PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 4 September 2014

(Extract from book 12)

Internet: www.parliament.vic.gov.au/downloadhansard

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
Treasurer	The Hon. M. A. O'Brien, MP
Minister for Innovation, Minister for Tourism and Major Events, and Minister for Employment and Trade	The Hon. Louise Asher, MP
Minister for Local Government and Minister for Aboriginal Affairs	The Hon. T. O. Bull, MP
Attorney-General, Minister for Finance and Minister for Industrial Relations	The Hon. R. W. Clark, MP
Minister for Health and Minister for Ageing	The Hon. D. M. Davis, MLC
Minister for Education	The Hon. M. F. Dixon, MP
Minister for Sport and Recreation, and Minister for Veterans' Affairs	The Hon. D. K. Drum, MLC
Minister for Planning, and Minister for Multicultural Affairs and Citizenship	The Hon. M. J. Guy, MLC
Minister for Ports, Minister for Major Projects and Minister for Manufacturing	The Hon. D. J. Hodgett, MP
Minister for Housing, and Minister for Children and Early Childhood Development	The Hon. W. A. Lovell, MLC
Minister for Public Transport and Minister for Roads	The Hon. T. W. Mulder, MP
Minister for 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 Jennings, Mr Lenders, Ms Pennicuik and Mr Viney

 # Participating member

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 — Acting Clerk of the Legislative Council: Mr A. Young

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, 4 SEPTEMBER 2014

Thursday, 4 September 2014

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 9.36 a.m. and read the prayer.

SENTENCING AMENDMENT (COWARD'S PUNCH MANSLAUGHTER AND OTHER MATTERS) BILL 2014

Introduction and first reading

Received from Assembly.

Read first time on motion of
Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation); by leave, ordered to be read second time later this day.

VICTORIAN COMPETITION AND EFFICIENCY COMMISSION

Report 2013–14

For Hon. G. K. RICH-PHILLIPS (Assistant Treasurer), Hon. D. M. Davis, by leave, presented report.

Laid on table.

ACCOUNTABILITY AND OVERSIGHT COMMITTEE

Victorian oversight agencies

Mr D. R. J. O'BRIEN (Western Victoria) presented report, including appendices, together with transcripts of evidence.

Laid on table.

Ordered that report be printed.

Mr D. R. J. O'BRIEN (Western Victoria) — I move:

> That the Council take note of the report.

This is the first report of the Parliament's Accountability and Oversight Committee, which is one of two committees that came into being as a result of the passage of the government's integrity regime legislation. They operate as oversight committees in conjunction with the other oversight committees of the Victorian Parliament.

This Accountability and Oversight Committee inquiry examined the 2012–13 annual reports of the Ombudsman, the Freedom of Information Commissioner and the Victorian Inspectorate. The report includes information from the public hearing the committee held in June 2014 with the Ombudsman, the FOI commissioner and the Inspector of the Victorian Inspectorate and insights gained while meeting in mid to late 2013 with equivalent interstate parliamentary committees and their respective oversight agencies in Brisbane, Sydney and Perth.

The report is an important step in the development of the committee, being the first report it has produced. It has developed for the first time its modus operandi, which I am pleased to say takes a bipartisan and careful approach to its oversight role to ensure the appropriate level of oversight and accountability, through the Parliament via this committee, of these vital oversight bodies. These bodies in turn provide important mechanisms for people to make complaints or seek documents, or seek the review of other integrity bodies in the case of the Victorian Inspectorate. When we look at recent international affairs in countries that do not value democracy and the rule of law as this country and state do, it is important to remember that these oversight bodies, through the Parliament, return accountability to the Victorian people.

In providing that oversight role the committee has made 13 recommendations to the government, including commissioning an independent review at regular intervals of the Victorian Ombudsman's office; working with the Ombudsman's office to develop a seamless, one-stop shop framework, offering a single point of entry for people seeking to make a complaint about a public body; improving the protected disclosures provision in the Ombudsman Act 1973; making it easier for people to lodge applications and complaints with the Ombudsman other than in writing; and improving communication on FOI matters between the FOI commissioner's office and the Victorian Civil and Administrative Tribunal.

One of the important recommendations is recommendation 12 in relation to the issue of protected disclosures. This is discussed on pages 34 to 36 of the report. The committee recommends:

> That the Victorian government in consultation with the Accountability and Oversight Committee and the Independent Broad-based Anti-corruption Commission Committee reviews the legislative requirement under the Ombudsman Act 1973 that all protected disclosure cases must be investigated by the Victorian Ombudsman.

The recommendation came about as a result of issues that were raised by Ms Glass, the Ombudsman, in relation to protected disclosures that were returned by IBAC after they were deemed not to be IBAC matters

but that nevertheless the Ombudsman felt under the legislation had to be investigated in circumstances where not all of them required actual investigations, so those recommendations for that review have been made by this committee.

Ms Pennicuik interjected.

Mr D. R. J. O'BRIEN — I hear the Greens harping from the background, 'Where is the bill?'. They have not been a part of this committee. We will let them contribute in their own time.

Generally speaking the committee has waited until the bodies that need to consider these issues have done so. It is important that an oversight body does not step in and become the primary complaints-handling body. That is why it is oversight and ultimate accountability that this committee serves and makes recommendations on.

I compliment the chair of the committee, Mr Andrew McIntosh, the member for Kew in the Assembly, on his chairmanship of this important committee. I also commend the members of the committee for their work on the committee: the deputy chair, Ms Jennifer Kanis, the member for Melbourne in the Assembly; Ms Lisa Neville, the member for Bellarine in the Assembly; and Mr Andrew Ronalds, my colleague in this place. The committee secretariat — Mr Sean Coley, Mr Scott Martin, Ms Helen Ross-Soden, Mr Justin Ong, Ms Kylie Jenkins and Mr Matt Newington — has done an excellent job. I also compliment the previous chair of the committee, Mr Philip Davis, and thank former members of the committee for their service: Mr Edward O'Donohue, Ms Fiona Richardson, the member for Northcote in the Assembly, and Mr Nick Wakeling, the member for Ferntree Gully, for their service to the committee.

This is a very good start to the work of the committee. I commend the report to the house.

Mr RONALDS (Eastern Victoria) — I have also had the privilege of being a member of the Accountability and Oversight Committee, albeit for a short time, since February. It is a pleasure to talk to the report on Victorian oversight agencies. I thank the other members of the committee: the member for Kew in the Assembly, Andrew McIntosh, who is the chair; the member for Melbourne in the Assembly, Jennifer Kanis; the member for Bellarine in the Assembly, Lisa Neville; David O'Brien, who has just spoken; Edward O'Donohue; the member for Northcote in the Assembly, Fiona Richardson; and the member for Ferntree Gully in the Assembly, Nick Wakeling. I particularly mention Philip Davis, who was the chair of the committee before he retired from Parliament last year. He was also my predecessor in Eastern Victoria Region. He was not only a wonderful member of Parliament but also helped me to understand a lot of the background to the committee. I also thank the secretariat: Sean Coley, Scott Martin, Helen Ross-Soden, Justin Ong, Kylie Jenkins and Matt Newington.

The report examines the 2012–13 annual reports of the Ombudsman, the Freedom of Information Commissioner and the Victorian Inspectorate. It assesses trends over the years in reviewing and identifying changes in volumes of complaints and also appeals.

Since coming to office the government has initiated a new integrity regime that enhances the transparency and accountability of public bodies. The report goes some way to achieving this and makes 13 recommendations. Some of these include commissioning an independent review at regular intervals of the Victorian Ombudsman's office; working with the Ombudsman's office to develop a seamless one-stop shop framework that offers a single point of entry for people seeking to make a complaint about a public body; improving the protected disclosure provisions of the Ombudsman Act 1973; making it easier for people to lodge applications and complaints with the Ombudsman other than always in writing; and improving communications on FOI matters between the FOI commissioner's office and the Victorian Civil and Administrative Tribunal.

Motion agreed to.

PAPERS

Laid on table by Acting Clerk:

Independent Broad-based Anti-corruption Commission — Report, 2013–14.

Ombudsman — Report, 2013–14.

State Trustees Limited — Report, 2013–14.

Subordinate Legislation Act 1994 —

Documents under section 15 in respect of Statutory Rule Nos. 108 and 119.

Legislative Instruments and related documents under section 16B in respect of —

Electronic Conveyancing Operating Requirements — Version 2, under section 22 of the Electronic Conveyancing (Adoption of National Law) Act 2013.

Electronic Conveyancing Participation Rules — Version 2, under section 23 of the Electronic Conveyancing (Adoption of National Law) Act 2013.

Surveyor-General — Report on the Administration of the Survey Co-ordination Act 1958, 2013–14.

Treasury Corporation of Victoria — Report, 2013–14.

PARLIAMENTARY PRIVILEGE

Right of reply: Cr Geoff Lake

The PRESIDENT — Order! I wish to advise the house that I have received a request for a right of reply from Cr Geoff Lake, the mayor of Monash City Council. Pursuant to the standing orders of the Legislative Council I present a right of reply from Cr Geoff Lake, Monash City Council, relating to statements made by Mrs lnga Peulich, MLC, on 7 August 2014. During my consideration of the application for the right of reply I gave notice of the submission in writing to Mrs Peulich and also consulted with her prior to the right of reply being presented to the Council.

Having considered the application and determined that the right of reply should be incorporated into the parliamentary record, I remind the house that the standing order requires me when considering a submission under the order to not consider or judge the truth of any statements made in the Council or the submission. In accordance with the standing orders the right of reply is hereby ordered to be printed and incorporated into *Hansard*.

Reply as follows:

On Thursday, 7 August 2014, Mrs Inga Peulich, member for South Eastern Metropolitan Region, made a statement to the Legislative Council.

The statement appears under the heading 'Monash mayor correspondence'. It refers to me by name. It alleges that I, among other things:

> practise division and conflict at every opportunity;
>
> have incited division and disharmony between the Armenian and Turkish communities;
>
> frequently use my position as mayor to do things that are not impartial;
>
> use every opportunity to create disharmony and conflict;
>
> have engaged in a stunt in order to create tension and angst; and
>
> wrote a letter which is 'inflammatory', 'condescending' and a 'very long diatribe' which was 'copied to all and sundry' and which 'deserves to be considered by the Minister for Multicultural Affairs and Citizenship' and possibly by either the Victorian Equal Opportunity and Human Rights Commission or the local government inspectorate.

These allegations are without foundation. As a consequence of the making of the statement, I have been:

> adversely affected in reputation and in respect of dealings and associations with others; and
>
> injured in my occupation, and in my office as councillor and mayor of the City of Monash. I provide this response for incorporation in the parliamentary record.

Mrs Peulich's statements concern a letter I wrote to Mr Vache Kahramanian, executive director of the Armenian National Committee of Australia, on 30 July 2014 ('my letter'). My letter was written in response to a letter dated 28 July 2014 from Mr Kahramanian which was sent to me and copied to a range of other individuals and organisations ('the committee's letter').

The committee's letter concerned what the committee alleged were 'recent discussions held in the City of Monash meeting on 13 May 2014 regarding the Armenian, Greek and Assyrian genocides of Asia Minor'.

The committee's letter stated that I:

> had invited members of the Turkish community to deny the historical record;
>
> had not granted the committee's request for a right of reply; and
>
> 'stated in [my] own words that [I] "did not care about the Armenian community point of view" as this issue will only affect the Turkish community'.
>
> The committee's letter was copied to 26 other recipients, including the Premier and the Leader of the Opposition, my fellow councillors and a number of ethnic community groups.

The statements in the committee's letter concerning me and the council are wrong, hurtful and damaging. I wrote my letter in order to correct those errors and to clarify my and the City of Monash's position. In light of that purpose, I also copied my letter to the same recipients of the committee's letter.

My letter stated, in summary:

> Monash council had not had any discussion with the Turkish community regarding the occurrence or otherwise of the Armenian, Greek and Assyrian genocides.
>
> A councillor had raised informally with some other councillors the possibility of moving a motion that would require council formally to debate these issues. Some councillors had concerns about the likely community response if such a motion were put. In that context, I and other councillors spoke informally to a representative of the local Turkish community for the purpose of understanding how that community might react to council considering the issue.

> Following these informal discussions, it had become clear that no councillor would support a motion for council to consider this issue (other than the councillor who had first raised it). Most councillors were of the view that Monash council is not the most appropriate forum for consideration of the issue and that the council should focus on matters which bring people together rather than matters which divide different ethnic communities.
>
> I had been telephoned by a member of the Armenian committee a few days after these events. At no time did I say or indicate to that person (or any other person) that I did not care about the Armenian community's point of view or that this issue will only affect the Turkish community.
>
> Monash council is extremely proud of its multicultural community and values the harmonious relationships it enjoys with all groups. Council officers and councillors work hard to help foster and develop improved understanding and links between all groups. Its focus is on bringing people together locally in a spirit of friendship and togetherness — not focusing on issues that create significant disagreement and conflict between groups. This is why the overwhelming majority of Monash councillors feel the way they do, although we acknowledge the significance of the events of 99 years ago for the Armenian community.

My letter to Mr Kahramanian concluded with the following paragraph:

> 'In handling this matter in the way I have described above, I assure you that Monash council's only concern was about maintaining positive community relationships across our community and avoiding causing offence to some parts of the community. I am concerned that the process Monash council has followed in considering this matter has been portrayed by you as disregarding the Armenian community and I hope that my letter reassures you that this was absolutely not the case or the intention'.

In light of what my letter actually said, I believe that Mrs Peulich has misrepresented its contents, and my motives in sending it. In particular:

> Mrs Peulich wrongly alleged that I have sought to incite division and disharmony, including between the Armenian and Turkish community. I reject this in the strongest terms. On the contrary, I and other councillors adopted the course we did for the purpose of avoiding or minimising division and disharmony within the Monash community.
>
> Mrs Peulich further alleges, wrongly and without any particulars to support her, that I use every opportunity to create disharmony and conflict, and that the present allegation is simply the latest example. The imputation that I have engaged in such conduct, either on this occasion or on any other occasion is without foundation, and I reject it absolutely.
>
> Mrs Peulich wrongly alleges that I have not acted impartially in this matter. I and my fellow councillors are well aware that many people in the local Armenian community (as well as others) wish to have this matter considered at relevant levels of government in Australia. Indeed, it was in the interests of impartiality and in order to seek an understanding of the likely wider impact if Monash council was to consider this matter formally, that we felt we needed to ascertain the views of the Turkish community so that we would be in a better position to consider whether proceeding as 1 out of 79 councils in Victoria to consider this matter formally was in the interests of the Monash community as a whole.
>
> On any objective reading of my letter, there is no basis whatsoever to suggest that it is 'inflammatory' or 'condescending'. By doing so, Mrs Peulich has misrepresented my letter and this matter. Further, by making no mention that it was written in response to Mr Kahramanian's original letter and by asserting it was 'copied to all and sundry', Mrs Peulich has falsely conveyed the impression that I have corresponded unilaterally with Mr Kahramanian and I have done so recklessly and inappropriately in front of a much larger audience, when all I have done is respond courteously to a letter I received and which I simply copied to the same people and organisations that had been copied into the original letter sent to me. Finally, by Mrs Peulich stating that my letter 'deserves to be considered by the Minister for Multicultural Affairs and Citizenship' and possibly by either the Victorian Equal Opportunity and Human Rights Commission or the Local Government Inspectorate, she creates the further damaging impression that there was something seriously improper, insulting, intolerant or unlawful about my letter which warrants formal sanction. It is abundantly clear on the face of my letter that there is no reasonable basis at all for such an impression to be suggested or conveyed.

Geoff Lake, mayor

Laid on table.

Ordered to be printed.

The PRESIDENT — Order! I remind members that this matter cannot be further discussed this day, but there is an opportunity for a member to give notice of further consideration of the matter at another time in our proceedings.

Mrs Peulich — On a point of order, President, I have in the past, with regard to the same person, had the opportunity of responding in a 90-second statement, and you will be able to check that with the Clerk. I do not believe the standing orders preclude that. I note your comment that you are not required to judge the merit of the response or the case, and therefore I think it is important for members of Parliament to have the opportunity of responding promptly to these matters.

The point of order is that I do not believe the standing orders preclude a response to the matters that I have not had the opportunity of perusing in the right of reply. As you have mentioned, President, you are not required to

judge the merit. If you were, it would be a blank page, I am sure.

Hon. D. M. Davis — On the point of order, President, I am not aware of any part of the standing orders or indeed of practice that requires some limitation of the ability of members to respond to a right of reply. I think that is a concerning development. It is important that rights of reply can be scrutinised. I do not believe they are immune from scrutiny on the day or on subsequent days.

The PRESIDENT — Order! The right of reply is certainly subject to scrutiny and can be subject to further discussion by the house or further commentary by a member. There is no constraint in that respect. However, there is a precedent that has been established — and this is not the first time this has occurred — and there is a practice in the house, if you like, that a response to a right of reply cannot be on the same day. In other words, there needs to be a subsequent day on which that matter is discussed. It is possible for a member to suggest that the house take note of the matter on the next day of meeting. That would be one way of doing it. It could also be an adjournment matter or a 90-second statement, but not on the day.

The practice has been established in *Rulings from the Chair 1979–2012* by President Chamberlain in 2001 and President Gould in 2005. On 15 August 2012 I also made a ruling consistent with those two rulings and the precedents that had been established by the Chair, which is possibly the one that Mrs Peulich referred to in respect of whether or not a 90-second statement could occur on the same day. In the most recent one my comment, which was consistent with previous rulings from the Chair, was this:

> Members are not permitted to make 90-second statements or personal explanations on the same day that a right of reply is tabled. However, members can give notice of a motion to take the right of reply into consideration on the next day of meeting, or use the statements on reports and papers procedure, or raise the matter in the adjournment debate.

The original precedent goes back to President Chamberlain, who said:

> After the President ordered that the Council's first right of reply be incorporated in *Hansard* and printed as a parliamentary paper, a member made a personal explanation in which he stated that, although he supported —

the relevant organisation's —

> right to submit a reply, he did not resile from the actions that prompted their response. A minister then moved that both —

the organisation's —

> right of reply and the member's personal explanation be taken into consideration on the next day of meeting. In response, the President reminded the minister that the standing orders do not permit personal explanations to be the subject of debate in the house. The right of reply only was subsequently listed on the Council's notice paper as an order of the day, general business.

President Gould's ruling was:

> Members would not be permitted to make a personal explanation on the day of the presentation of the right of reply. In making this ruling the President sought to prevent the continuation of the debate between the member and citizen concerned, and allow time for the house to become acquainted with the contents of the right of reply before determining whether to grant leave to the member to make the personal explanation.

Ordered to be considered next day on motion of Mrs PEULICH (South Eastern Metropolitan).

BUSINESS OF THE HOUSE

Adjournment

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

> That the Council, at its rising, adjourn until Tuesday, 16 September 2014.

Motion agreed to.

MEMBERS STATEMENTS

Geelong Manufacturing Council

Mr SOMYUREK (South Eastern Metropolitan) — Last Thursday, along with my colleague Gayle Tierney, I had the pleasure of meeting with representatives of the Geelong Manufacturing Council to hear its concerns about the future of manufacturing in that city. The issues facing Geelong need no introduction. The city has faced a steady stream of bad news ever since the Ford Motor Company announced that it would cease manufacturing in Australia, along with Alcoa, Boral, Qantas and Shell, to name just a few of the companies that have recently shut up shop or scaled down their operations in Geelong, causing the loss of hundreds of jobs. Geelong needs a government that will listen to its needs and provide a detailed plan for its future, including how to ensure that its proud manufacturing sector not only survives but thrives.

Carbon Nexus

Mr SOMYUREK — Whilst in Geelong I also toured Deakin University's Carbon Nexus research facility at Waurn Ponds. Carbon Nexus is part of the Australian Future Fibres Research and Innovation Centre, which in turn is a partnership between Deakin University, the Victorian Centre for Advanced Materials Manufacturing and the CSIRO. The importance of embracing new technologies cannot be overlooked, especially as I have just mentioned the issues facing the city of Geelong. Both sides of politics need to embrace ways we can enhance our methods and materials of manufacture, and after touring this facility I can see how carbon fibre can provide this opportunity.

iAwards

Mr SOMYUREK — Last Friday night I had the pleasure of representing the Leader of the Opposition at the iAwards gala dinner to honour our nation's leading technology innovators and professionals. I congratulate the award winners and the event hosts — the Australian Computer Society, the Pearcey Foundation and the Australian Information Industry Association — for staging this event.

Footprints Foundation

Mr D. D. O'BRIEN (Eastern Victoria) — I rise to support Kain Jackson and the Footprints Foundation. This foundation was established by Kain and his wife and a number of others in Sale in 2013. It coordinates volunteers from the local community to provide support for women battling breast cancer, and their families, by undertaking garden and lawn maintenance, house cleaning, the cooking of meals and other basic acts of assistance around the house. There are many breast cancer charities, but this one is unique in the support it is providing. To raise the profile of the organisation and to attract volunteers and corporate supporters, Kain is doing what to me is unthinkable: from today he will run 10 marathons in 10 days. Many years ago Jacko and I played football together. Let's say that in a fitness sense we have grown apart in that time.

I will support Kain briefly next Thursday. However, my colleagues the member for Morwell in another place, Russell Northe, and the federal member for Gippsland, Darren Chester, are less motivationally challenged than I am and will join him at points along the run, as will others who are throwing in their support for this very good cause. This is a herculean effort by Kain and the organisation. Thanks must go to the many local business sponsors who have come on board and to VicRoads, which is allowing the run to go ahead across the beautiful landscape of Gippsland from Sale to Warragul and back through South Gippsland.

We all know the toll breast cancer takes on our community and we have all been touched by someone who has battled this scourge. This is a great event being run by a fantastic charity in the Sale region, and I wish Kain and his crew all the best for their efforts over the next 10 days.

Solar energy

Mr BARBER (Northern Metropolitan) — During the coming week and before we return to this place government members will be turning up to many smiley photo opportunities. However, I will be visiting a group of small businesses that the government is trying to put out of business in the next two weeks. I am referring to Victoria's solar installation industry. These businesses are highly concentrated in outer suburban and regional areas, and the impact of the federal government's renewable energy target review recommendations, if implemented, would be to immediately cut all rebates on solar panels, possibly two weeks from now, leading to an immediate rise in the cost of solar panels and a concurrent reduction in the amount of business being done by this industry.

This is the single biggest and fastest way that this government can destroy jobs in Victoria, predominantly in suburban and regional areas, in a very short period. The state government seems to have no clear position on what it thinks about the federal recommendations, and it is about time we heard a clear statement from the Premier as to whether he supports the recommendations of the federal review or whether he will maintain a position supporting the current renewable energy target.

Lethbridge Airpark

Mr KOCH (Western Victoria) — Last Sunday on behalf of the Minister responsible for the Aviation Industry, the Honourable Gordon Rich-Phillips, I was delighted to officially open the upgraded Lethbridge Airpark. The upgrade was made possible with a grant of $1 008 524 from the Victorian coalition government's Regional Aviation Fund.

Lethbridge Airpark, just north of Geelong on Ballarat Road, is a hub for regional commercial, emergency and general aviation services, including flight training, aircraft maintenance and charter flight operations. Both of its runways have been realigned to increase the distance of aircraft arrival and departure paths from the nearest residences. One runway has been expanded to accommodate larger aircraft, like the Beech

KingAir 200, currently used by Ambulance Victoria. A new helicopter and water delivery system for Country Fire Authority-operated firefighting aircraft will better support emergency services.

This upgrade is already generating business growth, investment and development opportunities. The two flying schools operating at the airpark have increased their fleets to six aircraft since the runway upgrade, while the number of businesses based at the airpark is expected to double to 20 within the next 12 months. This redevelopment is a great example of how the Regional Aviation Fund is improving public-use regional aerodromes so that they can make an even stronger contribution to local economies and communities.

I applaud the minister for his support of smaller regional aviation centres, particularly Lethbridge Airpark, which now offers greater security of operations and a wider range of air services.

Rail Revival Alliance

Ms LEWIS (Northern Victoria) — To celebrate the 140th anniversary of the opening of the rail line between Castlemaine and Maryborough, the Rail Revival Alliance organised a hugely successful community and family day train trip between Castlemaine and Maldon last Saturday. Over 160 passengers enjoyed the Castlemaine to Maldon return trip. The Rail Revival Alliance is a group working to open up new opportunities for regional communities by bringing some of rural and regional Victoria's disused railway lines back into use for both passengers and freight. In particular the group wants to see passenger rail services re-established between Bendigo, Castlemaine, Maryborough, Ballarat and Geelong.

Local learning and employment networks

Ms LEWIS — A group of quiet achievers in our community are the local learning and employment networks (LLENs). Thirty-one LLENs cover every local government area in Victoria. They are overseen by elected committees of management. Members of the committees of management are elected from a range of community, education, business and industry organisations. These dedicated volunteers work with an executive officer and a small staff to develop a wide range of partnerships across the community to help our young people find the best start to their working life. This can be through appropriate training, alternative education programs or work experience placement. I acknowledge the work and time contributed by the many volunteers across Victoria who ensure the LLENs can fulfil their important function.

Steve Bracks

Mr FINN (Western Metropolitan) — Like every member of the Tigers family, I was pretty happy last Sunday, and I fully intend to be even happier this Sunday — but I was overjoyed to discover that our friends in the Labor Party have resurrected my old mate Bracksy. I was particularly pleased because Steve Bracks left this Parliament in such a hurry. He did not get the chance to answer some very important questions, but now we will get the chance to ask him about the disastrous desalination plant, dodgy deals with the unions as a result of that desalination plant and how he justifies a daily $1.8 million bill to Victorian taxpayers for a Labor white elephant that has yet to provide a single drop of water.

We could ask him why he sought to reinvent the wheel, costing Victorians millions, as Labor stuffed up the very simple production of a tram ticket. Good old Bracksy can explain to us all the intricate details of Labor's myki system. Perhaps he can tell us why his government was so supportive of the east–west link. Maybe he can explain to his protégé, Mr Andrews, the Leader of the Opposition in the Assembly — Dictaphone Dan — the importance of this vital project to the future of Victoria. Maybe he can even explain to us why he did a bunk on his constituents in the seat of Williamstown, leaving the taxpayers to pick up the cost of a by-election. Labor types cannot even leave Parliament without costing Victorians an arm and a leg.

Steve Bracks reminds every Victorian of the disasters Labor brings with it. I only hope Bracksy goes doorknocking.

Wyndham Community Volunteer Awards

Mr EIDEH (Western Metropolitan) — On Friday, 22 August, I attended the Wyndham Community Volunteer Awards dinner. These awards recognise outstanding contributions made by residents in Wyndham. Also in attendance were my parliamentary colleagues Andrew Elsbury and Joanne Ryan, the federal member for Lalor. It was a pleasure to be in the presence of so many people who constantly give so much of their time and energy to volunteer in the local community.

A most deserving resident, Ms Margaret Campbell, was named the City of Wyndham's 2014 Citizen of the Year. Ms Campbell has continually contributed to the community through her active membership of

15 community organisations in all areas of Wyndham, including advocacy for the rights of refugees and asylum seekers, community education, arts, culture, Aboriginal advocacy, youth, writing and local history. She has dedicated her time to causes such as these for almost 50 years, and I cannot think of a better recipient for this award.

I take this opportunity to acknowledge all volunteers in the local community, as there are many hardworking people who give their time to help others and who often go unrecognised. Each and every volunteer is appreciated, and we are indeed lucky to share this state with so many passionate and selfless individuals who contribute so much to our local communities.

Once again I extend my congratulations to Ms Campbell and to the nominees and recipients of the Wyndham Community Volunteer Awards on their achievements. I also congratulate and thank the mayor of the City of Wyndham, Cr Bob Fairclough, and councillors for putting together a wonderful ceremony to present the awards.

Leader of the Parliamentary Labor Party

Mrs PEULICH (South Eastern Metropolitan) — Nearly all men and women can stand adversity, but if you want to test a man or a woman's character, give them power. During his parliamentary service the Leader of the Opposition in the Assembly has regrettably shown some disturbing characteristics.

As the Minister for Health he oversaw a system which regularly manipulated health data. As Leader of the Opposition he has been silent on union thuggery and has failed to press for the Construction, Forestry, Mining and Energy Union's expulsion or distance himself from John Setka, a man with many criminal convictions. He has been regrettably implicated in an unseemly and disturbing dictaphone affair involving much controversy and which is still being investigated by the police.

Recently he pushed for the member for Frankston in the Assembly, Geoff Shaw, to be expelled from Parliament without due process. Since then he has taken a diametrically opposite position, notably trying to create chaos in Parliament and to secure Geoff Shaw's preferences. We are not sure whether being Dan or Daniel Andrews is going to be more favourably perceived by the electorate, but what we can see is that there has been a failure in the test of character that public office requires.

