PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Thursday, 17 September 2015

(Extract from book 13)

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By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AM

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

The ministry

Premier	The Hon. D. M. Andrews, MP
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Minister for Small Business, Innovation and Trade	The Hon. P. Dalidakis, MLC
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Minister for Roads and Road Safety, and Minister for Ports	The Hon. L. A. Donnellan, MP
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Minister for Emergency Services, and Minister for Consumer Affairs, Gaming and Liquor Regulation	The Hon. J. F. Garrett, MP
Minister for Health and Minister for Ambulance Services	The Hon. J. Hennessy, MP
Minister for Training and Skills	The Hon. S. R. Herbert, MLC
Minister for Local Government, Minister for Aboriginal Affairs and Minister for Industrial Relations	The Hon. N. M. Hutchins, MP
Special Minister of State	The Hon. G. Jennings, MLC
Minister for Families and Children, and Minister for Youth Affairs	The Hon. J. Mikakos, MLC
Minister for Environment, Climate Change and Water	The Hon. L. M. Neville, MP
Minister for Police and Minister for Corrections	The Hon. W. M. Noonan, MP
Attorney-General and Minister for Racing	The Hon. M. P. Pakula, MP
Minister for Agriculture and Minister for Regional Development	The Hon. J. L. Pulford, MLC
Minister for Women and Minister for the Prevention of Family Violence	The Hon. F. Richardson, MP
Minister for Finance and Minister for Multicultural Affairs	The Hon. R. D. Scott, MP
Minister for Planning	The Hon. R. W. Wynne, MP
Cabinet Secretary	Ms M. Kairouz, MP

Legislative Council committees

Privileges Committee — Mr Drum, Ms Hartland, Mr Herbert, Ms Mikakos, Ms Pulford, Mr Purcell, Mr Rich-Phillips and Ms Wooldridge.

Procedure Committee — The President, Dr Carling-Jenkins, Mr Davis, Mr Jennings, Ms Pennicuik, Ms Pulford, Ms Tierney and Ms Wooldridge.

Legislative Council standing committees

Standing Committee on the Economy and Infrastructure — Dr Carling-Jenkins, Mr Eideh, Mr Elasmar, Mr Finn, Ms Hartland, Mr Morris, Mr Ondarchie and Ms Tierney.

Standing Committee on the Environment and Planning — Ms Bath, #Mr Bourman, Mr Dalla-Riva, Mr Davis, Ms Dunn, #Ms Hartland, Mr Leane, #Mr Purcell, #Mr Ramsay, Ms Shing, Mr Somyurek and Mr Young.

Standing Committee on Legal and Social Issues — Ms Fitzherbert, Mr Melhem, Mr Mulino, Mr O'Donohue, Ms Patten, Mrs Peulich, #Mr Rich-Phillips, Ms Springle and Ms Symes.

participating members

Legislative Council select committees

Port of Melbourne Select Committee — Mr Barber, Mr Drum, Mr Mulino, Mr Ondarchie, Mr Purcell, Mr Rich-Phillips, Ms Shing and Ms Tierney.

Joint committees

Accountability and Oversight Committee — (*Council*): Ms Bath, Mr Purcell and Ms Symes. (*Assembly*): Mr Angus, Mr Gidley, Mr Staikos and Ms Thomson.

Dispute Resolution Committee — (*Council*): Mr Bourman, Mr Dalidakis, Ms Dunn, Mr Jennings and Ms Wooldridge. (*Assembly*): Ms Allan, Mr Clark, Mr Merlino, Mr M. O'Brien, Mr Pakula, Ms Richardson and Mr Walsh

Economic, Education, Jobs and Skills Committee — (*Council*): Mr Elasmar and Mr Melhem. (*Assembly*): Mr Crisp, Mrs Fyffe, Mr Nardella and Ms Ryall.

Electoral Matters Committee — (*Council*): Ms Patten and Mr Somyurek. (*Assembly*): Ms Asher, Ms Blandthorn, Mr Dixon, Mr Northe and Ms Spence.

Environment, Natural Resources and Regional Development Committee — (*Council*): Mr Ramsay and Mr Young. (*Assembly*): Ms Halfpenny, Mr McCurdy, Mr Richardson, Mr Tilley and Ms Ward.

Family and Community Development Committee — (*Council*): Mr Finn. (*Assembly*): Ms Couzens, Mr Edbrooke, Ms Edwards, Ms Kealy, Ms McLeish and Ms Sheed.

House Committee — (*Council*): The President (*ex officio*), Mr Eideh, Ms Hartland, Ms Lovell, Mr Mulino and Mr Young. (*Assembly*): The Speaker (*ex officio*), Mr J. Bull, Mr Crisp, Mrs Fyffe, Mr Staikos, Ms Suleyman and Mr Thompson.

Independent Broad-based Anti-corruption Commission Committee — (*Council*): Mr Ramsay and Ms Symes. (*Assembly*): Mr Hibbins, Mr D. O'Brien, Mr Richardson, Ms Thomson and Mr Wells.

Law Reform, Road and Community Safety Committee — (*Council*): Mr Eideh and Ms Patten. (*Assembly*): Mr Dixon, Mr Howard, Ms Suleyman, Mr Thompson and Mr Tilley.

Public Accounts and Estimates Committee — (*Council*): Dr Carling-Jenkins, Ms Pennicuik and Ms Shing. (*Assembly*): Mr Dimopoulos, Mr Morris, Mr D. O'Brien, Mr Pearson, Mr T. Smith and Ms Ward.

Scrutiny of Acts and Regulations Committee — (*Council*): Mr Dalla-Riva. (*Assembly*): Mr J. Bull, Ms Blandthorn, Mr Dimopoulos, Ms Kealy, Ms Kilkenny and Mr Pesutto.

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

President: The Hon. B. N. ATKINSON

Deputy President: Ms G. TIERNEY

Acting Presidents: Ms Dunn, Mr Eideh, Mr Elasmar, Mr Finn, Mr Morris, Ms Patten, Mr Ramsay

Leader of the Government:
The Hon. G. JENNINGS

Deputy Leader of the Government:
The Hon. J. L. PULFORD

Leader of the Opposition:
The Hon. M. WOOLDRIDGE

Deputy Leader of the Opposition:
The Hon. G. K. RICH-PHILLIPS

Leader of The Nationals:
The Hon. D. K. DRUM

Leader of the Greens:
Mr G. BARBER

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Morris, Mr Joshua	Western Victoria	LP
Bath, Ms Melina [2]	Eastern Victoria	Nats	Mulino, Mr Daniel	Eastern Victoria	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFP	O'Brien, Mr Daniel David [1]	Eastern Victoria	Nats
Carling-Jenkins, Dr Rachel	Western Metropolitan	DLP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Dalidakis, Mr Philip	Southern Metropolitan	ALP	Patten, Ms Fiona	Northern Metropolitan	ASP
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Davis, Mr David McLean	Southern Metropolitan	LP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Drum, Mr Damian Kevin	Northern Victoria	Nats	Pulford, Ms Jaala Lee	Western Victoria	ALP
Dunn, Ms Samantha	Eastern Metropolitan	Greens	Purcell, Mr James	Western Victoria	V1LJ
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Ramsay, Mr Simon	Western Victoria	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Shing, Ms Harriet	Eastern Victoria	ALP
Fitzherbert, Ms Margaret	Southern Metropolitan	LP	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Springle, Ms Nina	South Eastern Metropolitan	Greens
Herbert, Mr Steven Ralph	Northern Victoria	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Wooldridge, Ms Mary Louise Newling	Eastern Metropolitan	LP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Young, Mr Daniel	Northern Victoria	SFP
Melhem, Mr Cesar	Western Metropolitan	ALP			

