a true gentleman, and I have certainly appreciated his advice as the Clerk over the years. I wish him and his family all the very best.

Can the Minister for Liquor and Gaming Regulation advise what clause 12 seeks to do? I would like him to provide some clarity on clause 12.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that it simply means fines can still be imposed pursuant to the Sentencing Act 1991, but the intent is that the vast bulk of fines will come under the new model.

Clause agreed to; clauses 13 to 18 agreed to.

Clause 19

Ms MIKAKOS (Northern Metropolitan) — What is the process that applies if a person disputes the accuracy of the material provided by an enforcement agency?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that the agency can conduct an internal review in the first instance if one is requested, and ultimately the matter can be dealt with by the court.

Clause agreed to.

Clause 20

Ms MIKAKOS (Northern Metropolitan) — What criteria will the director take into consideration in determining whether enforcement under the act is appropriate?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that it will be considered on a case-by-case basis, taking into account the various factors that are particular to each and every matter.

Ms MIKAKOS (Northern Metropolitan) — I was finding it difficult to hear the minister. He is suggesting it will be done on a case-by-case basis, so are there no set criteria or guidelines that will be applied in every situation in terms of the way that clause 20 will operate?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — As I said, it will be considered on a case-by-case basis.

Clause agreed to.

Clause 21

Mr BARBER (Northern Metropolitan) — I have just a brief question for the minister. According to this clause, on receipt of notification that the director has determined not to enforce a registered infringement fine, an enforcement agency may withdraw the infringement notice and take no further action, issue an official warning to the person or commence proceedings against the person. Why can an enforcement agency still commence proceedings against the person in a situation where the director, Fines Victoria, says the fine is not appropriate under clause 20?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that while the matter may not be appropriate to be pursued in the infringements system it may be appropriate for consideration by the court.

Clause agreed to; clauses 22 and 23 agreed to.

Clause 24

Ms MIKAKOS (Northern Metropolitan) — Is the notice invalidated if it does not contain a summary of the enforcement action available and the options available to the person?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I draw Ms Mikakos's attention to subclause (3) of clause 24, which says:

> A failure to include or attach the statement specified in subsection (2), or complete details of any other outstanding registered fines in that statement, does not invalidate the notice.

Ms MIKAKOS (Northern Metropolitan) — I thank the minister for that response, but subclause (3) is referring to a failure to comply with any of the requirements in subclause (2), whereas the issue of options is contained in subclause (1). The way I read that clause is that subclause (3) does not provide any way to get around this problem. Essentially I am asking if a failure to provide details of the summary, the enforcement action available and the options as set out in subclause (1) could invalidate the notice.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Subclause (1) is to be read in the ordinary construction of those words. Those matters contained in subclause (1) must be contained on the notice.

Ms MIKAKOS (Northern Metropolitan) — Was my initial question correct, that a failure to provide the summary of enforcement action available and the options available would invalidate the notice?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The notice must contain the information as outlined in subclause (1).

Clause agreed to; clauses 25 to 31 agreed to.

Clause 32

Ms MIKAKOS (Northern Metropolitan) — How is 'special circumstances' or 'exceptional circumstances' defined or demonstrated under this clause?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that what constitutes 'special circumstances' is defined in the Infringements Act 2006. 'Exceptional circumstances' will be considered on a case-by-case basis.

Clause agreed to; clauses 33 to 34 agreed to.

Clause 35

Ms MIKAKOS (Northern Metropolitan) — Minister, how is a 'reasonable time' defined?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — What is reasonable will depend upon the complexity of the case or the matter that is before the director. The director will form a view as to the reasonableness, taking into account the various factors in each case.

Clause agreed to.

Clause 36

Mr BARBER (Northern Metropolitan) — Clause 36 says that, whilst an application for enforcement review is on foot, enforcement action that had been applied before the application for review was received may continue to be applied. However, no further enforcement action can be applied until the review is completed. Subclause (2) clarifies that, in respect of applications made on the basis of a person being unaware of the issue of an infringement notice, all enforcement action must be suspended until the review is completed and the applicants notified of the review. My question is: why should enforcement that has been applied before the application for review be allowed to continue except in cases of applications for review on the basis of a person being unaware of the issue? This seems unfair on the face of it; ideally all enforcement action should be suspended until the review is completed.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — To go to the distinction Mr Barber is drawing, clearly the government and the community do not want a scenario where a review is automatically sought of every decision to cease the initial enforcement action. That would be an undesirable outcome. In relation to the other matter Mr Barber refers to about enforcement action on foot being suspended where someone is unaware of that enforcement action, that is a matter of fairness and that is why it is part of this clause.

Clause agreed to; clause 37 agreed to.

