**PARLIAMENT OF VICTORIA**

# PARLIAMENTARY DEBATES (HANSARD)

## LEGISLATIVE COUNCIL

## FIFTY-SEVENTH PARLIAMENT

## FIRST SESSION

**Tuesday, 5 August 2014**

**(Extract from book 10)**

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

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## The Governor

The Honourable ALEX CHERNOV, AC, QC

## The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

## The ministry

(from 17 March 2014)

| | |
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| Deputy Premier, Minister for State Development, and Minister for Regional and Rural Development | The Hon. P. J. Ryan, MP |
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| Minister for 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 |
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| Minister for Public Transport and Minister for Roads | The Hon. T. W. Mulder, MP |
| Minister for Energy and Resources, and Minister for Small Business | The Hon. R. J. Northe, MP |
| Minister for Liquor and Gaming Regulation, Minister for Corrections and Minister for Crime Prevention | The Hon. E. J. O'Donohue, MLC |
| Assistant Treasurer, Minister for Technology and Minister responsible for the Aviation Industry | The Hon. G. K. Rich-Phillips, MLC |
| Minister for Environment and Climate Change, and Minister for Youth Affairs | The Hon. R. Smith, MP |
| Minister for the Arts, Minister for Women's Affairs and Minister for Consumer Affairs | The Hon. H. Victoria, MP |
| Minister for Higher Education and Skills | The Hon. N. Wakeling, MP |
| Minister for Agriculture and Food Security, and Minister for Water | The Hon. P. L. Walsh, MP |
| Minister for Police and Emergency Services, and Minister for Bushfire Response | The Hon. K. A. Wells, MP |
| Minister for Mental Health, Minister for Community Services, and Minister for Disability Services and Reform | The Hon. M. L. N. Wooldridge, MP |
| Cabinet Secretary | Mrs I. Peulich, MLC |

## Legislative Council committees

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

**Procedure Committee** — The President, Mr Dalla-Riva, Mr D. Davis, Mr Drum, #Mr 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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## TUESDAY, 5 AUGUST 2014

# Tuesday, 5 August 2014

**The PRESIDENT (Hon. B. N. Atkinson) took the chair at 2.05 p.m. and read the prayer.**

## CLERK and DEPUTY CLERK

**The PRESIDENT** — Order! Firstly, I take this opportunity to advise formally in this place that Andrew Young has been confirmed by the Governor in Council as the new Clerk of the Legislative Council. I congratulate Andrew, whom we have all had the opportunity to work with, and I am sure that we all have great confidence in his ability and look forward to the work he will do in his new role. We do so with confidence, recognising the skills and attributes he brings to this important job.

I also indicate that, as a result of a selection process conducted by Mr Young, Anne Sargent has been confirmed as the Deputy Clerk of the house and will join us for the next sitting week. Anne has also been a long-term officer of the Parliament, coming up through the committees and working both with us in the Legislative Council and more recently in the Legislative Assembly, including a period as Serjeant-at-Arms. I call her field marshal, actually. I am sure she will contribute to the work of this chamber in a very constructive and effective way.

I am delighted with the team of officers we have, both the existing team and certainly the two new appointees. One of the key things about Wayne Tunnecliffe's departure on his retirement is that he has left us in very good hands, having built a team that we can be very proud of and very confident in.

## WORLD WAR I CENTENARY

**The PRESIDENT** — I take this opportunity to briefly acknowledge a historical event which certainly had importance for the state of Victoria and indeed Australia on this day 100 years ago. As members would recall, when the federal Parliament was convened it sat in these houses of Parliament, and therefore we were very close to the tragic events that unfolded in Europe. It is 100 years since Britain declared war on Germany and began World War I. Prime Minister Andrew Fisher in this place with his government pledged full support to the British war effort.

Damian Drum is not here to nod at me, but I think Britain actually made its declaration of war on 4 August. This country has been spared war, whether civil or international war, on its own shores, and I am mindful of some of the most unfortunate incidents involving European settlement and Indigenous Australians, but those aside, Australia has been a very fortunate country, so it is rather ironic that the first shot of World War I was actually fired in Australia. It involved a German ship, a merchant navy ship called *SS Pfalz* — my German pronunciation is probably not too good either.

On 5 August this ship, fearing that war was imminent, tried to flee Port Phillip Bay, where it had been, and the order was given to stop it leaving our shores. The result was that a shot was fired — the first shot of World War I — from Point Nepean. That was a warning shot. An Australian was actually on the ship's bridge, and there was a bit of a kerfuffle on the bridge, but the Australian pilot convinced the ship's captain that the next shot would be at the ship itself, with a view to sinking it, if the captain and crew did not surrender. Fortunately they did surrender, and they were interned for the duration of the war.

World War I remains the most costly conflict, in terms of deaths and casualties, that Australia has ever been involved in. From a population of fewer than 5 million people 416 809 Australian men enlisted, and of them over 60 000 were killed and 156 000 were wounded, gassed or taken prisoner. The First World War touched the lives of so many Victorians and Australians, and the impacts are still prevalent today. For these reasons we commemorate, remember and hopefully learn from those who sacrificed their lives during the four years from 1914 to 1918.

I now call on the Leader of the Government to move a motion relating to another tragedy which poses the question of whether we have learnt sufficiently from World War I and subsequent conflicts.

## MALAYSIA AIRLINES FLIGHT MH17

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

> That this house extends its condolences and deepest sympathy to the families and loved ones of those lost on flight MH17, and in recording these sentiments we express the unanimous feeling of the people of the state of Victoria, who are shocked and saddened by this tragedy.

In moving this motion I note that I think all of us felt shock, enormous concern and fear as we heard the news about Malaysia Airlines flight MH17 from Amsterdam to Kuala Lumpur crashing in eastern Ukraine near the Russian border at 00:15 Australian eastern standard time on 18 July. Tragically all 298 people on board — 283 passengers and 15 crew — died. They included 28 Australian citizens, 9 permanent

residents and a New Zealand citizen who was a long-term resident of Victoria. We lost 17 people who called Victoria home — 9 nationals, 7 permanent residents and, as I said, a New Zealand citizen who was a long-term resident. That is the greatest number of losses of any state or territory.

I will not name them all, but the Victorian victims included Albert and Maree Rizk, from Sunbury, who were in their early 50s and on their way home from a month-long holiday in Europe; Mary and Gerry Menke, from the small seaside town of Mallacoota, who were prominent business owners in East Gippsland and were on holidays to celebrate a birthday; and a Toorak College teacher and her husband, Frankie and Liam Davison. These are examples of Victorians who were going about their business in a normal way and who did not deserve this terrible outcome.

As the crash site is on disputed Ukrainian territory currently controlled by Russian-backed rebels, the crash investigation and the recovery of the victims' remains may take some time. Importantly the leadership shown by Prime Minister Tony Abbott and the Minister for Foreign Affairs, Julie Bishop, has been significant internationally. On 21 July the United Nations Security Council adopted an Australian-led resolution calling for a full, thorough and independent international investigation into the incident. The Australian government has offered whatever support and resources are needed for the investigation and recovery efforts and is working closely with international partners. Operation Bring Them Home will be coordinated from Ukraine by the Prime Minister's envoy, retired Air Chief Marshal Angus Houston.

Six Victorian experts — two from Victoria Police and four from the Victorian Institute of Forensic Medicine — are part of the Australian contingent in this international effort. The Victorian team comprises a forensic pathologist, two odontologists — they are specialists in identifying remains from dental records — a mortuary technician, a disaster victim investigator and a fingerprint expert. In addition, the Victorian deputy coroner has travelled to Amsterdam to observe the process of the disaster victim investigator boards undertaking victim identification.

Arrangements are in place to help coordinate the repatriation of the remains of Australian victims back to Australia when the time comes. Victorian authorities are working in close cooperation with the commonwealth to ensure the dignified repatriation of Victorian victims when the time comes. The Prime Minister has advised that once Australian victims of MH17 have been identified the government will transport their families to the Netherlands, should they wish, so they can accompany their loved ones home.

Many of us are looking forward to 7 August, which will be a national day of mourning to honour the victims of MH17. A national memorial service will take place at St Patricks Cathedral. Australian condolence books have been opened, and they have been signed by many prominent people. I know that many members in this chamber have coordinated local condolence books.

We became aware of this terrible incident at the time the international AIDS conference, AIDS 2014, was about to kick off in Melbourne. Many of us saw the conference as a great opportunity for Melbourne to showcase its great capacity, but none of us of course had predicted that it would occur in these tragic circumstances. The sadness of a number of people at AIDS 2014 was very evident. It turned out that six of the people on the MH17 flight were delegates to the conference in Melbourne, which was the 20th international AIDS conference. They were Pim de Kuijer, from Stop Aids Now!; Lucie van Mens, director of AIDS Action Europe; Maria Adriana de Schutter, AIDS Action Europe; Glenn Thomas from the World Health Organisation; and Joep Lange, past president of the International AIDS Society and co-director of the HIV Netherlands Australia Research Collaboration, and his partner, Jacqueline van Tongeren, from the Amsterdam Institute for Global Health and Development. Professor Lange's early work on AIDS and long commitment stood out very strongly.

It was a cruel irony that this incident occurred at the time that it did, and that those people who were coming to Melbourne to work for the benefit of humanity and mankind, in a way that was not self-interested but was altruistic, should be the victims of such a terrible tragedy.

In response to what has occurred there has been a service in Victoria at St Pauls Cathedral, and there will be a national response as well. Condolence books are available at the state library and Melbourne town hall and, as I said, many in this chamber have coordinated those locally.

Support has been activated in terms of counselling for those who may need it, and services were also available at Melbourne Airport for those who came for the conference.

What this makes clear is that it is a dangerous world we live in. It is a world that none of us can take for granted. It is a world where evil can occur, as we all can see, and this was an evil act — an act where a missile was

launched into airspace and directly hit a passenger jet. There can be no excuse for that. There can be no justification for firing a missile into a zone populated by passenger jets.

A large number of lives were lost and families impacted. As I say, there can be no justification for that. Our strong feelings of support go out to the families in Australia, in Victoria and around the world.

**Mr LENDERS** (Southern Metropolitan) — On behalf of my Labor colleagues I would like to support the motion and endorse the sentiments of Mr David Davis, the Leader of the Government. As Mr Davis said, this plane was flying over eastern Ukraine along with hundreds of other planes. The randomness of the fact that this plane, rather than the one 90 seconds in front of it or 90 seconds behind it, went down just adds to the grieving for these people by their families and those who knew them.

When we see these figures, most people are amazed — horrified — that this has happened, and for a number of reasons. For most of us, when a loved one dies it is a loved one whose time has come — we have been aware of it, it was an elderly person, there has been an illness and we have been with them. The passing of a loved one in this way is something that is difficult to come to terms with and that we grieve over, but the shock of these lives being taken with no notice and for no reason means that the loved ones and families of these people are more in need of our condolences and support than almost anybody else.

When a loved one, usually an elderly loved one, has gone, normally we know their time has come, difficult though that may be. We have had a chance to farewell them, and we have had the chance to grieve with other loved ones with dignity. In this particular case those things have not been possible. In particular, the ability to grieve for loved ones with dignity is prevented by the horror — that is the only word I can use to describe it — of the bodies not being found, returned or treated with respect. Our condolences go to the families of these 298 people even more so for the circumstances in which their loved ones have been lost.

The randomness of this gets to us, as does the fact that, as Mr David Davis so eloquently said, there were a number of Victorians on board. But Mr Scheffer and I, coming from the Dutch community, know that on this occasion 193 Dutch people died along with people from nine other countries. There are more than 100 000 Dutch people in Australia, and the Dutch community has probably felt this loss doubly to the extent that it is a dual community and there is an additional sense of connection.

Going to this sense of connection to the loss and the randomness of it, we members of the Legislative Council feel a particular connection to one of the people who died on the plane, Willem Witteveen, a member of the Dutch Eerste Kamer, or house of review — the Dutch equivalent of the Senate or Legislative Council. He was flying with his wife and daughter, coming to Australia for a holiday. This just emphasises the randomness of this incident, which befell normal people doing what normal people do.

There probably would not be person in this chamber who does not fly fairly frequently, and the idea that flying on a route from Europe can be a hazard is a shock to all of us. The randomness and the senselessness of this disaster shocks us — the fact that it happened to people who were leading their ordinary lives. At the end of all this, the loved ones of those people are finding it very hard to grieve with dignity because of the circumstances in Ukraine. We on this side of the chamber offer our condolences to those families in this particularly difficult time. We particularly acknowledge the families of the Victorian victims, but we also acknowledge every single one of these world citizens who needlessly lost their lives, and in particular their families, who are finding it doubly difficult to grieve because of the horrible impasse over returning the bodies of those people to their loved ones.

**Mr BARBER** (Northern Metropolitan) — Members of the Greens would like to associate themselves with this motion and offer their condolences to the friends, family, loved ones and in some cases workmates or acquaintances of those who died in this atrocious act of violence. I attended the Victorian memorial service for the victims of MH17 and I appreciated the opportunity to spend time with others affected by the incident. It was an opportunity to think about what this event consisted of and what meaning we might be able to ascribe to it.

We are pretty confident that a person or a group of persons acting under some kind of decision-making structure decided to launch a missile at this particular passenger plane and that this was an action which, as Mr Lenders noted, could to some extent be seen as random. It was certainly random from the point of view of those on the jet but perhaps not so random in terms of what was happening on the ground that led to this disaster. I imagined in the air a sickening fireball and explosion and perhaps a minute of silence when twisted metal and bodies fell through the air from a great altitude all the way to the ground. Anybody who had

been on the ground in that vicinity would have witnessed the horrific aftermath when the wreckage landed in that field and in surrounding inhabited areas.

Over our lives we see and learn about many atrocities involving wars and in some cases massacres, accidents and natural disasters, but this was one the likes of which I never thought I would experience. What was behind it all is something we do not yet know and may never know. We would all hope as part of a global community that justice can be served for an act such as this. We have seen on TV a civil war in the Ukraine — if that is what we are calling it; perhaps people would use other terms — and it has started to blend into many of the other troubles that are occurring around the world, and what we have learnt from this tragedy is that the world is so much smaller than we thought it was.

We thought this was an event happening in a place where perhaps historically there have been many wars over recent history, but what we have learnt in the era of global communications and easy global travel is that the world is now too small for any of us to think that we can be unaffected by anything that is happening in any part of it. That is why the Greens would like to associate themselves with this motion, and we thank the government for the opportunity to do so.

**Mr D. D. O'BRIEN** (Eastern Victoria) — I rise on behalf of The Nationals with apologies from our leader, the Honourable Damian Drum, who is absent, as was mentioned earlier. This, as previous speakers have noted, was a terrible tragedy resulting in the deaths of 298 people of 12 different nationalities, 38 of them Australian or Australian residents and most disturbingly 80 of them children, the original definition of innocents abroad. It was a terrible event, and as the Leader of the Government has pointed out, a number of its victims were representatives from the World Health Organisation, UNAIDS and the International AIDS Society who were on their way to Melbourne for the AIDS 2014 conference.

I referred to this event as a tragedy, and it has regularly been referred to as a tragedy. My only concern with using the word 'tragedy' is that it has connotations of the accidental, and we know that this was no accident. Whether the plane was shot down deliberately or inadvertently, it is still a barbaric act to take the lives of innocent people going about their business — people who should be safe anywhere in the world, but particularly travelling between Australia and Europe or South-East Asia and Europe. I praise the Prime Minister for his strong stance on securing the site and ensuring that the bodies of victims are returned to loved ones here in Australia. We support the UN actions to ensure that the perpetrators of this heinous crime, whoever they may be, are brought to justice.

This crime is a reminder of how lucky we are in Australia. We have had no wars — civil or otherwise — within this country, and there have been no terrorist attacks here. However, as we all know too well, war and terror have struck Australians and their friends and families over the years. This also has extra meaning today as we acknowledge the 100th anniversary of the beginning of World War I, which happened in a theatre a long way away but had devastating consequences for many Australians and their families.

Nine Victorians and eight permanent residents of Victoria were killed in the MH17 attack. Two of the nine Victorians were from my electorate — Mary and Gerry Menke from Mallacoota, which is a small town in the far east of the state. Mrs Menke operated a hairdressing and beauty salon, and Mr Menke was a pioneer in the abalone industry through his company MAPA Pearls and was also a director of the Abalone Fishermen's Co-Op. I will read a small part of the statement released by the family:

> Mary and Gerry were many things to many people: award winning business owners, adventurous world travellers, and active members of the Mallacoota community.
>
> They were inseparable partners in everything they did, loyal friends, deeply loving siblings and children, devoted parents to four children and doting grandparents to five grandsons.

It is hard when you read those words to comprehend that similar thoughts and words are being expressed about another 296 people around the world. Eastern Zone Abalone Industry Association chief executive Geoff Ellis, who is also chairman of the Mallacoota Abalone Co-op, had this to say:

> Mallacoota's thoughts, and prayers, are for the family and friends of such a wonderful couple … Such 'givers' in small communities are irreplaceable.

On Saturday more than 500 people attended an outdoor memorial service in beautiful Mallacoota to remember Gerry and Mary and to celebrate their lives.

I played football with the Menke's son Brett many years ago. Although he and I have moved apart, I offer my deepest condolences to Brett and his family, including his brothers and sisters.

The loss of children is hard for anyone, but my heart particularly goes out to Rin Norris and Anthony Maslin, who lost not one but all three of their beautiful children, Mo, Evie and Otis, along with the children's grandfather, Nick Norris. As someone who has lost

children, I can sympathise with how painful and difficult that will be for their family.

On behalf of The Nationals and all Victorians, we send our condolences to all people impacted by this terrible act. We pray, with hopeful hearts and minds, that the conflicts around the globe that cause such suffering and tragedy will end and that innocent people everywhere will live in peace and harmony.

**Hon. M. J. GUY** (Minister for Planning) — I rise to support this condolence motion for the victims of the Malaysia Airlines flight MH17 terrorist attack, which saw the deaths of 298 innocent people on 17 July this year over the skies of Donetsk, Oblast, in Ukraine. The feeling of sadness and shock that has overwhelmed many Australians, along with many Dutch, Malaysian, Indonesian and British people, and indeed the whole world, has been profound. Apart from the odd bit of turbulence, the 298 people on board that jet no doubt had every right to feel secure in the knowledge that they would arrive safely at their destinations and be greeted by the loving embrace of their families or their friends.

Twenty-seven Australians were on board, as well as nine permanent residents, including the Rizks from Sunbury, Mary and Gerry Menke from Mallacoota, Mona and Gary Lee from Melbourne, Frankie and Liam Davison from Mount Eliza, Johannes van den Hende, his wife Shaliza and their two sons and daughter from Melbourne's west. Those are some of the people who will never return home because of this senseless act of violence. The faces of Nick Norris from Perth and his three grandchildren, Mo, Evie and Otis, will also be etched into the minds of all Australians when we come together as a nation on the national day of mourning this Thursday.

Like all of us here, I am proud to be an Australian and proud of how our country has come together in mourning this tragic loss of our fellow countrymen and countrywomen in this despicable act of violence. Our nation, our Prime Minister and all of our leaders have rightly made it their absolute priority to ensure that the bodies of those who have perished are brought back to Australia. This job is now being bravely carried out by Australian authorities, some joined by the Dutch, braving the dangers of the conflict zone that the MH17 debris field now sits in.

I am also proud to be the only member of the Victorian Parliament with Ukrainian heritage. Many of my family members come from, and many still live in, a village called Novoselivka, Kharkivs'ka oblast, which I should say is about the same distance from the key trouble spots in Donetsk oblast, a neighbouring province, as Bendigo is from Melbourne. Ukrainians want peace. They want their rich-soiled land to be one of peace and productivity, one they need not flee from to raise their families, one that does not seek conflict and destruction and one which international airlines again feel safe to fly over. The current troubles in Ukraine may soon be over, but they have left a trail of sadness and loss not just locally but also, following the MH17 incident, now internationally.

Many will say mournfully that conflict is the history of that land, but it should not be that way. The rich soil fields of соняшники і кукурудза — sunflowers and corn, the yellow of the yellow and blue of the Ukrainian flag — in which MH17 now lies will forever be scarred by yet another despicable act and by the loss of life, which this time reaches all the way back to Australia on the other side of the world. Ukrainian Australians are deeply shocked and saddened that the downing of MH17 took place over Ukrainian soil. Ukrainian Australians mourn deeply the senseless loss of life in this terrorist attack. Like every other Australian, they want the perpetrators who did this brought to face appropriate justice. Russian Australians too are overwhelmed by sadness and shock at this incident. Like all Australians, the Russian and Ukrainian communities in this country value peace and freedom. It is why they came to Australia. It is what they all want for the lands from which their families came. Sadly, not every government around the world shares these values.

We owe it to the families who have lost loved ones, the families of those who have passed away, the Australians and those people aboard MH17 from the nine other nations to seek justice for them. Those who committed this act should be brought to face justice. This Thursday we will come together for a national day of mourning. We will remember the lives of those lost and support the families and friends of the bereaved. We should remember the smiles of the lost children, their laughter and the joy they brought so many. We should all remember that happiness, reflect on the lives of those lost and again commit ourselves to supporting those families and friends tragically bereaved. We will always remember those Victorians, those Australians and all of those 298 people aboard MH17. May they rest in peace. I commend the motion to the house.

**Motion agreed to in silence, honourable members showing unanimous agreement by standing in their places.**

## LORRAINE CLARE ELLIOTT, AM

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

> That this house expresses its sincere sorrow at the death, on 2 July 2014, of Lorraine Clare Elliott, AM, and places on record its acknowledgement of the valuable services rendered by her to the Parliament and the people of Victoria as a member of the Legislative Assembly for the electoral district of Mooroolbark from 1992 to 2002.

Many members of this house, including you, President, knew Lorraine Elliott very well, and some members also served with Lorraine during her time in this Parliament.

Lorraine was born on 9 July 1943. Her parents were Harry James Golder and Ailsa Lorraine Trengove. She was first married to John Elliott — a well-known identity and prominent Liberal — and later to John Kiely, who is also a well-known identity and someone many of us know well.

Lorraine's occupation prior to being elected to Parliament was as a teacher. Her education began at Ashburton Primary School and continued at Camberwell Church of England Girls Grammar School. She later attended the University of Melbourne, where she attained a bachelor of arts and a diploma of education, and then Monash University, where she attained a bachelor of education. Lorraine's teaching career included work at Blackburn High School. She also undertook significant voluntary work and was an honorary probation officer for the State Correction Service. For much of the time, though, she was an English literature teacher. Many of us knew Lorraine as a prominent Liberal first and later as the member for Mooroolbark. Lorraine is survived by her first husband, John Elliott, her second husband, John Kiely, her three children, Tom, Caroline and Edward — who are known to many of us — and her grandchildren, Henry, Sebastian, Mathilda, India, Lottie and Ava.

Lorraine first joined the Liberal Party in 1972. She was president of the Canterbury branch — a branch with which I am very familiar — between 1981 and 1990. Lorraine played a very important role in the Liberal Party as a founder of the Canterbury evening discussion group. This was a very active discussion group of women Liberal Party members who met in the evenings to pursue not only the interests of the Liberal Party but also the interests of those who believe there should be greater female representation in Parliament. The group was very active in pursuing that representation and supporting and mentoring women to play that role on behalf of the Liberal Party and the community. Kay Patterson, Helen Shardey, Kelly O'Dwyer, Judith Troeth and many others have benefited from the contributions of the Canterbury evening discussion group.

Between 1986 and 1991 Lorraine played the important role of metropolitan female vice-president of the Liberal Party, a leadership role during a period of opposition for the Liberal Party at both federal and state levels. During this time a lot of groundwork was undertaken that led to the election of the Kennett government in 1992. As a vice-president Lorraine was a very active and prominent member of the administrative committee, supporting candidates and many of those who would contribute to the win in 1992. As a senior member of the administrative committee Lorraine took the view that she should lead. She was determined not to take a safe seat but one she was determined to win from Labor. She won the seat of Mooroolbark, a Labor seat, in 1992 and held that until 2002.

I remember Lorraine very well through the period of the late 1980s and early 1990s, as do many in this chamber. Andrea Coote, Georgie Crozier and others were influenced by her great generosity, her capacity and her quiet way of achieving very significant political outcomes. I too would very much like to place on the record my respect for Lorraine's contribution to the Liberal Party and to the broader community.

As parliamentary secretary to the Minister for the Arts between 1996 and 1999 — the Premier at the time, Jeffrey Kennett, was the Minister for the Arts — Lorraine did a huge amount of work. She launched the Southbank arts precinct with Sir Rupert Hamer on 1 July 1996. After the Liberal loss of government in 1999 she was shadow Minister for Community Services and shadow Minister for the Arts. The redistribution of electoral boundaries in 2001 saw the abolition of the seat of Mooroolbark. Lorraine contested the seat of Kilsyth but lost it. She carried herself in a dignified way beyond that loss but continued to contribute to the community and to the Liberal Party very strongly after that period.

I was very pleased to encounter Lorraine in more recent times. She was chair of the St Vincent's Hospital board, so as health minister I had a lot to do with her in that role. That she undertook such a role is, I think, a marker of the ongoing contribution that she made not only to politics but also to policy and community service, which she so strongly believed in.

She had a very good time for many years after politics, sharing time with John and her family members. They

split their time between Melbourne and Flinders, and Lorraine had very close connections with her children and grandchildren. She was a member of the Lyceum Club, and she was a person who was influential in the best sense of that word: she encouraged people, mentored people and supported people. She was a fine role model for those who would seek to enter politics and make a contribution.

I am very proud to have known Lorraine and to have been influenced by her. Many of the values she stood for are values supported broadly across the Victorian community. I think we can be proud of Lorraine. She was a friend, a great Victorian and a person who contributed so much to Victoria.

**Mr LENDERS** (Southern Metropolitan) — On behalf of my Labor Party colleagues I would like to support the motion and endorse the comments made by Mr David Davis. Lorraine Elliott was clearly someone who spent a lot of her life contributing to and directed a lot of her passion toward the Liberal Party, and we on this side of the house would not have seen that aspect of her. I served with Lorraine in the Legislative Assembly for three years, from 1999 to 2002, when she was the member for Mooroolbark. That was a difficult time for the Liberal Party as it followed a loss of government, but Lorraine was a person who always had dignity. She was always courteous, and in the execution of her duties in her shadow portfolios of community services and the arts she was always thorough. She sought to hold the government to account, but she was always a very courteous person. The mentoring that Mr Davis has spoken of rings true to me. Lorraine was always calm and always seemed to be able to look out for other people.

It is interesting when a person passes and you go back to read their inaugural speech. Perhaps we should read these speeches a lot earlier than when a person passes because we find out very interesting things. Lorraine Elliott was certainly a very strong advocate for Swinburne University of Technology and for tertiary education generally in the eastern suburbs. She was obviously a very strong advocate for all things to do with girls' and women's education and opportunities. She was a very strong advocate for people in their 50s who had lost manufacturing jobs and were looking for alternatives, particularly in the recession in the early 1990s. She was also a very keen advocate for safety in the community and for a stronger health system.

The things Lorraine stood for were the things that bring us all into state politics: education, health, community safety and looking after people's interests. In my limited time serving with her I found her to be a courteous person. She took her role very seriously, and we in the Labor Party offer our condolences to her family and friends. Seventy-one is far too early to go.

**Mr BARBER** (Northern Metropolitan) — On behalf of my Greens colleagues I support the motion and offer our condolences to the friends and family of Mrs Elliott and I am sure to many Liberal MPs in this house.

I met Mrs Elliott on only one occasion. It was 22 years ago, and I recall it well. Perhaps the reason I recall it well is that I was a very young, very nervous and perhaps very hopeful lobbyist for a group called the Tenants Union of Victoria. I took myself out to Mooroolbark to meet Mrs Elliott on what was I think my second week on the job and her second week on the job in this new thing called the Kennett government, which I needed to learn more about and in some ways influence. I received a very warm welcome from Mrs Elliott. She listened to me with a very open mind and certainly gave me a considerate hearing. That made a strong impression on me as someone who was just starting out in life hoping to influence that sphere of politics. From talking to members of the Liberal Party about Mrs Elliott, the impression I got is that that is exactly the way they found her in their relationships with her, and so I was genuinely sorry to hear of her passing.

By supporting the motion on behalf of my party I pass on the condolences of the Greens to Mrs Elliott's friends, associates and loved ones.