[1] Resigned 25 February 2015
[2] Appointed 15 April 2015

PARTY ABBREVIATIONS

ALP — Labor Party; ASP — Australian Sex Party;
DLP — Democratic Labour Party; Greens — Australian Greens;
LP — Liberal Party; Nats — The Nationals;
SFP — Shooters and Fishers Party; V1LJ — Vote 1 Local Jobs

CONTENTS

THURSDAY, 17 SEPTEMBER 2015

Thursday, 17 September 2015

The DEPUTY PRESIDENT (Ms Tierney) took the chair at 9.34 a.m. and read the prayer.

PARLIAMENTARY DEPARTMENTS

Reports 2014–15

Mr ELASMAR (Northern Metropolitan), by leave, presented reports of Department of the Legislative Council and Department of Parliamentary Services.

Laid on table.

Ordered to be considered next day on motion of Mr DAVIS (Southern Metropolitan).

PAPERS

Laid on table by Clerk:

Charter of Human Rights and Responsibilities Act 2006 — From Commitment to Culture, report on the review of the Act, 2015 pursuant to section 45 (*Ordered to be published*).

Interpretation of Legislation Act 1984 — Notice pursuant to section 32(3) in relation to the Dangerous Goods (Transport by Road or Rail) Amendment Regulations 2015.

Ombudsman — Investigation into the rehabilitation and reintegration of prisoners in Victoria, September 2015 (*Ordered to be published*).

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rules Nos. 102 and 103.

Victorian WorkCover Authority — Report, 2014–15.

BUSINESS OF THE HOUSE

Adjournment

Mr JENNINGS (Special Minister of State) — I move:

That the Council, at its rising, adjourn until 2.00 p.m. on Tuesday, 6 October 2015.

Motion agreed to.

MINISTERS STATEMENTS

Vocational education and training

Mr HERBERT (Minister for Training and Skills) — I rise to inform the house of action taken by the Andrews Labor government to promote improvements to the national system of vocational education and training (VET). At the recent Council of Australian Governments (COAG) leaders retreat it was agreed that action was needed to reform the VET sector. In addition to reforms aimed at ensuring that training helps young people get jobs and provides real pathways for older workers to transition between careers, there was also a range of options considered for structural reform, one of them being a shift in responsibility for VET to the commonwealth. I am pleased to say that the Victorian and Western Australian governments were chosen to lead this important work, and the Premier has asked me to lead Victoria's response.

Among other things, the task force I am heading has identified the need to fix up the VET FEE-HELP system and other commonwealth VET policy settings. The front page of today's *Age* newspaper highlights the commonwealth's VET FEE-HELP debacle, which comes as no surprise to us in Victoria on either side of this house. Since coming to office, I have raised the issue of the ineffectiveness of the commonwealth's regulation of VET FEE-HELP on a number of occasions. Unscrupulous training providers targeting disadvantaged individuals and signing them up to large VET FEE-HELP debts can simply not be tolerated.

Over and above the rorting that has been going on since the implementation of VET FEE-HELP, prices for diplomas have skyrocketed, in some cases from $4500 in a TAFE to a massive $20 000 under VET FEE-HELP. Commonwealth debt has skyrocketed to $1.3 billion and is projected to cost as much $4 billion this year, with some online courses having completion rates below 10 per cent. Put simply, the commonwealth cap at $96 000 for the price of a diploma is ridiculous. It is funding this absolute rorting, which is taking advantage of many people who really need proper training to get into the workforce. Apart from anything else, $96 000 as the top rate of VET FEE-HELP bears no resemblance to the employment and wages outcome for people who get a diploma. I have raised my dissatisfaction with this situation a number of times, including at the COAG industry and skills council meeting in May.

Early childhood teachers

Ms MIKAKOS (Minister for Families and Children) — I rise to inform the house of the progress of registering early childhood teachers for the first time with the Victorian Institute of Teaching. As many in the house will know, from 30 September this year early childhood teachers will require registration with the Victorian Institute of Teaching. We expect that as many as 4000 current early childhood teachers will register within this time. I can report to the house that as of last

week, already 3774 early childhood teachers have gone online and submitted an application for registration.

This is an exciting time for early childhood teachers. It is an opportunity for the teaching profession to formally welcome its early childhood teacher colleagues as registered teachers. It acknowledges the important role early childhood teachers play in the education of Victoria's children. Research indicates the vital role of education in the early years, from birth to five years of age. Registration ensures that only qualified people can undertake the role of early childhood teacher during this vital stage. We also know the critical importance of transitions between early childhood and school. The registration of early childhood teachers provides alignment of teaching and learning across all stages of learning. Registering early childhood teachers will also recognise the professional status of this workforce and help to attract and retain a high-quality teaching workforce in our early years services.

Back in 2008 the Victorian Labor government identified the importance of high-quality learning for children in the early years in its *Blueprint for Education and Early Childhood Development*. A particular aspect of the blueprint was to improve professionalism and attract high-quality entrants into early childhood services. In 2015 the Andrews Labor government has a vision to make Victoria the education state. We know that a professional and skilled workforce is a critical element in delivering on this vision.

I look forward to more early childhood teachers registering over coming weeks and to the formal recognition of those teachers — alongside their peers teaching in schools — through common registration requirements and professional standards.

Geelong Business Excellence Awards

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I rise today to congratulate the Geelong Chamber of Commerce for organising a highly successful 2015 Powercor Geelong Business Excellence Awards gala, and I also congratulate the 20 winners, the best in business in the thriving Geelong region. The awards showcase the breadth of great ideas and ingenuity that abound in regional Victoria, and the winners demonstrate how dynamic small and medium businesses — the engine of jobs growth in our state — can be.

Winners included Go Ride A Wave, which went from offering $5 surf lessons in a car park to teaching 40 000 children a year, and Select Group, whose director Peter Serra started his architect business from the laundry of his Belmont home and now has 46 staff. The prestigious Business of the Year Award went to Robert and Julie Hunter for their Newtown-based SC Technology Group. The firm also took out the best medium-sized commercial services category for its strong growth in just a few years.

Last week I had the pleasure of visiting SC Technology and hearing about how it has grown from a team of only 3 people to a team of 26. It has doubled the number of people it employs over the last three years, moved to a larger showroom and expanded with a new office in Ballarat. It has now become the highest selling Toshiba dealer in the Australia and South Pacific region. Managing director Robert Hunter has been in the IT business for 28 years. He and the firm's chief financial officer, his wife, Julie Hunter, have built a huge Geelong success story, with a focus on print document and device management services.