Clause 38

Mr BARBER (Northern Metropolitan) — In clause 38, when an enforcement agency has received a notice of cancellation of enforcement of an infringement notice, the agency has 28 days to withdraw the infringement notice and take no further action, withdraw the infringement notice and issue an official warning, or withdraw the infringement notice and commence proceedings to prosecute the offence in court. My query is: when is it appropriate for an agency to prosecute an offence in court when an agency has received notice of cancellation of an infringement notice?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Without wanting to get into hypotheticals or speculate about the various reasons, suffice to say there may be occasions where the director may not wish to enforce an infringement but it may be appropriate for court action to be taken.

Mr BARBER (Northern Metropolitan) — It cannot really be hypothetical for me to ask about the mechanics of a bill and how it will operate. I will move on to another issue. Clause 38(2) says that if the director cancels the enforcement of an infringement fine due to a person being unaware that an infringement notice has been served, the registration of the infringement penalty as an infringement fine is cancelled and there is a waiver of any additional fees. It is analogous to my earlier question. Why is this only for cancellations due to a person being unaware of the

infringement penalty? Why is that the only circumstance in which it should be done?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I say to Mr Barber that that exemption or that provision is there for reasons of fairness. I will just read into *Hansard* the example that is provided on page 37 of the bill:

> The enforcement agency may withdraw the infringement notice, issue an official warning, file a charge-sheet in relation to the offence, issue an infringement notice to the correct person or enter into a payment plan with a person.

Clause agreed to; clauses 39 to 44 agreed to.

Clause 45

Ms MIKAKOS (Northern Metropolitan) — With respect to Clause 45(3), what arrangements will be put in place to ensure consistent application?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — It is a pertinent question from Ms Mikakos. Clearly consistency is an important objective, and to that end appropriate guidelines will be developed.

Ms MIKAKOS (Northern Metropolitan) — I thank the minister. I am obviously very pleased to hear that because it is important that there is consistency. Given that this particular provision relates to payment arrangements and the clause provides that regard will be had to the financial responsibilities of the person who has incurred that debt as well as their dependants and other arrangements, it is important that there is consistency. I ask, as I did with respect to earlier matters, given that the agency may well be dealing with fairly vulnerable people, will there be any attempt to have any consultation with relevant stakeholders in the development of these guidelines?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — As has been the case with the development of this legislation and the reform package that is encapsulated by this bill, appropriate consultation will take place in the development of any guidelines.

Clause agreed to; clauses 46 to 52 agreed to.

Clause 53

Ms MIKAKOS (Northern Metropolitan) — My question with respect to this clause relates to subclause (3). I am a bit perplexed to read that there might be a scenario where a person makes an overpayment. How is it possible that that could occur and that that would not be detected by the agency at the time the person is making the payment?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I ask Ms Mikakos to clarify her question. Is the question: how could someone make an overpayment?

Ms MIKAKOS (Northern Metropolitan) — That is it. How is it possible that someone could make an overpayment, given that this particular subclause relates to overpayments?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I imagine in the same way that people can make overpayments by accident when paying any type of bill or infringement online — by entering in the wrong amount through the payment option. As for any payment, it is possible to make an overpayment.

Ms MIKAKOS (Northern Metropolitan) — Am I to understand from that that people might be making a payment through a BPAY kind of arrangement or similar transaction, given that these are payment arrangements that are not the usual way people pay fines? It is a special set of circumstances and people have been put on special payment plans to repay these debts, so they will be paying through BPAY or some other electronic funds transfer?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — That is what is envisaged.

Clause agreed to; clauses 54 to 58 agreed to.

Clause 59

Ms MIKAKOS (Northern Metropolitan) — My question in respect of this clause relates to clause 59(b) regarding the attendance at a time and place specified for responding to questions in respect of a person's financial circumstances, and I ask: in those circumstances, will a person be able to be legally represented?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — In response to the question from Ms Mikakos, I say that it is not envisaged that legal representation would be necessary. This is an opportunity to provide additional information to the director to help inform the decision making of the director. It is not intended to be a court-like environment. But, having said that, in response to the question, there is no prohibition on someone bringing a legal representative with them should they so desire.

Clause agreed to.

Clause 60

Ms MIKAKOS (Northern Metropolitan) — I am a bit perplexed by this clause, because it seeks to impose a further fine on a fine defaulter. How, if a person is a fine defaulter, will the director be able to find them and collect another 60 penalty units?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Any additional penalty will be a matter to be determined at the discretion of the court, but the intent behind this clause is to give force to these provisions to encourage the appropriate information to be provided.

Clause agreed to; clauses 61 and 62 agreed to.

Clause 63

Ms MIKAKOS (Northern Metropolitan) — I ask the minister if a person is entitled to be legally represented when attending a summons for oral examination and production of information?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — My answer is the same as my answer to the previous question. It is not intended that legal representation will be needed. It is not supposed to be that type of environment, but it is possible. There is nothing precluding someone bringing a legal representative along should they wish to.

Clause agreed to; clauses 64 to 71 agreed to.