**Debate interrupted.**

## DISTINGUISHED VISITORS

**The PRESIDENT** — Order! I acknowledge a former member of this house, Mr John Vogels, in the gallery. Members should be aware that we had with us Senator Kay Patterson, a former Victorian senator, as well as Helen Shardey, a former member of the other place. I note that leaving a few moments ago were Mrs Elliott's husband, John Kiely, and her daughter, Caroline Elliott.

## LORRAINE CLARE ELLIOTT, AM

**Debate resumed.**

**Mr D. R. J. O'BRIEN** (Western Victoria) — I rise on behalf of my Nationals colleagues to lend our support to the motion and to pass on our condolences to the family of Lorraine Clare Elliott who had a

distinguished career in this Parliament and who passed away on 2 July.

Unlike many of the people who have spoken and who have served and are serving in this Parliament, I did not have the honour and privilege of meeting or knowing Mrs Elliott, but from speaking to contemporaries of hers and from reading what remains of an MP after they are gone, which is their words, I understand that she had a fantastic appreciation of the arts and literature but also of humanity and people. She was a positive role model for many parliamentarians, particularly in the Liberal Party, for many of the women she encouraged into political office and for all parliamentarians who are lending their support to this motion.

One can see from reading her maiden speech and as Mr Lenders indicated that she was very focused on the people of her electorate. It was not a maiden speech that was full of self-congratulation and indulgence but rather talked of the importance of the people, of their gritty independence and their dislike for being told what to do. It reflected a fierce loyalty particularly to Australia and a fierce adherence to family values. That is somewhat ironic today, because from my reading of her literature I particularly noted that she was a positive role model.

On a day when we commemorate other events of great sadness — the commencement of World War I, the so-called 'day the lights went out all over Europe', and the Malaysia Airlines tragedy over Ukraine, which was also the subject of a condolence motion before the house today — it is important to remember the people in this Parliament who have made a positive contribution to our society and particularly the words of those people, which hopefully can be understood and considered by those considering their legacy.

Some of Mrs Elliott's distinguished achievements in relation to her work as Parliamentary Secretary for the Arts in particular — the Minister for Health mentioned Southbank, but there was also Federation Square — are well known. In passing on my condolences on behalf at The Nationals and the Minister for Sport and Recreation, Mr Drum, who is absent commemorating the commencement of World War I, I will leave with a positive, uplifting message that Mrs Elliot has passed on to all as a teacher:

> I want to make arts more accessible to a wider audience. There are wonderful things going on at regional galleries, out in the suburbs.

In commending the motion, I leave members with these words on the value of the arts and the importance of literature and the higher values of human nature from Mrs Elliott's address-in-reply speech of 25 February 1998:

> The arts allow us different ways of expanding our imagination, of seeing the reality of life differently. They teach us lessons of tolerance, impartiality and the nature of love. They can get us away from the mundane and everyday nature of our lives, if only for a few hours.

With those few words, I commend the motion to the house.

**Debate interrupted.**

## DISTINGUISHED VISITORS

**The PRESIDENT** — Order! We have another guest in the gallery. Mr Tony De Domenico is a former Deputy Chief Minister in the Australian Capital Territory government. We also welcome Mr De Domenico today.

## LORRAINE CLARE ELLIOTT, AM

**Debate resumed.**

**Mrs COOTE** (Southern Metropolitan) — Lorraine Elliott, July 1943 to July 2014. The last time I physically saw Lorraine, someone who was unaware of the closeness and longevity of our relationship attempted to introduce us. Lorraine smiled at him and with warmth and humour said, 'We have been very special and wonderful friends for over 40 years'. I will treasure those words always.

Lorraine died in July, a week before her 71st birthday. There is much I could relate about our personal lives, but selfishly I wish to treasure those memories in private. Today I will concentrate on Lorraine's rich and long contribution to public life. Lorraine was driven by a sense of public duty and guided by Liberal values. In her address-in-reply speech in 1994 she said:

> Governments on our side of politics encourage people to be independent and to take responsibility for themselves. We encourage independence and self-reliance because of the nature of the leadership we have. No government can ensure that every individual and enterprise can agree and take calculated risks without being exposed to the vicissitudes of life and downturns in fortune.

Lorraine not only believed in those values but took them into the organisations and communities with which she was involved. There is a litany of these organisations. She did not just give her name as a token; she was intricately involved and a hands-on contributor to all of them. They included the Brownies; the Girl Guides; St John's Homes for Boys and Girls; St Vincent's Health Melbourne, of which she was a

board member; Big Brothers Big Sisters of Melbourne; the Australian Children's Television Foundation; the Melbourne International Arts Festival; the National Disability and Carers Ministerial Advisory Council, which she chaired; the Melba Opera Trust; the Gutsy Group; and the Canterbury Evening Discussion Group, which she inveigled me into as an inaugural member.

Most recently she served as chair of the Australian Centre for the Moving Image (ACMI), a role she relished. She was moved that Premier Denis Napthine and Minister for the Arts Heidi Victoria appointed her to this prestigious organisation. In July 2013 she said:

> To be a part of an organisation as unique as ACMI as it enters its second decade is a wonderful opportunity to contribute to one of Victoria's, and indeed Australia's, great cultural assets.
>
> I look forward to serving with the new team, contributing my expertise toward continued success and innovation at ACMI.

She mentored, encouraged and supported all those involved in those organisations, and she was especially supportive of young women.

As the federal member for Higgins, Kelly O'Dwyer, said in federal Parliament on 26 June:

> Lorraine was the member for Mooroolbark in the Victorian Parliament from 1992–2002. While a very capable and well-respected parliamentarian, Lorraine's influence has extended far beyond her responsibilities as a local member. Lorraine has been incredibly active in encouraging all women and in particular many Liberal women to engage more fully in political debate and public life. An active participant within the Liberal Party organisation Lorraine was metropolitan female vice-president and also was key in establishing the Canterbury Evening Discussion Group. In doing so she provided an appealing forum, particularly for women, to participate in policy debate in a meaningful and fundamentally satisfying way.

Leadership was a value Lorraine not only espoused but was vocal about. In her address-in-reply speech in the Legislative Assembly in 1994 she said:

> Leadership is an intangible quality. It is often something that you know when you see it, but it is hard to quantify and to qualify. A leader needs courage; a leader needs not to care whether he or she is popular; a leader needs to have a vision and to have the strength to see it through; and a leader needs to inspire the other members of his or her team to share the vision and, in the areas for which they are responsible or which they are supporting, to carry through the reforms necessary to take a state or a nation forward.

Lorraine was a true leader. She was the inaugural member for Mooroolbark in the Legislative Assembly, which she represented from 1992 to 2002. As the metropolitan female vice-president of the Liberal Party at the time, Lorraine could have catapulted herself into a true-blue Liberal seat, but instead, true to form, Lorraine said, 'No, I want to win a marginal seat for the Liberal Party', which is exactly what she did.

As the member for Mooroolbark, Lorraine gave 199 speeches, and the topics reflected her passion for her electorate. The topics included the Mooroolbark railway station, the bus stop, the police station, the primary school, the Kilsyth South spider orchid, sporting groups and pensioners. She also spoke frequently on women's affairs and the disability sector, and as parliamentary secretary for the arts in the Kennett government she gave inspiring speeches in Parliament. I encourage you all to read her speeches because they are so well crafted. She used brilliant debating techniques and was very articulate.

Lorraine touched us all, and her funeral was a true reflection of the wonderful contribution to life that she made. Over 700 people from all walks of life and from all the organisations she represented, state and federal politicians from both sides of politics, her relatives and lifelong friends of hers, of her children and of John Kiely, her husband, attended.

Virginia Trioli wrote in the *Weekly Review* of 11 July:

> She was one of the loveliest, most thoughtful and endearing people I have ever met in politics, and I became an admirer from the first. The real people in politics — the ones whose individual courage and candour never have to battle shallow ambition — are so few, their presence is electric. Lorraine was one of those, and the extraordinary crowd that gathered to remember her that cold, gusty morning bore witness to it.

Whilst giving so much to the community and to public life, it was Lorraine's family that was her bedrock. She said of her wonderful husband of 18 years, John Kiely, in an article in the *Weekly Review* of 20 October 2013:

> 'It's been terrific', Elliott says. 'John's been an enormous support. Whatever I've decided I'm going to do, he says, "Fine".'

In John's moving eulogy at St Peter's Eastern Hill he said, 'Lorraine was a magnificent woman'. She was. In that same *Weekly Review* article she spoke of her beloved grandchildren, Henry, Sebastian, India, Ava, Lottie and Mathilda:

> Elliott has six grandchildren, which she finds enjoyable, if exhausting. 'Yes, it can be quite tiring. They are all still very young. I have babysat one on Thursdays for several years now, my elder grandson. Now I mind my granddaughter on Thursdays.'
>
> Thursday is 'grandmother day'.
>
> 'Henry's nearly eight now but I look back on my time with him with great pleasure. And from things he says, he remembers those days.

> 'My granddaughter is four and she never pauses in asking questions. We went to a pantomime yesterday, *The Frog Prince*. She was scared of the wicked stepmother. I'm trying to introduce them to the arts. I've just signed them up as members of the National Gallery.'

She told me privately that she was touched to see some of her values reflected in Henry. How proud she would have been to see that little boy stand amongst all those people at her funeral and read a very moving testament to his adored 'Ma'. Lorraine's children, Tom, Caroline and Edward, are a credit to Lorraine. She was proud of them all, and I know her spirit will be reflected in them in the decades to come. Caroline is an outstanding young woman, and her future will be built on the strong platform her mother established for her.

Lorraine and I shared some deeply memorable times in Ireland, and we were both enamoured of the poetry of W. B. Yeats. I will miss my wonderful friend and treasure our memories, but, as W. B. Yeats said:

> Think where man's glory most begins and ends, and say my glory was I had such friends.

**Hon. W. A. LOVELL** (Minister for Housing) — On 2 July we were all deeply saddened to learn that our friend and colleague, Lorraine Elliott, had lost her battle with cancer. After joining the Liberal Party in 1972, Lorraine went on to serve the party in many positions — most notably as a metropolitan female vice-president. In 1981 she was key in establishing the Canterbury Evening Discussion Group, which has a long history of encouraging female participation in both parliamentary and organisational roles within the Liberal Party.

Lorraine was elected as the member for Mooroolbark in the Legislative Assembly in 1992, a seat she held for 10 years until 2002. During her time as a member, Lorraine was a formidable voice in Parliament. She served as a parliamentary secretary for the arts, a role in which she revelled and also earnt a significant reputation as a true champion of the arts. Lorraine also served as the shadow minister for community services and the arts and was a passionate advocate for women's issues in the Parliament.

Lorraine continued to serve the community after leaving Parliament in 2002. A few of her many community roles included being a board member of the Australian Children's Television Foundation, St Vincent's Hospital, Melba Support Services, Dromkeen Children's Literature Foundation, Big Brothers Big Sisters, the Victorian College of the Arts Foundation and the Dame Nellie Melba Opera Trust, and more recently she was the chair of the Australian Centre for the Moving Image.

Lorraine had a longstanding interest in the guide movement, now known as Guides Victoria, and in the 1980s Lorraine was leader of a Brownie pack that was formed at the high-rise public housing estate in Richmond. The children in Lorraine's pack were mainly refugees. It was one of the first of many programs run to try to improve the lives of children on our high-rise estates. In 2006 Lorraine was recognised for her service to Parliament and the community, being made a Member of the Order of Australia.

We will all miss Lorraine's compassion, intelligence and kindness. The loss of Lorraine is felt by us all, and I extend my condolences to her family — her husband, John Kiely; her daughter, Caroline, and her sons, Tom and Edward, and their partners; her grandchildren, Henry, Sebastian, Mathilda, India, Lottie and Ava; and also to her three stepdaughters and their families. Lorraine will be sadly missed and remembered fondly.

**The PRESIDENT** — I had the privilege of serving with Lorraine Elliott in the Parliament, as did a number of my colleagues in this place, particularly Inga Peulich, Bernie Finn and David Davis. I was going to make some further remarks, but I think the remarks made by Mrs Coote today enshrined the feelings of all of us who worked so closely with Lorraine in the Liberal Party and in the Parliament. More importantly I think they enshrined much of the recognition of Lorraine's work in the community. This was a wonderful woman and another great Victorian.

Quite apart from any political assessment or views people might have, this was a person — as I said to some community groups recently — who not only talked the talk but walked the walk and who did some extraordinary things for so many organisations. She was the mentor a number of speakers have referred to. She was very warm and intellectual, and she therefore brought a very significant and important perspective to those matters that came across her desk or no doubt came via her telephone or her computer, with people seeking advice, support and sometimes even a shoulder to cry on — and I know that in those circumstances also she was very good.

Along with a number of members of this place, I attended the funeral of Lorraine Elliott, and I was taken with the poignancy of the eulogies from members of her family — from each of the children; from John Kiely in particular; her grandchildren were represented in those eulogies also. It was a very touching and significant moment for all of those of us who knew, respected and loved her, as we thought upon the extraordinary contribution this lady has made to Victoria and to so many organisations within our state.

**Motion agreed to in silence, honourable members showing unanimous agreement by standing in their places.**

## ROYAL ASSENT

**Messages read advising royal assent to:**

**27 June**

**Treasury Legislation and Other Acts Amendment Act 2014**

**1 July**

**Corrections Amendment (Smoke-Free Prisons) Act 2014**
**Energy Legislation Amendment (Customer Metering Protections and Other Matters) Act 2014**
**Fines Reform Act 2014**
**Local Government (Brimbank City Council) Amendment Act 2014**
**Road Safety Amendment Act 2014.**

**The PRESIDENT** — Order! This Thursday is the national day of mourning. The national memorial service for the victims of flight MH17 will be held on Thursday morning. I will be attending representing the Parliament, and I thank the respective whips and the leaders of the government and the opposition for the opportunity to represent the Parliament at that commemoration service.

I also indicate that on this day it has come to my notice that a report was posted on the website by the Ombudsman inadvertently, and that matter is to be dealt with as part of our papers list today. I have indicated to the leaders of both the Labor Party — the opposition — and the Greens that I believe it would be inappropriate for me to receive or allow any questions with respect to that report given that it has not been officially tabled in the Parliament through our processes. In both cases those leaders understood those circumstances and acknowledged that that would not be the case, and I thank them for that.

## QUESTIONS WITHOUT NOTICE

### Health funding

**Mr JENNINGS** (South Eastern Metropolitan) — My question is to the Minister for Health. In the Victorian budget, released in the first week of May this year, there was a $60 million one-off allocation for the health services winter demand capacity enhancement program. Can the minister tell the Parliament how much of this allocation has been spent in hospitals during the first two months of winter?

**Hon. D. M. DAVIS** (Minister for Health) — I indicate, as I think the member knows, that the financial year starts on 1 July — —

**Mr Jennings** — Winter starts in June.

**Hon. D. M. DAVIS** — I will be quite clear. The money is allocated through the budget process and begins in July. I will certainly indicate to the member that hospital budgets are increasing significantly this year and include additional payments in July which will see hospitals managing very well through the period. As Mr Jennings knows, hospitals are given annual budget allocations, and that process is well advanced.

*Supplementary question*

**Mr JENNINGS** (South Eastern Metropolitan) — I invited the minister to tell us how much money has been allocated this winter. He may be telling us by his answer that he intends to spend the money next winter. That probably goes to the nub of my question: is the minister spending that money, has he allocated that money and has he issued the guidelines for the funding arrangements for the 2014–15 year so that hospitals can know how they can spend this money during this winter?

**Hon. D. M. DAVIS** (Minister for Health) — The money will be spent this winter. It will be spent this year. What I indicate to the house is that there is a significant growth in funding this year — funding far above what the opposition would have allocated and what it estimated would be allocated. There is more federal money, more state money and a winter energy package. This stands in stark contrast to Labor's policy, which was to support former Prime Minister Julia Gillard and former federal health minister Tanya Plibersek in cutting funding to our hospitals. In fact the winter bed package is seeing money allocated to our hospitals now, and members will see in the forthcoming period that the aggregate allocation for this financial year will be greater than the opposition's estimate.

Let me be quite clear for Mr Jennings. Labor promised to make donations to charity when the growth in funding was greater than it expected, so I look forward to Labor making those donations in the short period ahead, given the increased federal funding and the increased state money.

## Smoking regulation

**Ms CROZIER** (Southern Metropolitan) — My question is also to the Minister for Health, Mr Davis, and I ask: can the minister update the house on the government reforms on smoking in outdoor dining areas?

**Hon. D. M. DAVIS** (Minister for Health) — I thank the member for her question and for her strong advocacy on behalf of Victorians in terms of tobacco control. This is an important topic. The state has worked over a long period, over several decades, to reduce the availability of tobacco, to encourage people to quit smoking, to reduce the impact of second-hand smoke and to increase the ability of people to work safely in environments where they will not be impacted by tobacco. That has been largely a bipartisan approach over a significant time.

This government has taken steps to reduce the capacity for people to smoke in areas where it impacts on children and families, whether that be on our patrolled beaches, in playgrounds or at skate parks, pools or a whole series of locations where children and families congregate.

Equally the government has announced in the last two days that it will take steps to implement a policy to cut smoking in outdoor dining areas — to actually put in place smoke-free outdoor dining. This will be a significant set of steps. The government will consult with industry — meaning hotels, catering institutions and restaurants — and also, importantly, with health bodies like Quit, VicHealth and the Australian Medical Association Victorian branch, and it will craft a package in the next period of government to put in place smoke-free outdoor dining. This is an important step.

Around Australia there are a series of different models in place. We have the capacity to learn from those places that have implemented outdoor dining bans and achieved good outcomes. I note that the Leader of the Opposition in the Assembly welcomed this step but also indicated the need for a period of adjustment to ensure that it does not impact unfairly or unduly on businesses. That is very much the government's view, that we need to methodically and sensibly implement these policies that will achieve a good outcome for the community. There is broad support for a ban on smoking in outdoor dining areas but there is also a need to make sure that we learn lessons from other places and that we put in place a model that is effective for Victoria and that allows businesses a sensible period to adjust to those changes.

I believe there will be broad community support, I believe the government has taken the right step by making a very clear in-principle statement on this matter and I believe it will get good feedback and good assistance from the relevant industry and health groups. I place on the record my thanks to a number of the health groups, particularly Quit, VicHealth and the Australian Medical Association, for their contributions and their advocacy.

We look forward to implementing this policy, with broad consultation, in the interests of the community, in particular families, having greater areas for smoke-free dining. We will continue to take the long set of steps to reduce the smoking rate even further. The rate has seen a significant fall over recent years and is now down to 13.5 per cent in Victoria.

## Smoking regulation

**Ms HARTLAND** (Western Metropolitan) — My question is to the Minister for Health, and he will not be surprised at this question. Obviously I welcome the government's announcement on outdoor dining areas, but in the answer he has just given he has not outlined how this is going to happen. I am obviously concerned that it will be too late for it to be effected in this Parliament. There is no timetable outlined for the consultation with industry, no time line for legislation or implementation and no detail as to whether this ban is being considered for both outdoor dining and outdoor drinking areas. My question to the minister is: when does the government intend starting the consultation, who will it be consulting with on smoke-free outdoor dining and when does it intend to deliver on this announcement and bring in legislation?

**Hon. D. M. DAVIS** (Minister for Health) — I thank the member for her question, and I welcome her support for the government's announcement. Obviously the member welcomes the announcement, and I think everyone in this chamber will welcome it. What is clear is that the government has made an in-principle decision to implement a system to allow smoke-free dining, to actually ban smoking in dining areas in various hotels, cafes and restaurants around the state. That will involve significant consultation, as I outlined in my previous answer.

The government has undertaken informal consultation with a number of groups, and I can indicate that all groups that wish to put information forward on this will be listened to. Clearly a number of health advocacy groups have strong views and will be putting their positions. I pay tribute to the work of Quit and the Australian Medical Association's Victoria branch, and

particularly to VicHealth for its advocacy in this area. I will be working with all these health advocacy groups to craft a package that will see the best outcome for Victoria. Equally on the other side of the equation we will make sure that industry groups are consulted and are able to have a fair say.

It is important that the package that is crafted is responsive to the needs in Victoria and makes sure that we get a good outcome for the Victorian community, for families and for those who wish to dine without smoke impacting on them in that way. However, it is equally true that the government needs to provide a period of adjustment for small businesses. This is reasonable, and I have instructed my department to begin that consultation process in a formal sense. Over the forthcoming months we will see the material that comes forward there, and a package of legislation will then be brought to the Parliament.

**Mr Jennings** — This year?

**Hon. D. M. DAVIS** — I have said it will be in the next period of government, Mr Jennings. I have been quite clear about what I have indicated here. The package will set a specific date, and it will certainly be implemented in the next Parliament.

**Mr Jennings** — In the next Parliament — that's right.

**Hon. D. M. DAVIS** — That is exactly what I have said, Mr Jennings. Labor members, including the former Minister for Health, have indicated their support for this step. They have indicated that there needs to be a period of adjustment for businesses, and I welcome the support of the Leader of the Opposition for a period of adjustment for businesses. That is an important set of steps. If you look at the way the changes to indoor dining were implemented in the mid-2000s, you will see that there was a significant period of consultation and then a period of adjustment for businesses.

These are significant changes. These are important public health steps, and the government is determined to take them. This is the right way forward, but it is important that the package that is crafted is suitable for Victoria. Around the states different arrangements have been both proposed and implemented. We will take the learnings of the other jurisdictions and make sure that those learnings are applied in Victoria as we craft a package that suits Victorian circumstances to get the very best outcome for our community. As I have also said, the government will introduce a package to Parliament this week that will see further steps taken on schools — government, Catholic and non-government — and the entrances to government buildings, and there will be an increase in fines for the sale of illegal tobacco.

*Supplementary question*

**Ms HARTLAND** (Western Metropolitan) — I thank the minister for not answering the question, as usual. A year ago the government voted against a Greens bill on this very issue. I would have thought the government could have begun consultation in that year. Quite clearly there will be no legislation in this period of government. When can we expect to see legislation — in 2015, 2016, 2017 or 2018? When will this legislation be implemented?

**Hon. D. M. DAVIS** (Minister for Health) — I have been quite clear from the moment this was announced.

**Ms Hartland** — But you don't know.

**Hon. D. M. DAVIS** — No, I have been absolutely super clear that the government will begin a period of formal consultation. I have directed the department to do that. This process will proceed. It will take some months — a significant period of time — to consult; there is no question. Early in the new Parliament the government, if it is re-elected, will bring back a bill to introduce a package that will put in place a significant series of reforms in relation to outdoor dining in Victoria. That is what I have said will occur, and that is what we intend to do. I have also indicated that there will be broad consultation, including with health advocacy groups, and I have put on the record my thanks to a number of them. I have indicated that the various hotels and restaurants will also be consulted fully in this process to ensure that there is a sensible period for adjustment, and there is a package in place that will implement a Victoria-specific policy that will have a good outcome in terms of public health.

## Live music venues

**Mr ELSBURY** (Western Metropolitan) — My question is to the Honourable Matthew Guy, the Minister for Planning. Can the minister inform the house of what action the government has taken to bring forward strong new planning reforms to protect Victoria's live music industry?

**Hon. M. J. GUY** (Minister for Planning) — It is my absolute pleasure to inform the house of the government's recent announcements around the agent-of-change principle. Although every other government in this state for the last 15 years has talked about protecting live music, it has taken this government to actually bring into the planning system

the agent-of-change principle, which will protect live music venues once and for all from new neighbouring residential developments.

I would like to acknowledge the work of my parliamentary colleague Mr Ed O'Donohue for his work and that of his department and office to create a cooperative approach between his office, my office and the office of the Minister for Environment and Climate Change, Mr Smith, in relation to a package — that is, a range of initiatives — that will protect live music in Victoria. No other state in Australia seeks to protect live music in this way. There are planning and building changes, as well as an assistance package, that are going to be so important to protecting live music.

As I said, introducing the agent-of-change principle into the planning system means that the responsibility for noise attenuation is now on those who build near a live music venue, specifically those who build around 50 metres from a live music venue. In practical terms that means that if a live music venue seeks to expand, it would then be incumbent upon that venue to observe the agent-of-change principle as it expands.

We are strengthening the state planning policy framework. This will recognise live music within the state planning policy framework for the first time. We will also make available a total pool of around $500 000 across two streams, heritage grants and general grants, which will allow venues in heritage buildings to be brought up to scratch with the support of the state government. We believe these reforms are very important and are being made for the right reason.

There are some online statements from people — and I note that some of them are Labor MPs — who claim to support live music, and that is great. Who would not support live music? You can record it, you can listen to it and you can download it. Some might even seek to distribute what they have recorded in terms of live music.

*Honourable members interjecting.*

**Hon. M. J. GUY** — I am just saying that if you do not like the music you have listened to in that venue, you might want to stop short of destroying the device you have listened to it on. There are many things you can do with live music. I guess if someone gives you a gig that you do not like, you probably do not want to tweet it or give it to some of your mates to distribute. That is all I would say. On this side of the house we are proud to support live music. In fact we are happy to front up to any live music venue to talk about it, whether that be how you record, distribute or indeed listen to or download live music, because we so love live music venues in this state.

I notice some members on the other side are getting a little worked up. I am not sure why. We are talking about live music — they must really love live music to get this worked up about it. Some are getting very excited, not least of whom is Mr Leane, who seems to be very interested in Twitter — by many accounts he is very interested in it. I thank Mr Leane for his support of live music.

The government is very supportive of live music. It has taken a coalition government to bring the agent-of-change principle once and for all into our planning system.

## HIV notifications

**Mr JENNINGS** (South Eastern Metropolitan) — My question is to the Minister for Health. Earlier this year there was a case of a healthcare worker in Gippsland who was tested and discovered to be HIV-positive. Can the minister inform the house when his department was notified of that case and when he was notified of it?

**Hon. D. M. DAVIS** (Minister for Health) — As members of the chamber will be well aware, there was a case involving a healthcare worker in East Gippsland who had HIV. This case, as I understand it, was notified to the department. The department made contact — —

*Honourable members interjecting.*

**Hon. D. M. DAVIS** — This is a significant process, the look-back review that occurred, and as I understand it there have now been 327 patients tested with no HIV-positive results from the around 400 patients in total who were contacted. The government became aware of this matter in January. I can indicate that the look-back process is a complicated one. It took place over a similar period of time to the one that occurred in the case of the Croydon Day Surgery and Dr James Peters that the former Minister for Health presided over, and it has taken a similar period of time to look-backs in similar situations in New South Wales in the recent period. What I can indicate is that I am informed that the healthcare worker cooperated at all points in this process and is no longer involved in delivering services. I can indicate that the — —

**Mr Lenders** — Jillian Skinner would have known that.

**Hon. D. M. DAVIS** — I am informed that the look-back in relation to the cases in New South Wales

took six and seven months to occur, and this case will be completed in six to seven months. That is a very similar period of time. This is a very complex matter that requires the reviewing of files. It requires the careful examination of premises, a set of decisions being made and the convening of a panel to provide expert advice to the chief health officer, who obviously provides advice to government.

What I can say is that this look-back has taken a similar period of time to similar look-backs in New South Wales and Victoria. I am informed that the chief health officer has acted on advice from a panel she convened, and any steps the government takes will be on the advice of the chief health officer.

*Supplementary question*

**Mr JENNINGS** (South Eastern Metropolitan) — My question related to when the department was notified and when the minister was notified. My supplementary question will be in relation to when all the 399 identified patients will have been notified and tested. It is the sequence of those matters that is most important to the public of Victoria in terms of having confidence. Therefore my supplementary question, even though the minister has not provided an answer in relation to the first two dates, is: what is the date by which all 399 patients will have been notified and tested?

**Hon. D. M. DAVIS** (Minister for Health) — What I can indicate is that as of 4 August only 10 of the patients remained to be contacted.

## Live music venues

**Mr D. R. J. O'BRIEN** (Western Victoria) — My question is to the Minister for Liquor and Gaming Regulation, Mr O'Donohue, and I ask: can the minister update the house on steps the Napthine coalition government has taken to support Victoria's vibrant live music scene?

**Hon. E. J. O'DONOHUE** (Minister for Liquor and Gaming Regulation) — I thank Mr O'Brien for his question. As members are aware, Mr O'Brien is a musician of some note himself, and he has been actively working with the Minister for Planning, Mr Guy, the Minister for Environment and Climate Change, Mr Smith, and me to deliver this range of reforms to help live music in Victoria. We know that live music is a very important industry for Victoria. It is estimated that over $300 million per annum in gross state product is supported by live music and the industry around it and up to 15 000 jobs are supported by the live music industry.