SC Technology Group's continuing success — and the success of all business excellence awards winners — highlights Geelong's capacity to grow as a diversified economy, as well as the capacity of small businesses to create jobs and grow into medium and large-scale businesses as well. I congratulate SC Technology and all the other winners of the 2015 Powercor Geelong Business Excellence Awards.

Ms Crozier — On a point of order, Deputy President, can you clarify whether that was a ministers statement or a members statement? I could not hear any new initiatives in that statement.

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! I remind the minister that in ministers statements there needs to be an indication of a new initiative, a new achievement or a new project of the government.

Mr DALIDAKIS — On the point of order, Deputy President, the statement was about the awards presentations just held, and I visited one of the award winners in my ministerial capacity. As a minister I am acknowledging their success, and that is why I made the statement today.

Mr Ondarchie — On the point of order, Deputy President, do we accept, then, that the initiative announced by Mr Dalidakis is that he actually visited somebody?

The DEPUTY PRESIDENT — Order! That is not a point of order, but I uphold Ms Crozier's point of order.

MEMBERS STATEMENTS

Goulburn Valley roads

Ms LOVELL (Northern Victoria) — Statistics from Victoria Police show that country Victorians are three times — —

Mr O'Donohue — On a point of order, Deputy President — —

The DEPUTY PRESIDENT — Order! Mr O'Donohue, we have moved on. We are on members statements now.

Mr O'Donohue — Can I raise a point of order?

The DEPUTY PRESIDENT — Order! Is it in relation to members statements or ministers statement?

Mr O'Donohue — In relation to the ministers statement. Deputy President, I seek clarification from you on whether, as a result of Ms Crozier's point of order having been upheld, that means that Mr Dalidakis's ministers statement is out of order and therefore will not form part of the record.

The DEPUTY PRESIDENT — Order! It will form part of *Hansard*, but so will my ruling. Ms Lovell, to continue.

Ms LOVELL — Statistics from Victoria Police show that country Victorians are three times more likely to be killed and 40 per cent more likely to be injured on the roads than their metropolitan counterparts. In late August, local media coverage in the Goulburn Valley showed that between 1 January and 20 August there were 24 fatalities on Goulburn Valley roads, compared with 6 in the same period for 2014. To put it in perspective, Victoria has a population of approximately 5.8 million people and the Goulburn Valley has a population of approximately 155 000 people. The road toll for the entire state of Victoria for 2014 was 249. This means that in a period of 8 months and 19 days, the road toll in the Goulburn Valley, where the population accounts for less than 0.027 per cent of the entire population of Victoria, was equivalent to more than 10 per cent of last year's total Victorian road toll.

The Goulburn Valley is heartbreakingly over-represented in the state's road toll, and the Andrews Labor government should be extremely concerned about these figures. The Victoria Police Goulburn Valley traffic adviser has said that in all 24 cases road user behaviour was to blame. Less than a week after the local media coverage showed the Goulburn Valley to be the most unsafe region in the state for road users, the Minister for Roads and Road Safety launched the TAC's Towards Zero campaign asking Victorians to aim for zero road deaths each year. I request that the minister actively encourage the TAC to not only have a focus in the Goulburn Valley for this program but also to do more in safety awareness programs specifically focussed on the Goulburn Valley.

Heywood High School reunion

Mr PURCELL (Western Victoria) — I am pleased to rise today to acknowledge the Heywood community of just 1400 people and also the reunion of what was the Heywood High School, which I am proud to have attended for my secondary education. The school reunion last weekend was attended by 300 former students who reminisced about their past experiences and talked of their current and, hopefully, future experiences.

I acknowledge the work of the volunteer committee whose members put many hours of work into organising the event. It was pleasing to listen to the teachers reminisce about the school's history and to hear how they controlled behaviour in the schoolyard in those days. It was interesting also to hear how they raised money, which was through events that included fight nights and rodeos, which would be unheard of today.

It was a big day for Heywood, as the Heywood football club won the grand final in the South West District Football Netball League, defeating Tyrendarra. So it was a big day in Heywood for one and all.

Electorate office staff

Mr BARBER (Northern Metropolitan) — The material and testimony in the *Herald Sun* this morning, if proven, would represent a serious misuse of funds by members and, on the precedent of decisions made by the Privileges Committee in the lower house, a breach of the code of conduct for MPs. Since the allegation is that this occurred in relation to multiple members and, on a quick calculation, represents hundreds of thousands of dollars, I do not see how we can come into this place today and simply move on with business as usual as if nothing is happening.

I would have expected the government to have already provided an explanation of its side of the story. The story continues to roll out from people who have given stat decs to the *Herald Sun* and who are on radio as we speak, and no doubt it will continue on TV tonight. Given the impact of the allegations against Mr Geoff

Shaw, the former member for Frankston in the Assembly, for his few thousand dollars of fuel card misuse or federal Speaker Bronwyn Bishop for her helicopter flight, I would be mighty surprised if the government intends to come in here today and just proceed with its business program as if nothing is happening.

Wetlands Environmental Taskforce

Mr YOUNG (Northern Victoria) — I rise today to tell the house about my visit last Sunday to an open day held by the Wetlands Environmental Taskforce (WET) at the site of the Connewarre wetland project. WET was established in 2002 as a natural extension of the conservation activities undertaken by members of Field & Game Australia since 1958. Since its formation, members have undertaken a range of voluntary conservation projects using Field & Game Australia's own financial and human resources, which have included water control structures, revegetation, vermin control, waterfowl counts and artificial nesting boxes. These activities have taken place on a number of sites across Victoria.

In 2013 WET made a commitment to purchase 36 hectares, or just under 90 acres, of wetland adjoining Hospital Swamps, which is part of the Lake Connewarre State Game Reserve, just south-east of Geelong. This will be the site of an education centre and clubhouse for members of Field & Game Australia. I would like to congratulate WET and the Geelong branch of Field & Game Australia in particular on the dedication they have shown to this project, which is truly inspiring and a great example of the work hunters can do in conservation.

Taylors Lakes Secondary College

Mr MELHEM (Western Metropolitan) — I rise to speak on the activism of school students and teachers at Taylors Lakes Secondary College and the member for Sydenham in the Assembly. Last Friday I was pleased to receive a delegation from Taylors Lakes Secondary College to accept a petition on behalf of the member for Sydenham, my friend and colleague Natalie Hutchins, the Minister for Aboriginal Affairs, who is also Minister for Industrial Relations and Minister for Local Government.

Two year 9 students at the school, Alyssa Scotto and Dragana Drinic, had been appalled by news of the shooting of Cecil the lion, a well-known conservation icon in Zimbabwe, in July when a group of illegal hunters lured the lion from its sanctuary. The girls decided to act. They organised a number of their fellow classmates and started a petition against international game hunting. That petition now has 600 signatures and is to be tabled in the Legislative Assembly.