Clause 72

Ms MIKAKOS (Northern Metropolitan) — I raise this clause because I am puzzled as to why the minister is imposing another 60 penalty units on someone who cannot comply with an attachment of earnings order. If someone has already incurred fines and they cannot comply with this direction, then they are getting another fine. How is it envisaged that this is going to work in practice? There are going to be fines on top of fines.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — To clear up some confusion on the part of Ms Mikakos, first of all, the imposition of any additional penalty of up to 60 penalty units would be at the discretion of a court. This clause is directed at employers, so the attachment of earnings order is a matter for the employer. This is to encourage compliance with that order by the employer.

Clause agreed to.

Clause 73

Ms MIKAKOS (Northern Metropolitan) — I thank the minister for the previous clarification. In respect of clause 73(1), if that is breached by an employer, what will be the remedy for a dismissed employee?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — As Ms Mikakos notes, there is potential for a penalty of 60 penalty units in subclause (1), in addition to the orders contained in subclauses (2), (3) and (4).

Clause agreed to; clauses 74 to 78 agreed to.

Clause 79

Mr BARBER (Northern Metropolitan) — I have a general question for the minister in relation to the expansion of sanctions, and this occurs through clauses 79 to 82 and then through clauses 92 to 102. There are clauses dealing with the banks' obligations and clauses to allow charges over land without the requirement for perhaps less draconian measures, such as a licence suspension, to be looked at first. This is a change from the current Infringements Act 2006, especially when the powers are being exercised by the director of Fines Victoria rather than coming from a court order. Could the government explain whether in fact there is an intention that the director will start with what we might call the least draconian measures? Also, what matters do they have to consider, particularly in terms of less intrusive enforcement?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I can give Mr Barber some comfort in that less draconian measures are preferred in the first instance, and remedies like charges over land would be considered as a last resort.

Clause agreed to; clauses 80 to 88 agreed to.

Clause 89

Ms MIKAKOS (Northern Metropolitan) — Can the director order a licence suspension if doing so will affect the ability of a person to earn a living?

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

Clause agreed to; clauses 90 to 94 agreed to.

Clause 95

Mr BARBER (Northern Metropolitan) — I have a question for the minister. Part 9, starting with clause 95 and going through to clause 105, seems to allow the

director to sell land, including land that might be co-owned with other people. That provision is certainly not in the current act. Can land be sold without an order of the Supreme Court? What about the impact of this provision on other people who have committed no offence but are co-owners of land?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — No.

Clause agreed to; clauses 96 to 100 agreed to.

Clause 101

Ms MIKAKOS (Northern Metropolitan) — I ask the minister how large the outstanding amount needs to be before the director can apply to sell a person's land.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that the current figure is $10 000, but if this bill passes the house and receives royal assent, that figure will be reviewed as part of the implementation process.

Ms MIKAKOS (Northern Metropolitan) — Is it anticipated that the figure will go up?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — That would be the expectation.

Clause agreed to; clauses 102 to 108 agreed to.

Clause 109

Ms MIKAKOS (Northern Metropolitan) — Can the minister advise the house whether the powers contained in this clause are the same powers that the sheriff currently has?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Yes, they are.

Clause agreed to; clauses 110 to 113 agreed to.

Clause 114

Ms MIKAKOS (Northern Metropolitan) — I simply ask the minister where this prescribed form will be found? Will it be a publicly available document at some point in time?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Yes, it will, Ms Mikakos. It will be in regulations to the act that will be made.

Clause agreed to; clauses 115 to 118 agreed to.

Clause 119

Ms MIKAKOS (Northern Metropolitan) — I have another simple question. Will the seven-day notice specified in this clause be required to be delivered in person?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Yes, it will be.

Clause agreed to; clauses 120 to 157 agreed to.

Mr Lenders — Acting President, I draw your attention to the state of the committee.

Quorum formed.

Clause 158

Ms MIKAKOS (Northern Metropolitan) — I ask whether the minister could describe the exceptional circumstances that would apply under this clause.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Similar to my previous answer, Ms Mikakos, that will depend on the facts of each situation.

Ms MIKAKOS (Northern Metropolitan) — Minister, just to be clear, there is no proposal to develop any guidelines. Is it all going to be done on a case-by-case basis in respect of this clause?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — That is correct. Exceptional circumstances will depend upon the particular circumstances of each individual case.

Clause agreed to.

Clause 159

Ms MIKAKOS (Northern Metropolitan) — I refer the minister to clause 159(4)(a). What will the magistrate consider to be a material alteration under this clause?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I am advised that these are currently existing provisions, so their application will not change.

Clause agreed to.

Clause 160

Ms MIKAKOS (Northern Metropolitan) — What will constitute a reasonable excuse under this clause?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — It will be a matter for the court to determine what is reasonable in each and every case.

Clause agreed to; clauses 161 to 164 agreed to.

Clause 165

Ms MIKAKOS (Northern Metropolitan) — I refer the minister to clause 165(2)(b), which relates to special circumstances. Can he advise what would constitute special circumstances under this clause?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — They will be special circumstances as defined in the Infringements Act 2006.