In closing, I want to say that good character is not formed in a week or a month — it is created little by little, day by day. So is poor character, and I think Mr Andrews has demonstrated that he has failed that test of character.

Zonta Club of Ballarat

Ms PULFORD (Western Victoria) — Last Thursday it was my great pleasure to attend the Zonta Club of Ballarat's Young Women in Public Affairs award presentation. Zonta International was formed in 1919 with the objective of advancing the status of women by improving their legal, political, economic, educational, health and professional status across the world.

I had the honour of being a judge for the award and I met some remarkable women. I would like to commend applicants Isabella Cavalieri, Bayleigh Curran, Taylah Gibbs, Yasmine Johnston Chan, Eva Touzeau and Sally Werner, and I congratulate the winner, Heidi Monkman, and runner-up, Georgina McKay. I would also like to thank Shani Cain for a speech that inspired everybody in the room and for her ongoing work as a role model and young leader at the age of only 20.

Hamilton Base Hospital opportunity shop

Ms PULFORD — On another matter, last week was National Op Shop Week. The Western District Health Service's hospital op shop has raised over $65 000 in the last 12 months. It is based at the Hamilton Base Hospital and is associated with the award-winning and innovative National Centre for Farmer Health that the Napthine government does not support.

Honourable members interjecting.

Ms PULFORD — The volunteers do a wonderful job. There are 20 of them, including Wendy Fox, Margaret Burgin, Pat Harris and Julie Waldron.

I note the objections of members. They are a little touchy about the National Centre for Farmer Health.

Methamphetamine inquiry

Mr RAMSAY (Western Victoria) — The joint parliamentary Law Reform, Drugs and Crime Prevention Committee tabled its report on the inquiry into the supply and use of methamphetamines, particularly ice, in Parliament this week. The 10-month-long, expansive and exhaustive investigative report had the committee travelling all over Victoria conducting over 113 public hearings in far-flung regional towns,

including Mildura, Wodonga, Warrnambool, Shepparton, Bendigo, Traralgon, Ballarat, Geelong and the city of Melbourne. The committee heard evidence from 220 witnesses and received 78 submissions. The inquiry also sought advice from the Australian Institute of Criminology and the Australian Crime Commission in relation to the supply and manufacture of methamphetamines and the links between trafficking by organised crime, outlaw bikie clubs and online trafficking.

The 54 recommendations are in direct response to the evidence and statistical data that show a trending escalation of the use of crystal meth — ice — and the lack of resources in regional Victoria to deal appropriately with the harms the drug causes. Recommendations that respond to supply, prevention, harm reduction and treatment are peppered through the report, with particular emphasis on education and public awareness of the dangers of smoking and injecting crystal meth, which is becoming a significant health and social problem. This is a drug that knows no boundaries and affects drug users from all walks of life, but it is not a pandemic, or an epidemic or a crisis. It must be acknowledged that it affects less than 2 per cent of the Australian population but is an increasing social and health problem with significant harms to users and the community at large.

It is pleasing to see that the Napthine government has responded quickly to the report with announcements by the Minister for Crime Prevention of $2 million in funding for community grants to respond to the impact of crystal meth and by the Minister for Community Services of $2.7 million for an education and advertising campaign on the dangers of use and the harms associated with abuse of the drug.

Lemnos Gallipoli commemorative memorial

Mr TARLAMIS (South Eastern Metropolitan) — Last Friday night I attended an event organised by Melbourne's Pontiaki Estia club in Brunswick. The event was to raise money for the Lemnos Gallipoli commemorative memorial, which will commemorate Lemnos's role in the Gallipoli campaign, as well as the vital role played by Australia's nurses. It was a pleasure to be at such a well-attended event, which featured amazing musical entertainment; traditional dancing, including Pontian and Cretan traditional music; and of course wonderful food. Thanks go to Joseph Tsombanopoulos and his fellow musicians for their great performance.

It was particularly appropriate at this event to remember private Peter Rados, a digger from Asia Minor who was killed during the Gallipoli campaign and is buried at Anzac Cove. Also, in memory of staff sergeant Archibald Monk, the piper who led the nurses onto Lemnos in August 1915, bagpiper Alan Leggett performed some Scottish highland pipe music. Listening to Alan and Joseph playing both Scottish and Pontian traditional bagpipes was an amazing experience, demonstrating these deep cultural links across generations. It was a very successful night, with over $4000 being raised for the memorial. I would like to thank Litsa, Nick and the rest of the committee for organising such a fantastic event.

I thank the RSL Hellenic sub-branch for joining with the Lemnos Gallipoli Commemorative Committee to organise a gala dinner dance at the St Kilda town hall earlier this year. With around 300 guests this event was a great success and raised over $10 000 for the Lemnos Gallipoli commemorative memorial. I would like to acknowledge Terry Kanellos, Steve Kyritsis, Nick Kydas, Christina Despoteris, Annie Tsourlinis, Jim Claven and Malama Varvaras, who as members of the organising committee did an enormous amount of work to ensure that this event was the success it was. I would also like to pay tribute to mayor Amanda Stevens and the City of Port Phillip in recognition of their active support for this memorial.

Methamphetamine inquiry

Mr D. R. J. O'BRIEN (Western Victoria) — I would like to take a few moments to commend my colleague Mr Ramsay and other parliamentary colleagues for the admirable work they have done in relation to the comprehensive report on the Law Reform, Drugs and Crime Prevention Committee's inquiry into the supply and use of methamphetamines, particularly ice — and shards, as it is also becoming known in the Geelong region and other places in Victoria.

The committee, ably chaired by Mr Ramsay, held over 113 public hearings and heard from 220 witnesses, and I would like to pay tribute to all those witnesses, particularly those from Victoria Police and the criminology institutes who provided their learning. I would like to pay tribute to the other members of the committee: deputy chair Johan Scheffer; Ben Carroll, the member for Niddrie in the Assembly; my Nationals colleague Tim McCurdy, member for Murray Valley in the Assembly; and David Southwick, member for Caulfield in the Assembly.

One of the important aspects of this scourge is its involvement with organised crime, and the committee pulls no punches in tackling that part of the issue. It also

emphasises that this requires a whole-of-government and whole-of-community response. I am pleased, as was Mr Ramsay, to acknowledge the recent announcements since the tabling of the report by the Minister for Crime Prevention, Mr O'Donohue, and the Minister for Mental Health, Ms Wooldridge, and the Premier's statements. This is a scourge on our community. It needs to be tackled head-on, and I encourage all members to support these important recommendations in a bipartisan manner.

Hazelwood mine fire

Ms MIKAKOS (Northern Metropolitan) — The damning report into the Hazelwood mine fire heavily criticised the adequacy and effectiveness of the government response and highlighted a clear lack of coordination between government agencies. When the fire first started in the Hazelwood mine site on 9 February the government's immediate response was chaotic and disorganised. Let us not forget that the Minister for Mental Health, Mary Wooldridge, was too busy fighting her Kew preselection battle at the time and took a whole month to visit Morwell, which she did on 6 March.

The report found that the advice provided to vulnerable groups to relocate was provided too late. There was widespread criticism of the timing of, adequacy of and eligibility criteria for the government's relief grants. The community was not clear about the decision-making and funding process for the clean-up. The self-clean package was inadequate for the scale of the cleaning task faced by community members. There was confusion about eligibility regarding the respite and relocation payment and flaws in communication, which caused distress in the community.

However, perhaps the biggest critique of the government's response is best left to the words of members of the Latrobe Valley community themselves. Feedback provided to the inquiry found that:

> Throughout the 45 days that the fire burned, members of affected communities felt they were not listened to and were not given appropriate and timely information and advice that reflected the crisis at hand and addressed their needs.

Ultimately, when the community were looking for answers, the government gave them information that was late and inconsistent.

Indigenous Literacy Day

Mrs MILLAR (Northern Victoria) — Yesterday was Indigenous Literacy Day, and I take this opportunity to note the important work done by all involved in increasing and enhancing literacy for Indigenous Victorians. I especially note the work of the Indigenous Literacy Foundation, an organisation for which I have fundraised over many years, especially through the hosting of trivia nights. Many of the gaps affecting Indigenous Australians that we seek to address can only be tackled by increasing literacy at the primary school level. This includes increasing education rates at secondary and tertiary levels, increasing Indigenous employment and even improving broader health and wellbeing outcomes. Without the important work to assist Indigenous literacy, many of these other goals cannot be achieved, so I thank those involved in this space.

Within my own electorate I acknowledge the work done at the Meeting Place, an Indigenous education program facilitated by Castlemaine District Community Health. I have visited Yapeen Primary School and met with the children who attend the Meeting Place. Last year the children produced their own book, *Tarrengower and Lalgambook — A Teaching from the Jaara Jaara*. It was both written and illustrated by the children and is their own re-telling of a Dja Dja Wurrung teaching. It was a very special achievement for these children and one of which they can be very proud. I thank and congratulate the Meeting Place mob for all that they do. Literacy is the greatest gift we can give to children. Indigenous Literacy Day gives us the opportunity to celebrate what is being achieved and to further support what can be done in the future. I urge all Victorians to support Indigenous literacy.

Labor Party election candidates

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — Late last year the decision by the Labor Party national executive to centralise preselections for members of the Legislative Council for the upcoming state election caused a great deal of controversy in Eastern Victoria Region amongst Labor Party members. Jan Rowe, a well-known Labor Party member, is reported in an article in the *Latrobe Valley Express* of 2 December 2013 as saying that this decision is an 'injustice' to democracy. The article also reports Nick Economou, a Monash University lecturer, as saying:

> The Victorian Labor approach seems to be 'here are all these positions and we will allocate these in line with factional patronage'; however, that is going to do absolutely nothing for the problems Labor faces in the Latrobe Valley and Gippsland', Mr Economou said.

Now we have a revelation. Labor has chosen a person to represent the Assembly electorate of Bass, a seat that covers the Bass Coast and Phillip Island through Koo

Wee Rup, Lang Lang and up to Pakenham. According to the *Pakenham Gazette* of yesterday:

> A 26-year-old car salesman from Deer Park is Labor's best option for the seat of Bass in November's state election.

It says Mr Sanjay Nathan:

> is a former electorate officer for member for Western Metropolitan, Khalil Eideh, at his Cairnlea office. He also majored in political science at Victoria University.

Labor does not care about Eastern Victoria Region, and it does not care about Gippsland. That is demonstrated by the way it is preselecting its candidates, who have absolutely no connection to the local community.

Leader of the Parliamentary Labor Party

Hon. D. M. DAVIS (Minister for Health) — All in this chamber will be aware of the extraordinary backflip of Dan Andrews, the Leader of the Opposition in the Assembly, and his decision to support Mr Shaw, the member for Frankston in the Assembly, in all circumstances. It is clear that he has shackled himself to Mr Shaw, and he has done that in an extraordinary way.

I was saddened that Mr Shaw stepped back from the apology he made earlier this week. I had hoped that he had made that apology in all sincerity. But what is more extraordinary is the behaviour of Daniel Andrews, or Dan Andrews — whatever his name is. It seems to me he had one position when he was Daniel and has another now that he is Dan. He has changed his view, and now he is determined to support somebody who he said was unsupportable.

The Liberal Party and The Nationals have gone through a proper process here and have respected the parliamentary institution, but Daniel 'Dan' Andrews has not done that. He is very much focused on supporting Mr Shaw for political purposes. The community of Victoria is sick of this business; they want it over and they want all of us to be focusing on other matters, as this Parliament is today. We are going to debate the Tobacco Amendment Bill 2014 later today. Victorians want to hear about key issues that are affecting communities. That is why we should get this well-managed Parliament into a good situation where Dan Andrews — —

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

SENTENCING AMENDMENT (COWARD'S PUNCH MANSLAUGHTER 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 (the 'charter act'), I make this statement of compatibility with respect to the Sentencing Amendment (Coward's Punch Manslaughter and Other Matters) Bill 2014.

In my opinion, the Sentencing Amendment (Coward's Punch Manslaughter and Other Matters) 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.

Overview

The main purposes of the bill are to amend the Crimes Act 1958 (Crimes Act) and the Sentencing Act 1991 (Sentencing Act) to:

> define certain acts as dangerous for the purpose of unlawful and dangerous act manslaughter;
>
> provide for the serving of a notice of the prosecution's intention to seek a statutory minimum sentence; and
>
> introduce a statutory minimum sentence of imprisonment for unlawful and dangerous act manslaughter in certain circumstances.

Human rights issues

Deeming provision

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

Clause 3 of the bill amends the Crimes Act to provide that a single punch or strike that is delivered to any part of a person's head or neck, that by itself causes an injury to the head or neck, is taken to be a dangerous act for the purpose of unlawful and dangerous act manslaughter. The presumption of innocence is relevant because the provision deems an act to constitute one of the elements of the offence of unlawful and dangerous act manslaughter.

However, the provision does not transfer the burden of proof because the burden remains on the prosecution to prove beyond reasonable doubt that the punch or strike was delivered to the victim's head or neck, and that the punch or strike, by itself, caused injury to the victim's head or neck. Further, the prosecution still must prove beyond reasonable doubt all the other elements of the offence. Consequently, the provision does not limit the right to the presumption of innocence.

Statutory minimum sentences

Clause 6 of the bill amends the Sentencing Act to create two new sets of aggravating factors that apply when sentencing an offender for unlawful and dangerous manslaughter in circumstances of gross violence or involving a single punch or strike. The bill provides that circumstances of gross violence exist if an offender acts with two or more other persons in causing the death of the victim, and a specified circumstance exists (for example, the offender causes two or more serious injuries to the victim during a sustained or prolonged attack). The circumstances involving a single punch or strike exist where the offender intended that the punch or strike be delivered to the victim's head or neck, the victim was not expecting the punch or strike, and the offender knew that the victim was not expecting, or probably not expecting the punch or strike.

If either set of aggravating circumstances applies, the bill requires a sentencing court to impose a minimum 10-year non-parole period unless a special reason exists.

Section 10A of the Sentencing Act, which contains an exhaustive list of special reasons for which a judge may depart from the statutory minimum sentence, will apply to these cases.

In my view, these amendments are an appropriate response to the impact of violent crime in Victoria, in particular the so-called 'coward's punch' cases. As discussed further below, the bill does not limit human rights set out in the charter act because the provisions are strictly limited and directed at high-level offending, and they retain the court's discretion to depart from the statutory minimum where appropriate.

Protection from cruel, inhuman or degrading punishment (section 10)

Section 10 of the charter act relevantly provides that a person must not be punished in a cruel, inhuman or degrading way.

In my opinion, the statutory minimum sentences introduced by the bill do not limit this right. These statutory minimum sentences focus on violent assaults involving a high level of culpability which result in death. The factors that constitute manslaughter in circumstances of gross violence are exhaustively listed and focus on group violence, a level of premeditation prior to or during the offending, or seriously violent conduct that is part of a sustained or prolonged attack. In some cases, these factors will capture offenders with levels of culpability just short of a murderous intent. Their application is strictly limited and directed to offences at the most serious end of the range of wrongdoing.

The factors that constitute manslaughter committed in circumstances of a single punch or strike are exhaustively listed and focus on the knowledge of the offender that the victim was not expecting or was probably not expecting the punch or strike. The factors focus on offending involving a high level of culpability where the offender attacks the victim when the victim is in an obviously defenceless state.

Moreover, the bill acknowledges that the statutory minimum sentence may not be appropriate in all cases. The bill's safeguard against the imposition of a disproportionate sentence is to allow a court to depart from the statutory minimum if it finds that the personal characteristics of the offender and/or the circumstances of the case justify doing so. If a court finds that a special reason exists, it has full discretion and may impose any sentence it considers appropriate.

Right to a fair trial (section 24)

Section 24 of the charter act 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. Nothing in the bill limits the right in section 24 of the charter act. For the statutory minimum sentence to apply, the prosecution must first give notice of its intention to prove the aggravating factors, and must then prove those factors beyond reasonable doubt. These provisions provide procedural fairness to the accused. While the bill prescribes the minimum sentence for manslaughter involving a single punch or strike, or circumstances of gross violence, the court has discretion to impose any sentence within the parameters of the minimum and maximum sentences.

Furthermore, as outlined above, the special reasons provisions allow the courts to depart from the statutory minimum sentence where appropriate. I also note that the High Court has consistently held that provisions imposing mandatory minimum sentences, which this bill does not do given the special reasons provisions, do not constitute a usurpation of judicial power and, as such, are not constitutionally objectionable.

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:

Introduction

Offenders who use extreme violence and unprovoked, one-punch attacks on unsuspecting victims, must be held to account. Too frequently, the victims are young people with their whole lives ahead of them. For the families and friends who have to deal with the sudden and senseless loss of a loved one, the consequences are significant and last a lifetime.

The government has already introduced a number of initiatives designed to address alcohol-fuelled violence in this state. These include alcohol exclusion orders, new powers for licensees and police to bar patrons from entering or remaining on premises if they are drunk, violent or quarrelsome, and the new gross violence causing serious injury offences, which carry statutory minimum sentences of four years.

This bill builds upon these initiatives by introducing statutory minimum penalties for killings in circumstances involving either a coward's punch or gross violence, and providing a

number of reforms to simplify the prosecution of these violent cases.

This bill sends two very clear messages. First, a punch or strike to the head is a dangerous act that can kill. It can no longer be an excuse to plead ignorance to this fact or to the fact that a victim may die as a consequence of hitting the ground because of the punch or strike. Public awareness of the dangers of a single punch has grown in recent times thanks to committed social campaigns and media attention, and this bill ensures that the legislation clearly reflects and reinforces the community's understanding about what is dangerous.

Second, gang violence will not be tolerated and will be severely punished. Some of the most horrific and terrifying deaths involve groups of three or more offenders viciously kicking or stomping a victim resulting in their death, deliberately carrying and using knives in street fights where a victim is fatally stabbed, or carrying out violent, preplanned conduct that was clearly likely to end in death.

The bill will ensure that adult offenders who cause death by inflicting a coward's punch or in circumstances of gang gross violence will go to jail for at least 10 years, unless the court decides that a genuinely special reason applies. This is a high minimum sentence and the government makes no apologies for this. This bill sends a strong message to would-be offenders that if you go out and end up killing someone in either of these circumstances, you can expect to go to jail for a minimum of 10 years.

A single punch or strike is a dangerous act

Many coward's punch deaths are already successfully prosecuted under Victoria's existing manslaughter laws. However, in some cases it is difficult to prove that a single punch or strike was dangerous — in that it involved an appreciable risk of serious injury. The bill explicitly defines a punch or strike to the head or neck that causes injury as a dangerous act for the purpose of unlawful and dangerous act manslaughter.

A punch or strike includes a strike delivered with any part of the body to ensure that acts like punching, kicking, or using elbows or knees are all covered. The punch or strike must be to the victim's head or neck. The punch or strike must be one that causes injury to the victim. This will ensure that this provision does not extend to trivial conduct, such as a very light or playful slap to the head.

The bill provides that the punch or strike is taken to be a dangerous act even if it forms part of a series of punches or strikes. For example, where the offender punches the victim to the head a number of times, and then delivers a final blow to the head that causes the victim's death.

In addition, the bill clarifies that a punch or strike may be the cause of a person's death, even if the injury from which the person dies is from an impact to the person's body caused by the punch or strike. This acknowledges that the punch or strike may be the cause of death where the victim dies from hitting the ground or an object as a consequence of the punch or strike and will simplify the issue of causation in such prosecutions. If defence counsel raise causation as an issue in the trial, the prosecution will be able to seek a direction to this effect under part 3 of the Jury Directions Act 2013.

These provisions will simplify the prosecution of these cases and make clear that a single punch or strike to the head is a dangerous act that can kill.

New statutory minimum sentences for manslaughter

The bill introduces statutory minimum sentences for manslaughters committed in circumstances involving gross violence, or a coward's punch. These statutory minimum sentences will apply if the prosecution has given notice as required by the bill, and the sentencing judge is satisfied of certain specified factors beyond reasonable doubt, unless there is a special reason.

The first set of factors will apply to cases of manslaughter committed in circumstances of gross violence. It will target group violence where the sentencing judge is satisfied beyond reasonable doubt that an offender acted in company with, or as a part of a joint criminal enterprise with, two or more other persons. The factors draw from the gross violence circumstances in sections 15A and 15B of the Crimes Act 1958 (Crimes Act) and tailor them to manslaughter cases.

The first factor is that the offender planned in advance to have and to use a weapon, and in fact did use that weapon in a way that caused the death of the victim. The requirement of planning in advance captures premeditation or preplanning rather than an intent formulated only moments in advance of the offending behaviour.

The second factor is that the offender planned in advance to engage in conduct and at the time of planning, a reasonable person would have foreseen that the offender's conduct would be likely to result in death. In unlawful and dangerous act manslaughter the test for dangerousness is that a reasonable person would have realised that the unlawful act would expose the victim to an appreciable risk of serious injury. This factor focuses on the most serious of these cases where a reasonable person would have foreseen a higher likelihood of harm and a more serious consequence, namely death.

The third factor is that the offender caused two or more serious injuries to the victim during a sustained or prolonged attack on the victim. This factor applies where a group bashes a victim in an unrelenting manner or for, or over, a long period of time, resulting in the victim's death. The requirement that the offender personally causes two or more serious injuries during the attack will ensure that it applies to particularly brutal attacks where the culpability of the offender is high.

For clarity and consistency, the bill uses the existing definitions in the Crimes Act of offensive weapon, firearm, and serious injury.

The second set of factors resulting in a statutory minimum sentence will apply to cases of manslaughter committed in circumstances involving a coward's punch. These factors will apply where the offender intended that the punch or strike be delivered to the victim's head or neck, the victim was not expecting the punch or strike, and the offender knew the victim was not expecting, or probably not expecting, the punch or strike. This will ensure that the new statutory minimum sentence will apply to an unprovoked and unexpected coward's punch that kills.

The bill also makes clear that the sentencing judge may be satisfied that the aggravating factors apply even where there

was a prior confrontation between the offender and victim. The intention is that the aggravating factors capture the gravamen of the coward's punch attack, which is that the offender caught the victim unawares, completely off guard and, in a sense, defenceless.

Where the sentencing judge finds that either the gross violence or coward's punch aggravating factors apply, the bill will require the judge to impose a term of imprisonment with a non-parole period of 10 years, unless a special reason exists. Juvenile offenders will not be subject to a statutory minimum sentence under this bill.

The gross violence offence provisions under sections 15A and 15B of the Crimes Act specifically indicate that the statutory minimum sentences do not apply to persons who are guilty because they aid, abet, counsel or procure the offence. The bill includes similar provisions for coward's punch manslaughter.

Because the gross violence manslaughter provisions are structured differently from the gross violence offence provisions under sections 15A and 15B of the Crimes Act, it is not necessary to specifically indicate that the new statutory minimums in this bill do not apply to persons who aid, abet, counsel or procure the offence of manslaughter. This is because the specific circumstances of aggravation depend upon the individual offender's state of mind (such as planning to use a weapon), the serious injuries caused by the individual offender, or what a reasonable person in the individual offender's position would have foreseen.

It is intended that the statutory minimum sentence will operate together with the usual principles of sentencing as set out in the Sentencing Act and at common law. For example, courts will comply with the requirement in section 11(3) of the Sentencing Act and impose a head sentence of at least six months more than the non-parole period.

When sentencing an offender who has committed multiple offences, which include manslaughter in circumstances involving either a coward's punch or gross violence, the court must ensure that the total effective sentence includes a non-parole period of at least 10 years.

Special reasons for not imposing the statutory minimum sentence

The court must impose a term of imprisonment with a non-parole period of at least 10 years, unless it finds that a special reason exists. The bill applies section 10A of the Sentencing Act, which sets out the special reasons that may be relevant to sentencing for gross violence offences, to sentencing for manslaughter committed in circumstances involving gross violence or a coward's punch. This provides the courts with scope, in limited circumstances, to consider factors that either substantially reduce the offender's moral culpability or provide a strong public policy reason for imposing a lesser sentence than the statutory minimum.

Special reasons also recognise that sometimes all of the aggravating circumstances may apply to an offender but there are particular features that need to be taken into account. Section 10A(2)(e) of the Sentencing Act, provides that a special reason exists if there are substantial and compelling reasons for departing from the statutory minimum sentence.

Conclusion

This bill delivers important reforms to better address the dangers of coward's punches and gross violence attacks. In future, offenders who cause death in these circumstances can expect to go to jail for at least 10 years unless there is a genuinely special reason why they should not.

This will better protect the community by putting violent offenders behind bars for longer, and sending a clear and strong deterrent message to would-be offenders that a single punch or strike is dangerous and can kill.

I commend the bill to the house.

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

Debate adjourned until Thursday, 11 September.

TOBACCO AMENDMENT BILL 2014

Second reading

Debate resumed from 21 August; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Ms LEWIS (Northern Victoria) — The opposition will not be opposing this bill. The bill before us today, the Tobacco Amendment Bill 2014, is a continuation of tobacco reform in Victoria, reform which has its origins in the 1980s. When the Cain government introduced the Tobacco Act 1987 it was considered a revolutionary action. It established Victoria as a world leader in the reduction of the use of tobacco. The Tobacco Act 1987 set the parameters for commencing the long task of reducing tobacco use, and I am pleased to see that it continues to be progressively reformed in line with community expectations and continues to protect people from the harmful effects of smoking.

The harm associated with tobacco is well documented and recognised by the community. We know that every cigarette destroys lung tissue, and that 80 per cent of lung cancer cases are caused by smoking. We know that the impact of tobacco use stretches far and wide across our community. Tobacco is responsible for almost 4000 deaths in Victoria each year and costs the Victorian community over $5 billion annually in healthcare and social costs. Tobacco is the leading cause of preventable death in Victoria, causing a wide range of cancers, heart disease, stroke, chronic bronchitis and emphysema.

I would like to speak about the history of attempts to limit smoking. When I spoke on the Freedom of Information and Victorian Inspectorate Acts Amendment Bill 2014 last sitting week Mr David O'Brien expressed concerned about me referring to

'ancient history'. It is important that we look at our history and learn from the past.

Today I would like to take us a bit further back into history. While we consider the Tobacco Act 1987 the starting point for reforms in Victoria, the negative effects of tobacco have been known and commented on since shortly after its introduction to Europe in around 1560. In 1604 King James I of England wrote a treatise called *A Counter-blaste to Tobacco*. In this document he complained about passive smoking, warned of the danger to the lungs and called tobacco 'hateful to the nose'. He subsequently authorised an excise tax and tariff on imported tobacco — probably the first action by a government to reduce the use of tobacco. Coincidentally, work on the King James version of the bible also commenced in 1604, and it continued until 1611. Just imagine how different the world would be today if similar resources had been put into following up *A Counter-Blaste to Tobacco*.

When the Tobacco Bill 1987 was introduced almost 40 per cent of the community smoked. Since then that figure has more than halved, but despite the overall reduction in the consumption of tobacco, smoking rates remain high in areas of disadvantage. The statistics are clear. They show that the range of tobacco reforms made over the years have significantly contributed to a reduction in the number of smokers in Victoria. Current adult smoking rates in Australia are 17.5 per cent of the population, but in Victoria they are 13.3 per cent.

Unfortunately the antismoking message is not getting through as strongly to people in rural and regional Victoria. This places them at much greater risk of cardiovascular and other circulatory diseases. For example, 27.1 per cent of people in the Moira shire in north-eastern Victoria smoke; in Greater Shepparton, 25.4 per cent; and in the shire of Mansfield the smoking rate is 24 per cent.

Past legislation has played a significant role in reducing tobacco use in Victoria. Reforms addressing youth smoking, such as those that increased the penalties for selling cigarettes to minors, were introduced in November 2000. Smoke-free dining laws were introduced in July 2001. Smoke-free shopping centre laws were introduced in November 2001. Further restrictions on tobacco advertising and displays within tobacco retail outlets were introduced in July 2001. Smoking restrictions in licensed premises, gaming and bingo venues, and the casino were introduced and adopted in September 2002.

Smoking bans in enclosed workplaces, at under-age music and dance events, and in covered areas of train station platforms, tram shelters and bus shelters were introduced in March 2006. Bans on buzz marketing and non-branded tobacco advertising were introduced in March 2006. A further strengthening of laws to enforce the ban on cigarette sales to young people occurred in March 2006. Smoking bans in enclosed licensed premises were introduced in July 2007.

On 1 January 2010 a ban on smoking in motor vehicles carrying children under the age of 18 was introduced. Bans on the sale of tobacco from temporary outlets were introduced on 1 January 2010. A power for the Minister for Health to ban tobacco products and packaging that appeal to young people, non-tobacco products that resemble tobacco products and any other product the nature or advertising of which might encourage people to smoke was introduced on 1 January 2010. A ban on the display of tobacco products in retail outlets, with the provision of an exemption for specialist tobacconists and airport duty-free shops, was introduced on 1 January 2011.