Big game hunting is cruel, inhumane and often illegal. I applaud Alyssa and Dragana as well as their classmates, including Beth Lynch, Denisa Abdulovski, Kaleisha Berenyi, Breanna Todaro and Eden Cerasiotis, for their initiative and activism. I also want to thank their teachers, Ms Victoria Brink and Mr John Vithoulkas, for encouraging such civic engagement. It is so important to teach the next generation that when they see a wrong they should try to right it.

Aboriginal flag

Mr MELHEM — On another matter, I want to also congratulate the Minister for Aboriginal Affairs on raising the Aboriginal flag over Parliament House. Recognition of and respect for the history, culture and identity of the First Australians, upon whose dispossessed land we meet, is crucial.

McAuley Community Services for Women

Ms FITZHERBERT (Southern Metropolitan) — My members statement is about Engage to Change, which is a program run by McAuley Community Services for Women. This is training for employers on how to respond to signs of family violence within their organisation. Many large employers now have family violence policies, and this program provides practical advice on how to use those policies, how to have those difficult conversations in the workplace and what are the often subtle signs of family violence.

This training emerged when McAuley was working with women who had lost their jobs owing to experiencing family violence, going to work but not really being present, having a lot of absenteeism, having a lot of days off to deal with issues of the courts and legal processes that they were going through, and also dealing with issues with children and injury. McAuley decided the practical thing to do was to go a step earlier and help women to keep their jobs rather than lose them as part of this process. This is an enormously practical response to family violence, and I commend McAuley on producing this really useful training.

Morwell

Ms SHING (Eastern Victoria) — I rise today to speak in relation to the fantastic town of Morwell, which lies within the Gippsland region that I, along with my colleague Mr Daniel Mulino, represent. I could

not be prouder to confirm that I, along with my other parliamentary colleagues — and I note that Mr O'Donohue is listening with great intent to the contribution I am making — have recently become aware of concerns raised through the *Latrobe Valley Express* about the potential relocation of Morwell — in fact of the town being picked up and moved somewhere else.

For many it may sound as if that is a Shelbyville from the *Simpsons*-style hypothetical scenario that has no bearing on reality, but the publication of this article has caused considerable concern and alarm among the residents of Morwell and surrounds, particularly as they continue to recover and regain wellbeing, economic strength and community following the mine fire inquiry and the challenges it has presented.

I confirm that in no way, shape or form am I aware of any plan to relocate the town. Indeed, I am so confident that the town is remaining exactly where it is that I am moving my electorate office there. I look forward to continuing to enjoy the fantastic amenity, beautiful surrounds and magnificent people in that part of the world.

Let's Talk About Sex Conference

Ms PATTEN (Northern Metropolitan) — Last week I was very privileged to be invited to speak at the inaugural Let's Talk About Sex — Relationships and Intimacy as We Age conference hosted by Alzheimer's Australia and the Council on the Ageing — COTA. The conference is a great Victorian innovation which aims to get people talking about sex and seniors, and seniors having sex.

I congratulate Sue Hendy of COTA Victoria and Maree McCabe from Alzheimer's Australia on their vision in getting this conference off the ground. The conference covered a wide range of speakers presenting papers on issues such as the ageing HIV-positive community, consent and dementia, couples in aged care, and the aged sector and the LGBTI community.

We are beginning to have conversations about how to plan our public spaces and services to be better equipped for our ever-ageing population and the growing number of people living with dementia. The conference raised a whole lot of new challenges and opportunities. There is existing stigma about older people in general in our community, and this is despite there being the greatest number of older people on the planet now than ever before in our history.

Organisations like Alzheimer's Australia are not only leading the conversation about seniors and sex, but they are also using technology to equip us with the knowledge to better understand the everyday reality of living with the disease. I encourage everyone to visit the facility in Parkville where the award-winning Alzheimer's simulator can be found.

National Police Remembrance Day

Mr O'DONOHUE (Eastern Victoria) — Later this month, on 29 September, Victoria Police will commemorate National Police Remembrance Day in memory of and to honour the 159 brave Victorian men and women who have made the ultimate sacrifice in performing their jobs having been killed in the line of duty while serving their community. In Victoria, the Blue Ribbon Foundation also holds Blue Ribbon Day on 29 September to coincide with National Police Remembrance Day.

Policing is not an easy job at the best of times, and currently the inherent danger of being a police member has never been greater, with increased risks resulting particularly from the scourges of family violence and ice along with the elevated terrorist threat. Each and every time police members respond to a call-out, there is always a risk of potential physical injury or worse. Behind every house or car door lies potential danger.

This is an opportunity for all of us in the lead-up to 29 September to acknowledge the remarkable work done by our police officers in keeping our communities safe and putting their lives on the line to protect all of us. I take this opportunity to give credit and pay tribute to those 159 brave police men and women who have made the ultimate sacrifice and indeed to all members of Victoria Police, both current and former members, who do such a wonderful job in protecting our community.

Victorian Emergency Management Training Centre

Mr O'DONOHUE — On a separate matter, last week the member for Gembrook in the Assembly and I had the pleasure of visiting the new Victorian Emergency Management Training Centre in Craigieburn, a $109 million coalition-funded project. Together with the Victorian Emergency Management Training Centre, the new $30 million Victoria Police operational tactics and safety training centre — —

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

National disability insurance scheme

Mr MULINO (Eastern Victoria) — Yesterday was one of those rare days when a truly transformative reform takes a leap forward. Yesterday the national disability insurance scheme (NDIS) cemented itself as an integral part of our social safety net. Yesterday the Victorian, New South Wales and commonwealth governments signed the first agreements for the full rollout of the NDIS. Together these agreements will cover more than one half of around 460 000 Australians and their families who are expected to be eligible for support, including over 100 000 in Victoria alone. The NDIS is the largest social policy reform in Australia's history since Medicare.

I also acknowledge the work of the federal Leader of the Opposition, Bill Shorten, in driving this reform. As the commonwealth Parliamentary Secretary for Disabilities and Children's Services, Bill Shorten drove this reform when it was totally off the agenda. I worked in his office for a time, and during that period I was the adviser for the national injury insurance scheme. The reforms that Bill Shorten drove in putting together a much more comprehensive and rational national scheme for the provision of services are going to dramatically improve the lives of hundreds of thousands of people — millions of people when we include their families.

Before these reforms there was a lottery in which the provision of services was randomly allocated depending upon where accidents occurred, what kinds of disabilities people had and so on. These reforms will roll out in areas in my electorate as well — —

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

China-Australia free trade agreement

Mr RAMSAY (Western Victoria) — I cannot emphasise enough to this Parliament how important the ratification of the China-Australia free trade agreement (FTA) is to farmers across Australia. Farmers in my electorate of Western Victoria Region, which includes the Assembly electorates of Polwarth and South-West Coast as well as the federal seats of Corangamite and Wannon, are angry that the Construction, Forestry, Mining and Energy Union (CFMEU) has waged a scaremongering campaign filled with lies, hatred and racism and has used its bullying tactics of having its members rally outside the offices of MPs and continuing to spread lies and mistruths. The union is waging a war the likes of which have not been seen since the industrial campaigns waged against the Howard government. This is blatant political activism that is aided and abetted by the federal Labor opposition and supported by the Andrews government, the members of which are too gutless to stand up to Bill Shorten but instead use platitudes and create noise as they embark on trade missions to China. What hypocrites!