Clause agreed to; clauses 166 to 173 agreed to.

Clause 174

Ms MIKAKOS (Northern Metropolitan) — I understand that in the definitions clause a specified agency is defined as a public sector body, a council or a prescribed organisation. Can the minister advise what a prescribed organisation might comprise?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Just to clarify, is Ms Mikakos seeking to know what would be a threshold test to meet a definition of a prescribed body? Is that the information she is seeking?

Ms MIKAKOS (Northern Metropolitan) — Just to clarify, as I understand it, under this clause a specified agency is defined as a public sector body, a council or a prescribed organisation. What will be a prescribed organisation?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The prescribed organisations will be defined or identified in the regulations that will be developed with the passage of this legislation.

Clause agreed to; clauses 175 to 217 agreed to.

Clause 218

Ms MIKAKOS (Northern Metropolitan) — Can the minister advise of the circumstances in which the fine defaulter will be eligible for a work and development permit as an alternative to paying their fine?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The infringement must be at the infringement stage; it must be at that juncture. It is part of the intent of the bill to provide options for those people who are vulnerable and who lack resources. This option may be appropriate for people in those circumstances in order to discharge their liability or obligation following an infringement.

Ms MIKAKOS (Northern Metropolitan) — Will there be any guidelines developed in terms of how this will work in practice?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Yes, there will be.

Ms MIKAKOS (Northern Metropolitan) — The clause refers to unpaid work. Can the minister give some examples of what type of work people might be engaged in?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — It is envisaged that there will be partner community agencies that will put forward work that can be done as part of discharging an obligation. Principally it will be community-type work.

Ms MIKAKOS (Northern Metropolitan) — I do not wish to labour the point too much, but can the minister give any examples? Is it street sweeping? Is it gardening? Can the minister give some examples of the type of work?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Community partners will identify community improvement work, so gardening or general land improvement at a community organisation may be the type of work that would discharge someone's obligation. The source of work will come from community partner organisations, but it will have a community focus as part of the individual discharging their obligation.

Ms MIKAKOS (Northern Metropolitan) — In respect of new section 27L relating to liability that is also contained in this clause, can the minister advise why the state of Victoria will not be liable for damage caused by someone subject to a work and development permit? I am just wondering whether this will lead to members of the Victorian community having their rights affected if negligent practices cause damage to them.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — This will be a voluntary scheme. It will be community organisations that propose the work to be completed, and they will also have the responsibility of overseeing the work being undertaken.

Clause agreed to; clauses 219 to 238 agreed to.

Clause 239

Ms MIKAKOS (Northern Metropolitan) — I refer the minister to new section 53D that is to be inserted by this clause, and I ask: is the Attorney-General required to publish the report from the director?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I draw Ms Mikakos's attention to new section 53D(2):

> The Attorney-General may publish the report received from the Director …

Ms MIKAKOS (Northern Metropolitan) — I thank the minister, but is it the intention that the report will be published on an annual basis? If not, why not?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I again draw Ms Mikakos's attention to new section 53D(2).

Clause agreed to.

Clause 240

Ms MIKAKOS (Northern Metropolitan) — I particularly note that this clause is going to repeal section 161A of the Infringements Act 2006. This is the provision that relates to conversion of fines to a term of imprisonment. I noted briefly in passing in my contribution earlier that the Federation of Community Legal Centres has expressed concern about this particular section being repealed. Firstly, why is this section being repealed?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Currently under section 161 of the act a particular scheme applies to prisoners. The government believes people who incur infringements should either pay that infringement or, under this new act and this system, via work or some other process discharge their liability. The conversion of their fine to a period of imprisonment is not the objective of the act.

Ms MIKAKOS (Northern Metropolitan) — In light of the minister's portfolio responsibilities, I ask whether the government has conducted any analysis of the likely impact on rates of reoffending if prisoners leave prison with large debts hanging over their heads?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — In responding to that question, on the new options that are available, we have just gone through the clauses that deal with the work options. There are other new options that are part of this scheme. The concept that I think is being proffered is that someone may come out of prison and that their accrued liabilities will force them back into prison or will result in their further offending. This new system will provide options for people without means or people in challenging circumstances to seek other ways to discharge their liabilities. The government does not believe section 161A is appropriate in that the system should apply to the community in general without creating a special or separate class for those who are in prison.

Ms MIKAKOS (Northern Metropolitan) — I refer to the comments the Federation of Community Legal Centres has made with respect to this bill. It says that if people leaving prison are burdened with debt, they are less likely to be able to re-establish themselves as productive members of the community. They also refer to an estimated 88 per cent of people released from prison receiving Centrelink benefits and refer to the Sentencing Advisory Council's May 2014 report, *The Imposition and Enforcement of Court Fines and Infringement Penalties in Victoria*, in respect of arriving at that figure.