Since the change of government in 2010 the Baillieu and Napthine governments have introduced smoke-free patrolled beaches, banned tobacco from shopper loyalty schemes and banned smoking on public transport platforms, in outdoor areas of public swimming pool complexes, outdoor skate parks, outdoor sporting venues during under-age sporting events and in the vicinity of outdoor children's playgrounds. However, on the downside, the coalition government has won the Australian Medical Association's Dirty Ashtray Award three times as the state that has taken the least action on tobacco.

Despite the progress of reform, the impact of tobacco is still concerning. There is strong evidence that reductions in the prevalence of adult smoking in the Victorian population are achieved by a combination of legislative reform, education programs, support through primary health services and antismoking social marketing campaigns. Helping to protect Victorians from the harmful effects of tobacco use should be a high priority for all state governments.

The purpose of the bill before us today is to further amend the Tobacco Act 1987 to prohibit smoking in specified outdoor areas, to prohibit smoking in the vicinity of pedestrian access points to certain places, to increase the penalty at the foot of section 11A of the principal act, and to amend the powers of inspectors in relation to monitoring compliance with, and investigating possible contravention of, certain provisions prohibiting smoking in outdoor areas.

The aim of these amendments is to further denormalise smoking in our community, further limit exposure to second-hand smoke, reduce littering and improve public amenity. Smoking will now be banned at preschool and child-care services premises while those areas are being used for educational or child-care activities. All school premises will now be required to be smoke free at all times. Currently there is a ban on smoking in government schools through a ministerial order; however, the ban will now be legislated and apply not just to government schools but across all schools.

This bill bans smoking within 4 metres of a pedestrian entrance to a range of public facilities, including the Parliament, courts, hospitals and health services. This means people seeking health treatment will no longer have to pass through crowds of people smoking while clustered around the entrances to hospitals and other public health providers.

The smoking ban will also apply within 4 metres of pedestrian entrances to children's indoor play centres, preschools, child-care services and schools. It is this provision that I have significant concerns about. Pedestrian entrances to many of these facilities are generally gates in wire fences. Smoke, as we all know, travels through wire fences, and children play or gather near the boundary fences at many of these facilities. While moving smokers 4 metres from the pedestrian access or gateway looks good on paper, realistically it is an ineffective measure. It will not protect children from second-hand smoke, it will not remove smokers from the view of children in the school ground, and it will not denormalise smoking or improve amenity.

To achieve these aims the bill ought to have specified a smoking ban within 4 metres of a boundary fence between a childcare or educational premises and public land, particularly roads or footpaths. A move such as this would have fulfilled the objectives of the bill as smokers would in most cases have had to stand on the opposite side of a road, well away from children and frequently out of their sight. The same exemptions could have applied to this arrangement as those that apply to the measures proposed in the bill — that is, someone who is in an outdoor drinking or dining area or walking or driving past will not be committing an offence. 'No smoking' signs will be required to identify the new areas where smoking is banned.

This bill empowers inspectors to enter premises, as specified in the bill, for the purpose of monitoring and enforcing the new sections of the amended act. However, inspectors must be accompanied by the occupier of the premises or a person acting on their behalf.

The maximum penalty for the new offences set out in the bill will be 5 penalty units, which is currently $730. However, the most likely enforcement will be through on-the-spot fines of 1 penalty unit, which is currently $147. The bill quadruples the penalties for retailers and wholesalers possessing illegal tobacco, smuggled goods or goods for which an excise has not been paid. Fines will increase from 60 penalty points to 240 penalty points, and from 300 penalty points to 1200 penalty points.

The provisions of this bill will go a long way to further the denormalisation of smoking and the reduction in the numbers of young people taking up the habit. I look forward to future steps that continue the process of reforming the Tobacco Act 1987. These could include banning smoking in outdoor dining and drinking areas. Political parties could demonstrate leadership by practising what they promote — for example, the Liberal Party and The Nationals could follow the lead of the Labor Party and refuse to accept donations from tobacco companies.

Continued assistance and resourcing of health promotion, preventive healthcare programs and social media campaigns directed towards young people must be supported by all political parties. Together we can help people overcome their addiction to tobacco and save thousands of Victorian lives.

Ms HARTLAND (Western Metropolitan) — My contribution to the debate on the Tobacco Amendment Bill 2014 will be quite brief. The Greens will support the bill because we have been very strong on the issue of tobacco control. The bill amends the Tobacco Act 1987 to ban smoking within the grounds of and at or near entrances to all Victorian childcare centres, kindergartens or preschools, primary and secondary schools, and at and near entrances to children's indoor play centres and Victorian public premises, which are all Victorian public hospitals, registered community health centres and certain Victorian government buildings.

The bill quadruples the penalty for possession of illicit tobacco by retailers and wholesalers to discourage trade in illicit tobacco and amends the powers of entry for inspectors to enhance enforcement of outdoor smoking bans.

These are all welcome reforms. All too often I have had to walk through the entrances of hospitals where people are smoking, as I am sure have other people in this

chamber. Today as I got off the train at Parliament station, I noticed quite a few people smoking just outside the station zone. I find it very disconcerting to have to walk through clouds of smoke as I enter buildings. We want to continue the campaign about denormalising smoking so that children do not get the idea that somehow smoking is glamorous or something you would want to do. As we reduce the number of people who smoke, we will reduce the number of people whose health is profoundly affected by cigarettes.

As I have always said when we debate these bills, I find it a shame that the government is still not prepared to do anything about the issue of smoking in outdoor dining and drinking areas. There are only six more sitting days in this parliamentary session. Clearly the government is not going to bother to bring in this most essential piece of legislation, to ban smoking in outdoor dining and drinking areas. Every time I have raised this issue the government has never given what I consider to be a satisfactory answer as to why it has not moved on that piece of legislation. This is the fifth or sixth piece of legislation we have dealt with on the issue of smoking, yet it has never bothered to address the pivotal issue — that is, to ban smoking in outdoor dining and drinking areas. With those few words, the Greens will support this bill.

Ms CROZIER (Southern Metropolitan) — I am pleased to rise this morning to contribute to the debate on the Tobacco Amendment Bill 2014. I thank members of the opposition for their support of this bill.

Mr Lenders — Happy to oblige.

Ms CROZIER — I thank Mr Lenders. This is another important step forward in relation to smoking. I note Ms Hartland's comments about banning smoking altogether. However, incremental steps need to be taken in order to bring the community with us in relation to banning smoking. This government has undertaken an enormous amount of reform in this regard, and I will highlight some of that work in a moment. Nevertheless, I am pleased that Ms Hartland and Ms Lewis are supporting this government's measures. Previous governments have put in place a number of smoking bans, and this bill provides another example of this government's work in this regard.

The purpose of the bill is to amend the Tobacco Act 1987 to provide for further outdoor smoking bans to ensure that the entrance to children's play centres as well as our essential Victorian government services are smoke free. In Victoria there are around 2200 primary and secondary schools and approximately 4200 kindergartens and childcare centres. This bill sends a very strong message to those children and their parents that second-hand smoke is harmful to one's health. It is also about denormalising smoking.

We know that smoking takes an enormous toll. Around 4000 Victorians lose their lives to smoking-related diseases each year. It costs $2.4 billion in direct health costs and lost productivity to the Victorian community, which has an enormous impact on families, the community and the economy.

The intent of this bill is to further limit exposure to second-hand smoke and to denormalise smoking. Clearly there will have to be some further education campaigns. I know the department will be putting out messaging and enabling that to occur. The bill also makes two minor and technical amendments to the principal act. It will quadruple the penalty for possession of illicit tobacco by retailers and wholesalers. The maximum penalty will increase to $35 000 for individuals and $177 000 for businesses. This amendment will provide a strong deterrent for those considering trading in illicit tobacco.

The final point I would like to make in relation to what the bill will do is that it will amend powers of entry for inspectors to enhance the enforcement of outdoor smoking bans. As I said, this bill will directly affect a number of schools and childcare centres, but it also provides for a ban on smoking within 4 metres of entrances to essential Victorian government services or public premises. If you look at what that includes, you see the list is quite extensive — the Parliament and the Victorian courts; public service bodies, including all Victorian departments; and administrative offices such as those for the Environment Protection Authority Victoria, the Local Government Investigations and Compliance Inspectorate, the Office of Living Victoria and the Public Record Office Victoria, just to name a few.

It will also apply to special bodies within the meaning of the Public Administration Act 2004, including the Electoral Boundaries Commission, the department of the Parliament of Victoria, the office of the commissioner for law enforcement and data security, the Victorian Civil and Administrative Tribunal and the Victorian Auditor-General's Office. Again this is just an example of a few of the bodies the bans will apply to.

As I said, the government has been fulfilling an extensive commitment to the Victorian public in relation to ensuring that it is aware of the harmful effects of smoking. It is heartening to see that the

government, along with other agencies, has been successful in reducing the prevalence of smoking in Victoria by highlighting to the community just how damaging it is. In 2012 the number of regular smokers declined to 13.3 per cent from 14.4 per cent in 2011. In 1998, 21.2 per cent of adults were regular smokers. The latest figures represent a decline of around 37.3 per cent since 1998. That is over a period of 15 or 16 years or so. It is a significant drop, but obviously we need to do more. A smoking rate of 13.3 per cent is still too high.

We want to send a message to young Victorians and children about the harmful effects of smoking. In the 2014–15 budget the government committed over $8 million towards tobacco control initiatives, including smoking cessation programs, antismoking advertising campaigns and education and enforcement activities, as I have mentioned previously. That has a particular emphasis on the prevention of the sale of tobacco to young people. Again, we want to send that message about the damaging effects of smoking to children and young people.

During its time in office the government has made a number of legislative amendments. Amendments to the Tobacco Act include ensuring that infringements issued for smoking in cars carrying children can be enforced by the infringements court, which has been effective from June 2011; banning smoking on patrolled beaches, effective from December 2012; excluding tobacco products from shopper loyalty and rewards programs, effective from March 2013; banning smoking around outdoor children's playground equipment, effective from April 2014; banning smoking in outdoor skate parks, also effective from April 2014; banning smoking in outdoor areas of public swimming pool complexes, also effective from that time; and at the same time banning smoking at sporting venues during organised under-age sporting events.

In April the government created an offence of intimidating, threatening or assaulting an inspector; repealed the packaging of tobacco provisions in light of the comprehensive commonwealth plain packaging laws; and allowed for the form of tobacco price noticeboards to be prescribed. In addition, there has been greater flexibility in the use and disclosure of tobacco retailer information for communication purposes relating to tobacco retailer obligations. The government has also removed the ability of retailers to apply for specialist tobacco certification and therefore the ability to obtain the tobacco product retail display ban exemption.

A number of legislative amendments have been made. In addition to that, there have been a number of regulatory amendments. The government amended the Transport (Conduct) Regulations 2005 to ban smoking on all raised tram platforms and all train platforms effective from March this year. I think the community at large appreciates those regulatory amendments. In addition, the government has overseen the implementation of the ban on the display of tobacco products in Victorian retail outlets, which came into effect from January 2011. An exemption exists for certified specialised tobacconists and airport duty-free shops.

The government has also undertaken to send the message to young people through a number of important measures, including a ministerial order of November 2011 banning fruit-flavoured rolling papers, cigar wraps and cigarillos on the grounds that such products might appeal to children.

The Department of Health has worked extensively in this area. I commend all those who have been working on this and providing assistance to support various initiatives, including the development and expansion of the Victorian networks of smoke-free healthcare services to share best practice and develop consistent, comprehensive smoke-free policies in hospitals. Members have heard me talk about when I worked in the public health system. I recall clearly when smoking was permitted in hospital wards — we had designated areas of wards where patients were allowed to smoke freely. In this day and age it is extraordinary to think of that occurring. I am pleased that health services and the department are working collaboratively to ensure that smoke-free policies are adhered to in public hospitals.

A number of other initiatives are being undertaken. In January the government announced it would quadruple the penalties for possession of illicit tobacco by retailers and wholesalers to dissuade and discourage the trade in illicit tobacco. We have just heard about the enormous problem with methamphetamines, particularly ice. That is an illegal drug; clearly tobacco is not, but this is about the sale of illicit tobacco. We want to send the message that it is completely unacceptable.

From July next year smoking will be banned in all Victorian prisons. This will have the effect of improving the health and wellbeing of both prisoners and staff. In August the government announced that it would ban smoking in outdoor dining areas during its next term. We have done an enormous amount to send a very strong health message to Victorians that smoking has a devastating effect on one's health and on the community, and clearly it is a huge financial cost to our health system as well.

Cancer Council Victoria does a tremendous job in supporting the government's various measures. I was pleased to be with the Minister for Health just a couple of weekends ago to see the launch of the Triggers campaign. Quit Victoria in conjunction with the Cancer Council has launched a campaign to assist people to understand which triggers might start them smoking again if they have given up. The campaign provides smokers with strategies, ideas and tips on how to deal with things that might trigger in somebody the urge to smoke, such as having a drink with friends or being at a party. That campaign is currently being rolled out, and I congratulate Cancer Council Victoria and Quit Victoria on the initiative. I hope it will assist the many people who have given up smoking to avoid taking up the habit again.

This is another demonstration of what the government is doing to further protect Victorians, promote a healthy message about what we need to be doing and particularly to send the message to young people and children that smoking has harmful effects. That is what this amendment to the Tobacco Act 1987 does. I commend the bill to the house.

Mr ELASMAR (Northern Metropolitan) — I rise to speak on the Tobacco Amendment Bill 2014. Like my colleague Ms Lewis I indicate that we are not opposing the bill. Much has been done over the last few years by way of legislation to minimise the smoking of tobacco in our state. That smoking is harmful is not in dispute. Measures taken to date have seen a steady decline in the sale of tobacco products, and most kids today do not think smoking is cool. However, there is no doubt that constant exposure to smoking is harmful to the perceptions of young people. Adults or, worse, hero figures in the movies who smoke can impress young people and motivate them to consider taking up smoking to emulate their elders or contemporaries.

Smoking is now banned at or near public outdoor children's playground equipment, sporting venues during organised under-age sporting events, outdoor areas at public swimming pools, at skate parks and on patrolled beaches. Most Victorians support such legislation, and the bill takes the next step in banning smoking in outdoor areas near children. Smoking will also be banned within 4 metres of the entrance to children's indoor play centres.

The bill amends the Tobacco Act 1987 to ban smoking near entrances to and within the grounds of all 6400 Victorian secondary and primary schools, preschools, kindergartens and childcare centres, at and near entrances to children's indoor play centres and at Victorian public premises. This includes all Victorian public hospitals, registered community health centres and some Victorian government buildings. The bill makes two minor and technical amendments to the Tobacco Act 1987. The penalty for possession of illicit tobacco by wholesalers and retailers is quadrupled, discouraging the illicit tobacco trade, and inspectors' powers of entry are amended to strengthen their capacity to enforce outdoor smoking bans.

I do not need to go any further. Again, the opposition will not oppose the bill.

Mr RAMSAY (Western Victoria) — It gives me pleasure to rise to speak on the bill this morning. In doing so I acknowledge that I have always been a strong supporter of the Minister for Health's move in a step-by-step process to try to prohibit smoking and the impacts of smoking, particularly in areas where there are children, and to ban smoking in outdoor dining areas.

It is also on the record that I had a mission when I became a member of Parliament that I would do all I could to reduce the impact of smoking not only on those who smoke — and for the 4000 Victorians a year who die of smoking-related causes — but also on those who are impacted by passive smoking. My father was a smoker, and he died of a smoking-related illness. My first mission in life as a member of Parliament is to do everything I can to try to encourage those who smoke to quit and to protect those who are affected by smoke. My father's smoking led to pancreatic cancer, so my second mission is to ensure that we continue research into this cancer that affects so many people. They are my two missions. I am pleased to be able to contribute to reducing the impact of smoking and pancreatic cancer at every opportunity.

I am pleased to support this legislation. I will not go into detail; Ms Crozier did a very good job of providing the basis for this legislation and talking about the prohibitions that will occur when the legislation is passed. I want to put on the record that I look forward to the minister introducing legislation in relation to prohibiting smoking in outdoor dining areas. I have made many contributions to debates in which I have mentioned that every time I have a meal in an outdoor dining area I am overcome by smoke wafting from the rude, inconsiderate and ignorant people who continue to smoke in areas where people are eating. I find it quite offensive. It is very bad for the health of people in the vicinity.

I look forward to the introduction of legislation dealing with that issue, and I certainly support this legislation, which defines areas where smoking will be prohibited. I

also commend the Minister for Health for increasing the penalties associated with illicit tobacco and illicit smoking. I believe the penalties have almost quadrupled in this legislation. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

I thank honourable members in the house for their support of this bill. In the tradition of tobacco control measures this bill has been passed with the support of all parties in the Parliament, and that is an important matter. This legislation continues the government's steady incrementalist approach to putting further restrictions on tobacco availability and sending a clear message, in particular about children, families and young people. As a number of members have outlined, this approach is having a steady and positive effect.

I also put on the record the partnership with a number of key non-government organisations — the Heart Foundation, Cancer Council Victoria, the Australian Medical Association and VicHealth — in this process. I note the reliance on advice from VicHealth over a longer period. I also thank my department, in particular the tobacco control section. I thank Laura Andrew and her team, including Heidi Rose, and the department's legal team for their support through this process.

Motion agreed to.

Read third time.

QUORUM

Mr LENDERS (Southern Metropolitan) — Acting President, I draw your attention to the state of the house.

Quorum formed.

SEX OFFENDERS REGISTRATION AMENDMENT BILL 2014

Second reading

Debate resumed from 20 August; motion of Hon. M. J. GUY (Minister for Planning).

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to talk about the Sex Offenders Registration Amendment Bill 2014. I state from the outset that the opposition supports measures designed to protect children from sexual abuse. The increasing rate of sexual offending is a distressing aspect of our society, particularly when it involves children.

When in government Labor enacted a wide range of groundbreaking measures in relation to sex offenders. That approach saw things like extended supervision orders for serious sex offenders and the introduction of the Serious Sex Offenders Monitoring Act 2005, which provided community-based post-sentence extended supervision of child sex offenders at high risk, as well as the Serious Sex Offenders (Detention and Supervision) Act 2009. On this side there has been a commitment to taking whatever steps were required to seek to address what is a serious issue.

As we are all increasingly aware, sexual abuse, particularly of minors, has a lifelong effect. It can define a person for life. It can impact their capacity to integrate successfully into the community. It can impact their ability to complete school and their ability to have longstanding and fulfilling relationships with their partners and indeed with their children. It is an incredibly harmful and insidious crime, and all parties should take it seriously. For those reasons we welcome measures designed to protect children from sex abuse, and the Labor Party will continue to support such measures.

We are more aware of issues of abuse following the parliamentary inquiry into the handling of child abuse by religious and other organisations, and at the federal level the ongoing Royal Commission into Institutional Responses to Child Sexual Abuse, and we support sensible and considered legislation that will further protect children from sexual predators. We are happy to support new measures for greater supervision of sex offenders and measures ensuring that there is a sound basis for sensible information sharing with regard to child sex offenders.

However, we are concerned about the poor performance of the government more broadly when it comes to crime and to law and order. It is worth noting

that between 2009 and 2010, under this government's watch, we have seen a terrible record of offences. Crimes against the person have increased by 30 per cent, crime against property has increased by 4.7 per cent — —

Hon. D. M. Davis — Reported crimes. That's what you mean.

Mr TEE — Mr Davis wants to split hairs, but the reality is that those are the figures as reported, and we are not just talking about domestic violence — we are talking about crimes against the person and crime against property. Across the board, under this government's watch, crime is skyrocketing.

Mr Elsbury interjected.

Mr TEE — Mr Elsbury has the audacity to say that we have more crime because we have more police. Mr Elsbury needs to understand that police do not commit crime, and the problem that we have seen, Mr Elsbury, is that — —

The ACTING PRESIDENT (Mr D. R. J. O'Brien) — Order! Mr Elsbury will cease interjecting, and if Mr Tee could make his remarks through the Chair, the debate will be more orderly.

Mr TEE — Through the Chair, I note that we are increasingly seeing police looking after prisoners in holding cells, Mr Elsbury, not out on the beat where they should be. If you go down to Bellarine, you will see increasing numbers of police stations being closed down — —

Mr Elsbury — On a point of order, Acting President, you requested that I stop interjecting, and I have done so. Mr Tee continues to defy the Chair and to direct his comments at me.

The ACTING PRESIDENT (Mr D. R. J. O'Brien) — Order! There is no point of order in the sense that I just asked Mr Tee to resume his debate through the Chair.

Mr TEE — I understand the nervousness of those opposite; this is a debate they do not want to have. Crime increasing is not what they want to talk about. I understand that having police babysit prisoners instead of them being out on the beat and making a difference is not something government members want to talk about. They do not want to talk about the fact that drug offences have increased by 60 per cent under their watch and the fact that crime generally has increased by 66 per cent under their watch. I understand why they do not want to talk about the fact that crimes against people have increased by 30 per cent and crime against property by nearly 5 per cent.

I can understand why they do not want to talk about that, because to do so would require the government to admit to the Victorian people that it has failed them because it cannot run prisons. It has failed them because it has police officers acting as prison guards instead of being out on the street and stopping crime. The coalition promised to fix it and what it has done is make it worse. Families today are less safe than they were when — —

Mr Elsbury — You are a scaremonger.

Mr TEE — You might dispute the figures, but people living out there in Victoria experience the reality. No amount of hollering across the chamber will silence the fact that people out there are literally living in fear because of those alarming statistics, and those statistics hide the humanity, the faces and the families behind that data.

We are very concerned about the state of law and order under this government. We are concerned that police officers, who ought to be out there on the streets, are babysitting. We have seen crime increase by 18 per cent over four years on this government's watch, and we have read a number of local stories about crime increasing. It is not a pretty picture.

There has been an increase in the number of offences under the Sex Offenders Registration Act. There has been a doubling of the number of occasions when registered sex offenders have provided false or misleading information, and this is particularly alarming. If it is not bad enough to see these failures by the Deputy Premier, who was formerly the Minister for Police and Emergency Services, one can also see a 353 per cent increase in failures by sex offenders to comply with reporting obligations. Seriously, what is happening out there? The system simply is not being managed effectively, leading to a very dangerous outcome being experienced and repeated on our streets.

We are also concerned and unclear about why it has taken so long to introduce this bill, which sets out changes that tighten reporting obligations when, as I have said, the failure to comply with reporting obligations has exploded by some 353 per cent. This lazy, poor-performing government has allowed these things to mount up while it does nothing.

The issues that are purportedly addressed by this bill have been around for a long time. The government has known about them since at least 2011 when the Ombudsman handed down its report into the failure by

police to notify the Department of Human Services of more than 300 registered sex offenders who had unsupervised access to children or who were living with children. The investigation into the failure of agencies to manage sex offenders under the Whistleblowers Act 2001 resulted in a number of recommendations. The issue has been around since April 2011 when the Law Reform Commission made 79 recommendations. This government has been on notice for more than three years, and it has taken it that long to introduce this bill.

The bill enacts many of the recommendations of the Law Reform Commission report, but we are concerned that there are some substantial gaps that remain unresolved. We are concerned that many of the recommendations have not been included in the bill, particularly recommendation 2 which deals with child-related employment. We would be keen to hear from the government as to why those important recommendations have been missed out. It is not only recommendation 2 on child-related employment but also recommendations in chapter 5 which cover the selection of who is on the register, in chapter 6 on refining reporting obligations and in chapter 8 covering child protection prohibition orders. It is incumbent on those opposite to explain the gaps between what has been recommended and what has been inserted in this bill.

We support provisions that impose controls and protect the security of children. There are provisions in this bill that seek to impose controls on sex offenders by requiring them to verify their movements when travelling overseas. The bill also changes reporting obligations by reducing the variability of reporting periods within which registrants must report changes to their personal circumstances.

It is half-done, it is late and there are some gaps, but ultimately, on balance, this bill is a step forward. We commend the bill but condemn the government for its failure on law and order and its failure to rein in the crime rate, including through the use of the sex offenders register.

Hon. R. A. DALLA-RIVA (Eastern Metropolitan) — I am pleased to make a contribution on behalf of the government to the second-reading debate on the Sex Offenders Registration Amendment Bill 2014. I appreciate the comments made by the previous speaker — although I always have a bit of a laugh in respect of Mr Tee's contributions, because even if the day were sunny and the world perfect, Mr Tee would still find a reason to have a whinge. There would be something wrong somewhere that would upset him.

Hon. W. A. Lovell interjected.

Hon. R. A. DALLA-RIVA — Yes — glass half empty. There would be something wrong with the glass; it would be chipped or something in Mr Tee's eyes.

This amending bill responds directly to recommendations made by the Victorian Law Reform Commission after a review of the Sex Offenders Registration Act 2004. The government stated its intention back in August this year to introduce amendments to the principal act to deal with a range of issues that came out of that review.

The bill is about introducing reforms to help Victoria Police, the Department of Human Services (DHS) and allied federal, state and territory law enforcement agencies to better manage sex offenders and the risks they pose to the community and to children in particular. The legislation has been developed in conjunction with operational police and child protection practitioners, and the changes include a sensible, balanced, unambiguous and more enforceable definition of contact with children. It creates an indictable offence carrying a penalty of up to five years in prison for any registrant who fails to report that they have had contact with a child or lies to police about their contact with a child.

Victoria Police can now retain vital information and intelligence on registrants after they have completed their reporting obligations. This is vital for investigating future alleged child sex offences. Currently police must destroy each registrant's records after they have completed their registration period.

The bill also includes a provision that registrants travelling overseas must now provide police with proof of where they went and stayed when travelling overseas — for example, passports, visas and credit card receipts for hotels. Information and intelligence received under these new reporting obligations will of course be shared with the Australian Federal Police and overseas law enforcement agencies to prevent, investigate and prosecute cases of child sex tourism.

Finally, a new provision in the bill gives police officers an express power to disclose a registered sex offender's identity to a parent, guardian or other third party when doing so improves the child's safety. The bill, as I have indicated, creates a new indictable offence. It also creates a summary offence for not reporting certain personal details that are material to identification but

are unlikely to lead to reoffending. Examples include a new tattoo or a change of car.

We believe the amendments in this bill strengthen a system that has worked well. They clarify when people on the register have to report to police. Under the amending provisions in this bill, people on the sex offenders register who are planning to travel overseas, as I already indicated, must provide further and better details to ensure that child sex tourism is not being contemplated by the registrant. In terms of the other recommendations in the Victorian Law Reform Commission's review the bill gives police the power to charge sex offenders with a range of indictable and summary offences if they do not meet their reporting obligations.

The bill amends the principal act to ensure that there is further protection for children from convicted sex offenders and that we make Victoria safer for our most precious asset. These are new and tougher measures. We know the bill will ensure that police and other law enforcement agencies, as well as DHS, will be better equipped to deal with the scourge of these offenders well after they have served their time in prison or after the expiration of their time on the register.

This is an important bill, and I know there are other members who want to speak. I therefore wish it a speedy passage so it may be enacted very soon and we can get on with the job of protecting our children in the state of Victoria.

Ms PENNICUIK (Southern Metropolitan) — The background to the Sex Offenders Registration Amendment Bill 2014 is that it follows from the 2012 Victorian Law Reform Commission's review of the Sex Offenders Registration Act 2004, which handed down 79 recommendations. The review was conducted after the publication of the Victorian Ombudsman's report entitled *Investigation into the Failure of Agencies to Manage Registered Sex Offenders* in February 2011, which examined the failure by police to notify the Department of Human Services of more than 300 registered sex offenders who had unsupervised access to children or were living with them.

This bill was introduced, as Mr Dalla-Riva so quaintly put it, 'back in August'. In fact it was 20 August, a mere 15 days ago. He said 'back in August' as if it was some time in the distant past, when it was only two weeks ago.

Honourable members interjecting.

Ms PENNICUIK — The subject matter of this bill is very important. Mr Dalla-Riva and Mr Danny O'Brien might find it amusing, but it is not amusing; it is very important. It has only just arrived in the Parliament and was introduced into this chamber with no briefing having been provided by the department on the bill. Mr Dalla-Riva also made the comment that it responds to the Victorian Law Reform Commission's (VLRC) report. Yes, it does, partly, but it leaves out a large number of the recommendations made by that commission. Also many people in the community are querying the effectiveness of some of the changes it makes to the act.

Although Mr Dalla-Riva wants to describe the bill as containing new, tougher measures and wishes it a speedy passage, I would prefer they were effective measures that were actually going to work. Rather than having a speedy passage I would prefer the bill be subject to some scrutiny to make sure that it achieves the changes brought about by the amendments to the Sex Offenders Registration Act 2004, the Children, Youth and Families Act 2005 and the Freedom of Information Act 1982 and assists Victoria Police, DHS and federal, state and territory law enforcement agencies to better manage the risks that sex offenders pose to the community.

Rather than rushing the bill through the Parliament, which seems to be what is happening at the moment — at my last count there were some 37 bills in the waiting room — —

Hon. R. A. Dalla-Riva — Hear, hear! Isn't that great? It shows a government working — very focused!