Modelling by the National Farmers Federation shows that the collapse of the free trade agreement would mean the loss of a massive $18 billion over the next decade. Australian Dairy Farmers reports that it would cost the dairy industry $60 million in the next 12 months. There is a real chance that China will walk away from this trade deal if the CFMEU continues its hate campaign and the Labor Party continues to support the CFMEU's actions.

The bill will be introduced to the federal Parliament in the October session and cannot be renegotiated. There are protection safeguards in the legislation for local jobs despite the calls for enabling legislation. The irony is that this trade agreement will create thousands of jobs. Farmers are angry and prepared to fight for this most important trade agreement that will realise $300 million next year alone in export trade. I say to the CFMEU that when Australian farmers are angry, they are prepared — —

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

LOOKOUT education support centres

Ms MIKAKOS (Minister for Families and Children) — I rise to welcome the Deputy Premier's announcement on Monday of the establishment of the new LOOKOUT education support centres, which will employ education experts and support staff to give children in out-of-home care a better chance of doing well in education. Our government has a vision to make Victoria the education state, and that means giving all children the same opportunities. Young people in out-of-home care tend to move between care settings and therefore educational settings, so they are at high risk of falling through the cracks educationally. Sadly this is why children in out-of-home care achieve poorer educational outcomes compared to other children. Earlier this year I held a roundtable discussion with stakeholders, including the child and welfare sector, educators, local government and the Commission for Children and Young People, to focus attention on improving the educational outcomes of children in out-of-home care.

Whilst starting as a pilot program, these LOOKOUT education support centres will be progressively rolled out across all regions by 2017 to support all school-aged children in out-of-home care. Staff at the centres will advocate for and support all children living in out-of-home care within the education system. They will work closely with students, carers and schools. The LOOKOUT education support centres will work in partnership with local schools to enrol young people, monitor and evaluate their educational progress, set targets and coordinate resources and activities to support each child's education at school and at home. This will lead to improvements in school attendance, engagement and achievement.

Members of this government are determined to do all we can to support our most vulnerable young people to have the same opportunities and life outcomes as other young Victorians. This initiative by our government is a great example of our values in action. I commend the Deputy Premier for establishing the — —

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

CRIMES AMENDMENT (CHILD PORNOGRAPHY AND OTHER MATTERS) BILL 2015

Committed.

Committee

The DEPUTY PRESIDENT — Order! I understand that there are amendments by Mr Herbert and Ms Patten. Mr Herbert's amendments are being circulated. Ms Patten has a large number of proposed amendments, the majority of which are consequential to her amendment 1. Mr Herbert has the same amendments as Ms Patten's separate amendments 27 and 28. Consistent with the practice of the house, where the same amendments have been circulated, the government's amendments will be proposed.

Clause 1

Ms PATTEN (Northern Metropolitan) — I move:

1. Clause 1, page 1, lines 5 and 6, omit all words and expressions on these lines and insert—

   "(i) to create 3 new offences related to child sexual abuse material; and".

My amendment is a fairly fundamental one — to change the term 'child pornography' to 'child sexual abuse material'. I would like to start my contribution by quoting the Virtual Global Taskforce, which uses the term 'online child exploitation'. The use of the words 'child pornography' legitimises child sexual abuse by relegating it to mere pornography. Hence a better term in this regard would be 'child sexual abuse images'.

This is not new; a number of organisations have said the same thing. I noted that in Mr Melhem's contribution on Tuesday he also mentioned a report on women's experiences in learning about the involvement of a partner possessing child abuse material in Australia. Academics are calling for a deliberate move away from this term. Another report on women's experiences in learning about the involvement of a partner possessing child abuse material says in relation to 'child pornography':

> The term is misleading and sanitises the rape, sexual abuse and exploitation of children, which is a serious criminal offence and a human rights violation.

The 2009 United Nations report further clarified the ongoing impact of this material on children, the fact that it is online makes it very hard to ever get rid of it and that using the term 'porn' would trivialise this material.

While I appreciate that this bill will further strengthen our laws to prosecute people involved in this heinous crime, I think it is really time for Victoria to recognise the seriousness of this by changing the terminology. It has already happened in other jurisdictions. The Northern Territory, Queensland, New South Wales, Tasmania and South Australia have all moved away from the term 'child pornography' to 'child sexual abuse material' and it is time we did that as well.

Interpol, the Internet Watch Foundation, the Virtual Global Taskforce and the National Society for the Prevention of Cruelty to Children are all deliberately avoiding the use of this term; they are also calling on governments to not use this term. The Australian Federal Police uses 'online child exploitation' or 'child abuse material'. It does not use the term 'child pornography'. Interpol covers this issue thoroughly when it says that a sexual image of a child is abuse or exploitation and should never be described as pornography.

I hope that the house supports these amendments. I appreciate that they are substantial, but I believe that it is time for this change to occur. This bill, which boosts offences under the Crimes Act, provides a perfect opportunity to do so.

Mr HERBERT (Minister for Training and Skills) — I thank Ms Patten for her amendments and for her contribution. Ms Patten's amendments

essentially change the term 'child pornography' to 'child sexual abuse material'. It is a technical, terminological change. The government will not be supporting these amendments. I will allude to one of the last points Ms Patten made, which was that it is time for this change to occur. We think that it is not quite time for the change to occur for a number of reasons, which I will outline.

I understand the Greens also have similar issues with this, so I would just like to acknowledge that this is the first stage of reforms in this area. In our second-reading speech we outlined that we are looking at further reforms to child pornography offences. The second-stage reforms that are currently under consideration include not just terminological change but also changes to existing child pornography offences to cover a broader spectrum of child abuse material and new offences to address new ways of distributing and accessing this material. The government is currently working on changes to terminology and definitions of 'child pornography', with a view to expanding those definitions to cover a wider scope of abuse material and, as outlined by Ms Patten, bring Victoria into line with a number of other Australian jurisdictions.

We intend to proceed with this second tranche of reforms in the near future, so we think it would be problematic to make changes to this particular bill right now whilst we are looking at those changes. We do not want to see constant changes in terminology; however, we will be addressing this issue. That goes to the timing.

The other area is that the term 'child pornography' appears in a very wide variety of acts so it is necessary that reforms in this area are only made after a systemic, systematic and thorough review of the contents of each of those acts to ensure that there are no unintended consequences of the change in terminology. That work is being done. We thank Ms Patten for her advocacy on this issue. We are looking at addressing it in the second tranche of reforms being considered right now, which will be brought to the Parliament in the near future. We just do not think the timing is quite right with this bill because we want to get it right in the future.