We know there is a long history to the issues that live music has faced. Melbourne is growing and regional Victoria is growing significantly. Some of our communities are changing. This has put pressure on live music venues. In 2003 the then Minister for Planning, Mary Delahunty, promised to implement the agent-of-change principle that the current Minister for Planning, Mr Guy, has just spoken about in an answer to a previous question. Ms Delahunty failed to do so. We know the previous government over-regulated and placed significant burdens on the entertainment industry and licensed premises, including live music venues, which caused a great deal of concern.

This government came to power committed to working with the live music industry. Central to that was the creation of the live music round table. Through the live music round table we have already seen a range of reforms, including changes to the Liquor Control Reform Act 1998 objectives to include live music and the deregulation of under-age and mixed-age events. A fantastic event took place in early July following the commencement of that legislation on 1 July. The live music round table, with support from the Victorian government, last year issued a best practice guide, which is a fantastic resource for the industry. The government is very pleased that yesterday it released the live music action agenda. Minister Guy has spoken of the reforms that are taking place in the planning space. Minister Smith has also overseen reforms in his portfolio area.

I am pleased that under my portfolio responsibilities legislation will be introduced this week to require the regulator, the Victorian Commission for Gambling and Liquor Regulation, to consider the agent-of-change principle when dealing with noise complaints. As Minister Guy said, we have established a live music noise attenuation assistance scheme that will help live music venues meet noise reduction obligations. This is an approach that involves the government working with the industry to respond to and work through the issues that live music has faced and is currently facing.

I conclude with a quote from the CEO of Music Victoria, Patrick Donovan, who said in a circular that was released yesterday:

> Overall, it's a great package and a big win for the music industry.

**Mr Lenders** interjected.

**Hon. E. J. O'DONOHUE** — Mr Lenders should listen. He might learn something:

> We have something worth protecting, and by addressing the issues in our 2012 position paper, the government has listened and acted on our recommendations.

We are very proud to implement this reform agenda for live music. We understand the importance it has for Victoria's culture, jobs and economic activity.

## Prison officers

**Mr TEE** (Eastern Metropolitan) — My question is to the Minister for Corrections. Can the minister advise the house of the total cost to date of the TV advertising campaign for the recruitment of prison guards?

**Hon. E. J. O'DONOHUE** (Minister for Corrections) — I welcome the question from Mr Tee. This government is absolutely committed to building a safer Victoria. One component of our building a safer Victoria agenda is the recruitment of staff to work in our expanding prison system. We know that this government inherited a prison system that had seen 11 years of under-resourcing. For 11 years the previous government failed to deliver the resources required not just for our corrections system in prisons but also for our parole system. This government has made the necessary and responsible investments.

We know the Auditor-General criticised the previous government for failing to commit to building a new prison over three successive budget cycles. This government has committed to that new prison, and work on that project is progressing very well. We also know that we have committed to the complete overhaul of our parole system. Not only are new jobs being created at the Adult Parole Board of Victoria as a result of our reforms, but there are also new jobs in community corrections and clear pathways for progression.

**An honourable member** interjected.

**Hon. E. J. O'DONOHUE** — I am giving the context to the jobs that are being created in our corrections system. In response to the tragedies caused by the actions of parolees, this government has transformed the parole system. The previous government underinvested in the corrections system. We are investing in our prison environment, and indeed we have committed to a new prison. In recent weeks I have opened a new 118-bed unit at Port Phillip Prison. There are also 126 new beds at Langi Kal Kal Prison, the first tranche of 126 new beds at Dhurringile Prison, and the new 236-bed unit at the Middleton annexe at Loddon Prison.

We are making the investments where Labor failed. One of the benefits, particularly in country Victoria, is the new jobs that will be created. This financial year 750 new jobs will be created across our corrections system, both in the prison environment and also importantly in the community corrections environment with the new senior parole officers that will be employed. Rather than young new graduates supervising serious violent sex offenders who have had a career in crime, people with more experience, who have a better salary rate and lower case loads will manage those serious violent sex offenders, if these people meet the much higher threshold that we have now established for parole.

There is a communication strategy on foot to recruit the 750 people needed to fill the 750 new jobs that are being created this financial year. As I travel around the corrections system I am constantly impressed by the dedication, commitment and calibre of the new people coming into the corrections system. People are moving from interstate and people are moving from overseas to take up positions in our corrections system. We are committed to building a safer Victoria, and part of that is the creation of 750 new jobs in the corrections system this financial year.

*Supplementary question*

**Mr TEE** (Eastern Metropolitan) — I am disappointed that the minister did not answer the question in relation to the specific cost of the TV advertising campaign. Will the minister answer this question? Will the minister advise the house whether he received departmental advice suggesting it was necessary for these jobs to be advertised via an expensive TV ad campaign rather than a more conventional and less costly approach?

**Hon. E. J. O'DONOHUE** (Minister for Corrections) — At the risk of repetition I want to emphasise to Mr Tee the significance — —

**Mr Tee** — Don't repeat it, just answer it.

**Hon. E. J. O'DONOHUE** — I am answering, Mr Tee. There will be 750 new jobs in communities like Ararat, like Trawalla, like Beechworth, like Shepparton and Dhurringile, and in Geelong for the Barwon and Marngoneet prisons. In metropolitan Melbourne two new units are being delivered at the Metropolitan Remand Centre. We have significant job opportunities, but we also have a reformed parole system. People who may have considered community

corrections in the past may not appreciate the changes that have taken place — the new career progression, the new career structure and the lower caseloads for those who manage violent and sex offenders. We have undertaken a responsible — —

**The PRESIDENT** — Order! Thank you, Minister.

## Homelessness funding

**Mr ONDARCHIE** (Northern Metropolitan) — My question this afternoon is to the Minister for Housing, the Honourable Wendy Lovell. I ask the Minister for Housing if she can update the house on what the Napthine coalition government is doing to prevent homelessness in Victoria.

**Hon. W. A. LOVELL** (Minister for Housing) — I thank the member for his question and his ongoing interest in those who are less fortunate than ourselves. His question is timely because this is Homeless Persons Week. Yesterday I joined Brendan and Sandra Nottle from the Salvation Army, along with the hardworking members of their crew and volunteers from the ANZ bank, to serve breakfast to a number of homeless Victorians at the Hamodava Cafe in Bourke Street that the Salvation Army runs.

The Napthine government is committed to addressing and preventing homelessness. Through the national partnership agreement on homelessness the Napthine government has committed $124.4 million over the next four years to continue those programs. On 13 May the commonwealth government contributed $22.8 million for the 2014–15 year. This investment will provide stability to the sector and services, and it will ensure that these important services will be able to continue to provide for those vulnerable Victorians experiencing homelessness.

The Victorian government also has an $82.6 million Victorian homelessness action plan, which invests in new ways to deliver services that make a lasting and positive difference for people experiencing homelessness. The action plan focuses on supporting innovative approaches to homelessness, investing in models for early intervention and prevention, and better targeting of resources to where they are most needed and where they will make the biggest difference.

One of the key ways we are supporting innovation in the homelessness sector is through the innovation action projects (IAPs). In 2011 we challenged organisations to put forward proposals that would demonstrate working in partnership, delivering integrated services to clients and being more proactive in preventing people from becoming homeless. Stage 1 of the IAPs saw 11 projects established in Victoria to trial new ways to deliver homelessness services. In 2013 we entered stage 2, in which seven IAPs which had showed promising results were funded to continue their trials. An example of one of the great IAPs is the Detour project, which is run by Melbourne City Mission, Kids Under Cover and UnitingCare Cutting Edge. It works with young people who are in danger of disconnecting with their family and disconnecting with education to keep them connected to family and education and to break the cycle that may have led them into welfare dependency and homelessness.

The Victorian homelessness action plan also funds three 40-bed youth foyers throughout the state, which are key to solving youth homelessness. One is at Holmesglen in Mount Waverley, one is on the Kangan Institute site in Broadmeadows and the third one is to be built in Shepparton. The plan has also funded five work and learning centres, which are changing the direction of people's lives by connecting them to employment. We spend more than $220 million annually to provide homelessness services to those people in Victoria who are less fortunate than ourselves and who need our support. This government is committed to addressing the issues those people are facing.

## Early childhood funding

**Ms MIKAKOS** (Northern Metropolitan) — My question is to the Minister for Children and Early Childhood Development. I refer the minister to the recommendations in the Productivity Commission's draft report into child care and early childhood learning, and I ask: what is the government's response to the recommendation that funding for preschools be incorporated into school funding?

**Hon. W. A. LOVELL** (Minister for Children and Early Childhood Development) — I thank the member for her question and her interest, finally, in the Productivity Commission report. I note that neither Labor nor the shadow minister put a submission to the Productivity Commission. If they were really interested in what was happening in early childhood education and care, they would have made a submission to that process.

**Mr Lenders** — On a point of order, President, Ms Mikakos asked Ms Lovell a question on the government response to a Productivity Commission report. I put to you that she is now debating the question by commenting on whether other parties should have views. It was a question on government

administration. It is beyond context, and I put it to you that she is debating the question.

**Hon. D. M. Davis** — On the point of order, President, it is clear that Ms Lovell, in responding to a question about the Productivity Commission report, would be able to reflect on that report, including those who submitted to it. She may well have read the list of submitters and been struck by the fact that the Labor Party in Victoria did not submit to it. Clearly in discussing the Productivity Commission report and how that report was constructed it would be quite appropriate to refer to those who have submitted information to the Productivity Commission or not.

**Hon. E. J. O'Donohue** — On the point of order, President, the custom and practice of this house is obviously important, and I have clear memories of previous ministers citing reports and the lack of submissions from political parties. Mr Theophanous used to do it regularly when he was a minister in this place.

**The PRESIDENT** — Order! Mr Theophanous was probably fortunate that I was not in the chair then. With respect to the point of order, there is a valid argument about a minister not referring to the affairs of other parties and what they do. However, in the context of this particular question, given that the report was named, I accept that the minister is entitled to refer to some matters, provided that she does not dwell on it and start debating the matter. At this point the minister is making some introductory remarks, and she has referred to her view that the opposition might have used this process to make some points. That is valid as far as it goes, but I certainly would not be keen to see her continue on that line in the sense of debating the matter, which is essentially what the point of order is all about.

The case of Mr Theophanous has been raised. Different presiding officers might bring a different tenor to some of these matters, and on previous occasions there has been reference to these reports, but by and large it is a matter of whether or not they offend our standing orders in terms of debating, relevance or suchlike. Our standing orders have certainly been tightened in this respect since the last Parliament.

**Hon. W. A. LOVELL** — I point out to the member who asked the question that this is just a draft report; it certainly is not finalised. Victoria is preparing its response to the Productivity Commission. We will be responding to a number of the recommendations, both ones we agree with and ones we do not agree with. When the final report comes down, of course, as this is a Productivity Commission report, these are recommendations to a federal government and do not have to be adopted anyway.

*Supplementary question*

**Ms MIKAKOS** (Northern Metropolitan) — Essentially my question and my supplementary relate to whether the Victorian government has a view on these recommendations of the Productivity Commission. I ask the minister: does the government have a response to the recommendation of the Productivity Commission that preschools be removed from the scope of the national quality framework?

**The PRESIDENT** — Order! I am happy to let the minister answer, but I am a little concerned about process in these matters, as to whether or not there are some cabinet-in-confidence aspects to a response to a federal inquiry. In other words, the inquiry is in train, and I am not sure whether the minister is able to answer that question at this point. However, I will allow the minister to answer.

**Hon. W. A. LOVELL** (Minister for Children and Early Childhood Development) — This is a 900-page draft report that the Productivity Commission has put down. We are currently — —

**Hon. D. M. Davis** — With many submissions to it.

**Hon. W. A. LOVELL** — Yes, with very many submissions to it. We are currently going through all the recommendations in that report. As well as that, we are considering all the submissions that were made, and I note that one was not made by the Victorian Labor Party. We will provide our response to the Productivity Commission draft review after we have fully considered its draft report and all the submissions that have been made to it.

## World War I centenary

**Mr RONALDS** (Eastern Victoria) — My question is to the Minister for Veterans' Affairs, the Honourable Damian Drum. Can the minister tell the house what the Victorian coalition government is doing to commemorate the centenary of the outbreak of World War I?

**Hon. D. K. DRUM** (Minister for Veterans' Affairs) — I thank Mr Ronalds for his question and his interest in the commemorative services for the centenary of the First World War. Today we have been, along with a range of politicians, down to Fort Nepean and the Point Nepean quarantine centre to commemorate and reflect on what was in fact the first shot fired in World War I. In the days leading up to the

declaration of World War I there was a German merchant ship, *SS Pfalz*, that was stationed in Melbourne. It was naturally very keen to unload its goods and get going. It did not want to find itself in enemy waters, as it was well aware that the declaration of war was imminent. The war was declared late on the night of 4 August 1914 in London and the corresponding time in Australia was just before midday on 5 August. *SS Pfalz* was by then steaming past Sorrento and Portsea, trying to make its way out through Port Phillip Heads before it could be stopped.

As the news that war had been declared reached Melbourne, the order was radioed through to Queenscliff and then sent via a signal across to Fort Nepean to get the message to *SS Pfalz* that leaving Australia was not a good idea and it needed to stop. If it were not to stop, then the people at Fort Nepean had to do everything they could to either stop it or sink it. The signal was received just in time, and the message was conveyed to *SS Pfalz* that war had been declared, that it was in enemy waters and that it needed to turn around and return to port. Once it was clear that this German merchant ship was not going to stop, a warning shot was fired across its bow, making it clear that it would be in everyone's interests if *SS Pfalz* were to turn around.

Today's ceremony was a great opportunity to acknowledge the role that Fort Nepean played in World War I. It allows us all to reflect on the role of servicemen and servicewomen in protecting mainstream Australia, and indeed Victoria, and it is why this government has put $6 million into commemorating the centenary of the First World War.

Today's event was attended by many thousands of Victorians. There were a range of dignitaries from the federal government, opposition members of the Victorian Parliament and many hundreds if not thousands of children. The parade area at the quarantine station was full of people looking to acknowledge the role that Victoria played in the First World War. The message that was sent through the crowd was poignant — that there is nothing at all to celebrate about being involved in a war. Whilst it is very important that we all reflect on the sacrifice and the service that has gone before us, we need to question ourselves as to whether we are taking full advantage of what many people have given their lives to create for us — this amazing life we have here in modern-day Victoria.

Today's event was attended by thousands, and they all shared the sentiment written at the bottom of the official record today, and that is a giant thankyou to all the men and women who were involved in the first shot 100 years ago and those who have defended our nation ever since. Lest we forget.

## QUESTIONS ON NOTICE

### Answers

**Hon. D. M. DAVIS** (Minister for Health) — I have answers to the following questions on notice: 10 069–70, 10 075–76, 10 079, 10 084–85, 10 105, 10 124, 10 453, 10 457, 10 459 and 10 462.

## PETITIONS

**Following petitions presented to house:**

### Mildura rail services

To the Legislative Council of Victoria:

This petition of certain citizens of the state of Victoria calls on the Napthine government to immediately institute the principles of the recent rail revival study to provide passenger rail services between Melbourne to Mildura via the Yelta rail corridor and the intermediate communities.

This will mean:

repair and upgrade the line to passenger standard as this line is currently used daily by freight trains;

regular passenger trains from Melbourne, through Ballarat to Mildura;

reopening/refurbishing of the stations at Dunolly, St Arnaud, Donald, Birchip, Woomelang, Ouyen, Mildura for passenger services.

Petitioners therefore request that the Legislative Council call on the Napthine Liberal government to publicly announce its support for the project and to make a suitable allocation in the forthcoming state budget to carry out this initiative in full.

**By Mr BARBER (Northern Metropolitan) (791 signatures).**

**Laid on table.**

### Jumps racing

To the Legislative Council of Victoria:

The petition of the Coalition for the Protection of Racehorses draws to the attention of the house the decision on 21 January 2010 of Racing Victoria Limited (RVL) to grant a reprieve to jumps racing in Victoria if it meets conditions set by RVL.

Horses in Victoria suffer horrific injuries and die while participating in this so-called 'sport'. Jumps racing (which is illegal under NSW animal cruelty legislation) has a long history of deaths and injuries of horses from falls. The 2009 season was particularly bad resulting in the deaths of

10 horses despite numerous reviews and modifications. Many more horses sustain injuries and fail to reappear.

The petitioners therefore request that the Legislative Council of Victoria call on the Minister for Racing to intervene and end steeplechase and hurdle racing (jumps racing) in Victoria.

**For Ms PENNICUIK (Southern Metropolitan) by Mr Barber (532 signatures).**

**Laid on table.**

## SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

### *Alert Digest* No. 9

**Hon. R. A. DALLA-RIVA (Eastern Metropolitan) presented *Alert Digest* No. 9 of 2014, including appendices.**

**Laid on table.**

**Ordered to be printed.**

## PAPERS

**Laid on table by Acting Clerk:**

Bushfires Royal Commission Implementation Monitor Act 2011 — Report, 2014 of the Bushfires Royal Commission Implementation Monitor pursuant to section 21.

Conservation Forests and Lands Act 1987 — Code of Practice for Timber Production 2014.

Crown Land (Reserves) Act 1978 —

Minister's Order of 23 June 2014 giving approval to the granting of a lease at Mount Warrenheip Flora Reserve.

Minister's Order of 30 June 2014 giving approval to the granting of a lease at Fitzroy Gardens.

Minister's Order of 30 June 2014 giving approval to the granting of a lease at Queens Park Reserve.

Minister's Order of 30 June 2014 giving approval to the granting of a licence at Mayors Park Reserve.

Minister's Order of 4 July 2014 giving approval to the granting of a licence at Alexandra Park and Alexandra Gardens.

Minister's Order of 7 July 2014 giving approval to the granting of a lease and a licence at Mordialloc-Mentone Beach Park.

Minister's Order of 7 July 2014 giving approval to the granting of a lease at St Vincent Gardens Reserve.

Minister's Order of 7 July 2014 giving approval to the granting of a lease at Knox Community Gardens and Vineyard Reserve.

Minister's Order of 7 July 2014 giving approval to the granting of a lease at Cross Keys Reserve.

Minister's Order of 7 July 2014 giving approval to the granting of a lease at Hastings Public Park.

Interpretation of Legislation Act 1984 —

Notices pursuant to section 32(3) in relation to Statutory Rule Nos. 31 and 54 to 56.

Melbourne Cricket Ground Trust — Report, 2013–14.

Members of Parliament (Register of Interests) Act 1978 — Summary of Primary Return — July 2014 and Summary of Variations notified between 6 May 2014 and 19 June 2014 *(Ordered to be printed)*.

Ombudsman — Report on Investigation into allegations of improper conduct in the Office of Living Victoria, August 2014 *(Ordered to be printed)*.

Parliamentary Committees Act 2003 — Government Response to the Rural and Regional Committee's Report on the Opportunities for People to Use Telecommuting and E-Business to Work Remotely in Regional and Rural Victoria.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes:

Alpine Planning Scheme — Amendment C48.

Banyule Planning Scheme — Amendments C94 (Part 1) and C100.

Bass Coast Planning Scheme — Amendment C138.

Bayside Planning Scheme — Amendment C110.

Baw Baw Planning Scheme — Amendment C111.

Brimbank Planning Scheme — Amendment C41.

Casey Planning Scheme — Amendment C164.

Frankston Planning Scheme — Amendment C97.

Glen Eira Planning Scheme — Amendments C106 and C125.

Greater Bendigo Planning Scheme, South Gippsland Planning Scheme and Wellington Planning Scheme — Amendment GC3.

Greater Dandenong Planning Scheme — Amendment C148.

Greater Geelong Planning Scheme — Amendments C285 and C290.

Greater Shepparton Planning Scheme — Amendment C155.

Hobsons Bay Planning Scheme — Amendment C101.

Hume Planning Scheme — Amendments C182, C188 and C189.

Mansfield Planning Scheme — Amendment C29.

Maribyrnong Planning Scheme — Amendments C129 and C133.

Maroondah Planning Scheme — Amendment C91.

Melbourne Planning Scheme — Amendments C237 and C239.

Melton Planning Scheme — Amendments C155 and C157.

Moonee Valley Planning Scheme — Amendment C121.

Moreland Planning Scheme — Amendments C139 and C154.

Mornington Peninsula Planning Scheme — Amendment C162.

Mount Alexander Planning Scheme — Amendment C71.

Nillumbik Planning Scheme — Amendment C87.

Port Phillip Planning Scheme and Melbourne Planning Scheme — Amendment GC16.

South Gippsland Planning Scheme — Amendments C74 and C91.

Surf Coast Planning Scheme — Amendment C83.

Swan Hill Planning Scheme — Amendment C44.

Victoria Planning Provisions — Amendments VC109, VC113 and VC116.

Wangaratta Planning Scheme — Amendment C50.

Warrnambool Planning Scheme — Amendment C95.

Whittlesea Planning Scheme — Amendments C158 and C176.

Wyndham Planning Scheme — Amendments C171, C172 and C173.

Statutory Rules under the following Acts of Parliament:

Building Act 1993 — No. 104.

Children, Youth and Families Act 2005 — No. 91.

Country Fire Authority Act 1958 — Nos. 81 and 94.

County Court Act 1958 — Open Courts Act 2013 — No. 100.

Conservation, Forests and Lands Act 1987 — No. 98.

Domestic Animals Act 1994 — No. 90.

Drugs, Poisons and Controlled Substances Act 1981 — No. 95.

Environment Protection Act 1970 — No. 92.

Fisheries Act 1995 — No. 96.

Gambling Regulation Act 2003 — No. 93.

Guardianship and Administration Act 1986 — No. 107.

Infringements Act 2006 — No. 103.

Magistrates' Court Act 1989 — Nos. 102, 105 and 106.

Metropolitan Fire Brigades Act 1958 — No. 82.

Mental Health Act 2014 — Nos. 77 and 89.

Police Regulation Act 1958 — No. 78.

Road Safety Act 1986 — Nos. 84 and 85.

Sale of Land Act 1962 — No. 73.

Sex Work Act 1994 — No. 72.

Subordinate Legislation Act 1994 — Nos. 83 and 97.

Tobacco Act 1987 — No. 76.

Treasury Corporation of Victoria Act 1992 — No. 101.

Victoria Police Act 2013 — Nos. 79 and 80.

Victorian Energy Efficiency Target Act 2007 — No. 74.

Water Act 1989 — Nos. 87, 88 and 99.

Water Industry Act 1994 — No. 86.

Wildlife Act 1975 — No. 75.

Workplace Injury Rehabilitation and Compensation Act 2013 — No. 71.

Subordinate Legislation Act 1994 —

Documents under section 15 in respect of Statutory Rule Nos. 53, 57, 61 to 68, 71 to 73, 75 to 92, 94 to 100, 102 to 106.

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

By-law No. 1/2014 Waterways Protection — Mallee Catchment Management Authority under the Water Act 1989.

By-law No. 1/2014 Waterways Protection — North East Catchment Management Authority under the Water Act 1989.

By-law No. 4/2014 Waterways Protection — Corangamite Catchment Management Authority under the Water Act 1989.

Energy Retail Code version 11 under the Electricity Industry Act 2000 and Gas Industry Act 2001.

Notice of 12 June 2014 under section 162L(1) of the Transport (Compliance and Miscellaneous) Act 1983.

Notice of 16 June 2014 of proposed amendments to Greyhound Racing Victoria Local Racing Rules under the Racing Act 1958.

Notice of 23 June 2014 of Driver Accreditation Application, Test Course and Renewal Requirements under the Transport (Compliance and Miscellaneous) Act 1983.

Notice of 24 June 2014 of the Determination of Fees under the Transport (Compliance and Miscellaneous) Act 1983.

Notice of 14 July 2014 of Mandatory Code of Practice for the Employment of Children in Entertainment (2014) under the Child Employment Act 2003.

Proclamations of the Governor in Council fixing operative dates in respect of the following acts:

Corrections Amendment (Further Parole Reform) Act 2014 — 1 July 2014 *(Gazette No. S200, 24 June 2014)*.

Legal Profession Uniform Law Application Act 2014 — Part 1, Division 1 of Part 2 (except section 8), section 9 and the following provisions as set out in Schedule 1: Chapter 1, Chapter 8 (except Part 8.5 and sections 412(2), 414 and 415), Part 9.4 of Chapter 9, sections 467, 468 and 476, Schedules 1 and 2, clause 8 of Schedule 4 — 1 July 2014 *(Gazette No. S200, 24 June 2014)*.

Mental Health Act 2014 — section 2 (other than subsection (1)) — 30 June 2014 *(Gazette No. S200, 24 June 2014)*.

Victoria Police Act 2013 — 1 July 2014 — *(Gazette No. S200, 24 June 2014)*.

Victoria Police Amendment (Consequential and Other Matters) Act 2014 — Whole Act except for items 151.6, 160.6, 160.7 — 1 July 2014; remaining provisions — 1 September 2014 *(Gazette No. S200, 24 June 2014)*.

Witness Protection Amendment Act 2014 — Whole Act except section 37 — 1 July 2014 *(Gazette No. S200, 24 June 2014)*.

## OMBUDSMAN REPORT

**The PRESIDENT** — Order! I have received a letter dated 5 August from the Victorian Ombudsman. The letter reads:

Regretfully, my report into the Victorian Ombudsman's investigation into allegations of improper conduct in the Office of Living Victoria was mistakenly loaded onto our website last night instead of this evening after the report had been tabled in Parliament.

As you know, I propose to table the report in both houses today. As soon as this error was brought to my attention, the report was removed from the website.

I have also written to the Speaker of the Legislative Assembly.

The letter is signed by Deborah Glass, the Ombudsman. I indicate to the house that I have some serious concerns about this matter. Members will recall that on a previous occasion the Office of Police Integrity had the same issue, where a report was released on a website ahead of it being tabled in the Parliament. If I recall correctly, I advised departmental heads at the time that they should be very careful about this. Certainly I raised the matter in Parliament on the basis that, at the very least, the release of a report ahead of its tabling — where it is a report that is required to be tabled in the Parliament — is a discourtesy to the house.

However, as I have indicated on a previous occasion in relation to the Office of Police Integrity, these matters could be of a more serious nature because they could well involve a contempt of the Parliament. Perhaps more importantly, anyone who had viewed or had knowledge of the report because of its early publication might well be in a situation where they were not protected by parliamentary privilege. Clearly there could be some ramifications, particularly in the case of reports in which substantive allegations or substantive matters were canvassed. This particular report would attract considerable media interest, and its early release has potentially put a number of people in a difficult position.

I intend to speak with the Ombudsman and will no doubt involve the Speaker of the Legislative Assembly in those discussions to impress on her the concern I have about the release of this report on the website ahead of its tabling in Parliament. This is a matter that I take very seriously. I hope all department heads will take greater care in terms of the timetabling of the release of this information because there are legal consequences that can attach to these sorts of inadvertent mistakes — I trust it is inadvertent.

## BUSINESS OF THE HOUSE

### General business

**Mr LENDERS** (Southern Metropolitan) — By leave, I move:

That —

(1) precedence be given to the following general business on Wednesday, 6 August 2014:

(a) order of the day 12, motion to take note of answers given by the Minister for Health to a question without notice and supplementary questions relating to Mentone Gardens liquidation;

(b) order of the day 13, motion to take notice of answers given by the Minister for Health to a question without notice and supplementary questions relating to Mentone Gardens liquidator FOI request;

(c) notice of motion 771, standing in the name of Ms Pulford, in relation to the Medicare co-payment;

(d) notice of motion 747, standing in the name of Mr Jennings, in relation to climate change;

(e) order of the day 8, resumption of debate on the second reading of the Gambling Regulation and Casino Control Amendment Bill 2014;

(f) notice of motion given this day by Mr Barber in relation to passenger rail services between Bendigo, Ballarat and Geelong, and the intermediate communities; and

(2) this house authorises the President to remit notices of motion, general business items (1)(a) and (b), as specified above, to be moved and debated concurrently.

**Motion agreed to.**

## MEMBERS STATEMENTS

### Malaysia Airlines flight MH17

**Ms MIKAKOS** (Northern Metropolitan) — I wish to express my sincere condolences to the families and friends of the 298 people killed on Malaysia Airlines flight MHI7, which was shot down over Eastern Ukraine on 17 July. My thoughts are with all the victims' families at this time.

### School funding

**Ms MIKAKOS** — The Napthine government continues to ignore the needs of Victoria's public schools. After scrapping Labor's pledge to renovate, rebuild and modernise every Victorian school by 2016, it has spent a statewide average of only $278 million a year on capital works compared to an average spend of $467 million by Labor in its last term in office. Schools in my electorate have been neglected under the coalition. That is why I am proud that Victorian Labor has committed, if elected, to funding many local school upgrades.