Obviously the council is concerned that it will be difficult for people on benefits to pay their debts, be released from prison and re-establish themselves as productive members of society without engaging in behaviour that, as part of their attempts to repay these debts, causes them to be recidivists. I took from the minister's previous response that the government has not actually done any specific analysis of this. I ask what the thinking was behind this. Was any analysis done in terms of what the likely impact might be on recidivism, for example?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I repeat my previous answer to Ms Mikakos: the new system that this bill seeks to implement or create the framework for will enable other ways as an alternative to a monetary payment for people in particular circumstances to discharge a liability that has accrued. I could take Ms Mikakos to some of the recommendations of the Callinan review, the pre-release scheme that is being developed as a consequence of Mr Callinan's recommendations and the improved oversight of people on parole. I could also take Ms Mikakos to a number of matters that are extraneous to this bill but which respond to the point she has made, but I think it is probably not the time to do that. Suffice it to say that this bill provides other options to people in particular circumstances to discharge their liability following an infringement other than a monetary payment.

Ms MIKAKOS (Northern Metropolitan) — To follow on from that, would a person being released

from prison then be able to apply to have a work and development opportunity provided to them, for example, to pay off their debt?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — That would be a possibility.

Ms MIKAKOS (Northern Metropolitan) — Just one final question on this: is the repealing of section 161A essentially a demonstration of a lack of confidence in the judiciary to use the appropriate discretion in deciding whether to apply the current section?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — That is not intended, and it is not any reflection on the judiciary.

Clause agreed to; clauses 241 to 331 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

ADJOURNMENT

Hon. W. A. LOVELL (Minister for Housing) — I move:

That the house do now adjourn.

Alcohol abuse

Mr SCHEFFER (Eastern Victoria) — I raise a matter for the Minister for Health relating to harmful alcohol consumption. The most recent data on drug use from the Australian Institute of Health and Welfare dates from 2010; the next report is due in August. Although it is four years old, this data is the most comprehensive and up to date available. The data has been collected since 1993, and the percentages of Australians using particular drugs over this period have not changed dramatically from survey to survey.

The data is considered to be a reliable indicator of drug use across the community. It shows that in 2010 the use of alcohol and tobacco was falling — good news that is widely welcomed. All members will hope that the trend to lower alcohol and tobacco consumption will be confirmed in the 2014 figures, because we know that harmful alcohol consumption is the second highest cause of preventable death after tobacco and that family violence, road trauma, many diseases, public violence and serious injury are closely associated with alcohol consumption.

The Australian Institute of Health and Welfare drug use data from 2010 indicates that just over 80 per cent of Australians use alcohol, 18 per cent use tobacco, 10 per cent use cannabis, 3 per cent use ecstasy and just over 2 per cent use methamphetamines, with other drugs such as cocaine and heroin registering lower levels of use. While the level of alcohol, tobacco and ecstasy use is shown as falling, cannabis use is increasing, and the use of methamphetamines is stable according to the 2010 data.

In recent times there has been considerable concern in the community that methamphetamine use appears to be increasing. There have been countless media reports on the harm caused to individuals, families and communities through the use of methamphetamines. There have been media reports on the difficulties faced by treatment services, hospital emergency departments, ambulance officers and paramedics, as well as the family members of people who have a dependence on the drug. The Department of Justice has conducted a series of forums throughout the state informing communities about methamphetamine use, and these events have in turn been widely reported in the media. I have not been able to find any mention of the forums on the Department of Justice website, but media reports indicate that the meetings have been well attended and conducted.

My request of the Minister for Health is that, given the high prevalence of alcohol use and the extremely serious harm arising from that use, he instigate harmful alcohol consumption forums across the state, modelled on the methamphetamine forums conducted by the Department of Justice. Community forums of the type held on methamphetamine use could easily be adapted to a forum that raises community awareness of harmful alcohol consumption, assisting communities to develop strategies to reduce alcohol consumption. Research conducted by the National Drug and Alcohol Research Centre, led by Dr Michael Livingston, shows that between 2001 and 2010 the number of young people aged between 14 and 17 abstaining from alcohol rose from 33 per cent to more than 50 per cent. This is terrific news, and it would be a great thing for the Victorian government to be associated with initiatives that encourage this trend.

Solar energy

Mr BARBER (Northern Metropolitan) — My adjournment matter tonight is for the Minister for

Energy and Resources, Mr Northe. May 2014 was the hottest May since records have been kept. It was also the 351st consecutive month of above-average temperatures when measured on a global level. If I flipped a coin 351 times and got 351 heads, I would know there was something wrong with that coin. It is pretty clear to anybody — it should certainly be clear to the minister — that global warming is happening, and it is happening because of human activity. In the meantime the development of the solar energy industry in Victoria, which certain members of the government purport to have some fondness for, is being held back by the annoying and pernicious red tape that is put in the way of ordinary citizens and in some cases businesses putting solar panels on their roofs.