Ms SPRINGLE (South Eastern Metropolitan) — Firstly, I acknowledge Ms Patten's contribution to this bill, because I think she has raised some important issues. The Greens are supportive of a national uniform terminology for these crimes, because there are obvious limitations when there is different usage throughout the country. We are certainly in support of that. Having said that, we acknowledge the government's point that there probably needs to be a more robust process in terms of appropriate language use in the long term. Therefore, on face value, we accept the government's commitment to a more consultative and robust process around that and we will not be supporting the amendments today. However, we look forward to considering the solution the government puts before the chamber, and we urge it to do so in a timely manner.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The coalition likewise will not be supporting the suite of amendments moved by Ms Patten to change the reference from pornography to sexual abuse material. Taking on board what the minister has said in respect of the government's intention for a second stage of reform, we believe those later reforms will be a more appropriate time for that change to be made. Taking on board the serious issue that Ms Patten raised as to the way this material is described and considered in the community, which I think is a valid point, and given the complexity of what is required to make this amendment, a second-stage bill is probably the better way to address this rather than seeking to amend on the fly today.

Committee divided on amendment:

Ayes, 2

Patten, Ms (*Teller*)	Purcell, Mr (*Teller*)

Noes, 37

Barber, Mr	Melhem, Mr
Bath, Ms	Mikakos, Ms
Bourman, Mr	Morris, Mr
Carling-Jenkins, Dr	Mulino, Mr
Crozier, Ms	O'Donohue, Mr
Dalidakis, Mr	Ondarchie, Mr
Dalla-Riva, Mr	Pennicuik, Ms
Davis, Mr	Peulich, Mrs
Drum, Mr	Pulford, Ms
Dunn, Ms (*Teller*)	Ramsay, Mr
Eideh, Mr	Rich-Phillips, Mr
Elasmar, Mr	Shing, Ms
Finn, Mr	Somyurek, Mr
Fitzherbert, Ms	Springle, Ms
Hartland, Ms	Symes, Ms
Herbert, Mr	Tierney, Ms
Jennings, Mr	Wooldridge, Ms
Leane, Mr (*Teller*)	Young, Mr
Lovell, Ms	

Amendment negatived.

Clause agreed to; clauses 2 to 5 agreed to.

Clause 6

Mr HERBERT (Minister for Training and Skills) — I move:

1. Clause 6, page 7, line 19, omit "or X18+".

2. Clause 6, page 7, line 21, omit "or X18+".

I begin by thanking Ms Patten for raising this issue and the discussions that have been had about it. Essentially it is a housekeeping issue to ensure clarity and get it right. It was picked up by Ms Patten, and we want to acknowledge that in terms of the discussions.

The Crimes Amendment (Child Pornography and Other Matters) Bill 2015, as members will know, introduces a new offence targeting administrators of child pornography websites, and that offence will carry a maximum penalty of 10 years imprisonment. Currently the bill provides that the offence does not apply where the website in question contains material that would be classified other than RC or X18+. What this house amendment does is remove the reference to X18+ from the exception applying to the new offence. The effect is that if material on a website is classified or would be classified X18+, the new offence does not apply to that website.

I want to make it clear that this is in no way weakening this bill or the intent of the bill to crack down on people who engage in child pornography or assist in child pornography. What it does is recognise the fact that currently no material involving persons under 18 would be given a classification X18+ because the 2012 commonwealth guidelines for the classification of films are clear that the X18+ category does not permit any depiction of non-adult persons or of adult persons who look like they are under 18 years.

Further, the guidelines do not permit persons 18 years of age or over to be portrayed as minors. This bill recognises the basic essential elements of our classification and makes a technical change to make it correct in terms of how films are classified. It also is consistent with other jurisdictions.

The new offence, as I say, will apply when material is classified RC. This is appropriate, as material may be refused classification RC because it contains promotional material, the promotion or provision of instruction in paedophilia activities or the description or depiction of child sexual abuse or any other exploitative or offensive description or depiction involving a person who is or appears to be under 18. The new offence, along with other measures in the bill, will make the investigation and prosecution of online child pornography offences more effective. I hope the committee will support this amendment. It is basic housekeeping, but it is for a matter of accuracy rather than a weakening in the intent of the bill in any way, shape or form.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The coalition appreciates the intent of these amendments, which were proposed by Ms Patten in the material she circulated last sitting week, highlighting the fact that this was an inconsistency and an unintended feature of the current legislation, and it is appropriate that the amendments be made and this matter fixed. I am curious now, though, at having two sets of amendments before the committee. I wonder if the minister can outline how the amendments he is moving now are different from the amendments which were foreshadowed and provided by Ms Patten last week.

Mr HERBERT (Minister for Training and Skills) — There is not any difference. In negotiation the government accepted the argument Ms Patten was making and thought it appropriate that the government should in fact move the amendments to the bill the government has brought before the house.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Why?

Mr HERBERT (Minister for Training and Skills) — Why? In negotiating this of course we seek to have good relationships with all members of the crossbench and other parties, and it just appeared, I understand, to be an appropriate way of progressing it.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister for his response. It is slightly peculiar that the government would seek to bring in its own amendments which are identical to those moved by Ms Patten, but given that the intent is the same, the coalition will support the amendments, which were the initiative of Ms Patten.

Ms PATTEN (Northern Metropolitan) — Obviously I am very pleased that the government has taken on board my amendments and has recognised that the X classification should never be put into a crimes act, particularly one around child sexual abuse. The X18+ classification, which is a federal classification that is endorsed by every state Attorney-General, can only show consenting adults. In fact it is the most restrictive category in the whole suite of film classifications. In actual fact you could show some sexual activity or sexualised children under R, MA, M and other classifications; the only one where you are

completely restricted from doing that is the X classification. I am very pleased that X is being moved out.

Ms SPRINGLE (South Eastern Metropolitan) — The Greens will support any amendment that brings us into line with the national classification and other jurisdictions.

Amendments agreed to; amended clause agreed to; clauses 7 to 31 agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Motion agreed to.

Read third time.

NATIONAL ELECTRICITY (VICTORIA) AMENDMENT BILL 2015

Second reading

Debate resumed from 3 September; motion of Mr JENNINGS (Special Minister of State).

Mr DRUM (Northern Victoria) — It is always a pleasure to be able to stand in this place and talk about bills that are of real concern and have a real influence in the everyday lives of Victorians. The National Electricity (Victoria) Amendment Bill 2015 is one of those bills because it assists people who may find themselves in vulnerable situations. It will assist people who through no fault of their own find themselves in a situation where energy distribution companies impose costs on them for the smart meter rollout. Whilst the rollout is largely finished, some financial acquittals are still taking place and we have a situation where energy distribution companies are passing on some of these costs to everyday Victorians for what they are describing as unexpected overruns and budget blowouts. This legislation will hopefully go some way towards giving some comfort to those Victorians who are placed in that difficult situation and creating a process for them to find a way through this.

The whole saga surrounding smart meters has been somewhat of a sorry one. In early 2010 under the Brumby Labor government it was announced by the then minister that it was expected to be an $800 million cost for Victorian households. At that time it was said that, while this cost was going to be an impost on households, households would be the big winners when it came to smart meters and their rollout across the state. Victorian households were supposed to be given all the information they would need to make informed decisions about their energy use, energy costs and respective appliances. The smart meter was going to give you the data you needed so you could drill down and work out which appliances were ramping up dollars and pushing your power bills through the roof. It was going to give you the data you needed so you could change your habits and patterns of energy use. It was sold on the basis that the $800 million impost on Victorian households was going to be a win for everyday mums and dads.