Victorian Labor has committed $10 million to William Ruthven Secondary College to complete its redevelopment. Labor has committed $10 million to each of Brunswick Secondary College and Carlton Primary School to upgrade school facilities. It has committed $10 million to Greensborough College to fund the first stage of rebuilding the school after students have had to bring blankets to school under this government because the heating system is inadequate. Victorian Labor has committed $6 million to Mill Park Heights Primary School and $11.5 million to Viewbank College for new facilities. Victorian Labor has also committed $10 million to build a new high school in Richmond to meet the needs of that local community. Only an Andrews Labor government will see these school projects become a reality.

### Malaysia Airlines flight MH17

**Mrs COOTE** (Southern Metropolitan) — Like so many Australians, I was overwhelmingly saddened on learning that MH17 had been shot out of the Ukrainian skies on 18 July our time. Innocent men, women and children, staff, AIDS researchers and MPs were all killed, none of whom had anything to do with that faraway war. All of us could identify with those people as if they were our friends, family, neighbours and colleagues. Like all Australians, I felt so proud to see the integrity and dignity shown by our foreign minister, Julie Bishop, in winning a United Nations motion to have an international independent investigation and then standing on that Dutch tarmac honouring the remains of the 298 people who died on MH17 and showing the families and friends of the 38 Australians how much all of us in Australia are mourning with them.

### World War I centenary

**Ms HARTLAND** (Western Metropolitan) — One hundred years ago the first shots were fired in the First World War, and while we honour the people who died and gave their lives I would also like to speak about the anti-conscription movement. As many people would know, the numbers of people enlisting in 1916 had decreased markedly. The then Prime Minister, Billy Hughes, brought on a referendum. It was a bitter campaign, and the proposal was narrowly defeated. It also caused a split within the Labour Party of that time. Hughes formed a nationalist party and brought on a second referendum, which was also defeated. I speak of this today because we always need to look at the other side of history when we talk about the first and second world wars.

We must honour all the people, especially those poor young men — 18 and 19-year-olds — who died at Gallipoli and on other battlefronts. We also must honour the nurses, who are very rarely acknowledged for their role in relation to these battles, and especially Indigenous people, who at that time were not regarded as citizens but who chose to go to war for this country. Their war service has still not been recognised. When I hear the words 'lest we forget' it always saddens me, because we continually forget the lessons of history and continually repeat our mistakes.

## Liberal Party election candidates

**Ms PULFORD** (Western Victoria) — In the last week not one but two Liberal Party candidates seeking to represent regional Victoria have had to resign in disgrace. A candidate for Western Victoria Region, Aaron Lane, and the candidate for Bendigo West, Jack Lyons, between them managed to offend many people that they sought to represent in this place. Victorian politicians are responsible, among other things, for the equal opportunity laws that protect our citizens from discrimination and disadvantage and the Crimes Act 1958 that exists to keep Victorians safe. That aspiring politicians think it is appropriate to make jokes about rape, sexual orientation and race is truly frightening. That Liberal Party members select these kinds of candidates reflects a trend in the Liberal Party that puts Victoria's traditions of tolerance at risk. As the Liberal Party seeks to find replacements for these people, I urge them to embrace and value tolerance and celebration of diversity.

## World War I centenary

**Ms CROZIER** (Southern Metropolitan) — I, along with thousands of other Australians, attended an event yesterday commemorating the centenary of the First World War. The East Malvern RSL sub-branch held a dedication ceremony in remembrance of the start of Australia's involvement in that war. A cross in memory of fallen World War I soldiers was relocated, restored, resited and rededicated for public viewing in a prominent and fitting position near the entry of the club. Two honour boards from now defunct organisations were also installed alongside other honour rolls. The ceremony, attended by family members of World War I veterans and members of the East Malvern RSL sub-branch, is one of many events held across the nation, and in towns and suburbs across Victoria to commemorate World War I.

The ceremony was a fitting reminder to us all of the dedication and sacrifices of those men and women who served in the Australian Imperial Forces or Imperial Military Nursing Service, of the 112 000 Victorians who enlisted, of those 16 000 Victorians who were killed and of the many thousands who returned home wounded or suffered as a consequence of their war experience. Many stories of service and sacrifice will be captured in the Galleries of Remembrance, which is part of the $45 million redevelopment of the Shrine of Remembrance. The redevelopment is one of the initiatives supported by the Victorian government. The government has also provided grants programs to enable local communities to restore or enhance memorials and undertake activities, and it recognises that as our veteran population ages it is even more important that the collections and artefacts from World War I be preserved.

I urge all Victorians to take part in whatever way they can to mark the centenary and to reflect on and appreciate the sacrifice made by so many a century ago that enables us to enjoy what our country is and represents today.

## Community Lifestyle Accommodation

**Mr SCHEFFER** (Eastern Victoria) — I commend the work of Community Lifestyle Accommodation (CLA) led by Marie Hell and Aline Burgess on the Balancing the Scales forum held in Mornington last Thursday. The 4-hour forum was attended by around 200 people who either live with a disability, care for someone with a disability or work in the sector providing services and support to people with disabilities. The gathering heard from representatives of political parties, with Jenny Mikakos speaking for Labor, Colleen Hartland for the Greens and David Morris, the member for Mornington in the Assembly, for the government.

The organisers of Balancing the Scales clearly understand that getting a fair deal for people with disabilities is about politics and that political parties, governments, oppositions and legislators must be called to account on these important matters.

The forum heard from Bruce Bonyhady, AM, chair of the National Disability Insurance Agency, who gave a fantastic account of the objectives of the agency and of its progress so far. Participants heard from the disability services commissioner, Laurie Harkin, and the mental health complaints commissioner, Lynne Coulson Barr.

I have had the honour of working with Marie Hell and Community Lifestyle Accommodation for many years, and I support the CLA's key objective: to establish accommodation for people with an intellectual disability to live independently of their parents. Community Lifestyle Accommodation has had some considerable successes, but there is a long way to go, as Marie Hell and the organisation knows. Last Thursday's forum was another step towards realising Community Lifestyle Accommodation's objective, and I commend the organisation.

## Youth Parliament

**Mrs MILLAR** (Northern Victoria) — It gives me great pleasure to reflect on two fabulous recent events within the portfolio of the Minister for Youth Affairs,

Mr Smith, which showcased the ideas, innovation and potential of young Victorians.

I spent an inspirational day at Youth Parliament on 3 July, presiding over two of the sessions, and I saw firsthand some of the most amazing emerging talent of the 120 Victorians aged between 16 and 24. I was very proud that Northern Victoria Region shone brightly, represented by teams from Bendigo, the Kilmore International School and Wodonga. I thank the YMCA for hosting this event. Funding of $100 000 came from the coalition state government. This event gives our youth leaders a greater say.

## Change It Up

**Mrs MILLAR** — The Change It Up program conducted in Bendigo involved young people from the Greater Bendigo, Central Goldfields and Mount Alexander local government areas coming together to share their ideas about changing their communities for the better. The Victorian coalition government has provided $540 000 in funding over three years to help support the Foundation for Young Australians to deliver Change It Up workshops in 30 rural and regional communities across Victoria. These workshops provide young Victorians with meaningful opportunities to develop and initiate their ideas. It was an inspiring day, and the ideas generated were fresh, engaging and innovative.

The Youth Parliament and Change It Up events bring to mind the work of Sir Ken Robinson, who believes that young people are born with unlimited creativity and innovation and that this can rapidly diminish within our narrowly defined traditional education system. These two initiatives enable and foster creativity, finding ways to ensure that individual freedom and innovation is given a real and meaningful space in Victoria.

## Ramadan

**Mr EIDEH** (Western Metropolitan) — Throughout the month of July, I had the honour of attending numerous iftar dinners to mark the Islamic holy month of Ramadan. Ramadan is a most important tradition within the Islamic faith, where Muslims use their time while fasting to reflect and to seek guidance and forgiveness to purify their souls.

The sacred tradition of iftar, breaking the daylong fast, encourages people of all cultural backgrounds and religions to come together, break bread and foster peace and harmony across the world.

During the holy month of Ramadan, I had the privilege of attending iftar dinners hosted by the Commonwealth Bank, the Muslim Welfare Trust of Victoria and the Council of Turkish Associations of Victoria. I also attended a dinner hosted by the Australian Intercultural Society, which was co-hosted by the Parliamentary Secretary to the Premier, Mr Craig Ondarchie, MP. The Deputy Leader of the Opposition, James Merlino, and other colleagues also attended this event.

The tradition of iftar symbolises not only unity but also the importance of multiculturalism to our great state. Our multicultural landscape is what separates our state from the rest, and this is something I am very proud of. It was wonderful to see so many people of different cultural backgrounds taking part in this tradition with Muslims. I thank and congratulate those who worked hard to organise these iftar events as well as those who took the time to attend them. Uniting to break bread to foster new friendships regardless of culture and religious beliefs is what the important tradition of iftar is about.

I congratulate the Islamic community on its celebration of the Eid feast after the end of fasting in the holy month of Ramadan.

## Youth Parliament

**Mr ELASMAR** (Northern Metropolitan) — On 30 June I was delighted to reprise my role as Acting President of the Legislative Council in aid of the Youth Parliament of Victoria conducted in this chamber. It was a totally enjoyable experience and one that I commend to all members of this house. It is great to see the youngsters perform their quasi-parliamentary roles with such enthusiasm.

## Ramadan

**Mr ELASMAR** — On the evening of 3 June I, along with many of my parliamentary colleagues, attended the Ramadan iftar dinner. This special annual event is organised by the Australian Intercultural Society to celebrate this holy event in the Islamic calendar. It was a joyous evening, and we were honoured to share the experience of harmony and respect for religious and cultural heritage that makes our multicultural community all the more enriched.

## Jiangsu Province

**Mr ELASMAR** — On 28 July I was honoured to attend a function organised by our Presiding Officers to celebrate the 35th anniversary of the Parliament of Victoria's sister-state relationship with China's Jiangsu Province. Leading the Jiangsu delegation was the Vice Governor, Mr Shi Heping. There were many other distinguished guests in attendance, and they later enjoyed a tour of Parliament House.

## SENTENCING AMENDMENT (BASELINE SENTENCES) BILL 2014

*Second reading*

**Debate resumed from 26 June; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).**

**Ms PULFORD** (Western Victoria) — Let me say at the outset that the opposition will not be opposing the Sentencing Amendment (Baseline Sentences) Bill 2014. Our reasons were outlined in detail by the shadow Attorney-General during the debate in the Legislative Assembly, which took place in June, before the winter recess.

The bill amends the Sentencing Act 1991 to provide for baseline sentences for indictable offences. Five baseline sentences are to be introduced into the Crimes Act 1958, and one is to be introduced into the Drugs, Poisons and Controlled Substances Act 1981. The serious offences that the government has chosen to apply baseline sentences to include murder, incest with a child, sexual penetration of a child, persistent sexual abuse of a child, culpable driving causing death and drug trafficking in a large commercial quantity.

It is important to note that the Liberal Party indicated its desire to introduce baseline sentencing before it formed government; it was an election promise. The then opposition leader, Ted Baillieu, the member for Hawthorn in the Assembly, indicated on 23 November 2010 the Liberal Party's concerns around sentencing and stated that if successful in the 2010 state election, it would seek advice from the Sentencing Advisory Council on both the types of serious offences to which baseline sentences ought to be applied and the sentences that ought to be applied.

This legislation is a minimal execution of that election promise. The Sentencing Advisory Council made recommendations on 30 different offences. This legislation seeks to address six. Among those not addressed by the legislation are rape, armed robbery and arson, but the list is much longer. I urge members to take a moment to look at the Sentencing Advisory Council's report, which was provided to government in 2012. In addition to the glaring difference between the Sentencing Advisory Council's suggested list of offences and those that the government has sought to apply baseline sentences to, there is another fundamental difference. The Sentencing Advisory Council's recommendation 1, 'The baseline level' states:

> The baseline level represents the non-parole period for an offence that is in the middle of the range of seriousness, taking into account factors that are relevant to the offence only and before any discount has been applied for a guilty plea and/or assistance to authorities.

So it was the recommendation of the Sentencing Advisory Council that the baseline, the midpoint, for sentences would apply to the non-parole period. What the government has instead chosen is to apply a baseline on head sentences. It is also important to note that, in addition to very many serious offences not having a baseline sentence spelt out in this legislation, in each and every one of the six offences the government is seeking to address in the bill the minimum non-parole period recommended by the Sentencing Advisory Council is higher than that being delivered by the government through this bill.

This bill is a partial acquittal of an election promise, but it is typical of the approach that this government takes to everything: it is a half-cooked interpretation of the Sentencing Advisory Council's recommendation. There are fewer offences than were recommended, the practical application will be less time than was recommended by the Sentencing Advisory Council and the only conclusion that can be drawn from this is that the government is more interested in creating the impression of being tough on crime than focusing on the detail and applying its own policies in a way that creates the outcome the government says it wants.

It is not surprising that the government has introduced this legislation that deals with only 6 of the 30 offences for which baseline sentences were recommended. It is not surprising that in the wash-up the government is choosing to concentrate on the head sentence, or the headline sentence, rather than the minimum non-parole period. But the government has indicated that it will continue to implement this policy. We have but five sitting weeks left in this Parliament, so we will wait to see if the government is as good as its word. But on this occasion the opposition will not be opposing the bill.

**Ms PENNICUIK** (Southern Metropolitan) — The bill we have before us, the Sentencing Amendment (Baseline Sentences) Bill 2014, amends the Sentencing Act 1991 to provide for baseline sentences for a number of indictable offences, including murder, culpable driving, trafficking in large quantities of drugs and three offences regarding sexual abuse of children. It also amends the Crimes Act 1958 to fix the baseline sentences for those offences. It also amends the Drugs, Poisons and Controlled Substances Act 1981 with regard to the offence of trafficking a large quantity of drugs of dependence.

It is important to note that in this bill a baseline sentence is intended to become the median sentence for

the offence; it is not the base or minimum sentence, which the name actually implies. Ordinary people might think a baseline sentence means a minimum sentence, but it is the median sentence. The baseline sentence applies to the actual sentence — that is, the head sentence imposed for the offence — not the non-parole period.

Baseline sentences will not apply when the court is sentencing a young offender who was 18 years or older at the time of committing the offence but is under the age of 21 years at the time of being sentenced. The court may still sentence a young offender to a youth justice centre or a youth residential centre order under section 32 of the Sentencing Act 1991, but under clause 5 of the bill this must be consistent with the baseline sentence becoming the median for the relevant offence. That clause also states that in sentencing an offender for a baseline offence the court must do so in a manner that is compatible with Parliament's intention as set out in clause 5(1)(b), which states that:

> the period specified as the baseline sentence for the offence is the sentence that the Parliament intends to be the median sentence for sentences imposed for that offence in accordance with this section.

A court that sentences an offender must at the time of doing so state the reasons for imposing that sentence, including its reasons for the sentence being equal to, greater or lesser than the baseline sentence for that offence.

Clause 8 fixes non-parole periods, which must be at least 30 years if the relevant term is the term of the offender's natural life, 70 per cent of the relevant term if that term is a term of 20 years or more, and 60 per cent of the relevant term if that term is a term of less than 20 years.

It is intended that the baseline sentences introduced for each of the offences listed will become the median sentences for those offences over time. Currently the median sentence for each offence is lower than the baseline sentence. The bill requires courts to increase sentences so that cases that currently receive a sentence at or near the median will in future receive a sentence at or near the baseline sentence, thereby moving the median. None of this takes into account the range of sentences. Some will be higher and some will be lower. The fact that there is a median means that some are higher and some are lower currently.

The question is: is this the appropriate way to go? I thank the parliamentary library for its excellent research brief on the bill. It is comprehensive in what it covers, including the background to the bill, the coalition's election promises and the Attorney-General's second-reading speech. It mentions the Department of Justice and *Herald Sun* sentencing survey, which the Attorney-General says led to some of the provisions in the bill. Members will remember that I tried to get a copy of the survey when it was first conducted. At the time I made the point that it is not appropriate for legislation to be based on surveys conducted by a newspaper whether or not the Department of Justice is involved.

The research brief notes that respondents were asked what they thought the most appropriate sentence would be in 17 hypothetical scenarios covering 15 types of serious crime, each with a unique set of simplified circumstances. There were 18 500 responses to the survey, with 53 per cent reporting no prior interaction with the Victorian justice system. The brief details what people came up with. In summary, the figures were greater than the current median sentences determined by the courts for those offences. Of course that is a small sample of people who were self-selected. They were not given any level of detail to enable them to come to any sort of informed decision about the scenarios they were faced with.

During debate on sentencing bills that have come before the Parliament on previous occasions I have referred to research conducted by the Australian Institute of Criminology which suggests that members of the public are less likely to believe sentences are too lenient if they are informed about how the sentencing process works and the details of particular cases. For example, I have referred before to the Tasmanian jury sentencing study, which surveyed 690 jurors from 138 trials between September 2007 and October 2009. The findings were that more than half the jurors surveyed suggested a more lenient sentence than the trial judge imposed. Moreover, when informed of the sentence 90 per cent of the jurors said the judge's sentence was very or fairly appropriate. In contrast, responses to abstract questions about sentencing levels mirrored the results of representative surveys.

The results of the study also suggested that providing information to jurors about crime and sentencing may be helpful in addressing misconceptions in these areas. The evidence is that the more members of the public know about sentencing practices and the particular circumstances of a case, the more likely they are to agree with the sentence imposed by the judge or in fact err on the side of leniency.

The library's research brief goes through the current sentencing framework, including the principles of sentencing decisions and the purposes of sentences

under sections 5(1) and (2) of the Sentencing Act 1991. It talks about judicial discretion and instinctive synthesis, which is something I will return to. It talks about the current sentencing procedure and compares the median and maximum sentences that are already imposed for the offences covered by the bill.

As I read the Sentencing Advisory Council (SAC) report and the summary provided in the parliamentary library brief I came to the conclusion that what is being imposed by this bill is quite complicated. Members would know that sentencing is a complicated business. Sentencing judges already have to take a lot into account, including the principles and purposes of the Sentencing Act 1991 and the particular circumstances of the case in front of them. Imposing this regime on top of what is already in place will make the process more complicated. That is what struck me as I read through the report.

The Sentencing Advisory Council also makes the point that although the median represents a statistical midpoint, where half the sentences are below and half are above, it is not necessarily indicative of an offence in the middle of the range of seriousness in the same way that the baseline level is. The baseline level only takes into account objective factors that are relevant to the offence. The median reflects sentences handed down in their entirety, taking into account subjective factors such as guilty pleas and the offender's character. In terms of imposing baseline sentences as the median, which are based on mathematical calculations and objective factors, that will make what I would call seminal changes to the sentencing regime in Victoria.

I am also concerned about new section 11A, which introduces the fixing of non-parole periods in accordance with ratios introduced by the bill. The ratios set out the minimum for the non-parole period. New section 11A(4) provides that a court must set a non-parole period of at least 70 per cent of the term of the sentence for the baseline offence or the term of the total effective sentence if that term is a term of 20 years or more, and 60 per cent of the term of the sentence for the baseline offence or the term of the total effective sentence if that term is less than 20 years. For example, in a particular case the judge may want to impose 75 per cent of the term for a particular offender or 65 per cent for a 20-year sentence. Perhaps he or she might want to impose 65 per cent or 55 per cent if the term is less than 20 years. That introduces a level of inflexibility which one has to question.

The brief also raises a number of issues that have been raised by stakeholders, including concerns about the separation of powers and the impost of the legislation on judicial discretion. A number of bills have already come through this house, including those relating to suspended sentences, the abolition of home detention and others, which have reduced judicial discretion, but this bill probably goes the furthest. The Greens believe that the separation of powers and the exercising of judicial discretion should be maintained.

It is interesting to note that in April an article appeared in the *Herald Sun* which reported that, in an unprecedented move, Supreme Court Chief Justice Marilyn Warren and County Court Chief Judge Michael Rozenes wrote to the Attorney-General after seeing a version of the bill. They described the bill as quite unlike any sentencing bill they had previously encountered. They said that victims may find it difficult to recover while criminal proceedings remain unresolved, meaning increased delays could increase the trauma already encountered by victims, and that it could be said with absolute certainty that this bill would lengthen the sentencing process as it takes the process from one of significant complexity to one of near impossibility.

Similarly, the rate of sentence appeals would increase as a result of the increased complexity of the exercise, the increased risk of error and the problematic drafting of the provisions themselves. It is significant that the Chief Justice of the Supreme Court and the Chief Judge of the County Court have made those comments and raised those concerns about this piece of legislation. The same concerns were raised by the Law Institute of Victoria, which has argued that baseline sentencing overcomplicates the sentencing process.

One issue raised by the government is consistency in sentencing. Consistency in sentencing is not equal to justice in sentencing, and the way we achieve justice is by preserving judicial discretion. Obviously there are maximum sentences, and it is always within the power of the Parliament to raise maximum sentences, but once Parliament starts introducing inflexibility — such as baseline sentences and minimum mandatory sentences — and takes away sentencing options such as suspended sentences and home detention, it starts to unduly interfere with judicial discretion. It really is up to Parliament to set broad parameters and a broad framework and then leave the courts, who are in fact experienced in dealing with criminal matters and have the facts of every case before them, to hand down appropriate sentences rather than have Parliament try to impose template sentences through bills such as the one before us today.

In its submission to the Sentencing Advisory Council, Victoria Legal Aid said that those who practise in

criminal law, both as prosecutors and defence lawyers, learn very quickly that it is very hard to put cases and offenders into strict categories and that attempts to do so lead to injustice.

As I mentioned, there are also the effects on the sentencing process, such as overcomplicating the system, described by the chief justice and the chief judge as moving from complexity to impossibility. Several submissions to the Sentencing Advisory Council also point to a lack of evidence that baseline sentencing works as a deterrent and results in crime reduction.

The Criminal Bar Association of Victoria has expressed doubt about the efficacy of baseline sentencing by citing the Queensland Sentencing Advisory Council inquiry, which noted an absence of evidence that baseline sentencing schemes have been effective.

Some stakeholders have expressed concern that baseline sentencing will result in increased prisoner numbers as well as place further pressures on the police and the court system. The Law Institute pointed to the introduction of baseline sentencing in New South Wales and argued that one of the consequences has been additional costs in many areas. In New South Wales baseline sentencing has resulted in increased prison and corrections costs. It has also placed an additional burden on the justice system, with more cases needing to be heard in the County or Supreme courts, leading to delays and additional costs in that area as well. We are already seeing problems with a lack of resources for and backlogs in the courts. Legal aid funding has been reduced, meaning that many of the people facing court for these offences will not be able to access legal aid.

Some stakeholders have also argued that it is not necessary to introduce baseline sentencing as a means of raising sentencing levels as avenues for appealing low sentences already exist. Liberty Victoria stated that people may be unaware that the Director of Public Prosecutions (DPP) can appeal a sentence to the Court of Appeal if the director feels the sentence is inadequate. Every sentence imposed in the County and Supreme courts in Victoria gets reviewed in this way. The Criminal Bar Association also raised this point, saying:

> There already exists a powerful mechanism for the correction of sentences which are too low. Since the introduction of appeals by the Director of Public Prosecutions, they have been an effective means of redressing inadequate sentences … The CBA is not clear as to why the availability of director's appeals is not regarded as a sufficient safeguard against the imposition of inadequate sentences for serious offences.

The parliamentary library's research brief also goes through the other jurisdictions, some of which have what might be called baseline or minimum sentencing to some degree. New South Wales has probably gone the furthest, which is attracting quite a lot of concern. The Greens did not support the standard non-parole periods (SNPP) legislation that was brought into the New South Wales Parliament in 2002 and the amending bill in 2007, but they did support a bill earlier this year which made some improvements to the system. They also made the point that the sentencing laws in New South Wales are in need of a full overhaul, as others have also pointed out.

It is also interesting that one of those people is a former New South Wales Director of Public Prosecutions, Nicholas Cowdery, who said at Sydney law school on 15 May:

> Should Parliament go beyond prescribing maximum sentences or broadly guiding the sentencing discretion? By so confining the options available to a court, it is at least arguable that Parliament is requiring the courts (at least in some cases) to act unfairly and unjustly. That is probably unconstitutional and it is certainly contrary to the international obligations Australia has willingly undertaken.

He went on to say:

> The … question is whether this is a scheme that can be supported in principle or even practically. It is protested that such a scheme will interfere with the courts' obligations to sentence efficiently, consistently and fairly. It seems to me that there is an element of reverse reasoning required to be undertaken by the courts that will be extraordinarily difficult and productive of appeals — starting with a prescribed figure, then contemplating the circumstances that would take half of the cases coming before the courts above that figure and half below, then assessing where in that continuum of circumstances the instant case falls, so as to know whether or not the baseline sentence (as the desired median) or something more or less should be imposed. Then the court must give reasons. Merely describing the process involved gives some insight into the complexities that must be juggled and the time and cost of the process. And for what?

The government claims that this will deter crime, but the Law Institute of Victoria, the Criminal Bar Association and others say that there is no evidence for this. There is evidence that a sentence may deter some crime, but there is no evidence that altering the sentence and making it more stringent does so.

Again with regard to the New South Wales system, submissions to the NSW Sentencing Council described the scheme as complex, difficult to understand and wholly lacking in transparency. Honourable Justice R. O. Blanch noted that the introduction of SNPPs has increased sentences in New South Wales to a point beyond that which is appropriate. He also raised concerns regarding the fettering of judicial discretion

and the pressure on defendants to plead guilty in order to avoid SNPPs. He supported the removal of the scheme.

Other concerns about the New South Wales experience have been outlined by the Law Institute of Victoria on page 5 of its submission to SAC and include greater difficulty securing bail for those defendants charged with SNPP offences and overcharging practices by police to encourage successful plea negotiations later in the process. The complexity of the scheme has led to an increase in appeals due to errors in applying the scheme.

The regime this bill aims to put in place has been in place in New South Wales for some time and has received considerable criticism for the consequences it has for the sentencing process in terms of its impact on the courts, the complexity of applying it, the rise in the number of appeals and its impact on offenders and victims alike. The government has put forward no evidence to the contrary. There have been Sentencing Advisory Council recommendations on how to best introduce baseline sentencing. The fact is that the terms of reference given to the Sentencing Advisory Council did not ask it for its opinion as to whether this was a good way to go. In the terms of reference the government gave the Sentencing Advisory Council it just asked which particular method of baseline sentencing the council would recommend. Even then the government, as the opposition has pointed out, introduced a different regime.

There is no evidence that this type of sentencing works. There is evidence that, in New South Wales where it is in place, it further complicates the system, results in more errors and further erodes judicial discretion — and this government has already gone too far down that track.

Ms Pulford spoke very briefly on this legislation on behalf of the opposition. I also read Mr Pakula's contribution in the lower house. They seem to be supporting the bill because they say the government in part has a mandate for it. I do not believe that is the case. I also believe that when we are looking at legislation we should be legislating based on evidence. There is no evidence that baseline sentencing works; there is a lot of evidence to the contrary. For those reasons, the Greens will not be supporting the bill.

I will also move to refer this bill to the Legal and Social Issues Legislation Committee for inquiry, consideration and report by 2 September, which is just under a month from now. This is so that the committee can report back to Parliament on the evidence, or lack thereof, to support such a regime and also conduct a hearing where those stakeholders I have mentioned — including the Criminal Bar Association of Victoria, the Law Institute of Victoria, the Federation of Community Legal Centres, Youthlaw and all of those who have expressed great concern about this regime — can appear to put forward their concerns on the bill. Most of the concerns I have read out have been from submissions to the Sentencing Advisory Council, but the Law Institute of Victoria issued a media release only a month ago with regard to this particular bill.

The Greens see no evidence to support this bill. We feel that the courts are well placed to impose the correct sentence on an offender for any offence that is in front of them with the broad sentencing guidelines that are already in place under the Sentencing Act and with the maximum sentences that are already in place. If the judge does err and the Director of Public Prosecutions feels the sentence is inadequate, the DPP can appeal those sentences in the higher courts. With those few words, the Greens will not support the bill.

**Mr D. R. J. O'BRIEN** (Western Victoria) — It is with great pleasure that I rise as a member of this coalition government, which is delivering upon one of the most important pledges that it took to the 2010 election. We have engaged in a very careful consultative process with the Victorian community — notwithstanding the mandate that was given — and also with the Sentencing Advisory Council in a very considered and extensive way so as to come to a better position to introduce this very important piece of legislation, the Sentencing Amendment (Baseline Sentences) Bill 2014, as we near the end of what is hopefully only our first term in government.