Ms PENNICUIK — It shows a government that cannot manage its agenda. It has a huge traffic jam at the end of the parliamentary term.

The Ombudsman found some serious problems, including that police had left more than 700 children exposed to an unacceptable risk from 376 identified sex offenders. In response to that, the government has put more money — $8.7 million — into new staff, including psychologists, intelligence practitioners and compliance and offender management officers, and that is a good thing. However, the operation of the sex offenders register has been highly controversial, with many advocates saying that it is inflexible and too complex. We need to make sure that it actually operates to protect the community, and that is what I am concerned about.

The Sex Offenders Registration Act 2004 established the mandatory registration scheme that has operated since 2004. Under it all adult sentences for committing sexual offences involving children automatically

include the offender on the register of sex offenders. Sex offenders under the age of 18 years and adults sentenced for sexual offences against adults may be included on the register by a court order. Registered sex offenders living in the community are required to keep police informed about their personal details and whereabouts for a period determined by the act. They are also required to report the names and ages of children with whom they live or have regular unsupervised contact. Adult offenders are required to report for 8 years, 15 years or life depending on the offence for which they have been sentenced. Young offenders report for four years or seven and a half years. Apart from requiring offenders to meet their reporting obligations, the Sex Offenders Registration Act also prevents offenders from engaging in child-related employment in any capacity.

All of this was covered and recommendations were made about how the register is operating in the Victorian Law Reform Commission review in 2012. I agree with Mr Tee that it has taken a long time for this bill to come about. Two years later we have a bill arriving in the Parliament just two sitting weeks before the Parliament is prorogued, and the bill has not had any scrutiny. When a bill arises out of an Ombudsman's report and then a law reform commission report, the Parliament should have some scrutiny of it, in particular when it goes to the serious issues this bill does. It should not just be the executive government popping the bill out of a minister's office — in this case the office of Mr Wells, the Minister for Police and Emergency Services — into the Parliament without any consultation in the community and then expecting it to be rammed through in one week.

A summary of the Victorian Law Reform Commission's criticism of the sex offenders registration scheme is that, firstly, not all sex offenders present the same risk of offending, so the automatic registration of every adult who commits a sexual offence against a child has extended the reach of the scheme to offenders who are highly unlikely, based on any reasonable assessment, to offend again. The law reform commission questioned the benefits of assuming that all people convicted of the same offence pose the same risk of reoffending and should have the same reporting obligations for the same period.

The current undifferentiated method has led to a register which appears to have outstripped initial estimates of size and is becoming increasingly expensive to maintain. As at December 2011, 4165 people had been included on the sex offenders register since the scheme commenced. At the current rate of increase there will be approximately 10 000 registrations by 2020. Details of people who might be potentially dangerous reoffenders sit alongside details of offenders who pose no risk of harm, with the police and child protection authorities having no reasonable means of allocating risk ratings, investigative resources et cetera.

The commission was very strong in saying that there is a need to strengthen the scheme by sharpening its focus and being more selective about who is placed on the register. It also said that long reporting periods impose a significant burden on the police to compile and manage information that may be of little value in many circumstances. The commission said that registration should be more closely aligned with risk of harm to children, and it recommended replacing automatic inclusion with a process that allows for individual assessment of the offender, which would enhance the effectiveness of the scheme and put less strain on the resources of Victoria Police and the Department of Human Services. The commission also recommended revising registrable offences and said that there was a need to refine the definition of 'contact' in the legislation. I would agree that the commission's proposed wording for that is effectively taken up by this bill.

Liberty Victoria has made quite a lot of comment about this particular bill. It says that a major problem with the bill is that it sees the sex offenders register move further from being a proactive database that assists in crime prevention to a responsive form of data collection. The register is becoming a vast warehouse of information that may be used after a crime has been committed to assist with the prosecution rather than providing a targeted and refined database of information that can be used to protect the community and prevent crimes from being committed in the first place. Under the bill we would also see registrants have to update the register of details with no link to the person's offending conduct. As it stands, an offender who is placed on the register for an offence of indecent assault against an adult and who has no link to any child offending or paedophilic acts will be banned from child-related employment.

Whilst Liberty Victoria has concerns with a few specific clauses in the bill, there are things that are not in the bill that it believes should be there. For example, it believes there should be judicial discretion as to whether offenders are placed on the register in the first place. The problem with mandatory registration as it stands is that offenders with very low risks of reoffending must be placed on the register. That is a point that was made by the VLRC. Not differentiating the large number of offenders in terms of the crimes

they have committed and their risk to the community means that it is very difficult to work out who should be focused on in terms of the protection of the community.

Liberty Victoria also said there should be a right to review placement on the register and there should be a proper merits review to a judicial officer — for example, after two to three years or if there are new facts or circumstances. It also suggested that the courts should determine whether a person is placed on the register in all circumstances, which is similar to what the law reform commission said.

Liberty Victoria said that while the Victorian Law Reform Commission report called for an expanded definition of 'contact' with children and greater reporting requirements in that regard, that has to be seen in the context of the law reform commission also calling for the register to be significantly sharpened so that only those who pose a significant risk to the sexual safety of the community will be included on the register in the first place. The bill fails to act on the VLRC call to make the register stronger by sharpening its focus. Instead it greatly expands the amount of information that all registrants must disclose, which only further weakens the register's focus and diminishes its effectiveness.

I have some sympathy, having read through the bill. I say at the start that I have had very little time in which to do that given the number of complicated bills we have had to look at. Staff members have been working overtime in order to get through the load of bills. This is an important piece of legislation. It does not take up the full recommendations of the law reform commission. I think the criticisms of the register the commission made in its report and the criticisms made by Liberty Victoria with regard to the bill are quite warranted. What is being done in this bill may not be the most effective way to protect the community.

As I said, the bill provides a new definition for what constitutes having contact with children by a registrable offender and imposes additional reporting responsibilities on registered offenders with respect to relevant conduct. It removes the requirement for the contact to be regular or unsupervised and it expands the definition to make it clearer, which generally is a good thing. It also reduces the reporting periods in which registrants must provide certain details, such as passport details, to seven days. I think that is a good thing. It imposes stricter controls on offenders by requiring them to verify their movements when travelling overseas. I do not necessarily have any problem with that, but in some ways that requirement fits into the criticisms being made of the scheme — that is, that it will not really prevent anything from happening but it may assist with a subsequent prosecution if something does happen.

The provision in the bill intended to improve child safety by clarifying that a police officer or a child protection practitioner may disclose a registrant's identity to a parent, guardian or other third party where doing so protects a child's safety is something that has been raised before in Parliament when we have been discussing this type of legislation. Several versions of this legislation have come before the Parliament. This is in line with the Victorian Law Reform Commission recommendation. It raises privacy protections, but in terms of the balance, I think the balance is right there, particularly in light of certain incidents we know of that have happened in public where the lack of this information has led to tragic outcomes.

The bill allows the chief commissioner to retain important information and intelligence on registered sex offenders even after they have completed their period of registration. In clauses 17 and 18 it creates new indictable and summary offences for registered sex offenders who fail to report changes in certain personal details or who provide false or misleading information to police. This was partly a recommendation of the Victorian Law Reform Commission, but the commission recommended that the two summary offences in the current act be merged into one summary offence. From our short look at clauses 17 and 18 it seems that the spirit of what the Victorian Law Reform Commission advised has been done in a rather complex way. It may or may not turn out to be effective.

The bill also codifies some existing arrangements for relevant agencies to exchange information to each other to protect the safety and wellbeing of any children coming into contact with registered sex offenders and simplifies reporting obligations by reducing the variability of reporting periods within which registrants must report changes in their details.

The bill amends the Children, Youth and Families Act 2005 to provide that the Chief Commissioner of Police and the Secretary of the Department of Justice may exchange information relating to registrable offenders with the Secretary of the Department of Human Services to ensure the exchange of information that a registrable offender has or has not had contact with a child. It also inserts a new section into the Freedom of Information Act 1982 to clarify that a document contained in the register is an exempt document for the purposes of that act.

I have taken a helicopter view of the provisions in the bill. It is a wider critique of the operation of the register such as was made by the Victorian Law Reform Commission. Liberty Victoria suggests the register is becoming less effective due to the number of people included on the register and the undifferentiated way people are put on it and dealt with by police, the Department of Justice, the Department of Human Services et cetera.

Due to the concerns that have been raised about the operation of the register, which this bill does not necessarily go to, I will move that the bill be referred to the Legal and Social Issues Legislation Committee and that the committee report back to the house on the first day of the last sitting week. Many of the provisions in the bill are good, but they do not tackle the issue of the register. Also, some of the recommendations made by the Law Reform Commission do not appear in the bill.

If we as a Parliament are going to deal with these serious issues and put in place a regime that is effective in protecting the community, and in particular children in the community, we need to make sure that the legislation is actually doing that. I am not necessarily in a position to make that judgement, but concerns have been raised with me. Having had time to quickly look through this bill and the 79 recommendations from the Victorian Law Reform Commission, I am of the view that more changes could be included in the bill to make the act work more effectively. There are only a couple of weeks to go in this parliamentary session, but there is enough time for the committee to look at this bill and hear from critics who suggest that it could be even better than it is. Let us take the opportunity to do that.

That is the Greens position on the bill. It needs further scrutiny and could be improved by being tweaked and added to. We have the time and the opportunity to do that by referring the bill to the Legal and Social Issues Legislation Committee.

Mrs KRONBERG (Eastern Metropolitan) — Ms Pennicuik's contribution is proof positive that the Greens will never be the government of any domain — of this state, this country or any Australian state or territory — or be leading players in local government. Ms Pennicuik's contribution was convoluted; it had many twists and turns. She does not have a clear direction, any clear air or the capacity to escape a thought bubble about this bill. Her speech contained many contradictory statements.

I know Ms Pennicuik generally means well and that she is a caring person. However, one has to rise to the occasion and be very practical. We need these amendments to pass. We know they result from an Ombudsman's report and follow up on recommendations of the Victorian Law Reform Commission. Members have spoken about expediting this bill, and the government has clearly sought wise counsel in arriving at what is presented before us today. The bill is the accumulation of much wisdom and expert advice, which supplement the recommendations of the Victorian Law Reform Commission.

Some members do not understand the ramifications of implementing a bill such as this and making its provisions immediately effective. They do not consider the administration it requires or the agencies that need to draw upon these information sources. It is necessary to understand the practicalities of the bill, including the realities of reporting systems, back-office procedures and so on. All those elements are taken into consideration before amendments are brought before the Parliament.

This is an important bill. It was developed in response to the recommendations of learned opinion and is supplemented by further wisdom and learned opinion. It needs to become law in this state as soon as possible. If you are arguing that there have been delays, why would you want further delay by putting the legislation through yet another process?

The amendments create new indictable offences for sex offenders. Sex offenders are awash with depravity and are completely preoccupied with being predators and grooming innocent children. It makes my flesh crawl to think about the measures these people go to in order to groom, entrap and gain access to potential victims.

If any offender wilfully misleads police or fails to tell police about their relationships with children, they will be subject to the provisions of this bill. These creeps are involved in nefarious pursuits in the grooming of children. At 2 or 3 in the morning they are using techniques to gain access to children, such as adopting a false identity, pretending to be someone of the child's age group or pretending to be their friend.

Finally, police will be able to have a better fix on these people. Conducting relationships with children that constitute grooming, interacting with children in a way that could lead to reoffending will now be indictable offences. We need to always be one step ahead of the game with these people. We also need to recognise that such people are fixated on this aspect of their lifestyle, this form of depravity, this priority in their life, so they are going to be very much aware of ways to disguise their behaviour and to physically disguise themselves and elements of their appearance and so on. The bill addresses those things.

The bill makes the obligations of people on the sex offenders register clear and unambiguous, and such people do not need legal advice as to whether they are in or out of the loop. The provisions cover any kind of online contact with children. As I said, these creeps work through the small hours of the morning in their sickness and depravity. I feel very passionate about this, because I have had the misfortune of having sprung people, if you like, who were grooming little children in a kindergarten owned by a metropolitan municipality. I became aware of the efforts two men had gone to to hide their real intent with acts of subterfuge. It was bizarre, and I am glad it has been put to an end.

The bill also makes it a summary offence for registered sex offenders to fail to tell police of changes to their personal details. My colleague Richard Dalla-Riva mentioned details as basic as a new tattoo or a change made to an offender's car. If these offenders are cruising around a school or a sporting field or places where children may swim in summer and so forth, the car will be synonymous with their identity, their reputation and their potential to destroy young people, so people would be looking to identify the particular make and model and colour of such offenders' cars. That is part of it. These are very practical, specific responses, and we need to provide for them.

The bill brings about an increase in the accountability to police of registered sex offenders. It overhauls the definition of having contact with children. There are too many ways in which these people can slip undercover, and this bill goes at that front and centre. There is to be no demurring and no debate. It has a very clear definition.

To combat child sex tourism the bill imposes stricter controls on these depraved individuals, these repeat sex offenders, these predators, by requiring them to report their movements when travelling overseas. That is a wonderful thing for humanity, and it particularly affects countries such as some of our Asian neighbours, to which we know offenders do an immense amount of travel to procure little children who, through no fault of their own, are in the child sex trafficking business. For some of them it is the means of deriving their next meal. These hideous predators go over there to mentally and physically ruin the lives of young children in countries that are our near neighbours. These provisions are a great boon and a great contribution to our region.

The bill further improves child safety by clarifying that police officers will finally have the ability — and this is where we get very tangled up in privacy issues — to disclose a registrant's identity to a parent or guardian or other third party where doing so protects a child's safety. Obviously the prospect of having a registered sex offender in our midst, near the bosom of our family, within our community or in our neighbourhood, causes us all a lot of concern and dismay. How sickening. This bill will put an end to that.

The bill gives the chief commissioner the ability to retain important information and intelligence on registered child sex offenders, and that will help police to investigate child sex offences. For any child sex offenders who pick up on what I am saying today, this is a lifelong stigma that will be attached to you. If you have the capacity to think through your actions and stop before you act, you should consider that this provision will mean you are marked for life. I am very pleased to see it included in this suite of amendments. This will prevail also after a period of registration has been completed. For all those predators, there are no rocks for you to hide under.

The bill creates new indictable offences of registered sex offenders who fail to report changes in certain personal details or who furnish to police false or misleading information about certain personal details. It will give the chief commissioner the power to suspend the reporting obligations of certain registered sex offenders if they are satisfied that a registrant does not pose a risk to sexual safety in the community.

The amendments will codify existing arrangements for relevant agencies to exchange fulsome and timely information with each other: the left hand will know what the right hand is doing. There will be no silos, rather there will be complete, across-the-board opportunities for communication and disclosure.

It is amazing what can come from these channels of communication being opened up. People start to join the dots. Exquisite moments can stem from information being shared. This is when things are discovered and revealed, perpetrators are tracked down and punished, and the wellbeing of children who may otherwise have contact with registered sex offenders is protected.

There will also be a more straightforward form of reporting of obligations through a reduction in the variability of reporting periods. This is a very practical offering. Registrants must report changes to their personal details. These amendments are responsive and grounded in practicality and are a result of drawing on much collective wisdom. I commend the government in the most fulsome sense for bringing this bill to the house. I wish it a speedy passage.

Motion agreed to.

Read second time.

Referral to committee

Ms PENNICUIK (Southern Metropolitan) — I move:

> That the Sex Offenders Registration Amendment Bill 2014 be referred to the Legal and Social Issues Legislation Committee for inquiry, consideration and report by 14 October 2014.

I am moving to refer this bill to the Legal and Social Issues Legislation Committee because it is an important piece of legislation that covers an important aspect of community safety, in particular the safety of children.

This bill has only been before the Parliament for 15 days and is one of a number of very complicated bills that have come out of the Attorney-General's department or the Minister for Police and Emergency Services's office. The Parliament and the community have had no time to scrutinise the bill. From the Greens point of view, it is very important that pieces of legislation which are designed to protect community safety are got right. How can it be more important that it speeds through the Parliament in just 15 days after taking two years to be formulated following reports by the Ombudsman and the Victorian Law Reform Commission? We waited more than two years to see this legislation, and now the government wishes to pass it through the Parliament at lightning speed. Mr Dalla-Riva said he wished the bill a speedy passage.

I would prefer the bill gets a passage that involves a bit more public scrutiny rather than a speedy passage. My motion proposes that the committee report on the bill by the Tuesday of the last sitting week so we will still allow it to go through the Parliament. The reason I have not put an earlier reporting date in place — that is, the next sitting week — is I do not think it would be practically possible for the committee to convene in that time given the amount of legislation that is before us. I also believe that people and representatives of organisations such as Liberty Victoria and others who may wish to attend the committee and give their advice would not be able to do so in such a short time frame. That is the parliamentary timetable; it is not one of my choosing.

I am also very keen to establish a precedent — —

The ACTING PRESIDENT (**Mr Finn**) — Order! It being midday, I must interrupt the proceedings for questions without notice.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Crown Casino

Ms PULFORD (Western Victoria) — My question is to the Minister for Liquor and Gaming Regulation. I refer to the recent arrangement between the government and Crown Melbourne, and I ask: were pubs and clubs afforded the opportunity to express interest in unused electronic gaming machines (EGM) entitlements before those 128 entitlements were granted to Crown?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I can confirm that legislation has been introduced into the other place to give effect to the recent agreement that has been reached with Crown. In order to implement the agreement, amendments are required to be made to the Casino Control Act 1991, the Casino Management Agreement Act 1993 and the Casino Regulation Act 2003.

This is a good deal for Victoria. Under the agreement Crown will make an up-front payment of $250 million to the state in 2014 and another payment of $250 million in 2033. Payments of up to $200 million in 2022 are contingent on Crown Melbourne's gaming revenue growth. Crown will also make guaranteed annual tax payments related to new gaming products of at least $35 million per annum for six years. In return the agreement provides for extensions to Crown's licence to operate the Melbourne casino from 2033 to 2050, a modest increase of an additional 40 gaming tables, 50 fully automated gaming terminals and 128 electronic gaming machines within the existing statewide cap of 30 000.

The agreement the government has negotiated and reached with Crown stands in contrast to Labor's failure to manage a similar agreement. Under the agreement negotiated by Mr Lenders we saw a very large expansion of gaming at Crown with no up-front payments received. We only need look at Labor's botched electronic gaming machine licence process — —

An honourable member — $3 billion!

Hon. E. J. O'DONOHUE — According to the Auditor-General, $3 billion is how much the Victorian community has been short-changed by. As I said to the Parliament in response to another question from Ms Pulford, the Auditor-General said that the Department of Treasury and Finance appropriately raised concerns with the relevant ministers. Who was the relevant minister at the time? It was Mr Lenders. As

the then Treasurer of Victoria, he oversaw the $3 billion botched EGM process — —

Ms Pulford — On a point of order, President, I am not sure if the minister misheard me, but my question was very straightforward. I asked the minister to indicate whether clubs or pubs were offered an opportunity to express interest in the unused entitlements. The minister is 3 minutes into his response and has not gone anywhere near answering the question.

Hon. D. M. Davis — On the point of order, President, it is clearly appropriate for the minister to discuss the available electronic gaming machines in the state and from whence they became available.

An honourable member — And to give context.

The PRESIDENT — Order! The minister is indeed entitled to give some context to his answer. Nevertheless, the minister is verging on debating when he starts to talk about decisions of the previous government. I accept that to this point it is perhaps as part of a context for his answer. I apologise to the house that I was not here to initially hear Ms Pulford's question, but it certainly seemed to be a fairly straightforward question about matters that I have not yet heard the minister discuss. I therefore trust that in the remainder of his answer the minister will provide a response to Ms Pulford in respect of her actual question.

Hon. E. J. O'DONOHUE — I appreciate your guidance, President. Let me conclude with the context by saying that — —

Mr Lenders interjected.

Hon. E. J. O'DONOHUE — Mr Lenders said I am debating. I would welcome a debate, and the Parliament would welcome Mr Lenders providing an explanation as to how he botched it so incredibly badly. It was $3 billion, Mr Lenders!

The PRESIDENT — Order! I think that is sufficient context. I know the minister would welcome a debate; perhaps I would welcome a debate, but not in question time. The minister, to respond to the question.

Hon. E. J. O'DONOHUE — The important point in relation to Ms Pulford's question is that the additional entitlements that had been negotiated as part of this agreement were not entitlements in use. There is an active transfer market, and venues can purchase additional entitlements on the transfer market.

Supplementary question

Ms PULFORD (Western Victoria) — The minister had a variety of opportunities to give us a simple yes or no answer to my question. I note his response — including the legislation he referred to and the $250 million payment that he referred to, as well as his commentary around the value of entitlements — and by way of supplementary, I ask the minister: with those additional payments, what was the value placed by the government on the 128 extra electronic gaming machine entitlements granted to Crown Casino?

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The government stands by its ability to negotiate compared to Labor's every day of the week. Ms Pulford cited my answer — —

Mr Lenders interjected.

Hon. E. J. O'DONOHUE — Mr Lenders, the $3 billion man, the failed former Treasurer who let $3 billion — —

Ms Pulford — On a point of order, President, the minister has 26 seconds left. It would be nice if he could answer, or at least try to answer, the question about the value the government placed on these entitlements.

The PRESIDENT — Order! I inform Ms Pulford that she does not get another chance to ask the question. Essentially her point of order ought to have been about relevance; maybe I heard an inkling of that. I inform the minister that I do not want a repeat of the debate in terms of the answer to the supplementary question, despite the fact that I accept he was provoked. I point out that I gave some consideration to whether I should allow Ms Pulford's supplementary question to stand on the basis that I thought it tackled a new subject matter, because it went to the value of entitlements as distinct from the substantive question, which was about whether or not clubs and hotels had had an opportunity to participate in the process of obtaining some of those unallocated entitlements. I was very close to asking for a change in the supplementary question because I believe it goes to new subject matter. Nonetheless, in my view that does not give the minister a chance to revisit the debating elements. In his answer he can take into account my concern about the supplementary question, but I ask him not to continue the debate.

Hon. E. J. O'DONOHUE — The government has been very clear about the parameters of this deal. The Treasurer, in his press release of 22 August and indeed in the second-reading speech that was tabled in the Legislative Assembly today, outlines in detail the

arrangements that have been negotiated with Crown. As I said, the government stands by its ability to — —

The PRESIDENT — Time!

Methamphetamine control

Mr RAMSAY (Western Victoria) — My question without notice is to the Minister for Crime Prevention, the Honourable Ed O'Donohue. In asking this question I commend him on the work he is doing in crime prevention and managing prisons in Western Victoria Region. I ask the minister to update the house on new initiatives to tackle the scourge of ice in our communities.

Hon. E. J. O'DONOHUE (Minister for Crime Prevention) — I thank Mr Ramsay for his question. Let me take this opportunity to commend Mr Ramsay and all members of the Law Reform, Drugs and Crime Prevention Committee for their work and the report that was tabled yesterday. The parliamentary committee process shows the Parliament at its best, as we also saw with the report of the inquiry led by Ms Crozier, Mrs Coote and Mr David O'Brien. I commend Mr Ramsay and thank him for the question.

I was pleased to join the Minister for Mental Health this morning to announce some new government initiatives to tackle the issue of ice. We launched a hard-hitting new campaign to tackle ice entitled 'What are you doing on ice?'. I encourage members to look at the website and materials. There will be a campaign running around that slogan.

In the committee's report there is a strong focus on the need to engage with local communities. That is absolutely consistent with the philosophy of the crime prevention portfolio. We understand that you need to listen to local communities, that local communities have different, individual issues and that those particular concerns need different, individually tailored responses.

In that context I was very pleased to announce today that the Napthine government will deliver a new $2 million Ice Prevention Grants program. These grants are designed to help local communities implement their own ideas in the fight against ice. Grants of up to $100 000 will be made available to community organisations or councils in partnership with community organisations. I call on community organisations to respond to the investment that has been made available by the government with innovative, new and fresh ideas that provide tailored responses to the individual issues of particular communities when it comes to the matter of ice.

This is but one component of a broad whole-of-government strategy in relation to ice. The Premier, the Minister for Police and Emergency Services and the Minister for Community Services yesterday made additional announcements about other initiatives to respond to this issue.

The crime prevention portfolio, a creation of this government, has developed expertise in partnering with local communities. The government is very proud of the way it has been able to work with local communities on hundreds of different projects across the length and breadth of Victoria to respond to issues of crime and perceptions of crime.

Mr Ondarchie interjected.

Hon. E. J. O'DONOHUE — I take up Mr Ondarchie's interjection. He asked, 'Is there a shadow Minister for Crime Prevention?'.

The PRESIDENT — Order! The minister knows interjections are unparliamentary and do not need to be responded to.

Hon. E. J. O'DONOHUE — The government is very proud of its partnership with local communities. We understand the need to listen to individual communities and their particular concerns about crime and perceptions of crime. This new grant funding stream in relation to the issue of ice is designed to do exactly that.

Hazelwood mine fire

Ms HARTLAND (Western Metropolitan) — My question is to the Minister for Health. With regard to the Hazelwood mine fire inquiry, recommendation 5 of the report asks the government to undertake rapid air monitoring in any location in Victoria. Why has the government only supported this recommendation in principle?

Hon. D. M. DAVIS (Minister for Health) — I thank the member for her question. This is an important recommendation from the inquiry. The government has supported in full all the recommendations bar this one, and we have supported this one in principle and intend to work through many of the aspects of the 12 recommendations that are directed towards the government. There are obviously recommendations directed to GDF Suez. The government will work through the best way to achieve this. It is obviously an important concept. There has not been the capacity to

respond all around the state within 24 hours. A number of practical matters need to be worked through. The government accepts the idea in principle but will work through those practical matters.

Supplementary question

Ms HARTLAND (Western Metropolitan) — If there is another fire in Morwell, it seems to me that the residents there will be neglected again in the way they were last time. How is it that the minister can expect the chief health officer to decide whether a community should be evacuated if they do not have air monitoring data from day one of a fire? We are coming into fire season again. When does the minister expect that he will be able to respond to this matter? I do not think this is a difficult recommendation, and I do not understand why the government is prepared to neglect towns like Morwell again.

Hon. D. M. DAVIS (Minister for Health) — I do not accept that characterisation. The government is concerned to ensure that Morwell — —

Honourable members interjecting.

Hon. D. M. DAVIS — Very clearly this is an important matter. The government has accepted the point in principle, but obviously the state is very large in area, and the practicality and the steps to ensure that monitoring occurs within 24 hours in very distant parts of the state need to be worked through carefully. The government is doing that work. Obviously it is the Environment Protection Authority that will do the monitoring in this process, so that would be my colleague the Minister for Environment and Climate Change, but equally it is, as the member indicates, important that information is available as early as is reasonable to enable decisions to be made. The government is very prepared to accept this recommendation in principle, and is working carefully through the details of the matters.

Hazelwood mine fire

Mr D. D. O'BRIEN (Eastern Victoria) — My question is also to the Minister for Health and also relates to the mine fire inquiry. Can the minister inform the house of the coalition government's response to recommendation 10 of the *Hazelwood Mine Fire Inquiry Report 2014* concerning a long-term health study?

Hon. D. M. DAVIS (Minister for Health) — I thank the member for his question and for his advocacy for the Gippsland region, including Morwell. The government supports in full the recommendation for a long-term health study. The procurement process for that study has already commenced, and the government will be undertaking a study that responds directly to the recommendations. There will be a board to govern that. Obviously the event that occurred in Morwell comprised a unique set of circumstances, with a fire in a mine very close to a town. The government understands the importance of having that study provide information about the long-term impacts of the fire on people's health.

This study will go for at least 20 years; it may be longer. The government is responding in full to this recommendation and supports it in full. This is an important matter, and the government will ensure that the information is available long term. The information will contribute to the worldwide pool of information about the effects of short-term exposure of this type and the long-term impacts that can occur. It is clear that the world literature does not have a great deal of material on that short-term exposure and long-term impact, but the study is crafted in such a way to enable that to occur. We will obviously have the relevant experts, but there will be significant community input into that governance.

Questions interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! It is my pleasure to advise the house that we have a distinguished visitor in the gallery today. Mr Hilik Bar is the Deputy Speaker in the Knesset in Israel. We welcome you, sir, to the Victorian Parliament. We hope you enjoy your stay both at the Parliament and in Melbourne.

QUESTIONS WITHOUT NOTICE

Questions resumed.

Portsea beach property

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Planning. On 19 February I asked the minister a question without notice about statements in the media that he would use legislation to reverse the decision to extend Mr Fox's Portsea property by some 45 metres onto the beach. In response to my question the minister said:

> We will examine every option available to us to do that. If we can do it … will see it done by legislation … If … I cannot … I will find another mechanism.

More than six months later, why has the minister not acted on this commitment?