Some months ago I raised an adjournment matter for the previous Minister for Energy and Resources, Mr Kotsiras, the member for Bulleen in the Assembly, about this, detailing a number of cases. I have since heard of more cases, and I am continuing to get more reports from solar panel installers about the difficulties their clients are having. Back then I requested the minister to pass new rules ensuring that we had something resembling a right to connect or at least a guaranteed path to get connected, but that minister did not act in that way and his successor minister has not acted. Those opposite could very well go back to the inquiry they themselves initiated, the Victorian Competition and Efficiency Commission inquiry into distributed generation, and bring out the measures recommended in that report.

Since my last request of this nature was simply brushed off by the previous minister and I was told to go and read the rule book, and since time has continued and I am still finding that the same problem is occurring, my request for the new minister is that he sit down with Victoria's monopoly, private, for-profit, perpetual distribution businesses, which have the monopoly over the poles and wires and over connection, and ask them what they are going to do to facilitate a better system of rules to allow citizens in ordinary households and businesses to get connected.

Epsom Primary School

Mrs MILLAR (Northern Victoria) — The matter I raise on the adjournment tonight is for the Minister for Roads, the Honourable Terry Mulder. It is a matter which the Liberal candidate for Bendigo East, Mr Greg Bickley, has identified and recently drawn to my attention and the attention of my colleague and fellow member for Northern Victoria Region the Honourable Wendy Lovell. It relates to signage and traffic conditions at the front of Epsom Primary School. Mr Bickley identified this issue, as I said, and requested that Ms Lovell visit the school on 2 June, which she was happy to do.

In terms of progressing this further, Mr Bickley then requested that Ms Lovell and I visit the school on 17 June, and we were very pleased when Minister Mulder was willing to change his schedule on that day to personally attend the school and view the traffic conditions at the front of the school. On visiting the school we noted that while there are signs in place indicating that it is a school zone, these signs are potentially not sufficiently visible, given that traffic — including many large trucks and even including B-doubles — travelling to the nearby saleyards comes up over a bridge, and as such the school is obscured.

This beautiful little but growing school has been neglected by the lower house member for Bendigo East, Jacinta Allan, and by Labor over 11 long years. That much was apparent on visiting the school earlier this month. Fixing this traffic safety issue would be a welcome step for this school community. Given the minister's recent visit to see this busy road for himself, I ask that the minister give consideration to ways in which the signage can be improved to enhance school safety. I thank Mr Greg Bickley for identifying and pressing this issue, and I thank Minister Mulder and Ms Lovell for making time available to personally view and consider this.

Safe Schools Coalition Victoria

Ms PULFORD (Western Victoria) — The adjournment matter I raise this evening is for the Minister for Education, Martin Dixon. It relates to the work of Safe Schools Coalition Victoria, which does fantastic work to ensure that young lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) Victorians feel safe and secure in their schools. Currently Safe Schools Coalition Victoria has 135 member schools, has trained 4555 staff and has supported 20 557 students. I am proud to say that many schools within my own electorate of Western Victoria Region, including Ballarat High School, Geelong North Secondary College, Kyneton Secondary College and Lorne-Aireys Inlet P–12 College, are already participating, and I commend them for this.

Recently Safe Schools Coalition Victoria launched its Gender is Not Uniform campaign, which has the message 'No-one should be made to feel uneasy, especially when they're at school'. I think everyone can agree with this — that kids have the right to feel secure and accepted in their own school environment. Sadly, some would deny these young people the chance to be

educated in a safe environment. This month a media release from FamilyVoice Australia compared nurturing LGBTIQ students to 'telling an anorexic student it's okay to starve'. This is totally unacceptable, and furthermore it is dangerous.

Hon. W. A. Lovell interjected.

Ms PULFORD — I respond to the interjection or query of the minister. FamilyVoice Australia has suggested that this message of acceptance in the community is akin to 'telling an anorexic student it's okay to starve'. Advocates of Safe Schools Coalition Victoria have told me of the positive impact that an accepting and open school can have on young LGBTIQ students. One of these is the story of a young transsexual student who, on the first day they were allowed to wear the uniform that was correct for them, proclaimed it was the happiest day of their life.

Another story from regional Victoria: a year 4 teacher tells of asking the children in her class what they wanted to be when they grew up. A young girl in her class answered, 'I want to be a boy'. The teacher floundered for a moment, uncertain of how to respond to her student. While she was pondering how to respond, a young boy in the class piped up, saying simply, 'Have you picked a boy's name yet?'. That relieved the teacher's anxiety; it was a delightful way of a young child promoting acceptance and support, as is advocated in that school community through this program.

School is hard enough without facing additional discrimination, as many people do. Sally Goldner, the executive director of TransGender Victoria, argues this program is life changing and probably life saving. It has immeasurable benefits, and I ask the minister to write to FamilyVoice Australia and describe to it the benefits of this very important work.

Wallan Secondary College

Ms LEWIS (Northern Victoria) — I wish to raise a matter for the attention of the Minister for Education. The action I seek is for him to explain the failure of this government to invest in the education of teenagers in the growing town of Wallan, which is quickly evolving from a country town into a bustling centre but without the necessary support from the Napthine government.