From the debates on this bill that have occurred in both this place and the other place, we can see the stark contrast between the position of this government in relation to protection of the community, community safety and law and order and the position of Labor in opposition and in government, and also, as we have just heard, the position of the Greens, who would oppose this legislation. What we saw from the previous government was a failure to provide the necessary pieces of legislation that government is required to provide from time to time to address genuinely held community concerns about a range of matters to do with the safety of the Victorian people.

It is said to be one of the most important, if not the most important, obligation of governments — and it is an extremely important obligation on us as legislators, particularly in the upper house — to provide the laws that govern behaviour in this state. In preparing to do so

this government took to the 2010 election a very well documented suite of law and order policies. Yes, they were tough on certain crimes which regrettably had previously been allowed to be perpetrated on unsuspecting Victorian victims of crime time and again. Those cases have been well documented.

The suite of policies the government took to the election was not just a legislative regime, it also involved community protection in a financial, budget or fiscal sense, with the commitment to deploy 1700 additional front-line police and 940 protective services officers as well, very importantly, as the creation of the crime prevention portfolio and a range of other law and order objectives aimed at preventing crime.

As we head towards the 2014 election there is a very clear distinction in terms of where the four parties — the parties in coalition, the Labor opposition and the Greens — stand on law and order matters in this state. It is very clear that the coalition government, representing the Liberal Party and The Nationals in coalition, stands very much in favour of the protection of the community in terms of law and order matters, particularly in relation to the very serious crimes that are the subject of this legislation. The Labor Party is effectively not opposing this bill because it says we effectively have a mandate for the legislation. That is true; we have a mandate because of the failures of the previous government when it was in a position to introduce not only this legislation but the various other pieces of legislation the Attorney-General and his department have carefully considered.

Those pieces of legislation have not come without very serious academic and legal debate in the legal community, and they have required this government to make choices. We made those choices, however, in the platform we took to the election, and from the very first bills that we introduced into this Parliament we have introduced these pieces of legislation very carefully, in a sequential and segmented way, whilst providing that very important protection of the community. One of the very first pieces of legislation we introduced was the abolition of suspended sentences for the most serious offences, including some of those covered by this legislation, such as murder. We also introduced reforms to the Sentencing Advisory Council to bring in representatives of two very important stakeholders in the community who had been neglected under the regime of the previous government.

If, God forbid, the Greens ever were to get the balance of power, as they seek to do, no doubt they would seek to reimpose upon the Victorian community a very soft-on-crime approach, if you want to use that language, involving a very stark failure to protect Victorian citizens from the most egregious offences that can occur. From the Greens' opposition to this bill and other bills, you can see that the Greens are a party at the very far left of the political spectrum. No doubt from time to time they seek to cosy up to western Victorian farmers; I understand from media commentary that they are seeking to make a great play for the seat I am fortunate enough to presently represent. I say to people only that for the best protection of the Victorian community, including the western Victorian community, whatever they do on 29 November — and this is so especially given the contribution of Ms Pennicuik on this bill — please do not vote Green. If the Greens were to obtain the balance of power, the result would be the peel back of the very careful regime this government has put in place through this legislation.

One could see starkly that this is so during Ms Pennicuik's contribution, particularly when she cited the commentators who have said, 'Oh, well, you don't need to bring in this sort of legislation, because these matters can be dealt with by appeals'.

**Ms Pennicuik** — That was the Criminal Bar Association.

**Mr D. R. J. O'BRIEN** — Yes, it was elements of the Criminal Bar Association, but that does not make it right. That does not make it the best means of protecting this community ab initio, or up front, because if you are relying on appeal mechanisms to correct what are mistakes or sentencing practice, you are effectively allowing the system to be broken and hoping it will self-correct and fix itself, rather than relying on what this bill provides for, which is, in this very contentious area of sentencing practice — and it is a difficult area — to gauge community concerns and sentencing practices in the light of a wide range of considerations that need to be taken into account. In terms of our suite of policies and the sentences that are the subject matter of the legislation, from time to time it is the role of Parliament — and it is certainly the role of political parties seeking the majority on the floor of the Parliament — to articulate policies that will lead to changes in the legislation that governs the independent judiciary in relation to sentencing in this state, principally the Sentencing Act 1991. That is a role of the Parliament, as has been explained by the Attorney-General in his commentary on the opinions provided by other commentators, including those of very senior judges, among them the Chief Justice of Victoria.

With the greatest respect to those opinions, these are matters that are properly the domain of Parliament, so that the sentencing that is done in an individual case, subject to the facts of that case, will have regard not only to current sentencing practice but also to the intention of Parliament as conveyed by this legislation. If this bill is passed, under proposed paragraph (ab) to be inserted after section 5(2)(a) of the Sentencing Act 1991 the courts would also be required to have regard to the baseline sentence for the offence. The remaining provisions that are set out in part 2 of the bill bring into effect that critical additional requirement of the baseline sentence, or the median sentence in proposed section 5B.

The reason that this state of affairs has come to pass with this legislation — which, as I have indicated, has been carefully considered, taken to the Victorian people and now implemented — has been well set out in the various debates and articles, including the second-reading speech of the Attorney-General, in the contributions of members such as Mr Clem Newton-Brown, the member for Prahran in the other place, and also in the work that the parliamentary library research centre has done in relation to current median and maximum sentencing practices.

These reveal that in relation to certain critical egregious offences, which I will go to shortly, regrettably for the Victorian community sentencing practices in relation to the median head sentence and indeed the median non-parole periods in many instances have fallen well below community expectations for what is an appropriate median sentence for those offences. That is the critical issue that this legislation directs itself to, and it does so in a very carefully considered way.

Just to put into context how the legislation will operate, in relation to murder, which has to be the most serious offence that can be committed against the person, there is a maximum penalty of life imprisonment; the indicative median sentence is presently 19 years, and under the baseline sentence that indicative median will be increased to 25 years. In relation to sexual penetration of a child under 12 years old there is presently a maximum penalty of 25 years and an indicative median of 3.5 years. That is a grossly inadequate indicative median for that sort of offence. Under the bill's amendments that will be increased to a baseline sentence of 10 years. Likewise, persistent sexual abuse of a child under 16 carries a maximum penalty of 25 years; the indicative median is presently 6 years, and that will be increased to a baseline sentence of 10 years.

In the case of incest with a child, the maximum penalty is presently 25 years, and that will not change; the indicative median is 4 years, and that will be increased to a baseline sentence of 10 years. There are another two. The offence of culpable driving causing death carries a maximum penalty of 20 years, with an indicative median of 5.5 years; the baseline sentence will be 9 years. For trafficking in a large commercial quantity of drugs the maximum sentence is life imprisonment; the indicative median is 7 years, and that will be increased to a baseline sentence of 14 years.

I will take just two examples. In my relatively short time in this place I have had the difficult task — but in a sense a privilege in the way that it has altered my life, my perceptions and certainly my resolve to work very hard to carry out the commitments that the government gave — of meeting with the parents of one of the most tragic murder victims, Elsa Corp. They met me and presented their large petition in relation to what became known as Elsa's law. The parents, Andy and Gilly Corp, were commended at the time and remain very fixed in my mind because of the intense involvement I had with them during the passage of that particular legislation, which is another whole realm that this government has effectively acted on.

Mr O'Donohue and his predecessor, Mr McIntosh, as ministers for both corrections and crime prevention, ought to be commended on that. But more particularly the Corp family should be commended for the campaign which they poured their grief into and which they are still effectively involved in. That will be a lifetime burden for them, but importantly they were given the small comfort of knowing that as a result of that legislation the precise situation relating to the release on parole of their daughter's murderer and then the failure to put him back into the system, notwithstanding previous offences committed while on parole, ought not happen again. That was a very difficult time for them, and I was given the privilege of assisting them in the final stages of that campaign as the legislation was carried through the house.

In relation to the changes to the baseline sentence for murder, I point out that that will not be the sentence in every case. The legislation makes clear that the facts of each case will still be the guiding consideration. But nevertheless that will be the baseline sentence which the legislation intends will over time effectively be the median sentence imposed in the median number of cases.

The other group of victims that I have had the privilege of working for — again, a privilege in the sense of it shoring up my resolve to do the task that we do as

members of Parliament — were the victims of child abuse in the Betrayal of Trust inquiry. When one sees the sorts of sentences that have been imposed for those sorts of child abuse offences under the current sentencing practice — that is, three years and six months as a median non-parole sentence — one realises that this legislation is entirely justified. Yes, it is an amendment to the Sentencing Act, and yes, it will guide sentencing. Although this legislation is different to that in New South Wales, the situation in relation to the New South Wales legislation is that both the severity of penalties imposed and the duration of sentences have generally increased.

This bill is not a bad thing for the prevention of crime. One, it will protect the community from offenders — that is what this government puts up as a primary consideration in relation to this piece of legislation. It will also act as a deterrent, preventing further assaults. As we have said previously, this legislation ought to act as a deterrent for those contemplating the commission of crime. For those reasons, I commend the bill to the house.

**Mr ONDARCHIE** (Northern Metropolitan) — I rise today to speak on the Sentencing Amendment (Baseline Sentences) Bill 2014, and I commend my colleague Mr David O'Brien on his very articulate and well-researched contribution in the chamber today. This bill demonstrates the government's commitment to making sure that offenders are properly punished for crimes in our community and that our legal system is sufficiently flexible to deal with these complex cases. I know the Acting President, Mr Finn, is a supporter of appropriate sentences, and I am sure that if he were in his place, he would concur. While being tough on crime, crucially this legislation will allow magistrates to take extraneous circumstances into account in certain cases so that individuals are still able to have their circumstances catered for.

I cannot imagine how I would feel if the crimes mentioned in this bill were committed against me or, worse, against one of my family members. Some of the sentences imposed recently would be seen by some members of the community as weak, but, not surprisingly, today the Greens are opposing this bill. They say that everything is absolutely fine out there. It just demonstrates again that the Victorian and Australian Greens are completely out of touch with community expectations — not just on this bill but on a litany of changes that are required to Victorian legislation. It is just more of the same. I cannot believe that they are using political expediency and political point-scoring just to make a point. It would sadden me to think that the Greens actually believed what they are saying here today — that they oppose this baseline sentencing bill. One could say that the Greens are clueless, and that would be a reasonable explanation of what they are doing here.

Through this bill the Parliament is asked to set baseline sentences for six serious crimes that will serve as a guide for judges whenever they impose sentences for those crimes. This is what I am talking about: for murder there will be a baseline sentence of 25 years; for trafficking a large commercial quantity of a drug or drugs of dependence there will be a baseline sentence of 14 years; for incest with a child under 18 there will be a baseline sentence of 10 years; for sexual penetration of a child under 12 there will be a baseline sentence of 10 years; for persistent sexual abuse of a child under 16 years there will be a baseline sentence of 10 years; and for culpable driving causing death there will be a baseline sentence of 9 years. These sentences are in line, at a baseline level, with community expectations. I cannot for the life of me understand why the Greens are opposing this bill, and I thank the state opposition for its support. I commend the bill to the house.

**House divided on motion:**

*Ayes, 33*

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

*Noes, 3*

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

**Motion agreed to.**

**Read second time.**

*Referral to committee*

**Ms PENNICUIK** (Southern Metropolitan) — I move:

> That the Sentencing Amendment (Baseline Sentences) Bill 2014 be referred to the Legal and Social Issues Legislation Committee for inquiry, consideration and report by 2 September 2014.

Our reason for proposing a referral is that this significant bill makes significant changes to the sentencing regime in Victoria for six offences. The Greens agree that they are all serious offences, but we hold to the position that judicial discretion is important. The role of Parliament is to set broad frameworks and maximum penalties and to leave sentencing decisions to the courts, which are best placed to decide on the circumstances of the cases before them. These include cases with aggravating and mitigating circumstances, and the courts are required by the Sentencing Act 1991 and the principles and purposes outlined therein, which are very comprehensive, to take such circumstances into account.

It is already a complex operation to take those things into account, particularly for serious offences, but as I pointed out in the debate on the second reading, a lot of concerns have been raised about this bill by organisations that are involved with criminal law, such as the Federation of Community Legal Centres Victoria, Youthlaw, the Criminal Bar Association of Victoria, Liberty Victoria and the Law Institute of Victoria, which issued a media release last month saying that baseline sentencing was a mistake because it would unduly limit judicial discretion, overcomplicate sentencing processes and ultimately fail to act as a deterrent.

In his second-reading speech Mr O'Brien referred to this bill acting as a deterrent, but all of the evidence suggests that that is not the case. Studies show that while the threat of a prison sentence acts as a small deterrent, increasing the severity of that sentence does nothing to increase that deterrence. In fact, in a media release the Law Institute of Victoria said:

> … the only likely outcome to flow from these … laws will be an increased burden on our prisons, police and courts.

I also mentioned in my contribution to the second-reading debate the concerns that have arisen about the operation of similar laws in New South Wales and the growing calls for that system to be reviewed and overhauled. The Law Institute of Victoria went on to say:

> In New South Wales, baseline sentencing has resulted in increased prison and corrections costs. It has also created an additional burden on the justice system with more cases needing to be heard in the County or Supreme courts, leading to delays and additional costs in that area as well.

The law institute said that beyond the financial cost the social impact is severe and that the government needs to explain the rationale behind spending millions of dollars to deliver on this punitive policy while keeping the state's purse firmly zipped when it comes to investing in genuine crime prevention strategies that are desperately needed in Victoria, such as justice reinvestment.

The law institute also said:

> The government's piecemeal approach to getting tough on criminals is failing both the justice system and the community … our courts are overburdened and the policies coming out of Spring Street are only going to exacerbate that problem.

Similar concerns have been raised by the stakeholders I have met. In fact there are very few people, if one looks at those who have made submissions to the Sentencing Advisory Council or made any public comments on this issue, who have not raised concerns about the imposition of this regime on the Sentencing Act.

The Greens believe this bill should be referred to committee so that people or organisations who are raising concerns about it can have those concerns heard. This is an important bill. Over this term of Parliament, the Greens have tried to refer many important bills to committees, and in most cases the government has not supported these attempts. That is a shame, and in fact it is an indictment of the government that it has not made use of the committee system to scrutinise legislation as it could have.

**Ms PULFORD** (Western Victoria) — The Labor Party will not be supporting this referral for the reasons outlined in my contribution to the second-reading debate. In this legislation the government is partially acquitting one of its election commitments. This bill relates to 6 of the 30 serious offences the government said it would legislate on. Clearly the Parliament will need to consider sentences for the remainder of those offences. The government has indicated its intention to introduce baseline sentences for other offences. I have expressed our concerns about the government's partial application of its own policy, but we do not believe there is much to be gained from a referral to the committee on this occasion of a bill which does not do all that much.

**Hon. D. M. DAVIS** (Minister for Health) — On this occasion the government will not be supporting the motion by the Greens to refer the Sentencing Amendment (Baseline Sentences) Bill 2014 to the Legal and Social Issues Legislation Committee for

consideration and report. Standing in the way of these serious reforms would be a big mistake. To delay, to dither, to obfuscate or to simply try to block these reforms is disgraceful. The introduction of this legislation relates to one of the government's election commitments. These are groundbreaking reforms that will for the first time give Parliament, on behalf of the community, a far greater say in the severity of sentences that are imposed.

The government has selected a number of key offences that it has particular concerns about. This is the first tranche of legislation for baseline sentencing. The bill introduces baseline sentences for the following offences: murder, 25 years; trafficking in commercial quantities of drugs of dependence, 14 years; incest with a child under 18, 10 years; sexual penetration of a child under 12 years, 10 years; persistent sexual abuse of a child under 16 years, 10 years; and culpable driving causing death, 9 years.

These baseline sentences need to reflect community expectations, and they do. The government does not support this referral, which seeks to block and obfuscate. It seeks to slow the progress of this bill. The community does not want these baseline sentences held up by machinery in the Parliament introduced by the Greens. We welcome the Labor Party's support for this, but we note that a Liberal-Nationals government under the Attorney-General, Robert Clark, is bringing this measure forward to the Parliament.

**House divided on motion:**

*Ayes, 3*

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

*Noes, 35*

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|---|---|
| Atkinson, Mr | Melhem, Mr |
| Coote, Mrs | Mikakos, Ms |
| Crozier, Ms | Millar, Mrs |
| Dalla-Riva, Mr | O'Brien, Mr D. D. |
| Davis, Mr D. | O'Brien, Mr D. R. J. |
| Drum, Mr | O'Donohue, Mr |
| Eideh, Mr | Ondarchie, Mr |
| Elasmar, Mr | Peulich, Mrs |
| Elsbury, Mr | Pulford, Ms |
| Finn, Mr (*Teller*) | Ramsay, Mr |
| Guy, Mr | Rich-Phillips, 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 (*Teller*) |
| Lovell, Ms | |

**Motion negatived.**

*Third reading*

**The PRESIDENT** — Order! The question is:

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

**House divided on question:**

*Ayes, 34*

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|---|---|
| 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. (*Teller*) |
| Drum, Mr | O'Brien, Mr D. R. J. |
| Eideh, Mr | O'Donohue, Mr |
| Elasmar, Mr (*Teller*) | Ondarchie, Mr |
| Elsbury, Mr | Peulich, Mrs |
| Finn, Mr | Pulford, Ms |
| Guy, Mr | Ramsay, Mr |
| Jennings, Mr | Rich-Phillips, Mr |
| Koch, Mr | Ronalds, Mr |
| Kronberg, Mrs | Scheffer, Mr |
| Leane, Mr | Tarlamis, Mr |
| Lenders, Mr | Tee, Mr |
| Lewis, Ms | Tierney, Ms |

*Noes, 3*

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

**Question agreed to.**

**Read third time.**

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

*Second reading*

**Debate resumed from 26 June; motion of Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation).**

**Mr SCHEFFER** (Eastern Victoria) — Labor strongly supports the working with children check system and welcomes any measure that will strengthen the state's capacity to protect children by requiring persons working with them to be appropriately checked for suitability. It is critically important for the state to ensure that children are safe wherever they are and that a serious effort is made to identify individuals who may pose a risk to children and to prevent those people from being in a position of responsibility over children.

This is a narrow but important bill that makes positive changes to the current legislation, and Labor will not be opposing it. The Working with Children Amendment (Ministers of Religion and Other Matters) Bill 2014 amends the Working with Children Act 2005 so that the

protection of children is now enshrined as the paramount, supreme consideration when applying any aspect of the Working with Children Act. This is an important principle that doubtless reflects the clear view of the Victorian community, and the setting of it into legislation comes at a point in history when deep anxiety over the welfare and treatment of children is being felt across the community.

The ways in which adults interact with children is receiving unprecedented and justified attention. The home, the kindergarten, the school and the church, which were once universally protected against criticism and marketed as sanctuaries for children, are now revealed to be in far too many instances sites of child maltreatment. Doubtless the neglect and abuse of children is as old and as pervasive a violence as adults inflict upon each other, whether that be family violence, street brawling, civil strife or indeed war among nations. Violence and depravity are elements of the human identity, and while their origins and effects can be mitigated, it is hard to see how these traits can be altogether eliminated.

For centuries no public voice was powerful enough to call the churches and other abusive institutions to account. But today tens of thousands — probably millions — of voices across the globe are being raised and the cardinals and bishops, as well as the directors and the CEOs, are being called to answer.

However, it is also important to recognise that what constitutes child maltreatment and neglect is framed by history and social context, and consequently there is a range of views, values and professional opinion. While there may be debate, for example, over whether parents have the right to hit their children or what constitutes appropriate punishment for bad behaviour and a variety of views on body mutilation, such as male and female circumcision, there is, I believe, a reasoned and humane community consensus on sexual abuse and extreme forms of neglect and corporal punishment.

The almost daily revelations of the maltreatment of children, the plethora of TV dramas and public debate surrounding these shocking reports and the powerful public reaction they generate gives hope that profound and historical change is underway. While we often behave as though the mistreatment of children at the hands of the clergy or in state-run institutions, for example, is in some way new, we know that the family home, the orphanage and the factory, as well as the church and the temple, have always been sites of the abuse and neglect of children. In literature the writings of William Blake, Charles Dickens, Charlotte Brontë, Dostoevsky and Nabokov stand as testimony to the horrors of child abuse and maltreatment.

In addition, *Bringing them Home*, the report on the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families; *Betrayal of Trust*, the Victorian Parliament's report on the inquiry into the handling of child abuse by religious and other organisations; the Royal Commission into Institutional Responses to Child Sexual Abuse; and the current outcry over the children of asylum seekers being imprisoned in what are effectively concentration camps by our federal government are all contemporary chapters in the struggle to both identify and document what has happened to children, to comprehend their suffering and to understand the causes so as to prevent them being mistreated and abused.

While the stories of child neglect and abuse are cause for sorrow and despair, the courage to face the issue and the struggle to stop it are cause for admiration and hope. While it is relatively small in scope, the bill before us today is another step in the right direction.

The bill makes clear that considerations relating to the protection of our children take priority over all other matters, including the right of an adult to work. The paramount interest of the child is a key value that underpins the bill, and it enshrines a fundamental belief embraced by the Victorian community.

The bill also seeks to make it crystal clear that a working with children check is a minimum requirement and not intended to substitute or replace assessment and monitoring practices that organisations and institutions should have in place to ensure that adults who work with children do not constitute a danger to those children. Strong workplaces develop, implement and review the policies and procedures designed to protect children, and these protocols typically include measures to ensure that people who work with children are professionally qualified or trained. They ensure that workers are not left alone with children, that buildings are designed to afford visibility, that close relationships with parents are facilitated and that appropriate approvals for activities involving children are obtained and documented.

The definition of child-related work has, through the amendments in this bill, been clarified and simplified. The terms 'child-related' and 'work' are divided to simplify the definition. Work includes contract work, religious vocational duties, official appointments, practical training and volunteer work but does not include unpaid work for private or domestic purposes. Work is child-related if it usually involves direct

contact with a child and that contact is not directly supervised by another person. Work is not child-related if there is only occasional direct contact with children that is incidental to the work.

Clause 8 of the bill provides that if there are children in a congregation, the minister's work is deemed to be child-related work. Under the bill's definitions, 'work' means work engaged in as a minister of religion or as part of the duties of a religious vocation. This means that under the provisions of the bill religious leaders in any organised religious institution or congregation will be required to undergo a working with children check unless their role involves only occasional incidental contact with children.

While the provisions of the bill are to be supported, I am concerned that the bill leaves open the question of what happens in the case, for example, of a trainee minister, say a seminarian, whose work, as I understand it, can involve children. Persons who are not ordained ministers — and this is a supposition on my part — fall into the general category of employee or volunteer, and they would then be subject to the requirements of the Working with Children Act 2005. I would appreciate the minister clarifying this matter in his summing up of the debate.

Under the current law, offences in a working with children check applicant's criminal history that may represent a risk to the safety of children are categorised by numbers 1, 2 and 3 according to their severity. The bill introduces a new system of categorisation by letters A, B or C. Under that rearrangement category 1 and 2 offences will be put in category A. Category 3 offences will be put in category B. A new section, category C, is created to cover disciplinary findings and other charges, convictions or findings of guilt for any other offence that the secretary deems relevant to the working with children check process.

The bill also makes some minor changes intended to improve the operation of the working with children check process, including the elimination of the three-month grace period that currently follows the expiration of a working with children check. The grace period is removed because of the risk that the secretary will be unable to act on any offence committed during that time. People will, however, receive reminders and will have an opportunity to renew their check prior to the expiration of their approval.

Individuals such as parents, teachers and police officers who may be eligible for an exemption from the working with children check requirement but who nevertheless choose to apply cannot later rely on their original entitlement to an exemption if they receive a negative notice. Labor supports these minor but worthwhile amendments.

It is important to recognise that screening prospective employees and volunteers who will be working with children to see whether they pose a risk is a relatively new approach, even though for many years there have been certain integrity standards for police officers and school teachers. The increasing focus on the sexual abuse of children has come about in conjunction with revelations from commissions of inquiry. As a key example I note the Wood royal commission of 1996 into the NSW police force, which investigated paedophilia in some detail.

From the late 1990s, in response to media naming and shaming campaigns and increasing public anxiety and concern about child sexual abuse, the states have progressively introduced legislation requiring organisations whose volunteers and employees work with children to devise and implement protocols that assure parents and the community that safeguards are in place to protect children. Clare Tilbury has written a useful piece in the *Australian Journal of Social Issues*. It is headed 'Working with children checks — time to step back?', in which she writes:

> There has been an increase in the formality, complexity, intensity and specialisation of regulation to improve government service delivery over the past two decades. Terms such as the 'regulatory state' … and the 'audit society' … have been used to conceptualise this growth, which is linked to neoliberal forms of governance that have placed 'the lessening of risk, not the meeting of need' at the centre of social policy … Decreasing trust in government, business, and the professions has led to greater demands for accountability. The information gathering, measuring, checking, and reporting processes of regulation are intended to provide assurance that government is properly managing risk. Regulation is taken to be good, regulators themselves are not exposed to systematic scrutiny, and the costs of regulation are assumed to be worthwhile (Hood et al., 1998).

Tilbury points out that empirical research on regulatory regimes has identified some common problems that include ritualistic compliance, which can occur if formal audit practices are separated from substantive organisational processes, leading to mechanistic compliance — ticking the boxes — that hides underlying problems of policy or administrative failure; regulatory capture, whereby regulators are unable or unwilling to take action if standards are not met; performance ambiguity, which arises when 'good' standards cannot be clearly established; and data problems, whereby there is difficulty in measuring compliance due to adequate data being unavailable, even when performance standards are clear.

Clare Tilbury's interrogation of risk management approaches is a timely reminder that while we are supportive of measures that protect children from harm, working with children checks have expanded, and questions of effectiveness and efficiency always need to be considered. Tilbury says that the systems in place are not without problems, and she cites effectiveness, equity and cost as areas that need further consideration, and she says that we should be aiming for a better balance between routine criminal history checks and other mechanisms for identifying and monitoring the risks posed to children by people who work with them. Tilbury acknowledges that to some extent the working with children check schemes are preventive in that they dissuade people who believe they are unlikely to pass the screening test from making an application and others are prohibited from applying because of their previous offences. But she says that criminal record checking has been described as both too narrow and too broad because everyone is screened but the checks only identify the small proportion of people who have already been detected.

One of the problems is that we know that much — perhaps most — abusive behaviour goes unreported and the majority of the perpetrators of sexual abuse do not have prior convictions for child maltreatment. This does not mean that checks do not do anything positive, but it does mean that authorities need to ensure that parents and the community do not have a false sense of security. That is why the provision in the bill that says that the working with children check is a minimum measure is so strongly supported. Children are best protected by ensuring that staff and volunteers who work with them are appropriately trained and well supervised, that adults working with children are not left alone with them and that the physical design of facilities affords visibility and safety. The bill is, as I said, narrow in scope, but it is worthwhile and the opposition will not be opposing it.

**Mr D. R. J. O'BRIEN** (Western Victoria) — It is with great pleasure that I rise to support and make a contribution to debate on the Working with Children Amendment (Ministers of Religion and Other Matters) Bill 2014, which is an important piece of legislation. The main objective of the bill, as outlined in the second-reading speech and in the contribution of Mr Scheffer, is to improve the rigour and operation of the Working with Children Act 2005 and the scheme under that act to clarify aspects of the act and further enhance protections afforded to children and their families.

In doing so the bill addresses one of the key recommendations of the Family and Community Development Committee report into the handling of child sexual abuse by religious and other non-government organisations, or the *Betrayal of Trust* report. I note that Ms Crozier and Mrs Coote are in the chamber and will make contributions shortly. The bill also implements recommendations arising from a review by the former State Services Authority of the working with children scheme.

As touched on by Mr Scheffer, one of the key reforms in the amendments to the Working with Children Act is to insert an overarching principle that ensures the protection of children is the paramount consideration when making decisions under the act. These overarching principles that are inserted into legislation from time to time now tend to be done more frequently than in the past, and are particularly important when such difficult and delicate discretions are exercised in the decisions that are made in relation to the working with children checks that are the subject of legislation. It is important from time to time to insert such provisions so that parliamentary intention can provide clear guidance to courts as to the priorities in weighing up the discretions that are conferred not only by this provision but by other amendments to the act made by the bill and also in the entire operation of the act — that is, that protection of children is to be the paramount consideration when administering the act.