Hon. M. J. GUY (Minister for Planning) — Probably because Mr Tee should realise that it is not covered by the Planning and Environment Act 1987, which is what the planning minister's responsibilities come under. It might be well worth Mr Tee educating himself about the responsibilities of the Minister for Environment and Climate Change and the environment portfolio, which is responsible for the legislative change that is needed, and that is what the government is currently going through. It might also be wise for him to look at the planning controls we have put in place for that parcel of land and the zone that exists within the Mornington Peninsula planning scheme, which are the strongest of anywhere in Victoria for such zone and which prohibit any kind of built-form structure without approval from the state government first. That was introduced by me into the Mornington Peninsula planning scheme some months ago.

Supplementary question

Mr TEE (Eastern Metropolitan) — I take from that that the minister is now saying, in relation to his commitment to this chamber that he would find another mechanism, that it is not his responsibility, but that he is also saying he has addressed this through the planning scheme. I am unclear about the inconsistency. The minister's commitment was to return to public ownership the land that had been given to Mr Fox. My supplementary question is: does the minister stand by that commitment?

Hon. M. J. GUY (Minister for Planning) — In Mr Tee's long preamble he said he was unclear about the inconsistency. I think Mr Tee is unclear about the operation of the responsibility of the environment minister and the planning minister. He is quite right in quoting me as having said I would find every mechanism to do what I can to ensure that we revert to a situation that existed beforehand. Absolutely the government stands by that premise, which is why some months ago I changed the Mornington Peninsula planning scheme to give the planning scheme the tightest controls possible in that zone at that location and other locations on the Mornington Peninsula. It is why the government, through the Minister for the Environment and Climate Change, is working on a legislative response that will need to clarify the title boundaries along Port Phillip Bay. That is not the responsibility of the planning minister. As much as Mr Tee would like it to be my responsibility for his 5-second grab, the reality is that he needs to go back and look at where the responsibilities of each minister sit under proper jurisdiction, and then he will get a proper answer.

Fishermans Bend development

Ms CROZIER (Southern Metropolitan) — My question is to the Minister for Planning. I ask: can the minister inform the house what action the Napthine government has taken to drive investment and job creation in new urban renewal areas in Melbourne's expanded central city area?

Hon. M. J. GUY (Minister for Planning) — Fishermans Bend urban renewal is off to a flying start. I thank Ms Crozier for her very important question today. I thank Mrs Coote and Mr Davis for their hard work as local upper house MPs to ensure that they are doing their best to get inappropriate development off small urban streets and into the defined urban renewal precincts like Fishermans Bend, as it should be.

Today I can announce that I have approved five key permits for 2800 new homes there, which means the Fishermans Bend urban renewal precinct is finally coming of age. The $738 million of investment in Australia's largest urban renewal precinct will take huge pressure off existing urban areas and will lead to what Melbourne will be good at — a new urban renewal precinct for defined residential growth to ensure that Melbourne can grow sustainably in areas the public knows and accepts, as opposed to a sporadic one-size-fits-all policy, an apartment block down one street, one at the end of a cul-de-sac and maybe a seven-storey building on a street where you only have two-storey buildings, as was the case under Labor's Melbourne 2030.

We are very confident as a government that this urban renewal precinct is good for Melbourne. I cannot pass up this opportunity to talk about Fishermans Bend without noting that Daniel — 'Dan', 'Danny' — Andrews, the Leader of the Opposition in the Assembly, when asked directly about Fishermans Bend, stated that he is not in the business of ripping things up and starting again. I think that is a good attitude. He said that on Thursday last week. It is just a shame that Mr Foley, the member for Albert Park in the Assembly, the guy who abuses schoolkids, then came out on Monday and said — —

Honourable members interjecting.

Hon. M. J. GUY — I meant he physically had a fight with a school.

The PRESIDENT — Order! I have no knowledge of the context in which the minister made that remark — —

Hon. M. J. Guy interjected.

The PRESIDENT — Order! Nevertheless, I do not think that that substantiates the remark made in response to the question. I ask the member to withdraw the remark.

Hon. M. J. GUY — I withdraw it, President.

Mr Foley said they would rip up Fishermans Bend and start again, and Mr Tee says vital services are a recipe for disaster and then opposes a railway station and an urban renewal precinct which the government is trying to build.

Mr Leane interjected.

Hon. M. J. GUY — Mr Leane needs a map and a dictionary telling him how to spell 'Labor'. The interjection comes from the illiterate Mr Leane, who spells his own political party with a 'u'.

Mr Leane interjected.

The PRESIDENT — Order! I advise Mr Leane that the finals start on the weekend, not today. The minister to continue at a slightly lower volume.

Hon. M. J. GUY — This government believes in providing vital services to major urban renewal precincts. That is why we are going to build a railway station at the Fishermans Bend urban renewal precinct. That is why we have got $44 million in development contributions coming from these projects that I have approved. That is just from these projects, which include parks and the school at the Ferrars Street site, which the Department of Education and Early Childhood Development will fund. We are going to put in place the vital services, as opposed to the member for Albert Park who wants to tear things up and send the residents off to everyone else's seats, like Bentleigh, Carrum or Prahran. This government, however, wants to make sure that urban renewal goes to the right areas.

If you cannot be consistent on policies like Fishermans Bend, and if you cannot be consistent on urban renewal, of course you cannot be consistent on the member for Frankston in the Assembly, Geoff Shaw, and of course you cannot be consistent on returning a dictaphone or breaking the law.

Fishermans Bend is Australia's largest urban renewal precinct. It is a great precinct that is going to accommodate tens of thousands of people in an area that is right for Melbourne, an area with a railway station, with parks and with a school, and it is because this government is building a better Victoria.

County Court holding cells

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Corrections. I refer to the fact that because of overflowing police numbers — sorry, prison numbers — police cells are being used to house prisoners. Can the minister advise whether there have been any discussions within government about using County Court holding cells to hold prisoners for purposes other than temporary, court-related purposes?

Hon. E. J. O'DONOHUE (Minister for Corrections) — I welcome Mr Tee's question in which he talked about 'overflowing police numbers'. It is true: this government has delivered on its commitment to provide 1700 additional police. We are very proud of the reforms we have delivered as part of our law and order agenda. In addition to the police, we have delivered on our commitment to provide protective services officers (PSOs) — the same PSOs that the member for Monbulk in the Assembly referred to as plastic police, denigrating the hard work of the PSOs.

We have taken a number of steps to increase the capacity of the prison system and to take pressure off the police cell system. We now have the Magistrates Court sitting on the weekends, processing in an expeditious fashion people who come into custody. We are increasing the use of telecourt facilities so that prisoners who have mentions and other interlocutory proceedings do not need to be transferred from prison to the Melbourne Custody Centre and into court for 5-minute hearings and then back again. We are increasing the use of technology to increase flow and reduce the demand on the police cell system.

As I have advised the house on numerous occasions — perhaps Mr Tee was not here, was not listening or was not interested — the Magistrates Court is sitting at the County Court, which again is providing additional capacity and flow through the system.

We have taken a number of steps to reduce the pressure on the police cell system, principally by addressing Labor's gross underinvestment in the corrections system. We are adding additional beds and reducing pressure on police cell numbers and fixing Labor's botched Ararat prison project, which is now contracted to be completed later this year. We have implemented a range of reforms to increase the flow through the system and reduce the pressure on the police cell system. We have reduced the number of unnecessary movements, particularly where prisoners are transferred from prisons in country locations to courts in Melbourne for short hearings and then taken back to those country prisons. With the use of technology we

are reducing where possible those unnecessary prisoner movements. We are using the Magistrates Court on the weekend and having the Magistrates Court sitting at the County Court, all of which is helping to reduce pressure on the police cell system.

Supplementary question

Mr TEE (Eastern Metropolitan) — I heard the minister say that the government is taking a number of steps to increase the capacity of the prison system. I am still unclear as to whether that includes the use of County Court holding cells. Can the minister rule out the use of County Court holding cells as prison accommodation for other than court-related purposes?

Hon. E. J. O'DONOHUE (Minister for Corrections) — Let me explain it slowly to Mr Tee. There is an agreement for the Magistrates Court to sit at the County Court. For a prisoner to come into the County Court for their matter to be heard, they need to be transferred into the County Court cells. The prisoners come into the County Court, they are receipted into the County Court cells, their matter gets brought on, they go up to the court, they have their matter heard, and then they go back to the cells and back to their original location.

Women in sport

Mr FINN (Western Metropolitan) — My question without notice is directed to the Minister for Sport and Recreation. Will the minister inform the house of details of the recently announced women in sport task force that will be chaired by the president of the Richmond Football Club, Peggy O'Neal?

Hon. D. K. DRUM (Minister for Sport and Recreation) — I understand that there was a large fight behind the scenes this morning between Ms Lovell and Mr Finn as to who would get the chance to ask this question, but I hear Mr Finn was able to prevail. Last week I had the opportunity to bring the concept of women in sport and their representation on boards to the fore and make the great announcement that we will introduce a task force to look into all of these issues. That task force will be headed up by Peggy O'Neal, the president of the Richmond Football Club, the first ever female president of an AFL or VFL club. She has had an amazing past 10 or 11 weeks in her role. There has been some high-profile commentary on the fact that she has been able to ride out a very tough first half of the year and is being seen as doing an amazing job as the first female leader of an AFL club.

The number of females on sporting boards across not only Victoria but Australia is a big issue that I have been made aware of in my short time as the Minister for Sport and Recreation. The Australian Sports Commission found that only 23 per cent of all directorships in sporting organisations are held by women, and 17 per cent of national sporting organisations have no women at all on their boards. Whilst women comprise 50 per cent of the population and about 50 per cent of all participants in the sport and recreation sector are women, the number of women on sporting boards is extremely low. Only 29 per cent of the positions in the Victorian state sporting associations are held by women. Why it is and what can be done? How do we get a better understanding of subconscious bias in relation to women's positions? How do we face up to these challenges?

As members have heard me say many times in this chamber, we have a historical legacy of inadequate change facilities for many women as they partake in sporting activities. I will be encouraging the task force to look at all these issues and at any other issue it thinks is pertinent.

We have a number of passionate advocates in the field. Apart from Peggy O'Neal, we have had presentations recently by Leigh Russell and a couple of other passionate advocates, such as Nicholas Barnett. We are looking to use as many of these advocates as possible to encourage greater participation by and representation of women on boards, as well as a range of things such as increased representation in leadership roles and making sure that we build the leadership opportunities for women. We are hoping all those issues can be addressed by the task force in the next few months.

Prisons

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Corrections. Can the minister advise the house whether there have been any incidents at Dhurringile Prison involving the doors on the shipping containers used to house prisoners being able to be unlocked by prisoners from the inside?

Hon. E. J. O'DONOHUE (Minister for Corrections) — I welcome the question from Mr Tee and the belated interest in this innovation, this new accommodation that has been introduced into the corrections system. As I outlined to the house yesterday, approximately 200 beds of this type of accommodation have been deployed across the minimum security prison estate and approximately 100 beds across the medium security estate. That has provided much-needed additional capacity to the prison

system, and to touch on the question raised by Mr Tee, it takes pressure from the police cell system.

As I have advised the house previously, this type of accommodation is used in the correctional systems of New Zealand, Western Australia and South Australia. It is appropriate accommodation for these types of prisoners. It has delivered much-needed additional capacity to the prison system.

Mr Tee interjected.

Hon. E. J. O'DONOHUE — I am doing my best not to take up the interjections from Mr Tee. We know why this additional capacity was needed. It was because of Labor's failure to invest appropriately in the prison system. Those are not my words. It is not me saying that; it is the Auditor-General saying that.

Mr Tee may mock and scoff at the findings of the Auditor-General about Labor's failure to properly plan and invest in the corrections system, but this government has done the responsible thing. It has made the appropriate investments in the corrections system. The government is delivering the prison that Labor failed to deliver at Ravenhall, and I thank Mr Elsbury and Mr Finn for their advocacy for that project. We are delivering additional capacity across the prison system, which is taking pressure off the police cell system, and we have deployed this type of accommodation across the minimum security and medium security prison estate, which has provided additional capacity to the prison system in a very timely fashion.

Supplementary question

Mr TEE (Eastern Metropolitan) — The ability of prisoners to get out because their cells are able to be unlocked from the inside is a serious concern in the community. Can the minister assure the house that all shipping containers used to house prisoners at Dhurringile Prison are now secure?

Hon. E. J. O'DONOHUE (Minister for Corrections) — In his supplementary question Mr Tee has again demonstrated his complete lack of understanding of how the prison — —

Honourable members interjecting.

Hon. E. J. O'DONOHUE — Mr Tee referred to cells; these are not cells. This is not cellular accommodation, which again demonstrates Labor's lack of understanding of how the prison system works — —

Honourable members interjecting.

The PRESIDENT — Order! I inform Mr Ondarchie that making challenges across the chamber like that is unhelpful. I have been a little more lenient on the interjections from the opposition on this response. The minister talked about some other things, and I can understand why Mr Tee was concerned that his actual question was not being answered. Therefore I thought he was entitled to perhaps push the matter a little. But I am concerned about other interjections which were unhelpful and obviously quite loud. Challenges across the chamber, at the volume at which they were put, are not in the interests of an effective consideration of matters in this house. The minister will continue without assistance.

Hon. E. J. O'DONOHUE — Mr Tee has again demonstrated his complete lack of understanding of how the prison system works and the different types of accommodation in different security classifications. Again I say to members of the opposition that they should get out and have a look. Mr Pakula, the member for Lyndhurst in the Assembly, has not been to a minimum security prison and nor has — —

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

Olympia housing initiative

Hon. R. A. DALLA-RIVA (Eastern Metropolitan) — My question without notice is to the Honourable Wendy Lovell in her capacity as Minister for Housing. I ask the minister — —

Mr Tee interjected.

Hon. R. A. DALLA-RIVA — Mr Tee has had his 15 seconds of fame. He should calm down. Will the Minister for Housing update the house on the progress of the Olympia housing initiative in West Heidelberg?

Hon. W. A. LOVELL (Minister for Housing) — I thank the member for his question and his ongoing interest in the Olympia housing initiative. Last week I was out there with Mr Dalla-Riva and Carl Ziebell, the wonderful Liberal candidate for the Assembly seat of Ivanhoe, to celebrate the second anniversary of the Olympia housing initiative.

The Olympia housing initiative is a 10-year program to dramatically improve housing in the suburbs of Heidelberg West, Heidelberg Heights and Bellfield. It involves the gradual renewal of 600 unsuitable or outdated public housing properties on an incremental and fully self-funded basis. The homes in the Heidelberg West area particularly were built in 1956 as temporary accommodation for athletes, and many

people would be aware of the Olympic village that was built in that area. Those homes have served our state well, but they have now reached the end of their usable lifespan. This program will replace many of those homes. There will be no loss of public housing under this initiative; there will be 600 new public housing properties as well as 300 new private homes in the area.

As at 11 August 488 households have either entered into discussions or chosen to take part in this initiative. Forty-three new homes have so far been constructed, 20 homes are currently under construction, more than 180 homes are in the planning and design stage, and more than 120 households have moved to better or more suitable housing.

When the coalition first announced the Olympia housing initiative the member for Ivanhoe in the Assembly, Anthony Carbines, opposed it and convinced some of the locals to support him in opposing this initiative. But last week at the second-year anniversary locals were approaching me and apologising for supporting Anthony Carbines. They said that they had been wrong, that this is a great project and that Anthony Carbines should get on board. The fact that 120 households have moved to better housing and that 488 households have chosen to take part in this initiative is a demonstration of how out of touch Anthony Carbines is with the people in his electorate.

The Olympia housing initiative is consistent with the Victorian government's housing framework and our objectives for better assets and better communities. The digiDECL business incubator I spoke about yesterday is consistent with our objective of creating better opportunities for public tenants. These are further examples of how the Victorian government is building a better Victoria by ensuring that the most vulnerable Victorians have access to public housing that better suits their needs.

SEX OFFENDERS REGISTRATION AMENDMENT BILL 2014

Referral to committee

Debate resumed.

Ms PENNICUIK (Southern Metropolitan) — We have seen a larger number of bills than usual being introduced into the Legislative Council. Some bills result in a lot of public interest. In the case of this bill, there has been some criticism as to whether it goes far enough in terms of implementing the recommendations of the Victorian Law Reform Commission with regard to the sex offenders register. It would be a good precedent to set if such bills were automatically examined by the Legal and Social Issues Legislation Committee, as happens in other parliaments.

In other parliaments, such as the Senate and parliaments in other states, bills are routinely referred to a legislation committee before they are debated in the house, and that often results in better legislation. That is a precedent I would like to see set in this Parliament, particularly by whatever government is in power in the next Parliament, because over the last four years we have seen the rejection of any motions that are moved to refer bills to the Legal and Social Issues Legislation Committee. The number of references that have been rejected is 55. That does not reflect well on the government, so I urge all parties to support this reference.

Hon. R. A. DALLA-RIVA (Eastern Metropolitan) — I thank Ms Pennicuik for her contribution to the debate on her referral motion. During the second-reading debate on the bill the government indicated that it has followed the recommendations in the Victorian Law Reform Commission review of the principal act. We have applied parts of that review in formulating the amendments to this legislation, and I do not think we need to inquire further into this matter. On that basis the government will not be supporting Ms Pennicuik's motion.

Mr TEE (Eastern Metropolitan) — This legislation has now been through quite a lengthy process, including review by the Victorian Law Reform Commission, and we think there has been sufficient examination of these issues. For that reason, we will not be supporting Ms Pennicuik's motion.

Hon. D. M. DAVIS (Minister for Health) — I accept Ms Pennicuik's intent in wanting to refer this bill to the Legal and Social Issues Legislation Committee, but I indicate that the government cannot support the motion on this occasion. Very clearly the reason for that is, as has been said, that the bill has been thoroughly investigated and, more than that, that this is a bill that looks at the better management of sex offenders. It increases the accountability of these offenders to police, imposes stricter controls on them, improves child safety by clarifying that a police officer can disclose a registrant's identity and helps police investigate sex offences. These are very important reforms.

Importantly the proposal to refer the bill to the committee for reporting back on 14 October would

effectively kill the bill. It will make it very difficult to pass it through the other chamber in any reasonable time period. There is a risk that the reference would effectively block the bill and mean that sex offenders would have much freer rein than they ought to have. This bill, which tightens these matters, would be effectively blocked, so the government cannot support the motion.

Ms PENNICUIK (Southern Metropolitan) — I think I had my figures wrong; there have been 53 rejections, and this will be 54. The process we have gone through in the last four years, where mainly the Greens but often the opposition as well move to refer or support the referral of legislation to legislation committees but it is not accepted by the government, is not a good one.

I do not accept anything Mr Davis said. The bill is not due to be enacted until 1 June next year, so if the committee were to report back on 14 October, the bill would still have the chance to go through the lower house. I do not move for referrals lightly; I do so when persons or organisations take a lot of time to make serious comments on a bill. People who are experts in the area have made some comments about this bill not being as good as it could be. In fact Mr Tee, who has just stood up and said he will not be supporting the reference, said in his contribution that the bill was half done, so Mr Tee should be supporting the reference.

I believe the bill does not follow all the recommendations of the Victorian Law Reform Commission. I also reject what Mr Tee, Mr Davis and Mr Dalla-Riva said — that this bill has been through scrutiny. It has not. The real subject of the bill, the sex offenders register, did go through some scrutiny, but the bill itself has not been subjected to any scrutiny. The public has not had a look at it. The government always comes up with that excuse, which is a non-excuse because the bill itself has not had any scrutiny. The bill needs scrutiny as to whether it will be effective in doing what it aims to do and whether it goes far enough in implementing the recommendations.

House divided on motion:

Ayes, 3

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

Noes, 33

Atkinson, Mr	Melhem, Mr
Coote, Mrs	Mikakos, Ms
Crozier, Ms	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
Eideh, Mr	Ondarchie, Mr
Elasmar, Mr (*Teller*)	Peulich, Mrs
Elsbury, Mr	Pulford, Ms
Finn, Mr	Ramsay, Mr
Guy, Mr	Ronalds, Mr
Jennings, Mr	Scheffer, Mr
Koch, Mr	Somyurek, Mr
Kronberg, Mrs	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lewis, Ms	Tierney, Ms
Lovell, Ms	

Motion negatived.

By leave, proceeded to third reading.

Third reading

Motion agreed to.

Read third time.

Sitting suspended 1.03 p.m. until 2.07 p.m.

CONSUMER AFFAIRS LEGISLATION FURTHER AMENDMENT BILL 2014

Second reading

Debate resumed from 20 August; motion of Hon. M. J. GUY (Minister for Planning).

Mr MELHEM (Western Metropolitan) — I rise to speak on the Consumer Affairs Legislation Further Amendment Bill 2014. From the outset I say that the Labor Party will not be opposing the bill, but I will use my time to make some comments on it. The opposition welcomes the improved regulation of owners corporation managers and the enhancement of the powers of owners corporations to deal with unsatisfactory managers, while noting that the Law Institute of Victoria has some reservations about this, which I will come back to later on.

I draw attention to the fact that not all stakeholders were happy with the consultation process. For example, the Housing for the Aged Action Group (HAAG) was not consulted at all, and the level of engagement with other stakeholders seemed to result in some confusion. Some questions raised with the minister's office concerning the possible watering down by this legislation of consumer protection measures contained in the Supported Residential Services (Private Proprietors) Act 2010 did not elicit an adequate response.

The bill amends the Owners Corporations Act 2006, the Retirement Villages Act 1986, the Sale of Land Act 1962, the Veterans Act 2005 and the Australian Consumer Law and Fair Trading Act 2012. Earlier I

made a point about the consultation process and feedback from the stakeholders. The changes to the Owners Corporations Act, the Retirement Villages Act and the Veterans Act are all of great interest and concern to elderly people. Yet the Housing for the Aged Action Group — a very active advocacy organisation for the elderly — advised the opposition that it was not consulted about this legislation. I find that a bit strange. I think the government should have been consulting groups like HAAG, which was very interested to read the bill when it was provided to it by the opposition, not by the government. A spokesperson from HAAG said she was surprised that she had not seen anything about this before.

Retirement Villages Victoria, the principal advocacy group for residents of retirement villages, was also somewhat confused about this legislation. It appears that it was consulted at a very early stage about the changes proposed in the legislation but, in the words of its president, it has 'received no notification from Consumer Affairs Victoria about any bill that will be presented to Parliament'. It would appear that the Minister for Consumer Affairs did not feel the need to circulate this legislation to stakeholders for comment before introducing it into Parliament. The Law Institute of Victoria (LIV) expressed similar concerns, observing that:

> The LIV was unable to prepare detailed submissions on the proposed amendments due to the insufficient time provided to respond.

That is another example. While the opposition very much welcomes reform of the legislation governing owners corporation managers, it is concerned that the bill does not go far enough in curtailing the activities of rogue managers and even criminal elements which might be involved in running some owners corporations.

This issue was the subject of an article in the *Age* and the shadow Minister for Consumer Affairs, the member for Preston in the other place, drew attention to it in an adjournment speech in March this year. In his speech the shadow minister urged the minister to meet with a group of people who appeared to have been the subject of a substantial fraud involving an owners corporation, an invitation I do not believe the minister has taken up. In this context I note that while the Victorian branch of Strata Community Australia felt the reforms were 'a reasonable outcome', it also believed that the measures proposed, including prohibition of pooled bank accounts, will do little to address fraud.

Similarly, the Law Institute of Victoria is concerned about the lack of criteria governing the experience and professional suitability of persons who are able to be assigned contracts of appointment. It notes that it would be possible for an assignment to be made to a person who had no practical experience. LIV would have preferred to see the legislation address this issue. LIV also believes that eligibility requirements for managers should be more stringent. It has said:

> In many instances managers are required to hold large sums of money in trust … and therefore a higher standard for managers should be demanded.

LIV considers that a manager should be required to disclose to an owners corporation, prior to entering into a contract of appointment, any conviction for any offence referred to in new section 179(d) of the Owners Corporations Act. LIV also noted that the proposed definition of 'retirement village land' effectively excludes retirement village units where the fee simple is owned by residents. One consequence of this amendment is the requirement to lodge a retirement village notice will no longer apply to strata title units. They are some of the concerns about the consultation process, or the lack of a consultation process, with stakeholders.

I will now speak about provisions of the bill which we recognise as an improvement on the current legislation. Clause 40(1) relates to the changes to the Sale of Land Act 1962. It changes the wording in the second terms contract scenario discussed in section 29A of the Sale of Land Act — that is, a sale that involves early possession or occupation. Instead of providing that a terms contract will arise where a buyer is allowed to possess or occupy land before being entitled to a transfer, a terms contract will now arise where a buyer is allowed to possess the land or receive rents and profits from the land before being entitled to a transfer. This change ensures that a terms contract will not be created inadvertently where a buyer is allowed to occupy or access the property before settlement — for example, to store goods. Replacing possession or occupation of the land with the receipt of rents and profits ensures that a terms contract will be created where a buyer is given the right to receive rental income before they are entitled to a transfer of property into their name. This is equivalent to having the right to live on a property before being entitled to a transfer and should give rise to a terms contract.

Clause 40 (2) inserts new subsection (1A) into section 29A of the Sale of Land Act. The purpose of the new subsection is to ensure that a buyer cannot convert a normal cash contract into a terms contract, either accidentally or on purpose. In a normal cash contract a buyer pays a deposit — typically 10 per cent — on signing the contract and then pays the balance of the

purchase price within a specified time. In some circumstances the buyer may not be able to raise the funds to cover the balance of the purchase price within the specified time. To proceed with the sale, the buyer may negotiate with the seller to pay the balance in a way not originally envisaged in the contract — for example, in two payments rather than one. New subsection (1A) makes it clear that a buyer who negotiates with a seller to remedy an actual or anticipated default through a series of payments will not 'convert' what was a normal cash contract into a terms contract.

Finally, clause 40 (3) substitutes a new definition of 'deposit' for the existing definition of that term in section 29A(2) of the Sale of Land Act. This addresses concerns that 2008 legislative amendments had inadvertently restricted the circumstances in which a terms contract can be found to exist. Under section 29A one of the circumstances in which a terms contract can arise is where a buyer makes two or more payments toward the purchase price of a property, other than a deposit and final payment, before being entitled to a transfer of the property. In 2008 a definition of 'deposit' was introduced into section 29A. It was expressed to mean a payment made to a seller before the buyer becomes entitled to possession or to receive rents and profits from the land. Under this definition any payment a buyer makes before they are entitled to live on a property is taken to be part of their deposit. It therefore appears that currently a terms contract will only arise in contracts where a buyer has to make two or more payments before becoming entitled to a transfer, and at least two of those payments happen after the buyer is entitled to live on the property or receive rental income. If a buyer is not entitled to live on the property or receive rental income until the buyer has one or zero instalment payments to make before making their final payment, their contract will not be a terms contract and will not receive any of the protections available under the Sale of Land Act 1962. This outcome is contrary to the intention of section 29A. The bill rectifies this problem by replacing the existing definition of 'deposit' with a definition that focuses on what the contract specifies as being the deposit.

The new definition also provides that instalment payments of a deposit are not payments for the purposes of section 29A, ensuring that a cash contract with a deposit paid in instalments — for example, $10 000 by EFTPOS one day and $15 000 by credit card the next — will not inadvertently trigger the terms contract provisions. Finally, the new definition of 'deposit' provides that a deposit under a terms contract may be paid during a period not exceeding 60 days.

This legislation contains other provisions which amend the Veterans Act 2005 to aid the administration of patriotic funds in Victoria by simplifying the process of transfers out of patriotic funds, enabling the director of Consumer Affairs Victoria to consent to minor changes in relation to trustees for patriotic funds where the deed itself lacks the power of amendment, and providing a mechanism to enable two or more patriotic funds to amalgamate. The bill also amends the Australian Consumer Law and Fair Trading Act 2012 to clarify that it is not a prohibited debt collection practice for a creditor to, for example, contact a debtor for the purpose of complying with the requirements of the national credit code.

There are also a few other changes introduced by the bill, which I will not discuss. Overall the Labor Party will not be opposing the bill. We would have liked a bit more consultation with stakeholders before the bill was brought before Parliament. We would also have liked some further amendment to the current legislation to make it a bit fairer. Having said that, the opposition is happy to support the bill in its current form. I commend the bill to the house.

Ms PENNICUIK (Southern Metropolitan) — The Consumer Affairs Legislation Further Amendment Bill 2014 makes a range of amendments to a number of acts within the consumer affairs portfolio. In particular it amends the Owners Corporations Act 2006 to implement the outcomes of a public review of the regulation of owners corporation managers. In summary, the bill improves the regulation of owners corporation managers by preventing unsuitable persons becoming or remaining owners corporation managers. This comes in response to some widely publicised events where some unscrupulous people were undertaking unscrupulous deeds as managers of owners corporations.

The bill also removes restrictions on the ability of owners corporations to terminate management contracts, it requires managers to disclose conflicts of interest, it protects owners corporations funds by prohibiting managers from pooling the funds of separate owners corporations in one bank account and by allowing owners corporations to request copies of statements for bank accounts that contain trust money, and it makes particular provisions for retirement villages with owners corporations. These are all sensible amendments in the view of the Greens.