Labor governments have a strong record in Wallan, having built Wallan Secondary College, which first took students in 2007. Its third cohort of year 12 students are currently studying hard for their Victorian certificates of education. Despite 2014 being the third year the school will graduate year 12 students, the government has been silent on building stage 4 of this great school — the final stage — which involves constructing buildings for the years 11 and 12 students.

Students and staff at Wallan are a talented and resilient bunch, but they have had more than their fair share of adversity. They were deeply affected by the Black Saturday bushfires in 2009, and a number of students lost their homes in this year's bushfires, the school itself was threatened and students could not attend for several weeks due to road closures. Despite being in a fire-affected community, Wallan Secondary College has not been insulated from this government's cuts and it lost its Victorian certificate of applied learning coordinator just as the program was to begin. Students leaving Wallan Secondary College have already had their post-school options impacted by the cuts to TAFE, and now with the coalition's cuts to the local learning and employment networks and the university fee hikes their options will be further limited.

Anyone who has visited the school would have seen firsthand how necessary completing this school is for Wallan and the growing adjacent areas of Beveridge and Lockerbie. I urge the minister to visit Wallan and explain to the community there why completing this great school, which was commenced by Labor, is not a priority for him and the Napthine government.

Western Victoria Region planning strategies

Mr D. R. J. O'BRIEN (Western Victoria) — My adjournment matter is for the Minister for Planning. I call on the minister to visit Western Victoria Region, which I represent, particularly the towns of Hamilton and Horsham, to amongst other things consider planning strategies to encourage population growth in these great areas of Western Victoria Region. More effective land use activity in and around our smaller rural settlements could also be considered.

By way of relevant indulgence, President — and I do not want to break up your conversation with the Clerk — I would like to firstly thank Mr Tunnecliffe for his service to the Parliament and to me, and I would also like to explain why I was somewhat late for his tribute and apologise formally. It would only be something like the earth exploding or something very important happening to the town of Penshurst that would keep me from the chamber and make me late. Indeed the *Age* has reported that research under Mount Rouse now confirms that this region is in fact geologically active in volcanic terms. This is quite exciting news for volcanologists. It has been more than 5000 years since the last volcanic eruption in Victoria,

according to an article in the *Age*. The article goes on to say:

> … it's important that we understand where, when and how these volcanoes erupted. The province is still active, so there may be future eruptions.

I do apologise, but this is a very important local issue. This is something which the town of Penshurst, as a regional settlement that can accommodate future population growth, would view with some excitement. I ask the minister to visit this region, because it is a feature of this area. It has a great volcanic history; indeed it has the Penshurst Volcanoes Discovery Centre.

I ask the minister to visit Hamilton and Horsham not just to talk about the town of Penshurst but to consider all western Victorian towns, particularly looking at whether we could develop a more European style of rural subdivision and settlement where we encourage people to build houses more closely sited so that our towns are more densely settled and we preserve our high-quality agricultural land, which Penshurst, with its volcano and its brown water, certainly features. That is one of the reasons it was a significant site for Indigenous people.

I also compliment the Parliament and my parliamentary intern Matthew Caldow, who coincidentally has published a fantastic report on the significance of Kolor, or Mount Rouse, entitled *Kolor — An Assessment of the Heritage Significance of Mount Rouse (Kolor), Including the Former Aboriginal Protectorate Station.*

These little settlements all over western Victoria can accommodate greater populations, and future subdivisions could be planned for greater density so that we preserve our great farmland instead of chopping it up to create hobby farms. This would preserve the right to farm, which is very important to the Victorian Farmers Federation and to the farmers I represent. It would advance population growth, and it would benefit this metropolis, which is one of the most urbanised in the world.

Bruck Textiles

Mr SOMYUREK (South Eastern Metropolitan) — I raise a matter for the Minister for Manufacturing, Mr David Hodgett, concerning the potential job losses at Bruck Textiles as a result of funding cuts by the federal government. The federal government is axing the clothing and household textile building innovative capability scheme. This scheme promotes textile industry innovation, and it was vital in bringing new products and jobs to Wangaratta via the relocation to the city of the Australian Weaving Mills, a sister company of Bruck Textiles, formerly based in Tasmania.

This is another broken commitment by the federal government — and a costly one at that — to the people of Wangaratta, because it undermines the efforts of Bruck Textiles, its 200-strong Wangaratta workforce and the regional economy. The action I seek from the minister is that he make representations to the relevant federal minister and request that the federal government not axe this scheme, or if the scheme has already been axed, request that it be reinstated.

Disability emergency accommodation

Ms MIKAKOS (Northern Metropolitan) — My matter this evening is for the Minister for Disability Services and Reform. It relates to emergency accommodation for a young man, Luke Modra, who is in his mid-20s and suffers from severe autism. I am advised that Luke is currently residing in a property in Lockwood, just outside Bendigo, which is owned by his parents but staffed by Golden City Support Services. The property has significant damage, particularly to the bathroom, but also elsewhere. I am advised that it is dangerous for Luke and the Golden City Support Services staff to use the bathroom in its current state and that the damage to the property is negatively impacting on Luke.