As I come to the end of my, hopefully, first term in Parliament, I pause to review my inaugural speech. In referring to my children I talked about the need to protect children. At that stage I had no idea of the course on which my parliamentary life would lead me in relation to the scourge of child abuse that had occurred and that still occurs, regrettably, in many institutions in society, both government and non-government, and in families, into which the Family and Community Development Committee, of which I had the privilege of being a member, was tasked to conduct its extensive inquiry. In its report not only was the work of the victims in telling the stories that came out and that formed the horrific subject matter of the report cited time and again, but it also was the key motivator for many of the key recommendations. There was also important input from various stakeholders.

In my contribution I will briefly focus on two aspects or key provisions of this bill that are effectively mentioned in the *Betrayal of Trust* report. As Mr Scheffer also mentioned in his contribution, the first aspect comprises the provisions of the bill that amend references to a 'suitability' check in the Working with Children Act 2005 to a 'minimum' check so as to confirm the purpose of the act and better reflect that the working with children check does not assess an individual's

suitability but rather sets a minimum standard for those wishing to engage in child-related work. In previous debates on the working with children legislation, this has been an important point.

In particular I note that when the legislation was first proposed the member for Benalla in the other place in his contribution to the debate was at pains to outline the concerns that can arise if too great a reliance is placed on a working with children check as a so-called 'pass' that suggests everything is okay and that other safeguards need not be considered. That is certainly not the evidence that was presented to the Family and Community Development Committee inquiry. It is in a sense guided by some of the statistics. Between April 2006 and June 2014 there were a total of 1 465 619 checks issued, resulting in 939 344 cardholders. The total number of negative notices has been 1835, which indicates that the system does work at least — at least in those 1835 cases — to provide a check and identify that there is a problem or potential problem, but it does not mean, as has been stated time and again, that it is an all clear. That is why it is important that this legislation makes that specific amendment to address that sometimes tragically false presumption.

To continue further on that point, on page 245 of *Betrayal of Trust* the committee reports hearing evidence from Mr Geary, the commissioner for children and young people, who told the inquiry that on its own the working with children check is not sufficient. Mr Geary said:

> Working with children checks are an important part of preventing such abuse, but they are not sufficient on their own. Organisations need to develop a culture of safety that includes screening, supervision, monitoring and importantly listening to children.

I pause to emphasise 'listening to children'. He went on to say:

> Churches and community groups must develop child-safe practices that hold the protection of children at their core. Policies and practices are required to guide senior staff on how to respond to any concerns raised about child safety. Central to these policies and practices is the development of a culture within an organisation that does not accept or tolerate concerning or criminal behaviour towards children.

The report then goes on to consider that issue, leading to its recommendation 10.1, which has effectively been part of the momentum for this important reform.

The second aspect of the bill which I will touch on in my contribution is the amendments relating to ministers of religion. This is another important, key or seminal aspect of the *Betrayal of Trust* report. The amendments will be important to confirm again that that no-one is above the law and that our trusted institutions — and in particular the churches, especially the Catholic Church but also the Salvation Army and the other institutions that were named and that gave evidence all through the inquiry — had in fact betrayed that trust. In relation to this particular reform and issue, Mr Geary is quoted on page 240 of the report as saying:

> Religious organisations are special places of trust. They work with vulnerable people in their most vulnerable moments. This highlights the need for a special emphasis on religious organisations. For example, all religious personnel should be required to have a working with children check. Currently only religious personnel who have regular, direct and unsupervised contact with children are required to have a check. I think this classification is ridiculous and too narrow for religious organisations.

The committee made its recommendation 10.1 to clarify the requirements on religious organisations to ensure that ministers of religion have a current working with children check. This legislation delivers on this recommendation. There has been the intervening step of the government's response to the *Betrayal of Trust* report. As a member of the government, I am very proud to again note its timely response not only with this legislation but also with other pieces of legislation that have been brought before the Parliament. With this important provision, the working with children check as it relates to ministers of religion will be improved.

If the bill is to go into committee, it is probably best to allow the minister to respond in detail to Mr Scheffer's questions about the position in relation to seminaries. Briefly, if it will assist to resolve the issue, it is my advice that in many instances if seminarians are presently working with children, they would be caught under section 9(3) of the act, which says:

> The services, bodies, places or activities in connection with which regular direct contact with a child may result in work, or practical training, of a kind referred to in subsection (1) being child-related work …

This bill will make some important definitional substitutions in relation to the definition of child-related work, which have been outlined by Mr Scheffer. Under clause 6 the bill also makes important changes to the definition of a minister of religion to pick up those ministers of religion who are appointed as:

> (a) … a recognised religious leader in an organised religious institution; or
>
> (b) the appointed leader of a local religious congregation in an organised religious institution who has general authority over the operations of that congregation within that institution …

That would certainly include seminarians. One would take the view that they are at the very least part of the congregation as well, but those matters can be further canvassed by the minister and indeed the courts. I have the great privilege to commend this bill to the house and ensure its hopefully speedy passage.

**Ms PENNICUIK** (Southern Metropolitan) — The Greens are supportive of the Working with Children Amendment (Ministers of Religion and Other Matters) Bill 2014. The main purpose of the bill is to amend the Working with Children Act 2005 to provide for the protection of children to be the paramount consideration when administering the act. As the minister outlined in his second-reading speech, that is because the High Court has ruled that if there is to be an overriding purpose, it needs to be explicitly stated in the act. Of course everybody in the community would agree that the protection of children should be the paramount concern of the Working with Children Act 2005.

The bill also makes it clear that a working with children check provides a minimum check rather than a suitability check, to avoid any suggestion that requiring working with children checks means an employer or other organisation has no further responsibility to assess or monitor the suitability of its staff or volunteers. That goes to the point raised by Mr David O'Brien.

I raised the point before with regard to the previous legislation that just because working with children checks are undertaken does not mean you are going to catch everyone who could be a danger to children, because they may not have a criminal record or any other record that would show up, so organisations need to put in place other means to make sure that the environments they put children in are safe environments.

The bill clarifies the definition of 'child-related work' by splitting the term and separately defining 'child-related' and 'work' as two distinct concepts. It also simplifies the concept of 'direct contact' and redefines the definition of 'supervision'.

Importantly the bill requires that ministers of religion who have contact with children undergo a working with children check. The absence of that requirement was an anomaly and a gap in the legislation that should never have been, and it is good that it is addressed by this bill. As Mr O'Brien said, the requirement also fulfils a key recommendation of the *Betrayal of Trust* report. I think Ms Crozier and Mrs Coote are also going to speak about the bill as it relates to that report.

The bill improves the operation of the assessment notice process, including changing and expanding the category of offences. It simplifies and revises the three-category system, as this affects the test the secretary applies to people to determine whether they will be granted an assessment notice on application or assessment. I paid attention to those changes to see exactly why the government had put them in place. I have not received any representations from stakeholders about it, but as I understand it, category 1 applications will now be referred to as category A and will include the most serious offences. Under that category, the secretary is required to refuse a working with children check. Individuals in this situation are able to appeal the decision to the Victorian Civil and Administrative Tribunal (VCAT).

Category 2 applications will now be referred to as category B applications, bringing what previously were category 3 offences and category 2 offences into the single new category B. This category will include the new offences of armed robbery, child stealing, leaving a child unattended and failing to protect a child from harm; offences relating to installing, using or maintaining optical surveillance devices; and pending charges for all category B offences. Again the secretary will be required to refuse a working with children check in response to all category B applications unless satisfied that giving an assessment notice would not pose an unjustifiable risk to the safety of children, having regard to the factors set out in section 13(2) of the principal act, which go to the nature and gravity of the offence, the sentence imposed, the age of the applicant and the victim at the time et cetera, and of course giving regard to the overarching principle of the act, which is the protection of children. The secretary must also be satisfied that a reasonable person would allow his or her child to have direct contact with that applicant who was not directly supervised by another person.

Category 3 applications are to become category C applications. Under this category the secretary can consider offences that do not fall into categories A or B. The previous exceptional circumstances category that was provided for under section 17 of the act is also replaced by the new category C applications. The test for the new category C will be a two-part test, with the secretary required to refuse to give an assessment notice if one part of the two-part test is not satisfied. The test requires the secretary to give an assessment notice unless he or she is satisfied that giving the assessment notice would pose an unjustifiable risk to the safety of children and unless the secretary is satisfied that a reasonable person would not allow his or her child to have direct contact with that applicant.

The bill also replaces the secretary's power to suspend an assessment notice with the power to revoke an assessment notice in situations where a request to an applicant for further information has been ignored. In that circumstance, if a person is not communicating with the secretary, the secretary could revoke the assessment notice rather than simply suspend it. The bill clarifies that becoming subject to reporting obligations or supervision or detention notice orders under sex offender legislation is a circumstance requiring automatic suspension and gives the secretary the authority to request information in relation to individuals whose matters are going to be heard at VCAT for the purposes of assisting VCAT.

The bill includes other measures to generally improve the operation of the principal act and amends provisions of the VCAT act relating to the Working With Children Act 2005. These are all good reforms, and the Greens are happy to support the bill.

**Sitting suspended 6.30 p.m. until 8.03 p.m.**

**Mrs COOTE** (Southern Metropolitan) — It is with a great deal of pleasure that I rise to speak in the debate on the Working with Children Amendment (Ministers of Religion and Other Matters) Bill 2014.

As members know, this government said right at the outset that it would address the issue of vulnerable children in our state. It started with Ms Wooldridge, the Minister for Community Services, calling on Philip Cummins, a retired judge, to inquire into our vulnerable children. He came down with a comprehensive report entitled *Report of the Protecting Victoria's Vulnerable Children Inquiry*. I am very proud to be part of a government that has acknowledged all those recommendations and is systematically going through and implementing them.

One of those recommendations was for the Parliament to conduct an inquiry into child abuse within non-government organisations. I was a member of that committee together with Mr David O'Brien, who gave a very good explanation of this bill just a little while ago, and Ms Crozier, who was the chair of the committee and who will make a contribution to the debate after me. Our inquiry was a milestone in this Parliament. The committee produced a bipartisan report called *Betrayal of Trust*, and the committee's recommendations, all of which were agreed to by the government, are being systematically implemented, and this bill is a part of that.

I remind the house that reforms that have already been introduced include new anti-grooming laws, making it an offence for persons in authority to fail to take action to protect children in their organisations against known child abusers, requiring the reporting of child abuse to police and requiring organisations working with children to meet new child safe standards.

As I said, one of the recommendations of the *Betrayal of Trust* report was to increase the requirements for ministers of religion in respect of the working with children check. The committee was mindful of the working with children check and canvassed a whole range of ideas and issues. It was complex. We wanted to make quite certain that we did not create too much red tape for the thousands of volunteers in our community who work with children. It was very important that we did not stymie the many organisations out there that are doing a very good job. However, it became evident to us that ministers — and this bill actually enunciates what that means — needed to have working with children checks. It was imperative.

I ask that members forgive me for referring to the amendments in the bill — I know Mr O'Brien has comprehensively gone through them — but I would like to reinforce them in my contribution to the debate. The changes to the working with children check will improve the rigour and operation of the scheme and further enhance the protection of children and their families. Protecting children from abuse is a community-wide concern, and the working with children check is one tool for organisations to use in assessing the suitability of a person working with or caring for children.

These amendments will strengthen the existing mechanisms under the act to ensure that the safety and wellbeing of children is paramount. Principally the amendments set out that the protection of children is to be a paramount consideration when administering the act. They make it very clear that a working with children check provides a minimum check rather than a suitability check. This bill makes it clear that the working with children check requirement does not mean that an employer or any other organisation has no further responsibility to assess or monitor the suitability of their staff or volunteers. The amendments clarify the definition of child-related work; require all ministers of religion who have contact with children in their congregations to obtain a working with children check; revise the working with children check assessment procedures; replace the secretary's power to suspend a working with children check with a power to revoke a working with children check when an application fails to provide requested information; and make a range of other improvements to the operation of the act.

There is one thing in the list that I have just read out that I would like to reiterate — that is, about an employer or another organisation having no further responsibilities. A number of the organisations who spoke to the inquiry said they would like to have some parameters and they would like to know what the parameters were. They looked at Child Wise and a number of other existing programs which they — these are the very responsible employers — felt they could take back to their employees and organisations to show what they wanted the culture of their organisations to be like. They are to be commended. We interviewed many of them, and they were looking forward to hearing about where to go to get that information.

Regardless of what we do in this place, regardless of what changes employers make and regardless of what changes schools make, we were told, to our horror, that most of the abuse of children is perpetrated by someone they know. It happens in the home and can involve a relative or a friend. We will never be able to fully protect the children within our community. The government has done an enormous amount on family violence and looking into what should be happening. It has been the hallmark of the government's approach to looking into protecting families against violence and the children who are caught up in that.

The sad statistic is that one in three children witness a violent attack by their parents or the people around them. We have got to protect our children, and making legislation is a very big part of that. It is our responsibility, but it is the responsibility of the community as well.

The working with children check will not determine a person's suitability to work with children; rather it legally permits individuals to engage in child-related work if they do not have a relevant criminal history. It is important that these measures are clarified in this bill, because it has to be very clear to people who read this legislation in the future what our intent was, what it means for them and how they can relate it to their own organisations. The working with children check is only one factor that an organisation must consider when deciding whether a person should be working with children. Each organisation should have additional robust screening and supervision practices. We cannot emphasise that enough. That is something that was very evident when we were going through the public hearings and compiling the *Betrayal of Trust* report, and it is extremely important. As I said, this is not just our responsibility in this place in making legislation; it is the community's challenge as well.

In relation to ministers of religion being subject to the working with children check, it was very interesting to hear Mr Scheffer talk about seminarians in his contribution. We had a horrific story told to us by a young person who had been seduced by a priest who was in training at what was then the Glen Waverley training centre for priests, a seminary. This young man had gone to a local Catholic school. He was a most attractive young man, and he was seduced by another young seminarian. He was asked to dinner in Glen Waverley. He thought that was such an honour, but when he got there he realised it was not dinner he was there for. He was systematically abused by those priests. Mr Scheffer spoke about seminarians, and they too are included in this — as is anyone who has an opportunity to be close to children. Other examples we heard were about people — priests in particular — who were in positions of administration in various schools, particularly in primary schools, and had a lot of access to children. They too perpetrated some absolutely heinous crimes against children.

So there is a reason for this bill, and it is imperative that we pass it tonight. It is also imperative that we understand why we are doing this. I am not for one minute saying that all ministers of religion — of any religion — are bad. We found that there are many good priests — particularly, I would like to say again, Father Dillon from Geelong. He really is an outstanding member of the Catholic community. But we have to make quite certain that we put in place a very clear framework so that this does not happen again.

What will this legislation do in relation to ministers? These changes give effect to a recommendation arising from the *Betrayal of Trust* report of the parliamentary inquiry into the handling of child sexual abuse by religious and other non-government organisations. The report observes that ministers of religion occupy a unique place within the community that places them in a position of trust and authority and notes that the working with children check should be applicable to people who occupy such roles. Requiring all ministers of religion who have contact with children in their congregations to have a working with children check further enhances the protection of children and their families.

This is a really important bill. It is a vital step in protecting our vulnerable children in this state. I think all of us in this chamber and in this Parliament can feel very proud that we are doing something that is going to enable the children of Victoria to lead safer lives into the future.

**Ms CROZIER** (Southern Metropolitan) — I am also very pleased to rise to speak this evening on the Working with Children Amendment (Ministers of Religion and Other Matters) Bill 2014. As other members have stated in their contributions, this bill is very important in protecting Victoria's children, and I acknowledge both the opposition and the Greens for their support of this important bill. This is yet another reform that the Napthine government is undertaking to further protect Victoria's children. It arises out of the inquiry that I had the privilege to take part in as chair of the Family and Community Development Committee, along with committee members Mr David O'Brien and Mrs Coote in this chamber and members of the other place as well. In undertaking that inquiry we heard some very real evidence that enabled us to come to the conclusion that working with children checks should apply to ministers of religion.

Of course a number of other reforms have arisen out of that inquiry, and I am pleased that has been the case. The government has acted very swiftly. Grooming legislation was brought into the Parliament within a month of the tabling of the report. Criminal law reforms emanating from the inquiry include making the failure to report child abuse to police an offence and making it an offence for persons in authority to fail to take action to protect children in their organisations. In addition the former child safety commissioner, Bernie Geary, was charged to undertake a review of the Working with Children Act 2005 and make recommendations to the Minister for Community Services, the Attorney-General and the Secretary of the Department of Justice. This bill has emanated from that review, as I said, and I thank Mr O'Brien for going through the details and the technical aspects of the bill.

I draw members' attention to some of the evidence we heard during the inquiry, and I hope we never come across this situation again. As has been highlighted, there are very good members of various religious organisations and within our religious communities who undertake very good and significant works. That applies to any religion or faith and in any area in which they worship or undertake their particular religion. I refer to evidence in the report that highlighted to us the necessity for such action, and I quote from page 57 of volume 1:

> One startling fact for which the Christian Brothers could provide no explanation related to St Alipius, a primary school connected to that church in Ballarat East. During 1973, the principal and grade 6 teacher was Brother Robert Best, the grade 5 teacher was Brother Stephen Farrell and the grade 3 teacher was Brother Gerald Leo Fitzgerald. Additionally, the school chaplain was Father Gerald Ridsdale. Extraordinarily, the only teacher not subsequently suspected or convicted of sexual abuse of children teaching at that school was a female lay teacher. In evidence to the inquiry, deputy province leader of the Christian Brothers, Brother Julian McDonald, said:
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> > I have no adequate explanation for that … It is certainly an accident of history. It was a terrible, terrible situation.
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> The committee was concerned that the deputy province leader could not provide an explanation regarding how three teachers and the school principal who were perpetrators of criminal child abuse could be working at the school at the same time …

Admittedly that was in 1973, and I hope we never see such a situation arise again. That was the evidence the committee heard, and we felt we needed to make reference to that very important element. Prevention of child sexual abuse within non-government organisations was obviously paramount in many of the recommendations we made.

As has been said, you cannot rely on working with children checks alone; organisations need to undertake reforms in other areas, and I refer to the section of the report where the committee identified three core elements that form the basis for creating child-safe environments and preventing criminal child abuse. They were creating child-safe organisational cultures, managing situational and environmental risks and the effective selection of suitable personnel, which involves not only establishing recruitment practices but undertaking criminal checks such as police checks and working with children checks. As highlighted by Mr O'Brien when talking about the technical aspects of the bill, that is an area that needs to be addressed by organisations and needs to be proportionate to the risk to children. Obviously the example I cited was an extreme case, and I hope it will never arise again.

I am confident that since our inquiry we have alerted the community to problems in many areas, and I commend all the faiths and organisations that have undertaken significant work. I particularly commend the Jewish community and the women's Muslim group that appeared before us and were proactive in the work they were doing towards protecting children within their own communities.

As we know, there is more evidence coming to light, and I am very proud that this government has acted so swiftly to protect Victoria's children. Obviously the royal commission is in place at this point in time, but we do not know when that will conclude and I do not think the community can wait for the royal commission to hand down its recommendations before acting to enable the future protection of children. I particularly commend the Attorney-General and the Premier for taking a leading role in this regard and undertaking the

significant reforms that the Napthine government has instituted.

I am pleased that those who have contributed to the debate this evening understand the importance of this bill and I thank them for their support. With those words I wish the bill a very speedy passage.

**Mr ONDARCHIE** (Northern Metropolitan) — Tonight I rise to speak on this very important piece of legislation: the Working with Children Amendment (Ministers of Religion and Other Matters) Bill 2014. This bill is another step in our calculated approach to tackling child abuse in all its forms. This bill means that those who work with children will be properly screened so that we can find and keep out of the system as many people as possible who would do them harm.

The bill also clarifies terms within the act, sending a clear message to both the judiciary and the community at large about what is covered and not covered by these checks. Essentially the bill is designed to stop those who would commit child abuse from slipping through the cracks of our working with children checks. I make no apologies on behalf of the Victorian government for protecting our children. That is what we are here to do. One of the most important steps that any government, any society, can take is to look after our children.

I take the opportunity to commend those who have already spoken tonight on this bill, particularly on its technical elements, and commend the work of my friend and colleague Georgie Crozier and those who were involved in the *Betrayal of Trust* report because it set the foundations for the legislation we are putting through. I take my hat off to them and commend them on that very important piece of analysis and research. I am proud of this government's approach to reform in this area. Despite the seriousness of issues surrounding child sexual abuse we have not blazed away with half-baked reforms that will not stand the test of time. We announced an inquiry into child sexual abuse, and we have taken a targeted and measured approach to policy reform in this area that is in line with democracy's best traditions.

I am also comforted by the fact that this will not be the last piece of reform our government pursues to ensure that we have taken all reasonable steps to stop child abuse. These bills also reinforce the normative idea that child abuse in any setting is wrong. The more we can inform young kids about this issue, the more they have the ability to speak out against their perpetrators. Kids are entitled to have a voice here. I am also hopeful that this bit of reform requiring priests to get accreditation to work with children will be considered nationally. The coalition government of Victoria is taking a leadership role on this issue, which could set the tone for a national response. Other states and territories will look at what we are doing in requiring ministers of religion to have a working with children check if they have dealings with children and families. They will have a good, hard look at this, and I am hopeful that they will follow suit. This is a very important piece of legislation. We are protecting our kids in Victoria. I commend the bill to the house.

**Mrs KRONBERG** (Eastern Metropolitan) — It is a privilege to be able to speak to this bill tonight, and I do so with a considerable amount of pride. I too commend the Premier of this state and our Attorney-General, Robert Clark, for expediting this legislation, because these measures are urgently needed. For far too long we have heard stories of innocent individuals who have suffered from institutionalised and enshrined practices, whether in institutions, schools or families, which can be described no better than as a form of depravity and self-indulgence of the most creepy and disgusting kind.

Bringing forward the Working with Children Amendment (Ministers of Religion and Other Matters) Bill 2014 is very important because, as the *Betrayal of Trust* report has revealed, evil has been perpetrated and has prevailed in every corner of our society. For the sake of all of the clean-living people who are thoroughly committed to their faith, religion or doctrine and to doing their best for society and the innocents in their care, we want to make sure that the perpetrators of the evil that led to this legislation are exposed. Hopefully they will be suitably punished and held accountable to their God and that this will see an end to this institutionalised practice, which arose in every corner of this land and in lands outside of Australia. We only need to view the program on this issue that was screened on SBS a few days ago for confirmation of that fact. This practice has prevailed throughout the world.

The amendments contained in this bill require all ministers of religion who have contact with children in their parishes or congregations to have a working with children examination, and we know this will provide a means to better protect children. The protection of children has always been and must always be paramount in our society. No stone can be left unturned when it comes to the protection of children. With the working with children check we now have a mandatory minimum standard for people who engage in child-related work. This is a tool that hopefully will help organisations in their quest and their diligent work to ensure that environments under their administration,

jurisdiction and oversight are safe for children to interact with, to be taught and to be inspired.

There will be an improvement in the rigour and operation of the working with children scheme, which will further enhance the protection of children in this state. To echo what my colleague Mr Ondarchie said in terms of setting a standard, Victoria can be an exemplar for other jurisdictions in this great commonwealth of Australia. They will see what has been instigated here by the government of Victoria in the bill currently before the house. Strengthening the existing provisions under the act will ensure that the safety of children is paramount. The minimum check provisions are an alert to employers and organisations that they need to further monitor the interactions their staff and volunteers have with children.

I am proud of the work that my colleagues in this house who are members of the committee did in the inquiry: Georgie Crozier and Andrea Coote, members for Southern Metropolitan Region, and David O'Brien, a member for Western Victoria Region. The inquiry was an ordeal for everybody who was involved in it.

Two of my constituents, a mother and her daughter, came to my office in recent months and gave testimony about what it was like to be abused by their father and grandfather respectively, a man who also happened to be their religious leader and who held them and their congregation in thrall. The daughter and granddaughter had nowhere to go. This man, the religious leader, abused them on a sustained basis. They are now dealing with the mental health issues that are a direct result of that sustained abuse. There is no corner of this society in which we can leave a stone unturned.

I want to end on a positive note because I work with faith leaders across my electorate. I know they will welcome this legislation because they, like all of us here tonight, want to see the protection of children as the paramount consideration for our society. I commend the bill to the house.

**Motion agreed to.**

**Read second time.**

**Committed.**

*Committee*

**Clause 1**

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

**Leave granted.**

**Mr SCHEFFER** (Eastern Victoria) — I have a few questions in relation to clause 1. I raised one of these issues in my contribution to the second-reading debate, and Mr David O'Brien also made reference to it in his contribution. The first point is that the bill makes clear what the obligations are of ordained ministers. My question is: what bearing do the provisions of the bill have on seminarians or trainee ministers, for example?

**Hon. E. J. O'DONOHUE** (Minister for Liquor and Gaming Regulation) — In response to the question from Mr Scheffer, I am advised that currently a minister of religion is only required to get a working with children check if they are engaged in child-related work in connection with one of the occupational fields listed in section 9(3) of the principal act. This situation will remain the case for all people engaged in child-related activities as part of a religious vocation, as set out in the definition of 'child-related work' in section 3(1).

The bill is now extending the working with children check requirement to ministers of religion under a new definition to be contained in section 3(1) requiring this cohort to obtain a working with children check in all circumstances unless their contact with a child is purely occasional or incidental, or in the situation where the person in question is an appointed leader of a congregation, that congregation does not contain any children.

**Mr SCHEFFER** (Eastern Victoria) — I understand that, and the bill is clear on that point. My question goes to where an individual is not an ordained minister but is training for a position like that — for example, a seminarian in the Catholic system who is not yet an ordained minister but in essence acts within the organisation in the way that an ordained minister might act, taking Sunday school or instruction of some sort. What happens in those circumstances?

**Hon. E. J. O'DONOHUE** (Minister for Liquor and Gaming Regulation) — In the scenario Mr Scheffer puts to the committee, a working with children check would be required because the person in question is working with children.

**Mr SCHEFFER** (Eastern Victoria) — So that means they fall under the provisions in the way any other citizen would?

**Hon. E. J. O'DONOHUE** (Minister for Liquor and Gaming Regulation) — That is correct.

**Mr SCHEFFER** (Eastern Victoria) — I thank the minister for that. My second question goes back to ordained ministers. The bill says that basically they would be required to obtain a working with children check unless any direct contact with children is incidental. What I am asking the minister is: how is 'incidental' defined?

**Hon. E. J. O'DONOHUE** (Minister for Liquor and Gaming Regulation) — It is intended that this definition of 'incidental' be given its plain English meaning. Of course the facts and circumstances may vary, and that would be considered in coming to a conclusion of what is incidental in each and every case.

**Clause agreed to; clauses 2 to 46 agreed to.**

**Reported to house without amendment.**

**Report adopted.**

*Third reading*

**Motion agreed to.**

**Read third time.**

## CRIMES AMENDMENT (ABOLITION OF DEFENSIVE HOMICIDE) BILL 2014

*Second reading*

**Debate resumed from 25 June; motion of Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation).**

**Mr TEE** (Eastern Metropolitan) — I welcome the opportunity to make a contribution to this debate. It is a very difficult debate because the bill seeks to address a very difficult issue. Certainly from the opposition's perspective the issues are clear cut in terms of the subject matter, but the attempt to address those issues with this so-called reform causes us some concern.

The starting point for the debate was really the recommendations of the Victorian Law Reform Commission in its report of 2005, which were adopted by the previous government. The commission recommended that provocation be abolished as a defence for murder because of the very limited definition of 'provocation', being the sudden or temporary loss of control as a response to another's provocative conduct. What we had in terms of provocation as a defence was a sense of an immediate response to an immediate threat.

The law reform commission found in its report of 2005 that this concept did not address the situation in which some women find themselves: in a context of family violence where the accused person genuinely holds a subjective belief that the actions taken in self-defence were necessary, even though ultimately the court finds that belief unreasonable. This is the change that the previous government sought to introduce — a change that would reflect a situation in which women, predominantly, found themselves, when after sometimes years of abuse they would feel it genuinely necessary to kill their spouse, even though the court might find that they were not facing an immediate attack.

This became known as battered woman syndrome, and it is a clear gap in the law of the day. The changes in 2005 were rightfully seen as an important closing of that gap and an important innovation predominantly for women who have been subjected to years of domestic abuse. The changes were by and large welcomed by those representing women in this position. It was reform that was long overdue.

Following a review which the former government initiated in 2010, we now find that, despite the best intentions and the best efforts of the Victorian Law Reform Commission and indeed of the former government, the vast majority of those who used this plea of defensive homicide in Victoria were men — some 25 out of 28 cases. The review found that most of those were not in a family relationship with the victim. The defence was being used as a replacement for the defence of provocation, and it was failing to reflect the original intention of the laws. That review took three years and that was the outcome: the department concluded that the offence had been exploited, that it was not operating as intended and that it was not operating in line with community expectations or with the hopes and aspirations of those who had sought to introduce the initial reforms. It is important to acknowledge that.