Unfortunately for a whole raft of reasons that has not been the case. We have seen that the big winners are the energy companies because if energy companies have run into cost blowouts and overruns in relation to the rollout program, they have simply lumped those additional costs onto residents, who have been the unwitting victims of this program. Another aspect is that it has given energy distribution companies all the data, which gives the boss the opportunity to work out the peak demands and lulls in demand on electricity. This has allowed the energy distribution companies — the price setters — to put a pricing regime in place that in effect goes against the consumer and adds to the pressures associated with utility costs in everyday Victorian households.

As Mr Southwick, the member for Caulfield in the other chamber, has been at pains to point out, we are yet to see benefits come back to households, which were supposed to be the beneficiaries of this technology. That simply has not happened, and it is one of the things that has been very disappointing about the smart meter rollout, which is otherwise known as advanced metering infrastructure. We also know that it was very soon after Labor coming to government in 2014 that the Auditor-General reported that the cost to Victorian households was not going to be $800 million but was to be more to the tune of $2.25 billion. This cost again was put directly onto Victorian households as part of the changeover of metering infrastructure for every house.

There were many people throughout Victoria who did not want this metering, and this caused a range of distribution companies a fair degree of grief. Those recalcitrant customers had to be dealt with individually — and rightfully so. Many of those cases have taken years to be worked through. Rightly or wrongly, many people have concerns about radioactive activity or radio waves damaging health. In my humble opinion these concerns are unfounded, but some have serious concerns about these types of appliances being

mandatorily placed in their residences without any control or say whatsoever. However, my understanding is that the vast majority of those issues have been worked through, and hopefully we now have a reasonable situation in that regard.

A program which was initially announced at $800 million and which, after a true cost analysis comes in at the tune of $2.25 billion, is another stunning Labor government technology mess.

The member for Malvern in the other place, Michael O'Brien, who was the initial Minister for Energy and Resources in the coalition government, was given the main task of trying to fix this mess up. Michael O'Brien handed the portfolio over to the former member for Bulleen in the Assembly, Nick Kotsiras, and when Nick Kotsiras retired he handed it over to the member for Morwell in the Assembly, Russell Northe. These three ministers devoted an enormous amount of time to finding the resources to handle the mess that was the smart meter rollout. The cost of the advanced metering infrastructure and the work associated with it seem to have been vastly underestimated in terms of some of the benefits it was supposed to deliver.

The enormous cost blowout for and impost on everyday Victorians of well over $1.5 billion is something that beggars belief. The previous government also made a mess of the myki ticketing system, the healthcare smartcards and the ultranet system in government schools. All of the seriously high-end technology projects that the previous Labor government attempted to bring to fruition had substantial cost blowouts — of not just $5 million, $10 million or $20 million but hundreds of millions of dollars. Every one of those programs was significantly delayed in their completion. I do not think the Labor government delivered one high-end technology project anywhere near the time initially expected or anywhere near its initial budget. However, we have come to expect this kind of work from Labor. Let us hope that the current mob can start making some inroads into this horrendous legacy that it has created over the years.

Hopefully this legislation will go a long way to fixing some of the concerns that everyday Victorian households now have. This legislation is aimed at addressing those families who have been hit with the extra costs from the energy distribution companies, families who are now unsure where to turn. They are simply unsure of how to deal with these unexpected costs and unsure of where they stand legally when it comes to big companies like energy distribution companies supposedly legally passing these costs on to them. This bill outlines a plan to go forward and hopefully gives these families a process and an appeal mechanism which they are able to follow and implement. Hopefully it will give them the support and the structure they need to take action to appeal and fight against some of the costs passed on to them by the larger energy distribution companies. That is something we are very much in support of, and we are probably on the same page as the government. When energy companies seek to regain additional, excessive charges by passing them on to the customer, it will be dealt with in a much more regulated fashion. There will be a proper process going forward.

Customers will now be able to appeal against those price increases. The minister will also play a role in the process by allocating resources and support for people who wish to appeal against some of these costs. As part of this legislation, customers will have a clearer set of rights to work with, and the bill allows the minister a role in making sure that people have correct, adequate and proper representation when they are making appeals against these excessive costs.

It is also worth noting — and this is something that my colleague Russell Northe, the member for Morwell in the Assembly, has been very strong on ensuring — that history is not being repeated in relation to the work the coalition did on concessions and on trying to take the pressure of everyday living costs off Victorians. Cost-of-living pressures put a serious bite on many of our vulnerable families. I am proud of the work the coalition government was able to do with concessions, extending the 6-month concession period to a 12-month period in 2012 — or it might have been 2011 when these changes were made.

By the end of that term of government the total concession amount given for 2014–15 was not $1.3 billion but $1.6 billion. In that 12 months 850 000 households were able to take advantage of the concessions. In that round not only were 17.5 per cent concessions given to pensioners — although they were certainly one of the major beneficiaries of the former government's concession program — but healthcare card holders were also beneficiaries of the program. Cardholders under the then Department of Veterans' Affairs were also able to enjoy those concessions on their energy costs. In my role as the Minister for Veterans' Affairs for a short while in the last government I was told firsthand how advantageous that program was and that cardholders were supportive of that program of year-round concessions on energy costs. They had great respect for the program and were grateful for the help they were given.

The former government introduced other initiatives that brought down the cost of energy for everyday Victorians. It may have been somewhat unpopular to reduce the solar feed-in tariff. Families that were well off enough financially to do so had installed solar panels. That is an aspiration of many of us in Victoria. If we do not already have panels on our houses, it is something we all aspire to. But it is not right that the return on the investment in solar feed-in panels should be paid by families who can barely afford to pay their power bills in the first instance. Trying to find that balance was a difficult and very challenging part of setting the solar feed-in tariff that has been put in place and can be taken forward. I know that at the time it was reasonably well accepted that there cannot be excessive rates of return on investment by families who are well off enough financially to install thousands of dollars worth of solar panels on the roof of their house. As well intentioned and well meaning as those families with a bit of money are in taking that action to cut down greenhouse emissions and produce energy from the sun, in contemporary society it is not fair that vulnerable families in Victoria should be supporting and subsidising those other families that are well off enough financially to put panels on their roof.

The then coalition government introduced a new set of figures for solar feed-in tariffs. With the much more modest feed-in tariffs, the solar panel industry is still forging ahead, with more and more people now making the choice to install solar panels on their roof. The then government took the additional burden from some of the vulnerable families who really were struggling to pay their energy bills. Members of that government can be rightly proud of introducing a system that on all measures is a lot fairer.

We look forward to seeing how the provisions of this bill will work. I note with interest the opportunities for having a much more transparent process. The bill provides appeal rights for individuals. Should the electricity distribution companies not accept the final determination on the costs incurred in putting the advanced metering infrastructure into households, they can appeal to the Australian Competition Tribunal in accordance with the National Electricity (Victoria) Act 2005. If the tribunal finds against a distributor, a person or persons representing a consumer or user group has a right to intervene in appeal proceedings.