The bill also amends the Retirement Villages Act 1986 by making a range of technical amendments to improve its operation. In summary, they clarify that the purchase price for a freehold unit in a retirement village is an

ongoing contribution, as is a deferred obligation to pay an ingoing contribution, and to clarify that recurrent capital charges are maintenance charges. I recently received a letter from a director of a local retirement village about the issue of maintenance charges and local government rates and the issue of retirement village residents being charged rates for maintenance services that were carried out by the retirement village. I have referred that person to the minister, but they raised some interesting issues, which are not covered by this bill but which go to the issue of retirement villages and the consumer affairs portfolio.

The bill makes quite a number of other consequential or technical amendments to the Retirement Villages Act, including improving the procedures for annual meetings and clarifying and rationalising the various provisions for removing retirement village notices and charges. The bill also amends the Sale of Land Act 1962 to address the stakeholder concern that the current definition of 'terms contract' no longer catches all forms of terms contracts by amending this definition. It amends the Veterans Act 2005 to aid the administration of patriotic funds in Victoria by simplifying the process for transfers out of patriotic funds, by enabling the director of Consumer Affairs Victoria to consent to minor changes to trust deeds for patriotic funds where the deed itself lacks a power of amendment and by providing for a mechanism to enable two or more patriotic funds to amalgamate.

Patriotic funds are a type of trust created after the First World War when Victorian communities raised money to assist soldiers and their families. They provide welfare services and clubrooms for returned services personnel and their dependants. They include such funds as the Australian Army Training Team Vietnam (Victorian Branch) Scholarship Fund; the Australian Legion of Ex-Servicemen and Women Scholarship Fund — Albert Coates Memorial Trust; the Australian Legion of Ex-Servicemen and Women Scholarship Fund No. 1 — Nurses Memorial Centre; the War Widows and Widowed Mothers Association Scholarship Fund; and the Victorian Blinded Soldiers' Welfare Patriotic Fund.

The bill amends the Australian Consumer Law and Fair Trading Act 2012 to clarify that it is not a prohibited debt collection practice for a creditor to contact a debtor for the purposes of complying with the requirements of the national credit code. It makes a small amendment in that regard.

With respect to the amendments of the Owners Corporations Act, I note that the public review of the relevant regulation was initiated following reports of managers with criminal records allegedly defrauding their owners corporations while retaining their registration under the act as owners corporation managers. This was widely reported in the media. The bill amends the act so that people who have been found guilty of an offence involving fraud, dishonesty, drug trafficking or violence punishable by a term of three months or more will no longer be eligible to either obtain or retain registration as an owners corporation manager. Managers will also be required to disclose conflicts of interest in writing and to take reasonable steps to ensure that any goods and services they procure on behalf of the owners corporation are sourced at competitive prices, and their contracts will be limited to three years.

In relation to the amendments to the Retirement Villages Act I referred to, we contacted the Consumer Action Law Centre, which is of the view that following the technical review of the act, there was reasonable consultation related to that on the whole. It seems these amendments are reasonably sensible. The same is true of the amendments to the Sale of Land Act.

This bill in summary makes a number of not too controversial or significant amendments. The amendments to the Owners Corporations Act to make sure managers are not able to defraud owners corporations are certainly good amendments, and the Greens will support the bill.

Hon. R. A. DALLA-RIVA (Eastern Metropolitan) — I am pleased to speak on behalf of the government on the Consumer Affairs Legislation Further Amendment Bill 2014. I appreciate the contributions of the previous speakers, who have supported the bill. This is a complex bill in the sense that it will amend the Owners Corporations Act 2006, Retirement Villages Act 1986, the Sale of Land Act 1962, the Veterans Act 2005 and the Australian Consumer Law and Fair Trading Act 2012.

In the context of those different areas, the bill has been extensively examined and a substantial amount of information has been provided to stakeholders. From listening to the contributions of previous speakers, I am led to believe that they are also of the view that adequate matters have been covered and they are satisfied with the bill proceeding as presented. I will clarify a couple of issues raised by the opposition in order to avoid the need to go to the committee stage and to ensure that the bill is dealt with as soon as possible so it can be sent to the other place.

It is my understanding that a briefing took place with Robin Scott, the member for Preston in the Assembly,

in relation to certain parts of the bill. I will again put on the record that a range of issues were covered in terms of how the Owners Corporations Act 2006 will be applied in a practical and operational sense. The amendments to this act have been modelled on equivalent Queensland provisions. The answer I have been provided with is that there is a three-year maximum term for the management of contracts, which is also modelled on the proposed New South Wales amendments, and that there is a requirement for owners corporation managers to take reasonable steps to ensure that any goods and services they procure are at competitive prices and on competitive terms.

Regarding the genesis of the reforms, a review was initiated in response to a number of media reports of misconduct by owners corporations managers with criminal records and in response to complaints from stakeholders that the act's regulation of managers was insufficient in light of the position in Queensland and the proposed reforms in New South Wales. I am aware that a particular issue was raised in the other place with regard to allegations of inappropriate conduct by owners corporations for a car park in the Melbourne CBD. The advice I have received is that this amendment to the bill will ensure that those types of matters will be dealt with more expeditiously than they have been in the past.

Stakeholder feedback has been very important in the compilation of the bill. Most of the reform proposals have cross-sectoral support. Stakeholders such as Strata Communities Australia Victoria, the Real Estate Institute of Victoria, the Property Council of Australia and the Law Institute of Victoria have indicated their support. However, there are a number of areas of concern. In order to address the criticism it is fair to say that the proposal to restrict the term of management contracts to three years does not take into account high-end developments, where developers allegedly need to offer longer term contracts to attract appropriate management companies. The bill enables appropriate exemptions to be prescribed in those circumstances. This issue will be discussed with the Property Council of Australia, with a view to making any regulations before the commencement date of the amendments, which is anticipated to be 1 April 2015.

Turning to the regulatory framework oversight of the new requirements, particularly regarding defunct corporations, the bill creates a number of new offences regarding managers, which will be enforced by Consumer Affairs Victoria. The owners corporations can also take civil action against managers through the Victorian Civil and Administrative Tribunal. In addition, the amendments will be supported by an education campaign, which will ensure that both owners corporation managers and members are aware of any new rights or obligations flowing from the bill. Many defunct owners corporations do not have professional managers. For those that do, individual members can report breaches of the offence provision to Consumer Affairs Victoria and can take action against managers in the Victorian Civil and Administrative Tribunal.

With regard to the Retirement Villages Act 1986, consultation has again been quite extensive in the formulation of the amendments. Residents of Retirement Villages Victoria, the Consumer Action Law Centre, the Property Council of Australia, the Victorian branch of Leading Age Services Australia and the Law Institute of Victoria have all been engaged in the process.

In the example of duplicated obligation, the amendments will remove the requirement of both the retirement village manager and the owner to provide a resident with the same documents as part of the pre-contract disclosure regime. In response to the query about there being provision allowing the registrar of titles to remove notices and charges that were wrongly recorded on the titles of units owned by residents, at present the registrar is unable to remove charges that have been wrongly recorded. The amendments will ensure that this is corrected in the future.

With regard to stakeholder engagement and consultation with respect to the Veterans Act 2005, it is my understanding that the amendments were developed in conjunction with the Victorian Veterans Council and the Victorian branch of the RSL.

As I said, this bill is quite extensive. It is fair to say that the overall objective of the bill is to amend several consumer acts. It is about clarifying the improvement of the operation and to ensure that redundant provisions are removed and minor technical errors are corrected. I do not propose to go into too much more detail other than to say that there was one other issue that required clarity relating to the regulatory burden on village operators. The bill enables the director of Consumer Affairs Victoria to waive all or some of the requirements regarding the extinguishment of charges and cancellation of notices in the special case of operators of supported residential services who, under the Supported Residential Services Private Proprietors Act 2010, are required to choose registration under that act or under the Retirement Villages Act. That is contained in new sections 25A and 32(3).

Further, the Supported Residential Services Private Proprietors Act 2010 requires owners of supported residential services to give up their registration under the Retirement Villages Act. The amendment simply enables the director of Consumer Affairs Victoria to waive some of the requirements for the cancellation of retirement village notices and charges on that title. Such a cancellation arises from the deregistration under the act. That gives some clarity to some of the concerns raised by those opposite.

As I have said, this is a complex bill, although it has had support from various stakeholders. It is an important bill. It is about clarifying and delivering more efficient consumer affairs requirements for various stakeholders across the state. We look forward to the bill's passage and transmission to the other place.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

COURTS LEGISLATION MISCELLANEOUS AMENDMENTS BILL 2014

Committed.

Committee

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — I seek leave of the committee to have Mr David O'Brien join me at the table.

Leave granted.

The ACTING PRESIDENT (**Mr Elasmar**) — Ms Pennicuik has a series of proposed amendments to the bill, which I understand have been circulated. I call Ms Pennicuik to move her amendment 1 to clause 1. I understand the amendment is a test for her amendments 17 to 25.

Clause 1

Ms PENNICUIK (Southern Metropolitan) — I move:

1. Clause 1, page 2, lines 21 to 23, omit all words and expressions on those lines.

This amendment removes clause 1(c)(iii), which reads, 'to amend the periods for bringing an appeal in respect of certain decisions of a coroner'.

As you have foreshadowed, Acting President, this amendment is a test for my amendments 17 to 25. I refer the committee to those amendments. Amendment 17 omits clause 66 of the bill. Clause 66 reduces the time for appeal in relation to a determination that a death was not a reportable death from three months to 28 days. That would mean that if the coroner made a determination that a death was not a reportable death — and therefore an inquest or investigation into the death would not be held by the coroner's office — interested parties would only have 28 days to appeal that decision.

The reduction in the appeal time under the Coroner's Act 2008 is one of the key issues I raised in my contribution to the second-reading debate, because the persons who would be appealing these determinations would usually be family members of the deceased person. Those people do not necessarily have the wherewithal, or certainly the legal advice, to realise that they only have that time period available to them and to get things organised in that short time. I put it that this is why the time periods are longer in the Coroners Court under the Coroner's Act than they are in other courts.

I have heard that the coroner has requested these changes to bring the Coroners Court into line with other jurisdictions, but I do not think that court should be brought into line with other jurisdictions. It is a different jurisdiction; it is inquisitorial, and it is set up under different legislation or mechanisms than are the other courts. As we know, it deals with deaths the coroner is required to look into because they are unexplained for one reason or another.

During the extensive debate we had on the changes to the Coroner's Act in 2008 I made it clear that one of the key issues in regard to the Coroner's Act is that it advances the interests of families rather than making it difficult for families to deal with the regime. We had an extensive conversation at the time about people's experience in the Coroners Court and their inability to navigate its requirements, including such things as time frames.

My amendment 1 is a test for my amendment 17, which seeks to omit clause 66. It also tests my amendment 18, which seeks to omit clause 67 as it would reduce the time for an appeal in relation to a determination of a coroner not to investigate a fire from three months to 28 days. A fire is a serious event and a coroner could

err in making a decision. There should be every opportunity for interested parties, be they the families of those who have been lost in the fire or any other interested party, to bring an appeal to the coroner.

Amendment 1 is also a test for my amendments 19 and 20. Amendment 19 would omit certain parts of clause 69 to reduce the time frame for an appeal against the refusal by a coroner to reopen an investigation from three months to 28 days. Sometimes families will be unhappy with the findings and/or recommendations, or lack of recommendations, of a coroner with regard to an inquest held into the death of their loved one. I have been contacted, and I am sure other members have been contacted, by the McNees family about their unhappiness with the coronial investigation into the death of their son. They raised the issue of the difficulty that families still have, even though there have been changes to the Coroners Act 2008, navigating their way through the time limits and getting their heads around the findings of an inquest. It can take more than 28 days for them to take advice and come to a decision to appeal against a refusal.

Amendment 1 is also a test for amendment 20, which seeks to omit clause 74. I hope the committee is keeping up with all of this. The omission of that clause is consequential on the omission of the previous clauses. Amendments 21 to 25 are all consequential on the removal of these clauses.

The upshot is that amendment 1 goes to keeping the existing time limits for appeals against certain decisions of a coroner. The Federation of Community Legal Centres, as I mentioned, has conducted a review of coronial systems across the country. It makes the point that if families want to appeal the findings of an inquest, they want to have an inquest reopened or they want in some way to appeal against the decision of a coroner, they will have far less time to do that if the bill is passed. We already know that because most families are not able to get affordable legal help for the inquest process it is likely that they will already not be apprised of the legal issues by the time the findings come down.

The operation of the Coroners Court and the Coroners Act has been of great interest to me for many years. We should not be going backwards by taking away opportunities for the families of deceased persons who are the subject of coronial inquests. We should not be reducing these time frames for what seems to be no particular reason when that will impact on the most vulnerable people in the situation that surrounds an inquest into a death. For those reasons, I urge the opposition and the government to support my amendment.

Ms TIERNEY (Western Victoria) — In order to assist with the efficient operation of the committee today I will inform the chamber of Labor's position in relation to all of the proposed amendments. The bill was amended substantially by Labor in the Legislative Assembly. There were substantive discussions between the shadow Attorney-General, who is the member for Lyndhurst, and the Attorney-General, and agreements were reached on a range of items. Some of the amendments initiated by Labor reverse the time reductions in the Coroners Court and do things like fixing the problems with Transport Accident Commission appeals. We believe there were meaningful improvements made to the bill in the Assembly.

With respect to the systemic review of family violence deaths, Labor's position is that this is a funding issue and not a legislation issue, and we have already committed to restoring the funding in this area in government. We believe Labor has already rectified the major flaws in the bill and made appropriate commitments like those relating to the systemic review. In saying that, Labor will not be supporting the amendments at this time. We believe the work done in the Legislative Assembly was appropriate in the circumstances.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The amendments circulated by Ms Pennicuik propose to omit clauses reducing limitation periods for certain determinations and decisions of a coroner. As explained in relation to other limitation periods, the current periods are open ended and in need of reform. I was surprised by Ms Pennicuik's comment that she does not support the aspiration of bringing the Coroners Court into line with other jurisdictions; I find that comment most surprising.

While I am on my feet in relation to clause 1 and the purposes of the bill, I wish to make a brief statement about clause 56. I am informed that the small business commissioner believes that clause 56 is, in practice, intended to provide for mediation only with the consent of the parties. It is not intended to allow parties to pursue mediation if it has already been conducted in relation to the issues being disputed, for example as part of an earlier Victorian Civil and Administrative Tribunal process, and it is not intended to interfere with the existing court jurisdiction to hear and determine disputes between landlords and guarantors or indemnifiers in retail tenancies disputes.

As has been flagged by Ms Tierney, amendments were made to the bill in the other place. The government

does not support the amendments moved by Ms Pennicuik.

Ms PENNICUIK (Southern Metropolitan) — Firstly, I am a little bit nonplussed as to why the minister is reading out something about clause 56, which has nothing to do with the Coroners Act which is the subject of the amendment I am putting at the moment, my amendment to clause 1, which tests further amendments. I am not quite sure why the minister has piped up to talk about retail tenancy mediation in the middle of all that. It could have waited until we got to clause 56.

I made the point with regard to the special jurisdiction of the Coroners Court, which is different from other courts, and I have to express disappointment. While I applaud the amendments that the ALP was able to make in the Assembly, it did not go far enough and is, in fact, amending its own act. It was Labor's act. Labor reviewed the Coroners Act in 2008 and put in place the provisions that are in there, so it is winding back its own provisions.

I maintain that there is absolutely no proper rationale given for this at all. I think it is going to disadvantage families and those who are bereaved by the unexplained deaths of their loved ones and, through no fault of their own, have to deal with the coronial system. To reduce these time periods is not warranted. That is why I am moving my amendments.

Committee divided on amendment:

Ayes, 3

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

Noes, 34

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

Amendment negatived.

Clause agreed to; clauses 2 to 34 agreed to.

New clause

The ACTING PRESIDENT (Mr Elasmar) — Order! I call Ms Pennicuik to move her amendment 2, which proposes the insertion of a new clause to follow clause 34 relating to reasons for Victorian Civil and Administrative Tribunal final orders. I consider this amendment a test for Ms Pennicuik's amendment 8.

Ms PENNICUIK (Southern Metropolitan) — I move:

2. Insert the following New Clause to follow clause 34 —

'A Reasons for final orders

After section 117(2) of the **Victorian Civil and Administrative Tribunal Act 1998 insert** —

"(2A) The Tribunal must inform an unrepresented party of the party's right under subsection (2) to request written reasons.".'.

This is a test for my amendment 8, which seeks to insert a new clause to follow clause 41 for similar reasons to this amendment. I move this amendment to the Victorian Civil and Administrative Tribunal Act 1998 because it has been raised with me, in particular by unrepresented parties in VCAT, that they are not always aware of their rights under the act. This amendment simply ensures that after a tribunal member gives oral reasons for a particular ruling they inform an unrepresented party — that is, a party that does not have legal counsel present — of their legal rights. One would presume that this does normally occur, but this ensures that the tribunal member informs the unrepresented party of their right, under the section or subsection, to request written reasons.

There is only a short period of time in which this can occur — 14 days, from recollection — and if people do not know of that provision, the 14 days may expire before they make the request for the written reasons. This is in the interests of unrepresented parties who might find themselves in VCAT and to ensure that they are aware of their legal rights where they do not have legal counsel to apprise them of those rights.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — As the government has previously stated, this issue has been raised with VCAT and it is not a matter for legislative reform. The government is continuing to consider this matter in consultation with VCAT.

Committee divided on new clause:

Ayes, 3

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

Noes, 33

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

New clause negatived.

Clause 35

The ACTING PRESIDENT (**Mr Elasmar**) — Order! I call Ms Pennicuik to speak to her amendment 3 which invites the committee to vote against clause 35. I consider this a test for her amendments 4 to 7.

Ms PENNICUIK (Southern Metropolitan) — Clause 35 provides for orders for reimbursement or payment of fees, which has the effect that if one party does not have their paperwork in on time, the other party can apply to have their costs awarded to that party. People who have contacted us feel that that is most often going to play out in terms of local councils and developers. We do not see any need for this amendment to the bill, and therefore we invite the committee to not support clause 35 of the bill or subsequent changes to the bill brought about by the insertion of clause 35. Amendment 4, which is tested by amendment 3, invites the omission of clause 36, which brings into play the planning and environment list of the Victorian Civil and Administrative Tribunal.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The government will oppose the amendments moved by Ms Pennicuik. This issue was canvassed when the reforms were introduced by the government. Where a council has good reason for failing to make a decision within time, the presumption will not apply. In other cases the presumption will apply but can be rebutted based on the particular circumstances of the matter.

Committee divided on clause:

Ayes, 32

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

Noes, 3

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

Clause agreed to.

Clauses 36 to 63 agreed to.

Clause 64

Ms PENNICUIK (Southern Metropolitan) — I invite members of the committee to vote against the inclusion of clause 64 in the bill. Clause 64 inserts two new subsections after section 52(3) in part 4 of the Coroners Act 2008 to provide:

> "(3A) The coroner is not required to hold an inquest in the circumstances set out in subsection (2)(b) if the coroner considers that the death was due to natural causes.
>
> (3B) For the purposes of subsection (3A), a death may be considered to be due to natural causes if the coroner has received a report from a medical investigator, in accordance with the rules, that includes an opinion that the death was due to natural causes.".

We understand of course that deaths from natural causes can occur in custody, but as I outlined at some length in my contribution to the second-reading debate, there can also be other causes, including systemic causes. The Royal Commission into Aboriginal Deaths in Custody recommended that all deaths in custody be the subject of a coroner's investigation and inquest. Although, as I said earlier, some deaths may be the result of heart attacks or ailments, there may have been other causes that contributed to those deaths. While people are in custody the state has a duty of care. That places an extra burden on the state to make sure that nothing untoward has contributed to the death of a person in custody. The Greens do not support a change to the Coroners Act which would mean that it was not mandatory for deaths in custody to be investigated by the coroner.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The government will oppose Ms Pennicuik's invitation to omit this clause. The changes that are proposed in it will ensure that where a death is clearly the result of natural causes the Coroners Court will conduct a full investigation but will not be required to hold a costly inquest. The change was requested by the Coroners Court to allow it to continue to perform all its core functions more effectively.

Ms PENNICUIK (Southern Metropolitan) — I take up the minister's last statement that the Coroners Court has requested these changes in order to be able to perform its functions more effectively. Its functions are to ascertain causes of death, to make findings and recommendations about deaths and to prevent future deaths, particularly those that are the result of systemic problems. However, it also has a responsibility to investigate deaths that are the result of activities or actions that were either done or not done in regard to persons in custody.

The Federation of Community Legal Centres makes the point that it knows of a number of instances where it has only been at the inquest that doubt has been cast on whether the death was due to natural causes. Often it is the circumstances surrounding the death that actually need to be investigated by the coroner and then recommendations made around the prevention of deaths. If that is the aim of the provision in clause 64 of the bill, then it is not achieving its aim. I wanted to take up what the minister said in terms of the purposes of the Coroners Act.

Committee divided on clause:

Ayes, 33

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

Noes, 3

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

Clause agreed to.

New clauses

Ms PENNICUIK (Southern Metropolitan) — I move:

15. Insert the following New Clauses to follow clause 64:

'C Prevention of deaths in similar circumstances

(1) In section 8 of the Coroners Act 2008 —

(a) in paragraph (f), for "justice." **substitute** "justice;";

(b) after paragraph (f) **insert** —

"(g) ways in which deaths may be prevented from occurring in circumstances similar to those that have caused deaths the subject of coronial investigations.".

(2) For section 67(3) of the **Coroners Act 2008 substitute** —

"(3) A coroner may comment on any matter connected with the death including —

(a) matters relating to public health and safety or the administration of justice; and

(b) the specification of ways in which deaths may be prevented from occurring in similar circumstances in future.".

(3) For section 72(2) of the **Coroners Act 2008 substitute** —

"(2) A coroner may make recommendations to any Minister, public statutory authority or entity on any matter connected with a death or fire which the coroner has investigated, including recommendations —

(a) relating to public health and safety; or

(b) the administration of justice; or

(c) following the investigation of a death, relating to the prevention of deaths in similar circumstances in future.".

D Coroners powers at inquests

(1) After section 55(2)(c) of the **Coroners Act 2008 insert** —

"(d) order Victoria Legal Aid to offer legal assistance to an interested party on any conditions specified by the coroner;".

(2) After section 55(3) of the **Coroners Act 2008 insert** —

"(4) If a coroner makes an order under subsection (2)(d), the coroner may adjourn the inquest until legal assistance

has been offered, and if the legal assistance has been accepted, provided to the interested party.

(5) In this section —

Victoria Legal Aid means Victoria Legal Aid established under section 3 of the **Legal Aid Act 1978**.".'.

The first part of the amendment makes it clear that the coroner may, and I say should, be making comments, recommendations and findings with regard to systemic deaths — that is, deaths that the coroner may have already conducted inquests into and come to the view that there is something systemic causing those deaths — to prevent further deaths arising from those systemic issues. It is important to put that in the act.

I note that the ALP made comments earlier that the reason this is not happening has to do with funding. I have a certain understanding of that because I have raised the issue of funding, in particular with the family violence unit in the coroner's office being underfunded and which you could say is also looking at systemic deaths in the broader sense. I am aware of that, but I believe this amendment would strengthen the act and focus the attention of the coroner on that purpose — not to do with health and safety public administration but in the prevention of systemic deaths.

This has been raised by, again, the Federation of Community Legal Centres in its review of the coronial system. It is an amendment I also attempted to put up in 2008 when the Coroners Act 1985 was being reviewed. It would be an important adjunct to the act.

Many people would have received some correspondence from Caroline Storm, who lost her daughter and went through the coronial system. Without going into the particulars, she makes a comment in her letter:

> I would never reopen my daughter's inquest. She has left us, finally at peace. But in 12 years of studying the systems, meeting many parents with similar stories, I have learnt that hundreds have died because previous systemic deaths of the seriously mentally ill remain unexposed.

I am always looking for ways to improve the coronial system. It is an issue I have long taken an interest in, and this amendment would improve the system.

The second part of the amendment has to do with legal aid. I mentioned earlier the McNees family. Ian and Rhonda McNees have also written about the death of their son, which was also very tragic, and it has been covered in the press — on both radio and in the printed media. The McNees family makes the point that:

> At the coronial inquest into the death of our 18-year-old son while in the care of Eastern Health's Upton House facility there were 19 legal and insurance practitioners representing the hospital administration and their various entities — all funded from the public purse — we had one solicitor and a barrister that we had to engage and pay for.

This is not an unfamiliar story to me in my observations of the Coroners Court and in dealing with people who have been through the coronial system. Unless they are people of means and are able to hire barristers and solicitors or persuade barristers and solicitors to do the work pro bono because of public interest or the particular circumstances of the case, they can be unrepresented while the other parties can be represented by legal counsel.

That is not fair. The point was well made by the McNees family that if people in such a situation are dealing with a statutory authority or a government department, the legal representatives of that authority or department are paid by the public purse, and if they are people who are not able to pay for themselves, they have no way of being represented in any sort of way when attending hearings and understanding the proceedings and what is going on in the Coroners Court. Even though there have been improvements — and I admit there have been; the 2008 act is certainly an improvement on the previous one — a lot still needs to be done to improve the experiences of families as they go through the coronial system. A lot of that is to do with the funding of the Coroners Court and its staff who are there to assist families, but it is also to do with the legislative environment. I commend my amendment to the committee.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The government will be opposing the amendment moved by Ms Pennicuik for the insertion of new clauses to follow clause 64. Dealing with them on a case-by-case basis, in relation to the first new subclause the government believes the existing list of factors to be considered by a person exercising functions under the Coroners Act 2008 relate to the method of carrying out those functions and not to the broader purposes of the act. Therefore the government does not believe that insertion is necessary.

The government does not support the insertions described in paragraph (2) of this amendment because the principle behind the new paragraph (b) is already encompassed by the existing paragraph (a), and the specification is not required. The government does not support paragraph (3) of the amendment either.

In relation to Victoria Legal Aid, that body makes its own decisions about which cases to fund and the extent to which to fund them.

Ms PENNICUIK (Southern Metropolitan) — I make a closing comment, again responding to what the minister has said. The reason I moved the amendment was with regard to focusing the coroner on looking at making comments and recommendations about systemic deaths. I raised the issue of the letter written to me by the McNees family, and I thank them for writing to me today. They have written to other members and have been covered in the press, but they wrote to me again today to make this point about their particular experience.

As I said, others have had these experiences as well. That is why it is incumbent on everyone to be thinking about and learning from those experiences in terms of focusing on the prevention of systemic deaths and also on assistance to parties who, as I said, find themselves in the coronial system through no fault of their own and often through very tragic circumstances they also have to deal with. They are not supported in that in the way other statutory agencies or departments or others involved in the coronial inquest into the death of that particular person are. I think the new clauses are necessary, and I commend them to the house.

Committee divided on new clauses:

Ayes, 3

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

Noes, 32

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

New clauses negatived.

Clause 65

Ms PENNICUIK (Southern Metropolitan) — I move:

16. Clause 65, line 15, omit "may" and insert "must".

Amendment 16 is an amendment to clause 65 of the bill, which seeks to insert a new subsection into section 73 of the Coroners Act. That subsection reads:

> "(1A) Subject to subsection (1B), the findings, comments and recommendations made following an investigation may be published on the Internet in accordance with the rules.

My amendment would change the word 'may' to 'must' so that findings, comments and recommendations made following an investigation must be published on the internet in accordance with the rules.

Some members would be aware that I read the coroner's website quite a lot to check the status of recommendations the coroner has made to certain statutory agencies, including Victoria Police, WorkSafe and the Transport Accident Commission. Prior to 2008 the coroner's recommendations would be made and then would disappear into the ether. No-one was required to respond to them, let alone implement them. Following an amendment that I was able to get through with the support of the other parties, all agencies are now required to respond to the recommendations of the coroner within three months and to publish those responses. The responses are published on the coroner's website.

Another reason for publishing findings, comments and recommendations regarding investigations on the website is that this is in the public interest. That is part of the purpose of the Coroners Act 2008 and the whole coronial system — to find out causes of death and prevent future deaths. For that reason there should be as much openness and transparency and publishing of information as possible, within the rules. Of course, as we know, certain things are not published to protect the privacy of certain individuals. However, this amendment is more about findings, recommendations and comments that the coroner may make being published on the internet.

Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation) — The government does not support Ms Pennicuik's amendment. The government supports retaining the current discretion for the coroner to publish the reasons on the internet. The coroner will be best placed to make decisions about the appropriateness of such publication.

Committee divided on amendment:

Ayes, 3

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

Noes, 30

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

Amendment negatived.