Luke's parents have requested emergency alternative accommodation while the repairs are assessed and made. However, I am advised that to date their request has been rejected by the Department of Human Services. Incredibly they have been told that if they relinquish Luke into state care, they may then qualify to get him into a hotel or motel room until something more suitable comes up. This is not a solution for a family that has done everything in its power to ensure that Luke is cared for in the best possible way.

Luke's parents have funded Luke's accommodation, and they have done their best to ensure that Luke's needs are met. Suitable temporary accommodation has not been provided to date. Next month Luke will be in hospital for 4 hours, and it has been suggested to the family that they take advantage of that time to undertake urgent and necessary safety repairs to the house. The family is now planning for Luke's uncles to come from interstate to undertake a renovation rescue, so to speak, of the house — that is, to undertake these most urgent and necessary safety repairs.

It is disheartening that the only opportunity for urgent repairs to be completed is when the occupant is briefly

in hospital. Luke's parents have asked for temporary emergency accommodation for Luke so that his home can be repaired fully and he can return to a familiar and safe environment that he knows as his home. Luke's father, Mark, has emailed the minister directly and also Andrea Coote, the Parliamentary Secretary for Families and Community Services, pleading for assistance. I understand that the minister's office is familiar with this matter, and therefore it is not necessary for me to provide further identifying information in respect of this family.

The Modra family is very anxious about this situation, so I call on the minister to urgently investigate this matter with a view to ensuring that Luke and his family are properly supported while they make the repairs to his accommodation.

Responses

Hon. W. A. LOVELL (Minister for Housing) — I have written answers to matters raised on the adjournment by Ms Pennicuik on 6 May, by Mr Ramsay on 29 May and by Ms Pulford on 10 June.

Tonight matters were raised by eight members. The first was raised by Mr Scheffer for the Minister for Health regarding Australian Institute of Health and Welfare data on harmful alcohol consumption. I will pass that on to the minister.

Mr Barber raised a matter for the Minister for Energy and Resources regarding above-average temperatures and consultation with energy distributors. I will pass that on to the minister.

Mrs Millar raised a matter for the Minister for Roads regarding Epsom Primary School and traffic conditions at the school. This is a school that I know well. I was there on 2 June, together with our candidate for the Assembly seat of Bendigo East, Greg Bickley. This is clearly a school that was neglected by Labor for 11 years. In fact it did not even get any Building the Education Revolution money for a new building. It is a school that the Liberal Party has taken an interest in because Jacinta Allan, the member for Bendigo East in the other place, has obviously neglected it. Mrs Millar asked the Minister for Roads, who visited the school just last week, to consider enhancing signage for traffic safety. I stood and watched the pick-up period at that school. It is on a B-double route, and there is no doubt that there needs to be enhancement of signage. The minister has seen that for himself, and I will pass that on to him.

Ms Pulford raised a matter for the Minister for Education around the Safe Schools Coalition and some very concerning comments from members of that group. Ms Pulford made a number of comments about which I was concerned, particularly the one around anorexia. I have a sister who has anorexia. Whilst it is 30 years since we nursed her through that, I know that every day of her life my mum was on edge, worried that my sister could slip back into it, and I have taken that mantle from Mum. I was particularly struck by that concerning comment from that group.

Ms Lewis raised a matter for the Minister for Education regarding education in Wallan. I note that in this year's budget there was $1.6 million for an upgrade of the Wallan Primary School and that the coalition government continues to invest in education right throughout Victoria. Wallan is an important growth area where we are investing in education.

Mr David O'Brien raised a matter for the Minister for Planning, asking him to visit western Victoria, in particular Hamilton and Horsham. I will pass that on to the minister.

Mr Somyurek raised a matter for the Minister for Manufacturing regarding Bruck Textiles in Wangaratta. I will pass that on to the minister.

Ms Mikakos raised a matter for the Minister for Disability Services and Reform regarding temporary accommodation for a young person. I will pass that on to the minister.

RULINGS BY THE CHAIR

Questions on notice

The PRESIDENT — Order! Before I adjourn the house, Mr Barber raised with me a matter in respect of a question on notice, question 9561, to the Minister for Police and Emergency Services. He has received an answer from the minister, but he suggests it does not address all the aspects on which he had sought information. I am satisfied that to a substantial extent the minister has responded to Mr Barber's question. However, I am prepared to reinstate the question to the extent that information be provided to Mr Barber on the types or categories of offences that have been covered by the period of the calendar years 2012 and 2013 and to date, as outlined in Mr Barber's original question. The only part that I reinstate is the fact of the categories or types of offences.

Farewell, Giuli and Wayne. Do not be strangers. The house stands adjourned.

House adjourned 7.11 p.m. until Tuesday, 5 August.