This bill removes those provisions and seeks to introduce a new defence of self-defence into the Crimes Act 1958. Effectively the common law will be abolished and this new statutory defence will be set out. That will include that the person is responding to a harm that is not immediate. I suspect it seeks to pick up the issue that was identified by the law reform commission in 2005. It seeks to codify what is meant by self-defence, and in doing so it picks up the situation of those who are subjected to domestic violence and responds to it in a way which is not seen to be immediate or indeed proportionate to the incident that brings on the offence.

We are entering a new world order with this, and the opposition does not take that step lightly. We have some grave concerns that the statutory defence as codified will expand the circumstances in which this defence can be used. It is not limited to domestic situations or to relationships, and there is a question about whether this new way will indeed be any better. That is something which the opposition will monitor. We like the notion of a review. This is an incredibly important issue, and we as politicians have an important obligation to continue to monitor it and to get the legislation right.

We acknowledge that family violence stakeholders are concerned about whether the new test will be enough to address the difficulties women can have in arguing self-defence. We understand concerns that without any other partial defence some victims of family violence could find themselves facing an all-or-nothing choice and risking a murder conviction if they attempt to argue self-defence. That is an important issue.

We are concerned about the government's attempts to codify the common law. We are determined not to take a backward step when it comes to this issue, and to ensure that the responses of those who suffer long-term abuse are properly recognised and codified in the law. On balance, however, we want to give this proposal that the government has put forward an opportunity to work.

I will point out just one other change, because I know the Greens party is proposing some amendments to the jury directions part of the bill and it is worth flagging that change. The bill proposes that the judge, if requested by the accused or the defence counsel, may bring to the attention of the jury the fact that family violence is not limited to physical abuse. It may also include sexual and psychological abuse, intimidation, harassment or threats, and it may consist of a single act or a pattern of behaviour. The way people react to family violence differs, and their decisions are affected by a range of influences.

This is very difficult terrain. We do not want to overprescribe in what we ask of judges. We do not want to confuse the juries that must consider these cases. The government has, quite rightfully, sought to broadly define family violence and the responses thereto. That definition does not necessarily apply in all cases — a judge can exercise discretion as to when he or she applies it. As a party that abhors any removal of the power of discretion of judges, Labor thinks the balance of that clause is right.

The opposition recognises that family violence is a national emergency, and it is determined to do everything it can to address and prevent it. As we have already stated, we will establish a royal commission into family violence if elected in November. We believe that over a number of years now there has been a piecemeal approach to this issue — a sort of chipping away at issues as they emerge. As it currently stands we do not think the system is good enough. I do not think anybody would disagree with that fact. We on this side believe we need a comprehensive root-and-branch review to look at all parts of the system, whether it be health, the police, the courts or social services. We must look at each of them to make sure they are working with one purpose and one outcome — that is, to protect those who are vulnerable, those who are at risk and those who are suffering as a result of family violence. We think that must be a priority. The ad hoc changes we have seen to date have not resolved the issue. It is time to have a look at the system from the ground up.

We have seen a significant shift in the community's attitudes towards family violence. Increasingly we have seen more and more people speaking out or seeking help, and we think that is a wonderful thing. It is worth commending the Police Association, which recently said that domestic violence was the no. 1 law and order issue facing Victoria Police. Not only does domestic violence have an impact on police resources, it has a catastrophic impact on those who are abused. It can have lifetime consequences.

In summary, we have considered the bill in some detail. We are aware that the abolition of the offence of defensive homicide has been met with concern that its removal may disadvantage female defendants. We will not be taking a step backwards in this area. We will continue to make sure that female defendants in these circumstances are not disadvantaged.

We are concerned about the expansion of the codification of the defence of self-defence and its application much more broadly to a whole range of circumstances. We will put those concerns on notice. We will continue to monitor this issue. We will continue to engage and work towards a solution. On this occasion we will not be opposing the government's bill.

**Ms PENNICUIK** (Southern Metropolitan) — The Crimes Amendment (Abolition of Defensive Homicide) Bill 2014 is an interesting bill. Clause 3 abolishes the offence of defensive homicide. This has engendered mixed views among stakeholders. On balance the majority of stakeholders do not support the abolition of the offence of defensive homicide because

of the need to ensure that women who kill their partners within the context of family violence — based on a reasonable belief that they need to do so in order to prevent their own death or serious injury — are not convicted of murder. On balance the majority of stakeholders believe that the offence of defensive homicide should be retained.

The bill also includes some very good measures, such as providing clearer and more consistent statutory tests for self-defence, duress and sudden or extraordinary emergency. It introduces evidence laws to empower courts to exclude evidence when its probative value is substantially outweighed by the danger that it might unnecessarily demean a homicide victim. This is to avoid the practice of courts hearing evidence about a victim that is in some way designed to besmirch them. I think that is a good reform.

Clause 11 of the bill amends the Jury Directions Act 2013 to introduce new jury directions on family violence to be given where the accused claims self-defence in the context of family violence. However, those jury directions on family violence may only be given at the request of defence counsel or the accused if the accused is not represented. It is our view that in the context of a family violence case where it becomes apparent to the judge that that is the issue, the judge must provide those jury directions.

This is because we believe there is still a long way to go before there is a general understanding amongst the community of what women who are in family violence situations must face. It should not be assumed in any of these cases that jury members do not hold some of the stereotypical beliefs that remain prevalent in the community with regard to people who are caught up in family violence.

The bill also reforms the law of complicity by amending the Crimes Act 1958. We generally think that is a good reform.

This bill presents us with an issue in that we would tend to agree with the majority of stakeholders and commentators that it would be unwise to abolish the offence of defensive homicide but we generally support the other reforms in the bill. To that effect we have prepared some amendments to the bill. We will be inviting members to vote against clause 3, which provides for the abolition of defensive homicide, and to also support some amendments to clause 11 so that if the case before a court involves family violence, the judge must provide the jury with directions, as proposed in the bill, in every case and not just on the request of the defence counsel or the accused. We have also drafted an amendment that would implement a five-year review, as was recommended by the Department of Justice in its discussion paper on this issue.

The parliamentary library has put together an excellent research brief on the Crimes Amendment (Abolition of Defensive Homicide) Bill. It is research brief no. 8, and it was published in July of this year. It goes to my point about the mixed views on the idea of abolishing defensive homicide. In terms of those who support the abolition of defensive homicide the brief lists Deakin University criminologist Dr Kate Fitz-Gibbon, former federal member of Parliament Phil Cleary, the Crime Victims Support Association and the Police Association Victoria. Dr Fitz-Gibbon states that the defensive homicide has been used in unintended ways and that the majority of convictions have involved male defendants and male victims outside the context of family violence. Nobody denies that when looking at the statistics that seems to be the case. She argues that it is an inappropriate and inadequate category of homicide in the context of family violence. She said it provided an avenue away from murder for men who killed in circumstances more warranting of a conviction of murder.

A similar view has been put forward by former federal member of Parliament Phil Cleary, who has described the law as poorly conceived and argued that defensive homicide has been used by men to, in effect, get away with murder. The secretary of Police Association Victoria, Senior Sergeant Ron Iddles, stated that he thought the intention of the original legislation, which was around family violence, was good but that quite clearly it has not worked out as it was intended to. The Crime Victims Support Association also supports the abolition of defensive homicide.

There are, however, organisations and commentators who oppose the abolition of defensive homicide. In November 2013, 17 legal, academic and support service groups made a joint submission to the Department of Justice in relation to its discussion paper on this issue expressing their opposition to the proposed abolition of defensive homicide. These groups included the Domestic Violence Resource Centre Victoria (DVRCV), the Federation of Community Legal Centres, the Victorian Aboriginal Legal Service, the Victorian Women's Trust and others. In their submission, these groups argued that it is necessary to retain the plea of defensive homicide as this partial defence can provide a useful alternative or backup for women who kill their abusive partners rather than such women being convicted of murder.

The joint submission stated that there is little evidence to suggest that self-defence will be a more effective defence for women who kill abusive partners once defensive homicide has been abolished. They cite a study by the DVRCV and Monash University, which examined cases of women who had killed their intimate partners or ex-partners since the 2005 reforms. The joint submission stated that there are several reasons why self-defence claims brought by women are not likely to be successful, including entrenched gender biases and misconceptions about the nature and impact of family violence and the inadequate use of family violence provisions in section 9AH of the Crimes Act.

The joint submission argued that this study demonstrated a limited recognition of the nature and impact of family violence, which led those making the submission to conclude that it is currently unlikely that such women would successfully be able to claim self-defence. It argued that more extensive measures to address stereotypes and misunderstandings about women and family violence are required for self-defence claims to be successful. The joint submission also emphasised the barriers to justice faced by Indigenous women, such as gender and racial discrimination, poverty, alcohol and substance abuse, communication issues, cultural sensitivities related to speaking about a deceased person or particular matters in public as well as a historical backdrop of colonisation, dispossession and the disruption of family life through the government removal of children.

In 2013 the Law Institute of Victoria also made a submission to the Department of Justice in relation to its discussion paper on this issue. The law institute opposed the abolition of defensive homicide stating:

> We submit that … defensive homicide provides an appropriate middle ground between murder and an acquittal, accepting that there is a lower level of culpability that must be recognised in law.

Of course that was the reason why defensive homicide was introduced in 2005 and the defence of provocation was abolished. The law institute supported the retention of defensive homicide, stating that it allows the jury to take into account the complex historical context of an offence, that it recognises different levels of culpability, that it allows offenders to avoid being labelled murderers in circumstances of lesser degrees of culpability, that it allows juries to make clear which factors have been considered when handing down a verdict, allowing the judge to sentence accordingly, and that it provides a safety net for family violence victims and others who are situated between the complete defence of self-defence and the conviction of murder in cases where they had a genuine belief that they acted to defend themselves, yet there were no reasonable grounds for that belief.

In this debate we are faced with difficult issues, and as I said, the bill introduces some good reforms. We believe the bill would be better if the plea of defensive homicide were allowed to be retained, the other reforms introduced by the bill were allowed to operate alongside the continuation of the plea of defensive homicide and the amendments with regard to jury directions were strengthened.

**Greens amendments circulated by Ms PENNICUIK (Southern Metropolitan) pursuant to standing orders.**

**Ms PENNICUIK** — I think most members in the chamber already have the amendments in their possession as I provided them earlier.

Other reforms made by the bill include making the onus of proof clearer in matters of self-defence, duress, sudden or extraordinary emergency and intoxication, which provisions already exist. In relation to evidence of family violence new section 322J replicates current section 9AH of the Crimes Act 1956 to include the history of the relationship between the person and the family member, the cumulative effect, including psychological effect, and the social, cultural and economic factors that impact on the person affected by family violence. The bill makes it clear that self-defence does not apply to a response to unlawful conduct and inserts a new subdivision into division 1 of part II of the Crimes Act 1958 headed ‘Complicity in commission of offences’. We do not have any great issue with those amendments.

Clause 9 empowers the court to refuse to admit evidence where its probative value is substantially outweighed by the danger that it may unnecessarily demean the deceased in a criminal proceeding for a homicide offence. This is supported by the Domestic Violence Resource Centre Victoria and the Victorian Women’s Trust in particular.

Clause 11 inserts a new part 7 into the Jury Directions Act 2013 to introduce new jury directions on family violence to be given where self-defence or duress in the context of family violence is in issue. This is a good reform. However, we believe these jury directions should be made mandatory in cases of family violence, and our amendments will address that. I will go to the amendments in more detail in the committee stage, but they are about making it such that a judge in a family violence case would have to give the jury directions as outlined in clause 11.

We believe other steps can be taken to enable the law to respond appropriately to women who kill their partners in the context of family violence, such as specialised family violence training and cultural awareness education for legal professionals, including prosecutors, defence counsel and judges. Such training should include the relevance of family violence evidence to elements of self-defence and defensive homicide legislation. Steps could be taken to reduce the overcharging of female defendants.

In some cases in which women kill to defend themselves from family violence the Office of Public Prosecutions could consider charging the defendant with defensive homicide or manslaughter from the outset rather than murder, if it is not feasible to dismiss the charge. Charging women with manslaughter or defensive homicide may make it more likely that they would go to trial on the basis of self-defence. Legal professionals should be prompted to use expert evidence about family violence and to use a broader range of experts to provide that evidence, in particular those who have an extensive, specialised knowledge of family violence. A specialist list for homicide cases involving family violence should be established.

Whilst the majority of advocacy groups for victims of crime support the abolition of defensive homicide, such as People Against Lenient Sentencing and some family violence stakeholders, a considerable number of stakeholders support its retention. Stakeholders in support of retaining the offence include Victoria Police, the former Director of Public Prosecutions, Victoria Legal Aid, the Law Institute of Victoria, the Domestic Violence Resource Centre Victoria, the Federation of Community Legal Centres, the Human Rights Law Centre, Women's Legal Service Victoria, Victorian Women Lawyers, the Victorian Aboriginal Legal Service, the Women's Domestic Violence Crisis Service of Victoria, Koorie Women Mean Business, the Victorian Women's Trust, Women with Disabilities Victoria, Peninsula Community Legal Centre, No To Violence and inTouch Multicultural Centre Against Family Violence.

The former Director of Public Prosecutions and Victoria Police recommend retaining the offence of defensive homicide on the basis that it fills a gap in the law, and they specifically recommend a further review of the offence in three to five years time, respectively.

According to Victoria Legal Aid, it is important and appropriate that the law recognises that there are cases of homicide which involve a lower degree of moral culpability than murder, while not satisfying all of the criteria for self-defence. Similar arguments are raised by the Law Institute of Victoria, which supports the retention of defensive homicide as it is an important alternative when the prosecution is concerned that the necessarily high test for a murder conviction may not be met. The fact that more men than women have been convicted of defensive homicide does not, in the view of the Law Institute of Victoria, detract from the utility of the offence. All people should be equal before the law regardless of gender.

As I have said, the Greens believe the safety net of defensive homicide is still needed since there are still stereotypes in our society about family violence and about women who are victims of violence. Because of those misconceptions and out-of-date, stereotypical views about family violence, we need to retain the defence as well as introducing the reforms made in the bill. We believe abolishing defensive homicide will work to the disadvantage of women.

I have circulated my amendments to strengthen jury directions, to retain the plea of defensive homicide and to put in place a provision for a review in five years, as recommended by the Department of Justice. We believe that would be the best of both worlds and would allow courts to better deal with the issues of family violence. This is important in terms of the public debate that is currently going on, with the Police Association and the Chief Commissioner of Police saying family violence is the no. 1 issue. The community is starting to agree with that. Because of the debate and the fact that these issues are being raised in the community more than ever before, it is the wrong time to be taking defensive homicide out of the Crimes Act. It is for those reasons that the Greens will attempt to amend the bill.

**Mr D. R. J. O'BRIEN** (Western Victoria) — It is with great pleasure that I rise to make a contribution on the Crimes Amendment (Abolition of Defensive Homicide) Bill 2014. As this bill has been introduced into this place under the new procedures — it has not passed through the other place — we are only now in a position to fully understand the position of the Labor Party based on the detail of the concerns it has outlined about the bill, as well as the position of the Greens.

Picking up what has been known as the 'Peter Hall doctrine', as it was related at the conclusion of his parliamentary term — namely, that where possible parties on either side of the chamber should seek to find matters of common agreement, particularly on sensitive and difficult subject matters like this — I will make my contribution as brief as possible. I will focus firstly on the aspects of the bill that the Greens in particular have indicated they did not have concerns about, and in fact

supported, and will build up to those matters where there is more debate at the conclusion. I will then explain the reasons we believe the bill, as an entire package, will not only fulfil the government's commitment to ensure perpetrators of violent crimes are held fully responsible for their actions with the abolition of defensive homicide but also protect and support victims of family violence through a range of initiatives.

As has been canvassed by other speakers, one of the key aspects of the bill is in relation to the jury directions that may be given by a judge. The bill in effect introduces jury directions into the Jury Directions Act 2013. The defence counsel can request a jury direction where self-defence and duress, in the context of family violence, is at issue. These directions are designed to proactively address common misconceptions about family violence and may be given early in the trial before the evidence is heard. The directions include telling the jury that family violence is not limited to physical abuse but may include sexual abuse and psychological abuse; that family violence may involve intimidation, harassment and threats of abuse; and also that it is not uncommon for victims of family violence to stay with an abusive partner and not to report family violence to the police. It is the intention of the bill that in appropriate cases directions be given to explain these matters. This will provide greater context for assessing claims of self-defence or duress by victims of family violence.

These measures are also complemented by a significant range of other initiatives which the Minister for Community Services, Ms Wooldridge, in particular but also the entire coalition government have been progressively announcing, implementing and funding to the tune of about $100 million across various portfolios. It includes the government's signing up to the second action plan of the National Plan to Reduce Violence against Women and Children 2010–2022. The second action plan was launched by the Prime Minister and federal and state ministers as recently as 27 June. As has been announced by Minister Wooldridge, the coalition government as a partner has a serious and long-term detailed action plan to implement its commitment to respond to and prevent violence against women and children. Those directions are available under the bill at the request of the defence. Mr Tee indicated he may have some concerns about that, and Ms Pennicuik has circulated amendments to make that a mandatory direction. As I understand Mr Tee's contribution, that is something he will support on behalf of the Labor Party.

The suite of jury directions that have been reformed under the Jury Directions Act 2013 have been carefully considered, and the amendments of the Crimes Amendment (Abolition of Defensive Homicide) Bill will dovetail with them very effectively. One of the key parameters behind the jury directions reform, which has been well received and for which other pieces of legislation making further reforms are presently before this chamber, is to simplify the nature of some of these complex directions so there can be clarity for the court and the jury — and indeed for the parties — regarding the way the evidence can be received. But the parties can also work together in a cooperative procedural sense, particularly with the options and discretions being given to the defence and the defence counsel as to what directions can be given, and with discussion at appropriate times with the court to ensure as far as possible that a trial is conducted as fairly as can be for the accused but also carefully and efficiently so there do not need to be endless appeals and endless retrials as a result of misdirections.

One of the key aspects is to empower the defence — at the start of a trial if necessary — to seek a direction and have the court give that direction. That is effectively what this bill proposes. The suggestion by the Greens in their amendment — and by the Labor Party if it supports it — that this should be made mandatory would effectively bind the hands of a defence counsel in circumstances where that may not be in the best interest of a particular defendant. There could be a whole range of examples. It is not necessary to speculate, but there may be complex identity issues or other issues that mean that for good forensic reasons in the running of the defence case, the defence counsel does not decide to seek that direction. I am advised there is still a protection against a miscarriage in section 15 of the Jury Directions Act. At the end of a trial, if a judge were to believe that there was likely to be a substantial miscarriage of justice, certain directions could be given, and the directions introduced into the Jury Directions Act could also be the subject of those judicial directions.

For those reasons and others that may well be put by the minister in committee, that aspect of the Greens amendments will not be supported. We believe the bill in its current form best serves the interests of justice and provides better protection of the rights of a defendant before a court.

There is a point on which we agree with the Greens, and that relates to the amendments to the Evidence Act 2008 that empower the court to refuse to admit evidence if its probative value is substantially outweighed by the danger that the evidence might

unnecessarily demean the deceased in a homicide trial. If I heard Ms Pennicuik correctly, she indicated this was a praiseworthy amendment in relation to reforms that seek to stop gratuitous attacks on the character and reputation of the deceased during a homicide trial, which can be particularly and unnecessarily distressing to the families of victims who, after experiencing the horrific loss of their loved one, have to undergo the ordeal of a trial.

It is important to place on the record that this reform will not prevent the admission of evidence that happens to be, in a sense, demeaning to the deceased where there is a good forensic reason for admitting it. It will obviously not prevent an accused from conducting a defence by adducing explanatory and/or contextual evidence. An example of this is in the documented case of *R v. Schembri and Denny* [2010] VSC 402, where the accused pleaded guilty to manslaughter for killing Mr Herman Rockefeller, whom the accused had met after answering his advertisement for swingers. If the matter had proceeded to trial, evidence about the deceased's sexual history would have been relevant to put the offending in context — for example, to explain how the deceased came to be in the presence of the accused. That is the sort of matter that would not be prevented from being admitted under this reform to section 135 of the Evidence Act. Rather, as I have been saying, it is designed to stop those gratuitous attacks that are not forensically necessary and that there is no good reason to admit.

The bill also makes a series of amendments relating to self-defence and the test for self-defence as well as duress, sudden extraordinary emergency and intoxication. Essentially they are best dealt with separately. For example, with self-defence, the bill will introduce a statutory test for self-defence to apply in all offences. It will apply where the accused believed that his or her conduct was necessary in self-defence and his or her conduct was a reasonable response in the circumstances as he or she perceived them. This will improve on the current law because different tests for self-defence currently apply to fatal and non-fatal offences, which makes the law unnecessarily complex and confusing. The new test focuses on whether the accused's conduct was a reasonable response in the circumstances, and it also focuses on the response rather than the basis of the person's belief. It is likely to be more intuitive to a jury and therefore easier to apply. As I have said, there are also tests in relation to duress, extraordinary emergency and intoxication.

Intoxication, particularly, is worth focusing on. The bill sets out how an accused person's state or claimed state of intoxication is relevant to assessing whether they acted in self-defence or under duress or in certain circumstances of sudden and extraordinary emergency. The bill provides that in assessing the issue of reasonable belief or reasonable response, where the accused's intoxication is self-induced regard must be had to the standard of a reasonable person who is not intoxicated — that is important for reasons I will make out — and where the accused's intoxication is not self-induced regard must be had to the standard of a reasonable person who is intoxicated to the same extent as the accused. The bill is thus extending to all offences existing provisions in the Crimes Act 1958 that only apply to fatal offences. The reason this is particularly important is that it essentially imposes provisions meaning that if the intoxication was self-induced the test will be the standard of the reasonable person who is not intoxicated, whereas if the intoxication is not self-induced, the test will be, as I have said, the standard of the reasonable person who is intoxicated to the same extent as the accused.

I turn to a critical factor in moving on to an area where the Greens are seeking to pass amendments that would defeat the essential purpose of the bill. I am referring to the offence of defensive homicide, which the bill abolishes, as is very clear from its outset. One needs to understand the context in which this offence has been applied since it was introduced in 2005. As Ms Pennicuik has outlined, the original offence of defensive homicide was introduced by the Crimes (Homicide) Act 2005. That act implemented the recommendations made by the Victorian Law Reform Commission in its *Defences to Homicide — Final Report* of 2004 by abolishing the partial defence of provocation and recognising excessive self-defence by introducing defensive homicide. Prior to that the position was essentially that if the partial defence of provocation was accepted, what was otherwise the offence of murder was reduced to manslaughter.

The purpose of defensive homicide as stated at the time it was introduced was to recognise the lower culpability of a person who kills with a genuine belief that their life is in danger but whose actions are not objectively reasonable. It was to pick up a situation where the belief that a person's life was in danger was genuine but where their actions were not objectively reasonable. It was of course designed to provide a halfway house for women who kill in response to family violence and who are unable to successfully argue self-defence. It should be understood in the whole context that if the belief of danger to life is genuine and the actions are objectively reasonable, there will be a complete defence to the charge of murder — it would be self-defence. Defensive homicide was therefore operating as a so-called halfway house.

What has been found since that legislation was introduced in 2005 — which is the subject matter of a Department of Justice consultation paper entitled *Defensive Homicide — Proposals for Legislative Reform*, released publicly last year — is that the application of defensive homicide had become inherently complex, making it difficult for judges and juries to understand and apply; that it did not provide a clear benefit to women who kill in response to family violence; and that it had in fact inappropriately been effectively used to excuse killing by a majority of male offenders.

As I am advised and as has been discussed in the media and in comments of the Attorney-General, since 2005 there have been 33 convictions for defensive homicide, with the overwhelming majority of offenders being men — 28 out of 33 — and the overwhelming majority of victims also being men, with 32 out of 33 victims men. The overwhelming majority of male offenders — 27 out of 28 — killed another man. Only five of the offences were committed by women. The majority of the cases involved a one-off violent confrontation between males, and a significant number involved the accused inflicting multiple injuries upon the deceased using a weapon. The killings appeared to reflect a loss of self-control rather than being defensive in nature. For those reasons, the Attorney-General announced that the offence of defensive homicide would be abolished as a partial defence so as to ensure that violent men did not get away with murder.

The heart of the debate for the Greens is in the suite of reforms that the bill contains as a whole. The Greens seek amendments that would effectively remove what is the essence of the bill in terms of its abolition of defensive homicide. I must say we have only received the Greens amendments in their complete form whilst the debate has been in progress. I have nevertheless managed to go through and correlate the earlier version the Greens had provided to us with the version that has been reviewed by the advisers to the Parliament or parliamentary counsel — —

**Ms Pennicuik** — The clerks.

**Mr D. R. J. O'BRIEN** — The clerks, is what Ms Pennicuik indicates to me.

I can proceed to go through those amendments and in a sense explain in general terms why the government will not be supporting them. I will do my best to correlate those numbers and put them essentially into four groups.

The Greens amendments can be grouped into amendments that firstly relate to clauses 1 to 7, 10, 12, 13, 15, 17 and 18. The effect of these amendments, as I have said, is that the offence of defensive homicide would not be abolished and would remain available as an offence under the Crimes Act. The government obviously does not agree with this change as it defeats the very purpose of the bill.

As I have said, it is the government's view that the bill should remain as a whole, along with the protections that are provided to victims of family violence in those other provisions that I have taken the Parliament through, plus the opportunity for the jury directions to be provided if it is the desire of the defence counsel. The Greens amendments would fundamentally remove the key aspect of the bill. I am sure the Greens have obtained advice about whether its amendments would effectively result in a voting down of the bill. Agreeing to the Greens amendments would be a serious departure from the course that the government has considered and essentially proposed with this bill, which is to ensure that these sorts of crimes committed by violent thugs — the vast majority of which are carried out by men against men in situations of violent and unreasonable overreaction, often in a street situation, as in some of the notorious cases that have been reported — should not be allowed to happen. It would essentially allow people to get away with murder, for violence in the street is not something that should be supported.

That does not mean that the concerns that have been expressed by the many people, institutions, community legal centres and other bodies that work with and assist victims of family violence are not genuine. But it is the government's considered position that the chief provisions of the bill that will abolish the offence of defensive homicide ought to remain as part of the bill. Accordingly the Greens amendments in relation to the clauses which I have outlined will be opposed in committee or when they are formally voted upon by the government.

The next group of Greens amendments relate to clauses 24 to 37, and their effect is to extend the new jury directions on family violence to defensive homicide cases. The government does not support these proposals as of course, as I said earlier, defensive homicide itself should be abolished and will be abolished by this bill.

A further group of amendments proposed by the Greens begins at amendment 26, and I am referring essentially to the amendments that relate to the question of the discretion to give jury directions. As I said in the earlier part of my contribution, if the amendments were

accepted, all responsibility would be placed on the trial judge to determine what jury directions to give. As we have said, it should be for the parties, and particularly the defence, to be able to present their case as they see fit, which is possible through the process of parties requesting directions as provided under this bill and dovetailing into the Jury Directions Amendment Bill 2014. However, the amendments proposed by the Greens would then undermine the process for requesting jury directions under the Jury Directions Act 2013 and should not be supported.

The Greens then have two other amendments, which I will deal with briefly in conclusion. The effect of amendment 38 is to require a review of the new jury directions on family violence after five years of operation. The government does not support this amendment, because it is not necessary for a review to be mandated by legislation. We have made that point a number of times in response to several requests by the Greens for this sort of provision to be included in legislation. It is the case that a review may be conducted by the government insofar as it considers it necessary to do so. The situation is similar in relation to the Greens amendment 8 as well.

The bill contains provisions in relation to complicity. They were well canvassed by the Attorney-General in the second-reading speech. They will help simplify the law, which has previously been very complex. These amendments will support the reforms recommended in the Weinberg report.

It is with great pleasure that I have been able to deal, hopefully, with most of those amendments from the Greens and explain the government's very considered and carefully approached response to this difficult subject matter. I support the bill in its current form, and I commend it to the house.