Clause agreed to; clauses 66 to 110 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

The PRESIDENT — Order! I would like to make some comments with respect to the legislation that has just been passed. It is possible that matters might have been raised by the government in the context of one of Ms Pennicuik's amendments. I know the committee defeated the amendment, so it did not become an issue as such, but I think it is instructive for the Parliament to understand where I might have stood had that amendment been put to me.

As members are aware, Ms Pennicuik moved amendments to the Courts Legislation Miscellaneous Amendments Bill 2014. One of Ms Pennicuik's amendments proposed to insert a new clause into the bill which would have amended the Coroners Act 2008. Proposed new clause D would have empowered a coroner to order Victoria Legal Aid to offer assistance to an interested party.

Ms Pennicuik's amendment is not a clause that would have directly appropriated money from the Consolidated Fund. As such, it would not have directly increased the burden on the people. The context of this ruling is obviously the house's ability to pass amendments that affect the Consolidated Fund.

Section 64(2) of the Constitution Act 1975 states that the Council may not suggest any omission or amendment the effect of which will be to 'increase any proposed charge or burden on the people'. Therefore Ms Pennicuik's amendment could not be allowed as a suggested amendment; it was either to be allowed as a normal amendment or not allowed at all. Section 62(1) of the Constitution Act requires that:

> A Bill for appropriating any part of the Consolidated Fund … must originate in the Assembly.

This also applies to amendments, so any discussion of the Council's power to originate bills is also relevant to amendments.

The Economy and Infrastructure Legislation Committee's report on the Accident Compensation Legislation (Fair Protection for Firefighters) Bill 2011, introduced by Ms Hartland, made the following finding in its unanimous report in 2013:

> Finding 1
>
> There are differing views as to how section 62(1) of the Constitution Act 1975 should be interpreted. Possible approaches include interpreting the paragraph with reference to the purpose of a bill, the effect of a bill or what is legally possible as a result of the bill.

The committee's findings 3 and 6 also highlight the difficulty in determining whether a bill or an amendment is likely to increase costs and therefore infringe section 62(1) of the Constitution Act 1975.

Given the significance of Ms Hartland's bill, which was examined by the legislation committee, it is apparent how much more difficult it is to assess the effect of Ms Pennicuik's amendment to a bill which at most can only be described as having a possible indirect effect on costs. The amendment itself was not a direct appropriation.

The mere fact that a bill or an amendment would have the possible effect of imposing a new function on an agency or increasing its workload does not mean that the Consolidated Fund is appropriated. If the primary purpose of a bill or an amendment is to do something that would almost certainly require increased expenditure, then this has been held, by Council practice, to be an indirect form of requiring an appropriation and therefore increasing the burden on the people, infringing the constitution.

Whether or not the Council should even restrict itself in these terms has been a point of debate and varying

practice over the decades. The Economy and Infrastructure Legislation Committee's report provided the house with a very good description of this debate and varying practice. Similarly there are past rulings and research by table officers which point to these complexities. I will therefore not regurgitate the material that members can read in the Economy and Infrastructure Legislation Committee's report, but I will reflect on one example of past advice about amendments proposed in the Council.

In 1985 amendments were proposed in the Council to the Administrative Appeals Tribunal Bill, one of which would have the effect of adding jurisdiction to the tribunal and therefore the volume of work for the tribunal. The solicitor-general's advice was sought as to the constitutionality of this amendment. The advice was to the effect that the amendment was in order because the amendment itself did not appropriate the Consolidated Fund for the purpose of adding jurisdiction to the tribunal. In fact I relied on that in terms of what I would have decided with Ms Pennicuik's amendment today and came to a similar conclusion. In other words, there are degrees of separation between proposing an amendment and any subsequent decision by the government to either seek or not seek a Governor's message and to introduce its own legislation in the Assembly authorising appropriation from the Consolidated Fund.

The problem with applying a test of whether a bill or an amendment may indirectly have the effect of requiring an appropriation to meet increased costs is that very subjective views must be formed by the Chair. The Council's practice highlights this subjectivity. At times the proposed imposition of an additional function or provision which would increase an agency's workload has been ruled as an acceptable bill or amendment. It has been assumed that an agency is large enough to absorb the function or workload by simply reprioritising and managing in the way that all organisations do when dealing with increased functions or demands. At other times the Chair has taken a different view. The assessment is almost always subjective, consisting of a degree of assumption and educated guesswork. However, it is never a case of direct appropriation and increased burden on the people, because such provisions can be clearly identified and would be ruled out accordingly.

On 20 August this year I made a ruling in relation to whether the Residential Tenancies Amendment (Housing Standards) Bill 2013, introduced by Mr Barber, infringed the appropriation sections of the Constitution Act 1975. Consistent with the type of test that should be applied and that the Council should not unduly restrict itself, I ruled Mr Barber's bill in order and in the same ruling I pointed out that the same test was used to allow a number of government bills to originate in the Council that day.

It is possible that in the very recent past I may have ruled out Ms Pennicuik's amendment in relation to Victoria Legal Aid being required to assist a party by a coroner. I did not rule it out on this occasion, or bring it to the Council's attention in the course of the debate, having regard to the evolving practice of the house, the analysis provided by the Economy and Infrastructure Legislation Committee and the fundamental principle that the house should not unduly restrict its own powers and privileges.

RESOURCES LEGISLATION AMENDMENT (BTEX PROHIBITION AND OTHER MATTERS) BILL 2014

Second reading

Debate resumed from 21 August; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr SCHEFFER (Eastern Victoria) — The Resources Legislation Amendment (BTEX Prohibition and Other Matters) Bill 2014 amends a number of acts so as to prohibit the use of benzene, toluene, ethylbenzene and xylene (BTEX) chemicals in hydraulic fracturing. The bill also makes amendments to the licensing system to facilitate mineral exploration in Victoria. The opposition will not be opposing the bill. We recognise that the government, in bringing this legislation into the Parliament, has moved closer to the position on unconventional gas exploration and extraction that Labor has adopted.

Members will recall that in April 2012 Labor called on the government to impose a moratorium on unconventional gas, including coal seam gas exploration and extraction. We also moved to have these complex matters referred to a parliamentary committee for further examination and public consultation. Mindful of the need for the best scientific and technical advice to be made available to decision-makers, Labor also announced that any policy changes should be grounded in rigorous scientific evidence. Any consideration of BTEX would of course be included within this overall cautious approach.

The matters with which this bill are concerned are complex, and I am grateful to the parliamentary library researchers, Dr Catriona Ross and Paige Darby, for their enormously helpful research paper, 'Unconventional gas — Coal seam gas, shale gas and

tight gas'. As members know, BTEX is a naturally occurring compound found in petroleum and coal tar and is one of the chemical additives used in hydraulic fracturing. BTEX is described as volatile. This means that the chemical compound evaporates quickly into the air and dissolves in water, which is why it is capable of contaminating ground water in the fracking process. That is a matter of great concern among farmers in South Gippsland.

The parliamentary library research note on the bill explains that BTEX is also used in the processing of refined petroleum products and coal and in paints, solvents, cosmetics and pharmaceuticals. The compounds are harmful to human health. Benzene, which is the most toxic, is a known carcinogen. People are exposed to this toxin by breathing in contaminated air from motor vehicle exhaust fumes, from around petrol stations and from cigarette smoke. Therefore workers on fracking sites are at risk.

The World Health Organisation specifies guidelines for safety levels in water, but says that no guideline value has been developed for air and that no safe level of exposure can be recommended. Toluene, ethylbenzene and xylene are also cited in the research as being highly dangerous substances that harm the gastrointestinal system, the liver and kidneys, the brain and nervous system and the eyes and respiratory tract, depending on the level of exposure. In short, the BTEX chemical compound is dangerous, and there are very good reasons for the government to introduce a bill that prohibits its use as an additive in hydraulic fracturing. The concern is widespread. In the United States, industry has for the last decade agreed on a voluntary basis not to use BTEX. As well, New South Wales has banned its use on the basis of policy and not law. Queensland has gone a step further and prohibited in legislation the use of restricted stimulation fluids that contain BTEX.

The provisions contained in the bill before us today seek to prohibit the use of BTEX chemicals in hydraulic fracturing so that an exploration permit, a retention lease, an injection and monitoring licence or a special access authorisation are subject to the prohibition condition referred to in clauses 3, 6 and 69 of the bill. The bill indicates in each of these clauses that restricted hydraulic substances refers to fluids or gases used for the purpose of hydraulic fracturing that contain petroleum hydrocarbons containing benzene, ethylbenzene, toluene or xylene in more than the maximum amount prescribed by the regulations.

The opposition has sought details on these foreshadowed regulations and on what 'prohibition' means, because in a common-sense way one would think that prohibition means that not a molecule of BTEX can be used under any circumstances in the hydraulic fracturing process. However, I understand that scientists can only measure or describe the concentration of a substance such as BTEX to the extent that their technology permits and that before levels can be set in the regulations for application in the field, work needs to be undertaken under laboratory conditions. I also understand that it is difficult to establish a zero concentration reading even in a laboratory setting and that the impact of the regulation needs to be assessed through the regulatory impact statement process. But I struggle to understand why there is a need to have a maximum amount of the prohibited substances prescribed in regulations if there is to be a total prohibition.

Clauses 3, 6 and 69 insert new sections into the Geothermal Energy Resources Act 2005, the Greenhouse Gas Geological Sequestration Act 2008 and the Petroleum Act 1998 respectively to define restricted hydraulic fracturing substances such as the BTEX chemical compounds where the quantity is more than the maximum amount prescribed by the regulations, as I said earlier. This suggests that if the level or quantity of the BTEX chemicals was less than the prescribed amounts, they would not be prohibited. Does this mean that it is permitted to use quantities of BTEX below the maximum prescribed in the foreshadowed regulations?

There is also a question around the possible release or activation of the BTEX chemicals that are already in the earth as a result of the fracking, even when they are not used as additives. I understand that such a release of BTEX chemicals could damage the environment — for example, through contaminating the groundwater — and that the provisions in this bill would not capture this eventuality.

As I have indicated, the opposition will not be opposing the bill because its provisions support policies that Labor has espoused for some time and which the government has, bit by bit, been forced to adopt. Public anxiety over the exploitation of unconventional gas is a worldwide phenomenon — in the United States, the UK, France, Spain, Germany, Sweden, Argentina, Mexico and of course Australia, to name a few. This global movement is worrying for the unconventional gas industries because the global and local strength and the versatility of the networks that rely on social media, alliance building and direct action are proving to be very effective and difficult for an industry that, it is fair to say, is not generally trusted.

Shire councils and councillors across the state, including the Colac Otway, Bass Coast, South Gippsland, Baw Baw and Wellington shire councils, have on behalf of their communities spoken out and opposed exploration for and mining of coal seam gas. The Victorian Farmer Federation's policy principles state that farmers should hold a right of veto over mining activities on their land; landholders should have the right to sign off on rehabilitation plans; and there should be an increase in the period of time in which claims can be made following rehabilitation from three to five years.

Labor listened to the concerns — as did the Liberal member for Bass in the Assembly, Ken Smith — and in April 2012 Labor moved for an immediate moratorium on coal seam gas and unconventional gas exploration and extraction. We also moved for the matter to be referred to a select committee for an investigation of the issues and open public consultations to be conducted to formally give Victorians an opportunity to place their views on the public record. Included in this initiative was our concern over BTEX chemical compounds. The government voted down Labor's motion for the referral of the issue to a select committee, but the regional campaigns were making it clear, even to the government, that there was a problem, and The Nationals heartland was then and still is up in arms.

Farmers understood this issue. Some of the Nationals and Liberals who hold regional seats were beginning to see that these farmers were the same people who were members of Landcare and other regional organisations who were concerned about the potential contamination of groundwater and what this would do to the natural environment, to agriculture and to the value of their properties. The government belatedly realised that these concerns were far more deep seated and widespread than it had thought and could not just be dismissed or waved off as the ravings of unhinged lefties.

On Friday, 24 August 2012, the then Minister for Energy and Resources faced reality and put out a release announcing a hold on approvals to undertake hydraulic fracturing as part of onshore gas exploration and a hold on the issuing of new exploration licences for coal seam gas until the upcoming national framework proposals had been considered. The then energy minister also announced a ban on the use of BTEX chemicals, but the release he issued completely failed to elaborate anything further on the ban, the reasons for it, how it would be implemented and what measures were in place to enforce it.

The words of the do-nothing member for South Gippsland in the Assembly and Deputy Premier were priceless. He is reported as saying:

> What we've now engaged in is the process of making sure that for those who do want to search for it, they are now subject to a regime which we think is much, much more appropriate to contemporary needs.

Then more than a year later, on 21 November 2013, the government, with yet another energy minister, announced that the moratorium would stay until July 2015 — after the election — and that in the meantime there would be public consultation. The minister also announced that the ban on BTEX chemicals would be enshrined in legislation, and that legislation is before us today, nine months later.

While at a superficial level it may seem that Labor and the government have the same or similar policies, in that they both have a moratorium policy and both are looking into the issues associated with hydraulic fracturing, in fact they are taking very different approaches. The industry is dismayed at the inactivity of the government, for which the moratorium is simply a delaying tactic to get past the election and avoid the sticky problem in The Nationals heartlands of opposition to coal seam gas exploration and extraction. In addition, the gas industry and investors are disappointed that so much time has been wasted and so many opportunities lost.

We know that if the government wins the election, the government will take up Peter Reith's Gas Market Taskforce report and recommendations and basically get on with it, with or without community support and without making a case that unconventional gas exploration and extraction is safe in all respects.

By contrast, Labor sees the moratorium as an opportunity to actively engage with stakeholders and directly affected communities through a parliamentary committee process that would gather scientific and technical evidence to inform the public consultation. Right now there is a stand-off between the coalition of local groups that are opposed to coal seam gas exploration and extraction and the industry, and while it is clear that a lot of work needs to be done to improve the decline in the social licence of the mining sector, which has not been helped by the Morwell coal fire that we have heard a lot about this week, I cannot see any evidence that the coalition government or the Minister for Energy and Resources is assisting in any way.

The legislative prohibition of the BTEX chemicals in hydraulic fracking is both good in itself and a demonstration to the community that it is possible to

identify clear dangers in certain fracking practices and to address them. As I indicated, the opposition will not be opposing the bill because its objectives are consistent with the Labor policy that the government has accepted in this instance. I foreshadow that I have some questions that I wish to pursue in more detail in the committee stage.

Mr ELSBURY (Western Metropolitan) — It is my pleasure to rise this afternoon to speak on the Resources Legislation Amendment (BTEX Prohibition and Other Matters) Bill 2014. It is pleasing to hear from Mr Scheffer that the Labor Party has seen the light on this issue and decided to join with the government in supporting the bill; certainly that was not what it did when it was in government.

The use of BTEX chemicals in the process of hydraulic fracturing is currently under an administrative ban in Victoria, and the legislation further reinforces the ban. The administrative ban will continue until such time as the regulations surrounding the use of BTEX chemicals in hydraulic fracturing can be brought into line with this legislation, leaving no gap in the ban to be used by anyone who might try.

BTEX is the term used to define the chemicals benzene, toluene, ethylbenzene and xylenes, and I will say a little more about those chemicals. Toluene is a useful chemical in many instances; however, concern occurs over long-term exposure. The federal Department of the Environment explains that long-term exposures at low levels can affect the kidneys. The World Health Organisation highlights the dangers of benzene with information available on its website stating:

> Human exposure to benzene has been associated with a range of acute and long-term adverse health effects and diseases, including cancer and aplastic anaemia.

Ethylbenzene is highlighted as a chemical to which people should choose limited exposure. It has a chemical half-life in the atmosphere of one day, but in soil the half-life extends to between 24 and 25 days. The United States Environmental Protection Agency cites ethylbenzene as having the following effects.

> Acute (short-term) exposure to ethylbenzene in humans results in respiratory effects, such as throat irritation and chest constriction, irritation of the eyes, and neurological effects such as dizziness. Chronic (long-term) exposure to ethylbenzene by inhalation in humans has shown conflicting results regarding its effects on the blood. Animal studies have reported effects on the blood, liver, and kidneys from chronic inhalation exposure to ethylbenzene. Limited information is available on the carcinogenic effects of ethylbenzene in humans. In a study by the National Toxicology Program (NTP), exposure to ethylbenzene by inhalation resulted in an increased incidence of kidney and testicular tumours in rats, and lung and liver tumours in mice.

It is not a very nice chemical at all. According to the same agency, xylenes have the following impacts:

> Acute (short-term) inhalation exposure to mixed xylenes in humans results in irritation of the eyes, nose, and throat, gastrointestinal effects, eye irritation, and neurological effects. Chronic (long-term) inhalation exposure of humans to mixed xylenes results primarily in central nervous system (CNS) effects, such as headache, dizziness, fatigue, tremors, and incoordination; respiratory, cardiovascular, and kidney effects have also been reported.

These are chemicals which need to be respected and used in sensible ways that limit people's exposure to them. This is reinforced by the final report of the Gas Market Taskforce brought down in November 2013. Its recommendation 5b recommends a permanent ban on the use of BTEX chemicals in the hydraulic fracturing process. Support for this part of the recommendation should not be construed in any way as support for other recommendations in the report. Certainly the government continues to support a hold on hydraulic fracturing, granting new natural gas exploration licences and work plan approvals for exploration or drilling until at least July 2015.

Community consultation is being undertaken to seek input on issues surrounding the potential of an onshore gas industry in Victoria. This consultation began in June and has consisted of a series of open days across regional Victoria. Meanwhile there is a hold on the following: new exploration licences for all types of onshore natural gas; approvals for hydraulic fracturing; exploration drilling activities; and the use of BTEX chemicals in the already mentioned activities. This is unlike South Australia where the Labor government is running headlong into onshore unconventional gas wells being established across the state.

Even though an opposition member decided he would try to clean his hands of the issue, in Victoria under Labor 73 licences for unconventional gas exploration and 23 fracking operations were approved. Members of the coalition government have taken a more cautious approach. Given the nature of the chemicals, the recognition by the Gas Market Taskforce of the risks these chemicals pose and the potential impact these chemicals could have on regional communities, this bill is well based. Indeed the crux of the issue is the danger these chemicals pose to aquifers and watertables should they enter those systems. The reactivity of these chemicals with biology means that every effort needs to be made to limit exposure through drinking water or even irrigation and for use in watering livestock. The

bill facilitates the regulations needed to ban the use of BTEX chemicals indefinitely.

I note the oil and gas industry has not used BTEX chemicals in the hydraulic fracturing process for many years, but this does not mean we should leave this door open. Victoria's regional communities deserve certainty, and that is why taking a firm stand now is important so BTEX chemicals, with all the risks they present, are never used again.

The following acts are amended as a result of this legislation banning the use of BTEX chemicals: the Geothermal Energy Resources Act 2005, the Greenhouse Gas Geological Sequestration Act 2008, the Mineral Resources (Sustainable Development) Act 1990 and the Petroleum Act 1998. The Water Act 2014, the Victorian Environmental Assessment Council Act 2001, the Traditional Owner Settlement Act 2010, the Privacy and Data Protection Act 2014, the Health Records Act 2001, the Offshore Petroleum and Greenhouse Storage Act 2010 and the Pipelines Act 2005 will also include minor amendments as a result of this legislation.

The importance of this legislation cannot be belittled by those opposite in any way, shape or form. It is very important that we are able to bring these regulations into play and that we are able to provide the people of regional Victoria with the certainty that these sorts of chemicals will not be used to provide companies with the opportunity to release gas, should a future government choose to allow fracking to occur. It is important that these chemicals are not used in the fracking process because of the very dangerous elements they contain and the effects they have on people who are exposed to them. I commend the bill to the house, and I welcome the support from those opposite.

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

Debate adjourned until next day.

PRIMARY INDUSTRIES LEGISLATION AMENDMENT 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. M. J. Guy; by leave, ordered to be read second time forthwith.

Statement of compatibility

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

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

In my opinion, the 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 amends the Domestic Animals Act 1994 (the act) to enhance the regulatory scheme for domestic animal businesses, including dog and cat breeders and pet shops, in order to ensure standards of animal welfare by those businesses. The bill also makes various minor amendments to the Prevention of Cruelty to Animals Act 1986, Veterinary Practice Act 1997, Livestock Disease Control Act 1994 and the Plant Biosecurity Act 2010.

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

Right to privacy

Section 13(a) of the charter act provides that all persons have the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

Clause 15 of the bill inserts a new section 63AB into the act, which requires the proprietor of a pet shop to keep and maintain, in respect of each dog or cat that is offered for sale by the shop, details of the name and address of the person from whom the shop obtained the animal, and any other prescribed information. In my view, this clause is unlikely to interfere with the right to privacy. The information is limited to a person's name and address. The proprietor will obtain the information from the person selling an animal and will then keep that information in his or her pet shop, and will not publish the information. The person providing the information most likely will consent to doing so. However, even if the provision of such information does interfere with privacy, any such interference will be neither unlawful nor arbitrary. The information must be obtained and kept by proprietors of pet shops in order to properly regulate the sale of animals to pet shops and to ensure adherence with animal welfare standards. Pursuant to section 74 of the act, an authorised officer may only access the register if it is both reasonable and necessary to investigate a breach of, or monitor compliance with, the regulatory scheme. Accordingly, in my view, this clause does not limit the right to privacy.

Right to property

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

Clause 12 of the bill amends the definition of 'domestic animal business' in section 3 of the act to include an enterprise which carries out the breeding of dogs or cats to sell, whose proprietor is a member of an applicable organisation, with between three to nine fertile female dogs or fertile female cats of which more than two of those fertile animals are not registered with that organisation. Enterprises which fall within this extended definition will be required to register the premises on which a domestic animal business is conducted under part 4 of the act, and the failure to do so may result in the seizure of a dog or cat by an authorised officer under s 82A of the act. However, because any deprivation of property occasioned by seizure under s 82A will only occur as a consequence of a person choosing to engage in the breeding of dogs or cats to sell, electing not to register more than two of their fertile female dogs or fertile female cats with an applicable organisation, and failing to register the premises on which the business is conducted, I consider that it will be in accordance with the law.

Right not to be tried or punished more than once and retrospective criminal laws

Section 26 of the charter act provides that a person must not be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law.

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.

Clause 14 of the bill amends s 54 of the act to provide that a council must not register, or renew the registration, of premises for a breeding domestic animal business if the applicant or holder of the registration, proprietor of that business, or person conducting that business has been found guilty of a specified offence under the Prevention of Cruelty to Animals Act 1986 within the 10-year period preceding the application for registration or renewal.

Neither section 26 nor section 27 of the charter act precludes the imposition of civil sanctions imposed for a preventative or protective purpose. Because the prohibition is limited to the regulation of breeding domestic animal businesses, and is intended to ensure standards of animal welfare and manage the risk of further animal cruelty offences, I consider it does not engage either section 26 or 27(2) of the charter act.

Damian Drum, MLC
Minister for Sport and Recreation

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:

Amendments to the Domestic Animals Act 1994

The Domestic Animals Act 1994 requires a council to issue to the owner of a registered dog or cat a new identification marker each year. A number of councils have expressed a desire to adopt life-long identification markers.

Some councils are already issuing lifetime identification markers and so to clearly provide for this option, the bill amends the act to provide an ability for councils to issue life-long identification markers for cats and dogs as an alternative to annual issue of markers.

The amendment reduces regulatory administrative burden on these councils and, now that dogs and cats are identified by microchip implants, the ability of a council to determine the currency of registration is not diminished. Some councils will prefer to continue to issue colour coded identification markers each year and this proposal does not prevent them from doing this.

The bill will make further amendments to the act to improve the welfare of dogs and cats in domestic animal breeding businesses and available-for-sale pet shops. These amendments align with government policy to 'crack down on cruel and illegal puppy farms'.

The changes remove the ability for people with a history of animal cruelty offences to run a domestic animal breeding business within 10 years of their offence and new provisions will allow authorised officers of the Department of Environment and Primary Industries, councils and the RSPCA to investigate illegal puppy farms by requiring pet shops to keep records as to where stock is sourced.

Additionally, they create a new requirement for small to medium breeders with three to nine animals that are members of an applicable organisation, and who do not wish to be treated as domestic animal businesses, to have no more than two of those animals not registered with that organisation. For example, if they have nine animals, at least seven of those animals must be registered with the organisation.

Amendments to Livestock Disease Control Act 1994

The Livestock Disease Control Act 1994 enables the Department of Environment and Primary Industries to protect public health and protect domestic and export markets by preventing, monitoring and controlling diseases that may threaten livestock industries.

The bill includes bison in the definition of cattle under section 3 of the act in order to make them subject to identification requirements established by the act. This is necessary as bison are ruminants and are therefore at risk of carrying exotic or notifiable diseases which may be passed on to cattle, sheep or goats.

The bill includes a separate corporate penalty in the swill feeding offence that will recognise the liability of companies which operate food premises or garbage disposal businesses which distribute swill as a form of waste management. The feeding of swill may lead to the outbreak of exotic disease such as foot-and-mouth disease which could cost the Australian economy up to $50 billion in the event of a large-scale outbreak.

The bill increases the representation and expertise on the Apicultural Industry Advisory Council by providing for an additional member, nominated by the Victorian Farmers Federation. Consultation with industry will be further facilitated by requiring that nominations made by the Victorian Apiarists Association include a person who has wide experience and knowledge of the delivery of honey bee crop pollination services.

Amendments to Plant Biosecurity Act 2010

The Plant Biosecurity Act 2010 provides the key legislative framework supporting the government's role in protecting Victorian plant industries from plant pests and diseases and in facilitating the timely movement of fresh produce to local, interstate and overseas markets. The bill provides for minor amendments to assist DEPI in monitoring compliance with the requirements of the act and to prevent the spread of plant pests and diseases within the state.

The act provides certification requirements for the movement of fresh produce and other host material (used equipment, packaging and earth materials) into and within Victoria. Most produce is sent directly to the receiver of the produce, such as a wholesaler, who is authorised under the act to inspect the produce and assess that certification meets requirements. The bill amends the act to reflect these arrangements.

To prevent the spread of plant pests and diseases within the state, the bill provides an inspector with the option to return produce to the source of origin if it has not met the conditions permitting movement out of a declared area. A person will receive this direction in writing and will be provided with a reasonable time to comply with the direction.

Plant pests and diseases can move into Victoria or to another location within the state through the movement of infested plants and plant products and other carriers, including used equipment, used packaging and earth materials. The bill extends the requirement for a person to notify an inspector if the person knows or suspects that an exotic pest or disease or a notifiable disease is present in these other carriers.

The act provides inspectors with the option to issue an infringement notice to a person who has committed a minor offence under sections specified in the Plant Biosecurity Regulations 2012. There is no option for an inspector to issue an infringement notice to a person for a minor breach under two sections of the act that provide requirements for importing produce into the state. To provide for a more consistent compliance approach under the act, the bill amends these two sections to provide inspectors with the option to issue an infringement notice for a minor breach of importation requirements.

Amendments to the Prevention of Cruelty to Animals Act 1986

The bill amends the Prevention of Cruelty to Animals Act 1986 to include minor statute law revisions that have arisen from recent amendments to the act.

Amendments to the Veterinary Practice Act 1997

The Veterinary Practice Act 1997 enables the establishment of the Veterinary Practitioners Registration Board of Victoria and through the board regulates the registration of veterinary practitioners, including their professional conduct and fitness to practise.

The bill removes the requirement that practitioners seeking specific registration or non-practising registration must comply with the residency requirements stated at section 4(1) of the act. This amendment will allow a practitioner who does not reside in Victoria to be registered.

The bill changes the registration cycle from a calendar year to a financial year. Amending the registration period in this way will improve the board's administration process and practitioners' compliance with registration requirements.

The bill allows for a practitioner to be represented by a lawyer in disciplinary proceedings, which will assist the board in conducting an investigation expediently and ensure fair representation for the practitioner.

Due to the increase in the use of social media and websites which endorse or review services, the bill removes the prohibition that a veterinary practice or service cannot rely on testimonials in its advertisements. This requirement is outdated and too onerous to enforce.

I commend the bill to the house.

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

Debate adjourned until Thursday, 11 September.

INQUIRIES BILL 2014

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Inquiries Bill 2014 (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 primary purpose of the bill is to provide for the establishment and conduct of executive inquiries in Victoria, and to make related amendments. Specifically, the bill provides for:

the establishment and conduct of three types of executive inquiry: royal commissions, boards of inquiry and formal reviews (inquiries);

powers for each type of inquiry;

matters relating to privilege, secrecy and protection from liability in relation to inquiries; and

offences in relation to inquiries.

Human rights issues

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

Section 13(a): privacy

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

Powers to obtain evidence

The bill provides royal commissions and boards of inquiry with a range of powers to coercively obtain evidence.

Both commissions and boards may compel a person to produce a document or thing, to answer questions on oath or affirmation, to attend the inquiry to give evidence and/or produce a document or thing, and have power to inspect, retain and copy documents or things produced. In addition, commissions have power to enter and search premises (under a warrant issued by a magistrate), and to inspect, retain and copy documents or things found.

The right to privacy is relevant to these coercive powers, as a person may be required to disclose personal information to the inquiry in a public hearing. This information could also be included in a report of the inquiry.

In my opinion, the bill does not limit the right to privacy. Commissions and boards are established to inquire into significant matters of public importance. The ability to compel evidence is necessary to ensure these inquiries are effective and can achieve this important function. These broad powers are limited by the purposes and subject matter of the inquiry, and a person may object to the production of evidence which is not relevant to the inquiry's subject matter.

The coercive powers in the bill are subject to limitations and safeguards which protect personal information. Commissions and boards may conduct their inquiries in private, where appropriate, and may exclude persons from inquiry proceedings and prevent the disclosure or publication of evidence. The execution of a search warrant is subject to procedural safeguards, including announcement and notification requirements. In addition, the bill includes confidentiality provisions and offences which ensure that evidence cannot be taken advantage of or inappropriately used or disclosed.

Disclosure of information

The bill provides that an inquiry may disclose information or provide documents to another person or body where the disclosing person considers that:

the information or document is relevant to the performance of the functions of the person or body to whom it is given; and

it is appropriate to disclose the information or to give the document.

While this provision allows for the disclosure of personal information, it ensures that inquiries have flexibility to share important information with other relevant persons and bodies (e.g. police, prosecutors or integrity bodies) where appropriate.

Section 13(b): reputation

Section 13(b) of the charter act provides that a person has the right not to have his or her reputation unlawfully attacked.

The bill requires royal commissions, boards of inquiry and formal reviews to report on their inquiry. These reports may be tabled in Parliament. The right to reputation is relevant, as reports may include adverse findings about individuals. However, the bill ensures that reputations are not unlawfully or arbitrarily damaged, by providing that an inquiry (a) must adhere to the requirements of procedural fairness, (b) cannot make a finding that is adverse to a person unless satisfied that the person has been given an opportunity to respond to that finding, and (c) must consider and fairly set out in its report any such response.

Section 20: property

Section 20 of the charter act provides that a person must not be deprived of his or her property other than in accordance with law. The right requires search and seizure powers to be clear, confined, formulated precisely, and accessible to the public.

As outlined above, royal commission officers may inspect, retain and copy relevant documents and things found in the execution of a search warrant. The bill clearly sets out the scope and operation of this power, including the circumstances in which property may be seized. The occupier of the relevant premises must be provided with receipts for any seized items, as well as copies of any seized documents or things (where a copy can be readily made) as soon as practicable, unless contrary to the public interest. Seized property must also be returned if the retention is no longer necessary for the purposes of an inquiry or if the property is required as evidence in a legal proceeding.

Any interference with the right to property is strictly confined, and does not limit this right.

Section 24(1): fair hearing

Section 24(1) of the charter act provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

In my view, the right to a fair hearing does not apply to inquiries established under the bill. These inquiries will not constitute a 'tribunal' for the purposes of the charter act. Further, examinations by inquiries will not constitute civil or criminal proceedings, as they do not possess the key features inherent to these proceedings (e.g. determining issues

between parties in a binding way, such as by finding fault and imposing penalties).

Notwithstanding this conclusion, I note that the bill includes a range of general protections which promote fairness for participants in inquiry proceedings. For example, inquiries must comply with the requirements of procedural fairness, a person may be allowed to be legally represented, and must be given an opportunity to respond to any proposed adverse findings.

Section 15(2): freedom of expression

Section 15(2) of the charter act provides that every person has the right to freedom of expression. This includes the freedom to seek, receive and impart information and ideas.

The right may be subject to lawful restrictions reasonably necessary to respect the rights of other persons or for the protection of national security, public order, public health or public morality.

Restrictions on publication

As noted above, inquiries may make an order to prevent the publication of information or evidence given to it. This allows an inquiry to protect sensitive information and thereby protect the privacy of individuals and public order. As such, the right is not limited.

Exemption from Freedom of Information Act 1982

The bill provides that the Freedom of Information Act 1982 does not apply to any document in the possession of an inquiry, or to certain documents in the possession of any other person or body during the existence of an inquiry.

This exemption is aimed at protecting the integrity of the inquiry process during the life of the inquiry, and is appropriate given the sensitivity of the information that inquiries will handle. It ensures inquiries can operate effectively and without the danger that sensitive material will be publicly released. As such, I consider that the exemption does not limit the right to expression.

Section 25(1): presumption of innocence

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

The bill creates criminal offences in relation to a person's participation in inquiries. Several of these offences shift the burden of proof from the prosecution to the accused. As such, the right to be presumed innocent is relevant.

A number of offences include a 'reasonable excuse' exception. In my view, these offences place an evidentiary burden on the accused, but they do not transfer the legal burden of proof. This is because, once the defendant has pointed to evidence of a reasonable excuse, the burden will shift to the prosecution to prove the absence of the exception or defence raised.

Courts in other jurisdictions have generally taken the approach that an evidential onus on a defendant to raise a defence does not limit the presumption of innocence.

For these reasons, I consider that the placing of an evidentiary burden on a defendant does not constitute a limit on the right in s 25(1). Further, even if this were found to limit the right, the limitation would be reasonable and justifiable under section 7(2) of the charter act.

Section 12: freedom of movement

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

As outlined above, the bill permits a commission or board to compel the attendance of persons at a hearing. The right to freedom of movement is relevant to the extent that a person may be required to attend at a particular place and time. However, I consider that any interference is minor and lawful. As a result, the right is not limited.

Section 17(2): best interests of the child

Section 17(2) of the charter act provides that every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.

This right is relevant to the extent that the bill allows coercive powers (outlined above) to be exercised with respect to persons under 18 years of age. The bill provides that such powers must be exercised subject to the requirements of procedural fairness. It also provides for commissions and boards to take account of the age of a child when determining whether to allow them to participate in, or be legally represented at, an inquiry.

I am satisfied that these requirements ensure the best interests of children are considered by inquiries and, as such, this right is not limited.

2. Human rights that are limited by the bill

Section 25(2)(k): protection against self-incrimination

Section 25(2)(k) of the charter act provides that a person who has been charged with a criminal offence has the right not to be compelled to testify against himself or herself or to confess guilt. This is also an aspect of the right to a fair trial protected by section 24.

As explained above, inquiries established under the bill will not constitute civil or criminal proceedings. Nevertheless, this right is relevant to clauses of the bill relating to the subsequent use of evidence given to inquiries.

The bill partially abrogates the privilege against self-incrimination for royal commission inquiries. It provides that it is not a reasonable excuse for a person to fail to comply with a requirement to provide information on the basis that it might tend to incriminate the person or make him or her liable to a penalty, except in relation to proceedings that have been commenced against the person but not finally been disposed of. The privilege against self-incrimination is only abrogated for commissions, which will investigate matters of the greatest public importance and, therefore, require access to the broadest suite of evidence-gathering powers.

The abrogation of this privilege is balanced by a use immunity, which ensures material given to a commission by a person is inadmissible in any subsequent proceedings against

that person (with limited exceptions, discussed below). The immunity:

> extends to information, answers, documents and things (although, as discussed below, documents are treated differently from other materials in certain respects);
>
> applies directly to all materials obtained by a commission, whether by compulsion or voluntarily, including material obtained as a result of an abrogation of privilege. In the case of self-incriminating material, the Supreme Court has held that similar immunity provisions extend to other evidence obtained as a direct result of such materials; and
>
> applies in all subsequent criminal, civil, administrative proceedings before a court or tribunal or any disciplinary proceedings.

There are limited exceptions to this use immunity, which allow materials to be used in a proceeding for an offence under the bill or for perjury or destruction of evidence under the Crimes Act 1958. Documents may also be used where they are, or could have been, obtained independently of their production to the commission, either before or after that production. This ensures authorities are not prevented from making use of documents that have, or could have, been obtained independently of a royal commission's inquiry.

While the bill limits the protection against self-incrimination, I consider that this limitation is reasonable and justified. The privilege against self-incrimination is abrogated only in a royal commission proceeding, and continues to apply in respect of any proceedings against a person which remain on foot. Additionally, the use immunity ensures self-incriminating evidence will be inadmissible against a person in subsequent proceedings in most circumstances. Where materials are capable of being admitted in subsequent proceedings, this would be a matter for the relevant court or tribunal to determine, based on the rules of evidence and having regard to other considerations including the circumstances of the production of the evidence to the commission.

The measures outlined above limit any possible disadvantage to a person who is required to give self-incriminating evidence to a royal commission. To the extent that the bill allows such evidence to be used against a person in subsequent proceedings, I consider that this is reasonable and justified. The bill seeks to balance the need for authorities to use relevant evidence to which they would otherwise be entitled; the need for commissions to access the materials needed to undertake an effective inquiry; and the need to protect the rights of individuals who provide self-incriminating evidence. I consider that there is no less restrictive means available to ensure this balance.

Hon. David Davis, MLC
Minister for Health
Minister for Ageing

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill will establish Victoria's first dedicated legislation for royal commissions and other ad hoc executive inquiries. It will create a flexible and effective modern legislative framework for the establishment and conduct of these inquiries. In doing so, it will also deliver the government's commitment to implement a recommendation of the 2009 Victorian Bushfires Royal Commission, which called for the enactment of such legislation.

Royal commissions and other executive inquiries serve an important role. They allow issues of significant public importance to be thoroughly and independently examined. They are also a catalyst for change, with the reports and recommendations of previous inquiries delivering far-reaching benefits to the Victorian community. This importance is well highlighted by recent examples of inquiries, including the Hazelwood coal mine fire inquiry and the Royal Commission into Institutional Responses to Child Abuse.

Victoria is one of the few Australian jurisdictions without specific legislation for executive inquiries. The existing legislation is dated and unwieldy, and has been strongly criticised by previous royal commissions as a consequence. The bill will address this by providing a legislative framework befitting of these inquiries and which will support their important work.

The bill also makes related amendments and consequential amendments to other acts, including the Constitution Act 1975, Evidence (Miscellaneous Provisions) Act 1958, Public Administration Act 2004 and the Parliamentary Committees Act 2003.

Overview of the bill

The bill provides a modern, flexible framework for the establishment and conduct of three forms of inquiry:

> Royal commissions remain at the apex of the hierarchy and will be able to exercise extensive coercive and investigative powers.
>
> Boards of inquiry are a mid-tier inquiry option. These inquiries will be able to exercise a more limited range of coercive and investigative powers.
>
> Formal reviews are the lowest tier of inquiry. These inquiries will not be able to exercise coercive powers, but can receive information voluntarily.

The bill provides for a number of matters in relation to the establishment and conduct of inquiries including:

> the process of establishing an inquiry;
>
> the administrative arrangements for an inquiry (including the employment of staff and consultants);
>
> the manner of conducting an inquiry;
>
> the powers and protections for inquiry members;

the rights and protections for participants in an inquiry; and

the process of reporting to Parliament.

The bill will provide for the efficient and effective conduct of inquiries, without being unduly prescriptive. In particular, the bill provides flexibility for an inquiry, once established, to determine how best to conduct itself. To this end, the bill allows inquiries to determine matters such as the employment of staff, whether to hold public or private hearings, how to gather evidence, and how to respond to those who hinder or obstruct the inquiry process.

This flexibility is consistent with the independence of executive inquiries, which is an important and necessary feature for an inquiry to be successful. Executive inquiries are tasked with examining issues of the highest public importance. This will often require the inquiry to examine the actions of the executive government. The independence of inquiries is essential for this task, and is therefore affirmed by the bill. For example, inquiry members are not subject to the direction and control of ministers, and inquiry officers are exempt from the obligations to implement government policies which ordinarily apply to public servants under the Public Administration Act 2004.

Powers of inquiries

A royal commission will have extensive information-gathering and investigative powers. This includes requiring persons to produce documents and give evidence on oath, and entering and searching premises with a warrant from the Magistrates Court. In particular, a royal commission will be able to abrogate legal professional privilege and, in some cases, the privilege against self-incrimination, in pursuing its inquiry. These powers are appropriate for a royal commission given it will be inquiring into significant matters affecting the community.

A board of inquiry will have some information-gathering powers. It will be able to require a person to produce documents and answer questions on oath. As with a royal commission inquiry, failure to do so will be an offence under the act. However, a board of inquiry will not be able to abrogate privileges nor enter and search premises. As such powers are a significant limit on individual rights and freedoms, they are inappropriate for this second-tier inquiry, which is intended to operate in a less formal manner and will examine less serious matters than royal commissions.

In contrast to a royal commission or board of inquiry, a formal review will not be able to exercise any coercive information-gathering powers. However, these inquiries can seek and receive evidence voluntarily and through cooperation. This third tier is intended to formalise and provide a legislative basis for inquires, such as the Protecting Victoria's Vulnerable Children Inquiry, which are currently established and conducted on an informal basis without any statutory protections for those who conduct or are involved in the inquiry. This form of inquiry is likely to operate with the least level of formality.

In summary, the bill offers the executive the choice of three forms of inquiry with differing levels of power. It assists the executive to choose an inquiry fit for purpose when faced with the need to establish an inquiry. Further, the bill will also provide an option to convert an inquiry from one tier to a higher tier where necessary or desirable. For example, a formal review could be converted into a board of inquiry if it is necessary to provide the inquiry with more extensive information-gathering powers.

Independent bodies and office holders

The bill will prevent a coercive executive inquiry into various Victorian independent bodies and office holders, including independent officers of the Parliament (like the IBAC, the Ombudsman and the Auditor-General) and the judiciary. This is consistent with the independence and status of these bodies and officers, who are not accountable to the executive government. Further, such inquiries are not necessary, as there are more appropriate existing mechanisms for examining the actions and performance of these persons and bodies. For example, the Victorian Inspectorate oversees Victoria's key integrity bodies, and the proposed judicial commission will be able to receive and investigate complaints against judicial officers.

Conclusion

The Inquiries Bill will rectify a significant legislative gap in Victoria, by establishing a new and effective framework to support the establishment and conduct of executive inquiries. The need for such legislation is well recognised, as demonstrated by the comments and recommendations previously made by the Victorian bushfires royal commission and other inquiries. The bill provides a modern and adaptable legislative scheme, which strikes an appropriate balance between flexibility and clarity. It also reflects the importance and independence of executive inquiries.

I commend the bill to the house.

Debate adjourned on motion of Mr SCHEFFER (Eastern Victoria).

Debate adjourned until Thursday, 11 September.

ADJOURNMENT

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

That the house do now adjourn.

Lyndale Secondary College

Mr TARLAMIS (South Eastern Metropolitan) — The matter I raise this evening is for the Minister for Education and is in relation to circumstances that Lyndale Secondary College finds itself in. Lyndale Secondary College was purpose-built in 1961 to last 20 years and is a large year 7 to 12 single campus offering Victorian certificate of education, vocational education and training and Victorian certificate of applied learning. It is a very proud school with over 1000 students from 52 countries. Over 35 per cent of its students were born outside of Australia. It is a host for many after-school sporting and social activities and is a hub for the local community.

Lyndale Secondary College prides itself on ensuring that each student reaches their full potential. This is not just a statement but a reality as can be seen by the truly inspiring academic and sporting achievements of its students. This is quite extraordinary, given the school was built over 50 years ago and has not been the recipient of a significant rebuild or refurbishment since then. This has obviously created a great many challenges and placed a lot of pressure on the school community as the school's facilities are at a point where the current learning spaces are not suitable for modern curriculum delivery.

Some of the classrooms have cracks in the walls and ceilings that leak water onto carpets, requiring the use of buckets. Pools of stagnant water under buildings have rendered some classrooms barely useable as a result of the smell. The school community has done an amazing job of maintaining these facilities, which is evidenced by the fact that the facilities have lasted as long as they have. The reality, however, is that the students and dedicated staff deserve much better than substandard 50-year-old classrooms.

A recent assessment report of the school's buildings shows that 3 of the 19 buildings are below the threshold for requiring significant capital works. As such the overall assessment of the school is that it is in a satisfactory condition by 0.03 per cent — the barest of margins. However, this assessment fails to take into consideration the fact that the three buildings that are below the threshold are core learning spaces that hold 60 per cent of the school's classrooms. Those buildings are where the students spend the majority of their time. The report contains a number of other inconsistencies, which I have seen firsthand while touring the school facilities. During my tour it was very apparent to me that the school deserves a lot better. I am of the strong view that Lyndale Secondary College should be thoroughly reassessed, with consideration given to all factors and conditions associated with the school.

At this point it is worth noting that following significant work and preparation the master plan for Lyndale Secondary College was completed in April 2010. Unfortunately, despite five state budgets being handed down since then, there has been no funding allocated for the master plan. Lyndale Secondary College is an important part of the local community. With enrolments at the school continuing to increase, the state government has a duty to provide current and future students with the 21st century learning spaces that they need and deserve. The school community has done the heavy lifting for too long, and it is time the state government stepped up and helped out by taking action to address the significant issues facing the school.

Therefore the action I seek is for the Minister for Education to provide some certainty to Lyndale Secondary College by visiting the school and speaking to parents, teachers and students; ensuring that a thorough reassessment of the school is conducted, taking into consideration all factors and conditions associated with the school's needs; and ensuring that funding be made available to commence the much-needed and long overdue redevelopment of the school.

Whitten Oval

Mr ELSBURY (Western Metropolitan) — I rise this evening to raise a matter for the attention of the Minister for Sport and Recreation, the Honourable Damian Drum. He will certainly understand this particular issue quite well because he has some knowledge already about the happenings that are going on at Whitten Oval. Whitten Oval is an iconic football ground in the western suburbs of Melbourne. It is the place where the Western Bulldogs train. While I do not consider it to be holy turf, some people do. However, when it comes down to it they have a great number of community facilities on the site. There is a sports hall with three basketball courts and a cafeteria area from where you can watch the players training at various times of the day — because they are professional athletes and can train in the morning and afternoon — and they have some fantastic gymnasium facilities for the players. The ground is also open to the public. People are able to run around the ground to train, and the club has plans to install some exercise stations around the ground to allow people to do different health activities.

But the matter I wish to raise is in relation to the next phase of the development, which is a new changing rooms facility. Most importantly it will include facilities for women, because the Western Bulldogs have a women's team and are trying to encourage the other teams in the AFL to come on board with this great initiative. Indeed we have seen the ladies go out and play against the Melbourne women's team at Etihad Stadium. Therefore I ask the minister to consider seriously the plans being put on the table by the Western Bulldogs to provide a new changing room facility which will be available not only for male and female players but increasingly for male and female umpires, because women are getting more involved in AFL and VFL games.

Opportunities for ladies to participate in our national sport should be encouraged, and I hope the minister can look at the proposal being put to him by the Western Bulldogs and take it into full consideration. I ask him to think about the potential to get more women involved

in Australian Rules football and to support yet another great project for the people of the western suburbs.

Welshmans Reef Caravan Park

Ms LEWIS (Northern Victoria) — The matter I raise tonight is for the Minister for Water. The Welshmans Reef Caravan Park is situated on the shore of the Cairn Curran Reservoir between the small towns of Maldon and Newstead. On 21 July site holders at the caravan park were notified by Goulburn-Murray Water that the park will close on 9 November this year and that they are to remove their caravans and associated structures by that date, with no offer or suggestion of compensation.

The demand came without consultation with or consideration of the many families who have purchased sites at the park and in some cases have used them for generations. This is a ludicrous time frame for the closure of the park and the eviction of site holders. Approximately three years ago Mount Alexander Shire Council notified Goulburn-Murray Water that capital works, including wastewater management and bushfire management works, needed to be undertaken, yet not a cent has been spent on those works in the intervening years. Site holders estimate it will cost them thousands of dollars to remove their caravans and structures. The decision will also have negative financial impacts on businesses in Newstead and Maldon. Local businesses rely on business from site holders, casual visitors, holiday-makers and tourists.

The site holders have formed the Save Welshmans Reef Caravan Park committee with the aim of operating the park as an incorporated not-for-profit body. However, this process will take time and the site holders have sought a moratorium on the closure of the park. I note that the minister has stated that it is the responsibility of Goulburn-Murray Water to undertake the required works and that discussions are taking place between Goulburn-Murray Water and the Mount Alexander shire. However, this does not address the concerns of site holders in relation to the closure of the park and the direction to move their caravans and structures by 9 November.

I ask the minister to ensure that the site holders, through the Save Welshmans Reef Caravan Park committee, are participants in the discussions between Goulburn-Murray Water and the Mount Alexander shire and are kept fully informed of any proposed actions by Goulburn-Murray Water.

Bald Hills wind farm

Mr D. D. O'BRIEN (Eastern Victoria) — My adjournment matter tonight is for the Minister for Planning, and I ask the minister to investigate compliance with the planning permit issued for the Bald Hills wind farm in South Gippsland. I have recently had meetings with residents around the Bald Hills wind farm, and they have a number of concerns. There are two fundamental issues at play here, one relating to the main permit itself and one relating to a permit, which I understand is a separate permit, to clear vegetation for the construction of powerlines to connect the wind farm to the main electricity grid.

In particular I ask the minister to investigate his powers and, if appropriate, refer the matter of vegetation clearance to the commonwealth Minister for the Environment. I have met with local residents who are very concerned about the clearance of vegetation for the powerlines. They say this clearance may have impacts on threatened species, including the eastern spider orchid and Latham's snipe. Having spoken to the responsible authority, the Shire of South Gippsland, and briefly to the company itself, it appears there is some dispute as to whether there is any need for the proponent to refer the matter to the commonwealth under the commonwealth Environment Protection and Biodiversity Conservation Act 1999.

Residents have met with the company and the shire recently, and I understand they are still dissatisfied with the action proposed by the company to deal with the native vegetation issues. Therefore I ask the minister to investigate his powers — and I believe he has some power — to refer this matter to the commonwealth, and if it is appropriate, that he do so.

The second matter is equally important. It relates directly to the proponent's compliance with the permit approved by the previous government.

The PRESIDENT — Order! Mr O'Brien, when you say a second matter, you are not introducing a whole new question?

Mr D. D. O'BRIEN — No.

The PRESIDENT — Order! Is it related to exactly the same land?

Mr D. D. O'BRIEN — Yes.

The PRESIDENT — Order! The principle of the adjournment debate is members can raise only one matter.

Mr D. D. O'BRIEN — Yes. The issue is the one project, with both matters relating to planning issues relating to the Minister for Planning.

The PRESIDENT — Order! I will let the member continue, but members are supposed to request only one question, action or response of a minister.

Mr D. D. O'BRIEN — Thank you, President. This matter relates directly to the proponent's compliance with the permit approved by the previous government. The residents claim — and I have seen their evidence — that there have been some serious breaches of the permit in relation to the siting of the turbines themselves. I appreciate that the responsible authority is the shire. I have been in contact with the shire about these compliance issues and am advised that it will soon be conducting an inspection to check compliance, after which it will forward any advice necessary to the minister. I would like to make the minister aware of this issue, and I ask him to look closely at the advice he receives from the shire on this issue in the next few months to ensure that the permit conditions are being met, but it is that primary issue of the native vegetation that I am asking the minister to investigate.

On the point generally, I support, as does the coalition government, renewable energy, but there must be some conditions, and this particular project highlights those conditions. It is concerning for me that the Greens continually attack this government for not listening to local residents on projects, yet on this particular project, where residents are certainly being affected by the Bald Hills wind farm, they are nowhere to be seen. I look forward to the minister investigating the matter and coming back to me to provide some answers for my constituents.

Betrayal of Trust

Ms MIKAKOS (Northern Metropolitan) — The matter I raise this evening is for the Minister for Community Services, and it relates to the implementation of recommendation 12.1 of the Family and Community Development Committee's *Betrayal of Trust* report. Many of the recommendations in the *Betrayal of Trust* report do not require legislation to be voted on in the Parliament, and one of those is recommendation 12.1.

At the time the report was tabled in the Parliament the Leader of the Opposition in the Assembly, Dan Andrews, indicated that Labor supports in principle all the recommendations. Recommendation 12.1, which Labor supports, relates to reviewing contractual and funding arrangements with education and community service organisations that work with children and young people to ensure that they have a minimum standard for ensuring a child-safe environment.

We have heard many stories in the media this year about the sexual abuse and exploitation of children in out-of-home care. It is absolutely imperative that contractual arrangements with community service organisations that care for vulnerable children contain a minimum standard for ensuring a child-safe environment.

Child Wise is an organisation that has been working to prevent the sexual abuse of children for over 20 years. Last year 3000 people participated in its child abuse prevention training and workshops. Child Wise has developed 12 standards for a child-safe organisation. I have been advised that it has presented a number of submissions to the Royal Commission into Institutional Responses to Child Abuse focusing on ways to create child-safe organisations and communities.

I recently met with its CEO, Mr Steve Betinsky, and he advised me that he has written to the Minister for Community Services and offered to contribute to any government development of these child safety standards. In a letter Mr Betinsky received on 1 July 2014 from the minister's chief of staff, Ben Harris, he was advised as follows:

> The government will be conducting consultations on the implementation of these reforms over the coming months. The Department of Human Services will make contact with your organisation to seek your participation in these consultations. I strongly encourage you to contribute your organisation's views on these important matters.

Despite this, I understand Mr Betinsky is yet to hear from the department. It is disappointing that 10 months after the *Betrayal of Trust* report was handed down the department has not even started these consultations.

I call on the minister to advise when these consultations will occur with interested stakeholders, including Mr Betinsky from Child Wise so that he and others can contribute to this important process.

Live music venues

Mr D. R. J. O'BRIEN (Western Victoria) — I raise an important matter that has been of concern to many people in Victoria and also to me personally in many capacities in both my previous life and as a member of Parliament. It concerns the issue of noise regulation under the state environment protection policy N-2 (SEPP N-2) from live music. I am asking that the Minister for Environment and Climate Change provide

an update on the process by which the recently announced review of SEPP N-2 will be carried out.

I make this request in the context that it is a longstanding issue. For example, I was involved in one of the leading cases in the Victorian Civil and Administrative Tribunal in 2003, *Port Phillip CC v. Ironcroft Pty Ltd*, where a bar in Acland Street, St Kilda, run by Mr Ernst Patzold was prosecuted for contempt of the tribunal because it exceeded the noise regulations, which were part of a state environmental planning policy and could not be varied. In that case Justice Morris said at paragraph 34:

> I accept the submission made by Mr O'Brien, on behalf of Ironcroft, that there is some tension between music venues and the occupants of dwellings, particularly in activity centres. I accept that this will often need to be addressed by ensuring that dwellings are constructed in a manner which protects the dwellings from the adverse effects of music noise. I also accept that a certain amount of tolerance will be required by residents who chose to live in dwellings near music venues in activity centres.

After the long campaign that has been waged by Music Victoria, the music industry, venue owners and indeed MPs and individuals like myself, I was very pleased that the minister recently announced that there will be, as a result of the live music round table, a suite of policies that will provide the greatest protection for live music in this state to reflect Melbourne's live music venues.

It is the first policy in this suite on which I seek further information, because that announcement includes a review of the SEPP N-2, a new $500 000 live music noise attenuation assistance scheme, a reduction in the building regulatory burden for small venues and introducing the agent of change into liquor licensing and planning frameworks to protect existing live music venues, which I am very pleased to see the Minister for Planning has gazetted today. Today should be marked as the day this state finally started to recognise that rock'n'roll is not noise pollution but in fact part of our culture. This was recognised by a famous Australian export — in fact our most famous musical export, AC/DC — in 1980, and I urge the update on this review of SEPP N-2.

Responses

Hon. M. J. GUY (Minister for Planning) — I will start with the verbal adjournment matters. There was one from Mr Tarlamis for the Minister for Education, Martin Dixon, around Lyndale Secondary College. I will have a written reply prepared for Mr Tarlamis.

A matter was raised by Mr Elsbury for the Minister for Sport and Recreation, Damian Drum, in relation to Whitten Oval. I will have a written reply prepared for Mr Elsbury on that matter.

Ms Lewis raised a matter for the Minister for Water, Peter Walsh, which I believe was in relation to a caravan park between Maldon and Newstead. I will have a written reply prepared for Ms Lewis on that matter.

Mr Danny O'Brien raised a matter for me in relation to Bald Hills wind farm compliance issues. I will get some background and have a written reply prepared for Mr O'Brien so that he can disseminate that information correctly.

Ms Mikakos has raised a matter for the Minister for Community Services, Mary Wooldridge, in relation to recommendation 12.1 of the *Betrayal of Trust* report. I will have a written reply prepared for Ms Mikakos.

I believe Mr David O'Brien's matter was for the Minister for Environment and Climate Change, Ryan Smith, and concerned noise regulations in relation to a great live music initiative that was gazetted today. I will have a written reply prepared for Mr O'Brien on that matter.

There are two written responses to adjournment matters, one raised by Mr Leane on 6 May and one by Ms Mikakos on 5 August.

The PRESIDENT — Order! The house stands adjourned.

House adjourned 4.54 p.m. until Tuesday, 16 September.