**Debate adjourned on motion of Mr LEANE (Eastern Metropolitan).**

**Debate adjourned until next day.**

## STATUTE LAW AMENDMENT (RED TAPE REDUCTION) BILL 2014

*Second reading*

**Debate resumed from 25 June; motion of Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation).**

**Mr JENNINGS** (South Eastern Metropolitan) — Because I am starting my contribution at a quarter to 10 and we anticipate probably going onto the adjournment at 10 o'clock, I will start my warm-up act on this piece of legislation, which is officially known as the Statute Law Amendment (Red Tape Reduction) Bill 2014, but which will be known to me as a complete sleight of hand. It is a disingenuous piece of legislation which is designed to undermine the capacity of the Victorian economy and Victorian households and businesses to make adjustments to the climate change challenge, to demand management in energy consumption in Victoria and to job creation that has been associated with demand management measures and energy efficiency programs within Victorian households for a number of years.

The government pretends this has been done in the name of red tape reduction, but the bill is clearly a sleight of hand and clearly a disingenuous presentation by the government of its commitment to red tape reduction, because it is designed to cover its assault on all climate change policies, all energy efficiency programs and any transition to a sustainable environment and a sustainable economy in Victoria. The government tries to bury it by associating the provisions of the bill with a number of other regulatory changes, which are tokenistic and simplistic and which have such a narrow application that they are a pathetic attempt at window-dressing.

When I run through the two things that the bill has been attached to, the people of Victoria will see straight through that window-dressing, because in fact window-dressing is the nature of one of the reforms. One of the reforms being introduced by this Statute Law Amendment (Red Tape Reduction) Bill 2014 is in fact to eliminate the requirement for proprietors of food outlets in Victoria to have their name on display within the outlet where that food is actually supplied. This measure is dressed up as a monumental piece of regulatory reform to reduce the regulatory burden on the proprietors of food outlets, but what is being proposed by this amendment?

There is no longer a requirement to have a shingle. You would assume that a business would disclose that information with pride to the customers who come and go to and from their neighbourhood store. The very simplistic requirement to display that information, either as a piece of window-dressing or as a part of the backdrop or setting of the store, is no longer required, and the government pretends that is an extraordinary reduction of the regulatory compliance burden on Victorian businesses. What a ridiculous proposition. What a pretence it is to dress this requirement up as a major contribution to the regulatory compliance burden on Victorian businesses. What a complete joke.

The second-reading speech for this piece of legislation must have about 140 words in it. It is about the size of an elongated tweet; that is the amount of care and thought that has gone into this second-reading speech. It tells consumers in Victoria, who might go into a store and have an expectation that the proprietor's name or some identifier would be on either the window or the shingle, 'In the future, if you want to know who runs a business that is selling you food, you have the opportunity to pursue that information through your council'.

**Mr Barber** — That is creating red tape.

**Mr JENNINGS** — Exactly. I do not encourage Mr Barber to interject during my contribution to the debate, but in this instance I take up his interjection. This in fact creates a regulatory burden. It creates an extra mechanism in terms of compliance regulation. Most importantly, it actually denies consumers in Victoria instant access to information that should be available to them about the nature of the transaction they are entering into, who they are entering into that transaction with and who they may seek remedies from in relation to safe food handling practices. They are actually being disadvantaged by this piece of legislation. Consumer rights are being eroded.

Are those erosions of consumer rights referred to in the statement of compatibility that was tabled? The statement of compatibility ignores consumer rights. There is no recognition within the statement of compatibility or the second-reading speech of the erosion of the rights and opportunities of Victorian consumers. In fact this obfuscation in relation to consumer knowledge and consumer empowerment is ignored by the government. The government ignores the fact that there will be an additional regulatory burden on local government to provide that information to Victorian consumers. The government has a pathetic pretence that this makes a positive contribution in the reduction of the regulatory burden. It is quite extraordinary that the government has an inbuilt assumption that proprietors of food outlets in Victoria will actually thank it and appreciate this reduction in the regulatory compliance regime for their businesses.

And what kind of provider would ultimately benefit from this measure? Only a Dodgy Brothers proprietor who is not committed to good consumer outcomes in terms of consumer protections and safe food handling practices would have beneficial outcomes from hiding from Victorian consumers their connection with a business or a food outlet, so in fact this measure encourages bad practice. It is bad law, and the idea that it will reduce the regulatory burden is a pathetic pretence.

That is the no. 1 regulatory burden that this piece of legislation purports to amend. The second one is again a monumental reform introduced by this government, which will see the dissolving of the Docklands Coordination Committee. That committee enjoys such a high status in the minds of Victorian citizens and obviously imposes such a huge regulatory burden on them that it has to be replaced by the Docklands Community Forum — a public meeting jointly convened by the Melbourne City Council and Places Victoria and held every two months. We are moving from one obscure coordination committee under the City of Melbourne Act 2001 to another body that has no legislative underpinning but operates on the basis of a forum created by the Melbourne City Council and Places Victoria. What a monumental reduction of the regulatory burden for the people of Victoria.

**Mr Barber** — I want to move to Docklands now.

**Mr JENNINGS** — In the spirit of his interjections Mr Barber is encouraging me to reflect on how desirable it is to move into the totally deregulated residential setting that is Docklands now that the intrusive and overly regulated Docklands Coordination Committee has been replaced by a consultative, engaging and, dare I say, socially inclusive forum to be facilitated by Melbourne City Council and Places Victoria. What a joke this piece of legislation is in terms of the pretence that it is reducing the compliance and regulatory burden on the people of Victoria.

Those two pieces of window-dressing, those two pieces of pretence, those two disingenuous proposals form two-thirds of this piece of legislation. What is the third element of this piece of legislation dressed up in the name of reducing regulatory burden?

**Mr Barber** interjected.

**Mr JENNINGS** — Again Mr Barber is providing great assistance to my thought process by supplying me with the word 'trashing'. This legislation is trashing a scheme that has in fact led to the creation of more than 2000 jobs in Victoria. It has led to a reduction in household costs for thousands of Victorian homes. It has led to a reduction in electricity demand now and into the future which has huge potential to deliver economic benefits, not only to households but to the economy, to industry and to our contribution towards reducing greenhouse gases and making a contribution to a sustainable environment and a sustainable economy.

These issues are not important to this disingenuous government that came to office not only promising to maintain the commitments that were embedded within the Victorian — —

*Honourable members interjecting.*

**Mr JENNINGS** — I know government members cannot face the truth that they went to the 2010 election promising to support the climate change bill that had been introduced by the former Victorian government. The Acting President knows these interjections by government members are pathetic. These members have sat in a stupor for the last 15 minutes as I have outlined the disingenuous nature of this piece of legislation, which is meaningless, window-dressing and pathetic. It is designed to shroud the government's lack of environmental credibility and its lack of support for Victorian households and Victorian consumers. At 2 minutes to 10 — 2 minutes to midnight in relation to the term of this government, its wellbeing and future — it knows its best chance is to distract me from my task, which is to identify the monumental failing of this legislation.

As smart as members of the government might think they are in distracting me, I can assure them that they will not achieve that objective because I know this piece of legislation is pathetic. I know this government was disingenuous when coming to office. It said it would support the climate change bill in Victoria and then decimated not only the bill but all the programs associated with trying to address the question of sustainability in our environment and our economy, trying to drive the transition to a sustainable economy, trying to create jobs that made a positive contribution to not only the Victorian economy but the Victorian environment now and into the future, and trying to protect consumers in relation to their cost exposure because of the increase in energy prices.

The scheme the government is dismantling through this piece of legislation trashes what had been designed to be implemented. It is a disgraceful act by a government that has no credibility in relation to these matters. In fact just in the last few days the federal Treasurer, Mr Hockey, has been sprung being completely dishonest about information that underpinned the economic impact of his budget in terms of the cost burden for low-income households and high-income households across this nation. He has been completely exposed as a charlatan in relation to those figures that his own Treasury had done in an analysis of where the cost burdens of the tax changes and the programmatic changes were in the federal budget.

Just as Mr Hockey has been exposed, the Victorian government has been exposed in relation to the economic analysis that underpins this piece of legislation. Talk about the Dodgy Brothers! In fact the government has no credibility, and when I start my contribution to this debate again I will outline to the house the range of commentary and analysis that debunks the argument that had been made by the Treasurer of the Victorian government to justify this piece of legislation.

**Business interrupted pursuant to sessional orders.**

## ADJOURNMENT

**The ACTING PRESIDENT** (**Mr Ondarchie**) — Order! The question is:

That the house do now adjourn.

### Child protection

**Ms MIKAKOS** (Northern Metropolitan) — My matter this evening is for the Premier. The matter I raise relates to the Napthine government's completely inept response to the increasing number of sexual abuse revelations in Victoria's child protection system.

Earlier this year we heard shocking revelations of gangs of paedophiles preying on children in residential care. Last month we heard the horrifying story of two siblings under 10 years of age placed in two separate units run by two separate agencies being subjected to sexual and physical abuse. In relation to this particular case the Children's Court made scathing comments about the department and the secretary's failure in their duty of care to these two children. There have been other cases reported in the media as well.

Leaked departmental figures show that over a 12-month period to March 2014 there were nearly 300 instances of sexual abuse and exploitation of children in out-of-home care. I understand that a number of Victorian residential care providers have recently written to the Premier seeking an urgent meeting to discuss a number of their concerns. They specifically note a 'regrettable but direct link between the lack of adequate placement capacity and the sexual abuse and exploitation of vulnerable children in care'. They also note the failure of the government's five-year Out-of-Home-Care — A Five Year Plan to address this lack of capacity and describe the plan as lacking detail and compelling evidence that it can be adequately implemented.

During the term of this government we have seen an escalating and dangerous pattern of sexual abuse and

exploitation of children in a child protection system under a minister that is failing them. I call on the Premier to urgently meet with these providers because unless these matters are adequately addressed, vulnerable Victorian children will remain at ongoing risk of further sexual abuse and exploitation.

**The ACTING PRESIDENT** (**Mr Ondarchie**) — Order! Could Ms Mikakos clarify which minister that adjournment item was intended for?

**Ms MIKAKOS** — It was for the Premier because, as I mentioned when referring to the correspondence, these agencies have written directly to the Premier requesting a meeting and a meeting, has not been forthcoming to date.

**An honourable member** interjected.

**Ms MIKAKOS** — He is the Premier.

**The ACTING PRESIDENT** (**Mr Ondarchie**) — Order! I think as the item related to child protection it would have been best to send it to the minister concerned.

**Ms MIKAKOS** — I am actually calling on the Premier to have a meeting with these agencies. Given that it is a matter of government administration I think it is perfectly in order for me to address the matter to the Premier; otherwise we would not be able to address any matters to the Premier.

## Australian Formula One Grand Prix

**Mrs COOTE** (Southern Metropolitan) — My adjournment matter this evening is for the Minister for Tourism and Major Events. I was thrilled and delighted to hear that the contract for the Australian Formula One Grand Prix to be held in Melbourne has been extended to 2020. This has involved 12 months of negotiations, and I put on the record my praise for the minister's negotiations with Ron Walker, who is an extraordinary Victorian and an extraordinary Australian.

I remind this house what this announcement means economically for our state. I will start with jobs. Between 351 and 411 full-time-equivalent jobs will be created, which is an extraordinary number of jobs at a time when we are seeking to create additional employment. We should also look at some of the other statistics. It is interesting to note that last year's grand prix cost Victorian taxpayers nearly $6 million less than the 2012 grand prix. As I said, the grand prix creates between 351 and 411 full-time jobs. It also helps boost the economy by up to $80 million.

The Premier was asked whether the details of the new contract could be released. As he pointed out, the Australian Grand Prix Corporation negotiates with over 26 countries around the world, and the in-confidence element is an important part of those negotiations. However, the Premier assured us that the grand prix contract that has just been signed is a very good deal for Victoria, and I believe him implicitly.

The grand prix plays a big part in Victoria's major events calendar, and we cannot take it for granted. Other states, such as New South Wales, are openly saying that they want to attract major events. The Formula One grand prix is a key pillar of the major sporting events strategy, which includes the Australian Open Tennis Championships, the Asian football cup, the ICC Cricket World Cup in March, the AFL final series and the Spring Racing Carnival. Also, in regional Victoria there is the Rip Curl surfing pro at Bells Beach and the recently secured Cadel Evans Great Ocean Road Race. These events place Melbourne, and Victoria, on the events map nationally. The grand prix is also seen by thousands of viewers around the world, including people from some of Victoria's key trading partners, such as China, India and Japan.

The action I seek from the minister is that she assure me that under the new contract the reparations to the park will continue to be performed in the same timely manner that they have been performed under the previous contract.

## Park Orchards bus service

**Mr LEANE** (Eastern Metropolitan) — My adjournment matter is directed to Mr Mulder, the Minister for Public Transport. The action I seek from the minister tonight is that he reinstate bus route 303, which takes passengers from the Park Orchards area into the CBD at peak hour in the morning and transfers people from the CBD back to Park Orchards at evening peak hour. This bus route has recently been removed by the minister's department, and a number of passengers are feeling very miffed about this and are unsure why this route has been cancelled. The advice I have received from the Department of Transport, Planning and Local Infrastructure is that people who utilise this bus service should catch a bus to Ringwood or Box Hill stations and from there catch a train to the CBD. This will add additional time to these people's travel.

Commuters also do not want to change from a bus service to a train service. Some of their reasons for not wanting to travel by train, which they have conveyed to me, are that the trains are full, that getting a car park at those railways stations is just about impossible and that

they have enjoyed the 303 service and found it reliable. It is a service that travels down the Eastern Freeway and gets them to their work in a much quicker fashion than the new way that the department has recommended. These people's disappointment at the government removing this bus service is compounded by the fact that prior to the last election the government committed to building a train line from Doncaster. The government has backflipped on that commitment, and it seems ludicrous that bus services down the Eastern Freeway have been taken away from these commuters as well.

## Student prayer groups

**Mr RONALDS** (Eastern Victoria) — My adjournment matter tonight is for the Honourable Martin Dixon, the Minister for Education. There has been speculation that student prayer groups have been banned from Victorian state schools. I understand that this is at odds with the minister's public comments on this matter. I ask that the minister clarify this issue and update the house on the current status of student prayer groups.

## Portland Secondary College

**Ms TIERNEY** (Western Victoria) — My adjournment matter this evening is also for the Minister for Education, Martin Dixon. It relates to the continuation of the Portland re-engagement program. This program is a flexible learning alternative currently being offered by Portland Secondary College, and it is for young people who are at risk of being disengaged from education. Currently 37 teenage students are enrolled in this program, and since its establishment more than 100 students have gone through the program, with 70 per cent of them returning to mainstream education, further education or employment, including apprenticeships.

I am sure that the minister does not need to be reminded of the benefits of as many students as possible attaining year 12 education or equivalent and the financial advantage it gives those individuals and what that means for employment and the wider community. It is particularly important to have these programs running at this time, given the crisis we are going through in terms of youth unemployment. In this part of my electorate youth unemployment is running at 17.5 per cent, and that puts the Premier's own electorate of South-West Coast in the nation's top 10 areas in terms of high youth unemployment rates, alongside troubled regions in parts of Tasmania and north Queensland.

The re-engagement program requires the provision of additional funding to the student resource package that is provided by the department. Concerns have been expressed not just from stakeholders in the education sector but also from the Shire of Glenelg shire, which has taken it upon itself to study the situation. It has also taken it upon itself to write to all members of Parliament that represent that part of the state, including upper house members, asking us to advocate on its behalf and to call on the minister to ensure that this program is continued. At the moment it looks as if it will not be continued.

The community has rallied together, and it is making a contribution, but the business community and the local community in general cannot possibly run the program with the resources they have. We require 40 placements to be sponsored by the government, and I seek the minister's support in providing that financial support.

## Christian refugees

**Mr FINN** (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Multicultural Affairs and Citizenship, and I am delighted to see that he is in the chamber. This Saturday just gone it was my very great honour to address a large and impressive protest at Federation Square. It was a gathering of people in support of Christians in Iraq and in Syria. It was not just Christians who were involved in this protest; I also saw a number of members of the Jewish community there and a number of Muslims. It was great to see them there.

Previously in this house I have spoken about the murder and persecution of Christians in Egypt, and it is my distressing duty to inform the house that genocide is now underway in Iraq. Christian men are being tortured and beheaded, Christian women are being raped and stoned to death and Christian children are being crucified. This is the reality of life for Christians in Iraq and surrounds. Members of the Islamic State of Iraq and Syria, the group which is committing these crimes, are barbarians. Nobody should be subject to what these creatures are putting Christians through in Iraq.

**The PRESIDENT** — Order! The adjournment debate, as Mr Finn is well aware, is for matters of jurisdiction of the state government. Can I be assured by Mr Finn that he is moving to a position that is within the state government's jurisdiction?

**Mr FINN** — My understanding is that, given your previous rulings on this matter, state ministers are in a position to raise matters with their federal colleagues. That is where I am going with this tonight.

**The PRESIDENT** — Order! That would not be acceptable in this case, because while Mr Finn is right in that we have allowed ministers to advocate on behalf of Victorians to federal ministers, I understand that in the matter Mr Finn is bringing up at this time he is going international. What he is trying to do is to get the Victorian minister to advocate to a federal minister to do something about something in another country.

**Mr FINN** — No.

**The PRESIDENT** — Order! The member needs to be aware that the matter he raises needs to be within state jurisdiction.

**Mr FINN** — It is interesting to note that the only place in the Middle East where Christians are in fact safe at the moment is Israel.

A number of residents and citizens of Victoria approached me after the rally on Saturday and requested my assistance in approaching the federal government, and indeed the state government, to help their relatives get to Australia to escape the sort of torture and persecution of which I speak. I am asking the minister tonight, on behalf of our fellow Victorians, to approach the federal Minister for Immigration and Border Protection with a view to him allowing Middle Eastern Christians unrestricted entry as genuine refugees and to tell the community generally why these people are escaping the horror they are facing as Christians on a daily basis in their current homes. It is a tragedy that the world has turned its back on the slaughter in the Middle East, but I ask the minister to take the appropriate action to help these people join their relatives in Australia and to help those who approached me on Saturday join their relatives in Victoria.

**The PRESIDENT** — Order! I will allow the matter on this occasion, but I would not want this to be seen as precedent. I will allow it on the basis that Mr Finn has put to the house that, at a rally, constituents of his sought an opportunity to allow relatives, presumably — perhaps friends but particularly relatives — to escape the war situation and turmoil in the Middle East. As I said, the matter raised is tenuous in the context of it going one step further than the federal government, but given the circumstances and given particularly that Mr Finn has referred to his constituents on this occasion, I will allow it. However, I would be cautious in future as to whether or not I am creating a precedent with this particular item.

## Western Ring Road

**Mr MELHEM** (Western Metropolitan) — My adjournment matter is for the Minister for Roads, the Honourable Terry Mulder. Last week the M80 Ring Road project director stated that the Sunshine Avenue section of the road would be subject to a trial where speeds would be lowered to determine whether it will improve safety and congestion. Sunshine Avenue is, as I have made clear to the minister on many occasions in this place, the section which the Napthine government has been complicit in ripping out $550 million of funding. I am also informed that, on top of this trial, VicRoads will be implementing a barrier between the Sunshine Avenue exit lane heading in the direction of Greensborough and the three freeway lanes, supposedly to help reduce congestion.

When I last raised the matter of the M80 betrayal in Parliament, the minister in his written reply admitted that 160 000 drivers use the road. It is a major road for commuters in Melbourne's west. People rely on it to go to work every morning and to get home on time at night. The actions of the project director and of VicRoads indicate that there is acknowledgment that congestion is a real issue in this bottleneck. This is in stark contrast to the minister's reply, which does not even do justice to the people of Melbourne's west and fails to acknowledge the problem.

I ask that the minister provide details as to what, if anything, he is doing to permanently solve this severe congestion problem on the M80. Further, I ask the minister whether the state will be delivering any funding to complete the M80 project, given the Napthine government's complicity in ripping funding out of this project and directing it towards the east–west link project.

## Waverley Park estate

**Mrs PEULICH** (South Eastern Metropolitan) — The matter I wish to raise tonight is for the attention of the Minister for Planning, the Honourable Matthew Guy. It is in relation to a matter on which he is well informed and in which he has had some involvement, and that is the long-running battle to have high-tension powerlines on the Waverley Park estate moved underground.

The developer of this estate, Mirvac, has reneged on a permit condition to remove 34-metre-high powerlines at Waverley Park, instead offering a $26.5 million package of sweeteners to locals. This was rejected unilaterally. At the time the planning minister backed residents by refusing Mirvac's application to amend a

2002 planning permit. A lot of people have bought into this estate. The view of the minister at the time, which was supported by the community, was that the condition should be honoured.

Since then I understand that Mirvac has lodged revised plans and is appealing the minister's decision through the Victorian Civil and Administrative Tribunal (VCAT). I understand this appeal will begin on 25 August. Mirvac has sought to amend the application plans to replace the existing towers with poles. It believes that poles will provide a better visual amenity outcome for Waverley Park.

The community is adamant that the initial contract be honoured. This is a strong view and it is backed by the Liberal candidate for the Assembly seat of Mulgrave, Cr Robert Davies, who has worked extensively with the local community. He is calling on the minister to divert the high-tension powerlines underground, which has been a community priority for many years. I know Cr Davies has made representations to the Minister for Planning on this issue. In a press release issued yesterday he called for the minister to call in the issue for deliberation and a decision.

As I said, the minister has previously supported Waverley Park residents by refusing Mirvac's application to amend the 2002 planning permit. I believe the minister should exercise his power to call this in rather than allow a protracted VCAT deliberation on something that really should not be entertained. There is a hard and fast rule in our society that a contract is a contract and a deal a deal. The community of Waverley Park expects this government to honour this deal after the former government failed to do so. I call on the minister to consider the appeal made by Cr Davies, the Liberal candidate for Mulgrave.

## Country Fire Authority North Hamilton brigade

**Ms PULFORD** (Western Victoria) — The matter I raise in this evening's adjournment debate is for the attention of the Minister for Police and Emergency Services and Minister for Bushfire Response, Kim Wells. It relates to volunteer emergency services equipment program grants. The North Hamilton fire brigade is a very active and professional Country Fire Authority brigade in my electorate. It has the highest number of members in Hamilton, with around 70 active firefighters and 200 members.

The North Hamilton brigade is also committed to nurturing the next generation. It has a junior brigade of 10, some of whom are now fully-qualified firefighters. It goes without saying that this brigade is an important part of the Hamilton community. The work it does is essential in keeping the community safe and is appreciated by people far and wide.

Unfortunately, the hard work this brigade does and the risks it takes to keep the community safe are undermined by the fact that it is constantly being neglected by the government. The brigade has applied for volunteer emergency services equipment program grants on three occasions, only to be rejected each time. The consistent rejection of its grant applications remains something of a mystery to the brigade.

The brigade requires a slip-on four-wheel drive, which has an approximate cost of $60 000. It also requires breathing apparatus, which would enable its members to cover for the Hamilton brigade if it is unable to turn out, help with significant structure fires or provide backup at larger incidents. The breathing apparatus costs somewhere in the order of $10 000. In the scheme of things these are modest requests. However, the applications for both the breathing apparatus and the four-wheel drive vehicle have been consistently denied by the government.

The provision of this equipment could quite literally save lives in Hamilton. I fail to see any possible justification for continuing to deny the North Hamilton brigade these much-needed assets. The brigade is ready and willing to serve the community and come to its aid in times of distress. At the very least it deserves the government's support to obtain this equipment.

I seek that the minister explain to the North Hamilton regional fire brigade why it has been consistently denied grant funding, and I urge his department to reconsider this decision so that the brigade can continue its good work in keeping the Hamilton community safe.

## Responses

**Hon. M. J. GUY** (Minister for Planning) — Ms Mikakos raised a matter for the Premier, which I believe was in regard to out-of-home care issues. I will have the Premier respond to her directly.

Mrs Coote raised a matter for the Minister for Tourism and Major Events, Ms Asher, concerning the grand prix, and I will seek a written response for her.

Mr Leane raised a matter for the Minister for Public Transport, Mr Mulder, in relation to bus route 303 to the city. I will seek a written response for him.

Mr Ronalds raised a matter for the Minister for Education, Mr Dixon, in relation to student prayer groups, and I will seek a response for him.

I will do the same for Ms Tierney, who raised a matter for the Minister for Education in relation to Portland re-engagement programs.

Mr Finn raised a matter for me, asking that I speak to the federal Minister for Immigration and Border Protection, Mr Morrison, regarding Christians in Iraq, and I will get back to Mr Finn.

Mr Melhem raised a matter for the Minister for Roads, Mr Mulder, in relation to congestion issues on the M80 Ring Road. I take it from this that the Labor Party has tonight committed to about $1.3 billion worth of upgrades to the M80 Ring Road. I will certainly take that matter on notice and pass on the commentary of Mr Melhem to Mr Mulder and others so they can see exactly what he has committed the Labor Party to tonight.

Mrs Peulich raised a matter for me in relation to Mirvac and the Waverley Park estate powerlines. This is a very important issue, which has been raised with me a number of times by Cr Davies, who is on top of this issue. For the interest of the house I might add that I wrote to the local member for that area, the member for Mulgrave in the Assembly, Daniel Andrews, to seek his point of view on this matter before I made any commentary on it. I waited months for a simple response about this, the most important issue in the member's electorate. He obviously treats this issue with the same regard as he treats issues such as stolen tape recorders.

**Mrs Peulich** — He was probably dictating the answer!

**Hon. M. J. GUY** — Yes, I am sure he was dictating the answer. He probably destroyed it.

Ms Pulford raised a matter for the Minister for Police and Emergency Services, Mr Wells, in relation to Victorian emergency services equipment in North Hamilton. I will seek a response for her — —

**Ms Mikakos** — On a point of order, President, the remark the minister made was clearly outside of the standing orders. He was reflecting on another member, and I ask that he withdraw his remark.

**Hon. M. J. GUY** — On the point of order, President, I wonder if Ms Mikakos could indicate to the house which standing order she is referring to.

**Mrs Peulich** — On the point of order, President, the minister clearly said he was waiting for a long period of time for Mr Andrews to respond to his letter. I think it was a fair reflection of the facts.

**The PRESIDENT** — Order! That is not what Ms Mikakos took issue with in her point of order. It was the reference to the destruction of the tape recorder and the implication that it was specifically the Leader of the Opposition who destroyed it. In the context of the contemporary news story, I am not aware of any allegation that the Leader of the Opposition in the Assembly destroyed a tape recorder. Whilst some comment might well be okay from the minister in terms of that matter, the implicit position that it was the Leader of the Opposition who in fact destroyed that tape recorder is taking it one step too far. If that were the situation, then it ought to be put by way of a substantive motion rather than by a throwaway line — —

*Honourable members interjecting.*

**The PRESIDENT** — Order! I am actually standing, and it is going to be rather difficult to proceed if I have to throw the minister out. I ask the minister to withdraw the remark about the Leader of the Opposition and the tape recorder.

**Hon. M. J. GUY** — With respect to you, President, I will withdraw it.

Mr Lenders raised a matter on 17 September 2013. I have a written response for him. Ms Tierney, who is apparently still in the chamber, raised a matter on 12 March 2014. I have a written response for her. I also have written responses to adjournment matters raised by Mr Tee on 27 March; Mr Ondarchie on 6 May; Ms Hartland and Ms Tierney on 8 May; Mr Ondarchie and Mr Scheffer on 27 May; Ms Darveniza, Mr Melhem and Mrs Millar on 28 May; Mr Elsbury and Ms Mikakos on 29 May; Mr Elsbury, Mr Leane and Ms Pennicuik on 10 June; Mr Finn, Mr Koch and Ms Tierney on 11 June; Mr Eideh, Mr Melhem and Mr Scheffer on 12 June; Mr Leane on 24 June; and Mr Melhem on 24 and 25 June.

**Ms Tierney** — On a point of order, President, I take exception to a reflection on me by the minister. He made a comment that I am still in the chamber.

**Hon. M. J. GUY** — You are; that's right. That is the point.

**Ms Tierney** — That was not the intention of what you — —

**Hon. M. J. GUY** — That was the point. I said, 'She is apparently still in the chamber', and she is.

**The PRESIDENT** — Order! I accept what Ms Tierney said. The words themselves were okay, but the way they were put was provocative and demeaning to the member. I accept that because that is the way I heard them as well. It was not the actual words, it was the way in which those words were used which cast an implication that was not warranted in that the member was in the chamber. I ask the minister to withdraw that remark.

**Hon. M. J. GUY** — I withdraw it, President, and I will seek further guidance from you as to how an inference can be interpreted from *Hansard* under standing orders.

**The PRESIDENT** — Order! I will be glad to provide guidance. We all know you can use words, but it depends on the tone in which you use the words and it depends on the context in which you use the words. There are a range of things that influence whether something is appropriate or inappropriate. We have seen in the last couple of weeks how you can get into trouble with words.

The house stands adjourned.

**House adjourned 10.33 p.m.**