There will be people representing consumers. The appeal structure and its mechanisms and process will be provided such that everyone will know what they have to do in appealing disputed costs. The physical rollout of the program is nearly complete. However, some of the costs incurred over the past year and a bit are still being disputed. Hopefully those problems will be handled in a much more regulated fashion.

There are overarching issues about smart meters. When are they going to start to help people save money by giving them the information they need? When will smart meters perform so that people will have the data to be able to make the decisions that will save them money? When will we see the energy companies giving everyday Victorians a truly flexible electricity pricing regime that will enable them to save money by using their electrical appliances at times when they can pick up cheaper electricity? When will we find companies making cheaper electricity available at times different from 3 o'clock in the morning, when it is nearly impossible for people to be using electrical appliances anyway?

This has not happened en masse. With the way people use energy at the moment it is incredibly difficult for them to be able to make savings by using their smart meters. Most people need to use electricity when they need to use electricity. If it is stinking hot, people need to put the air conditioner on there and then. If there are dirty clothes, they need to be washed. Maybe they can be washed as people go to bed, but people cannot turn the washer on at 3 in the morning. You cannot get up at 2 in the morning to wash clothes or put the — —

Mrs Peulich — I do.

Mr DRUM — Mrs Peulich is probably just getting home from some nightclub.

Mrs Peulich — Exactly. Best time to do the washing.

Mr DRUM — Yes. For the vast majority of our energy use, the only way we can regulate it is by using smart appliances that can be set to come on at a particular time. One of the few such appliances, which exist in some households, are pool filters, which can be set to come on at a time in the middle of the night. It does not matter what time of the day you run your pool filter for 3 or 4 hours. But for most other appliances we use, we need them when we need them. The opposition is trying to find out whether this technology will ever deliver the benefits we were told it would prior to the rollout of smart meters.

I understand the legislation we are debating today has broad support. I know Mr Northe, the former Minister for Energy and Resources, was supportive of the ideas behind this legislation during his time as minister. I understand that these issues were very much part of his ministry. Unfortunately some of the distribution companies were not all that proficient in the way they

rolled out the advanced metering infrastructure. However, some of the distribution companies did a very good job on this, and very few households were charged additional costs, because the rollout was done by these companies in a very efficient and cost-effective manner.

Hopefully this bill will give some Victorian families a bit of comfort when it comes to these disputes. Hopefully this bill will give them a way forward to work their way through the issues they are faced with. You can imagine the angst and outrage when, through no fault of their own, a Victorian family is all of a sudden lumped with an excessive bill for the changeover of an electrical meter at the front of their house. Obviously when these costs become excessive they cause enormous distress. I think we can all understand that over a period of time the meter at the front of your house has to be replaced. But when these costs become excessive, it can be a shattering circumstance for many families. Therefore we need to find a way to work through such a circumstance. This bill seems to put in place a process so this can be done properly.

We are hoping this bill has the effect the bill's second-reading speech claims it will have. We hope that it achieves the desired outcome and that we have fewer of these disputes in the future. We hope that the next advanced technological project the Labor Party embarks on might be able to land somewhere within the time frame that the government sets and that it lands somewhere within the financial realm that the government estimates it will cost as it sells the project to the Victorian public.

Mr MULINO (Eastern Victoria) — This is a really important bill and a big step forward in the regulation of an important market, a market in relation to which I want to provide a bit of context. It is a market that is important for consumers because this is an area in which there can be cost-of-living pressures, so we need to make sure that regulatory arrangements are as robust as possible.

I want to describe some of the context of this market because I think it is important. This was one of the key markets in the national competition reforms of the 1990s. Since then we have seen those reforms built upon, but this was one of the key markets that drove a lot of the Hawke-Keating microreform agenda. There are two key elements of those reforms that are worth drawing out. The first is that it is critical to regulate market power appropriately. This does not just apply to energy markets — it applies to water and all sorts of other infrastructure. While it seems obvious that this should be the case, it is in fact only fairly recently in the big scheme of things that this has been undertaken in any rigorous manner.

It was in the late 1980s that many states moved away from a very ad hoc approach to regulating industries with market power to using more modern regulatory approaches such as the building block method. It was with bodies such as the Essential Services Commission in Victoria and the Independent Pricing and Regulatory Tribunal in New South Wales and ultimately the Australian Competition and Consumer Commission and later on the Australian Energy Regulator (AER) at the commonwealth level that we saw much more rigorous approaches to the setting of prices in relation to industries with market power.

The obvious industries with market power are those such as electricity, gas and water, which have very large capital investment requirements with very long lead times but also very long life spans. A regulatory framework is needed that provides not only sufficient certainty such that our society can benefit from sufficient investment in those industries but also provides sufficient protection for consumers so that the providers of that capital do not receive profits above and beyond what is reasonable. We need very rigorous regulation of industries with market power, and this bill provides an enhancement to the regulatory framework already in place in our state for electricity.

The second dimension of the broad micro-economic reform agenda is that regulatory arrangements need to facilitate the capacity for markets to evolve over time. This has a number of potential elements — for example, a key element of the national electricity reforms was to facilitate interconnections between state markets. It seems obvious that we would benefit as a nation by moving from a series of state-based markets to a more national market with interconnections because that means generation assets can be used more efficiently where potentially one state's energy demand is a little low and another state's demand is a little high. It makes sense for under-utilised generation assets in one state to be used to funnel energy to another state, but that requires capital-intensive investments in interconnecting transmission assets. Those investments will only be made if there is a regulatory environment that provides sufficient certainty, and again that needs to be balanced against prudent and efficient cost recovery so that consumers are protected.

The other dimension of this aspect of regulation to facilitate more efficient markets is that the regulatory environment needs to be able to accommodate technological enhancements, including things like

smart meters. Smart meters clearly have the potential to put significant downward pressure on bills by facilitating the shifting of loads so that we can have more efficient investment in distribution and transmission networks and in generation and storage assets. Over the longer run that will put significant downward pressure on consumer costs, but the only way we can efficiently put in place investments such as smart meters is if we are confident that the recovery of those costs is sufficiently regulated so that only prudent and efficient costs can be recovered and if the data that arises from such new technologies is passed on to consumers in such a way that it can send the right signals to achieve the outcomes we desire. For example, we need to move towards a system whereby consumers can understand the data that is coming from those smart meters in such a way that their behaviour can potentially change. We need to have a regulatory environment where those kinds of technological enhancements that can benefit consumers can be put in place — that is, where there is sufficient certainty for those capital investments to be made but also where the recovery of those investments is made in such a way that consumers are protected.

This bill is important in that it amends the National Electricity (Victoria) Act 2005 to allow the Minister for Energy and Resources or consumer groups to intervene in industry appeals against certain decisions of the Australian Energy Regulator without having to seek leave from the Australian Competition Tribunal. This strengthens the capacity to review certain determinations in relation to that cost recovery aspect of the regulatory regime. The bill inserts the new section 29A into the act to allow the minister or a person who represents a consumer or user group to intervene when an electricity distributor has lodged an appeal against a decision or determination of the energy regulator under the advanced metering infrastructure (AMI) order. This is very important because it means that consumer interests will have greater protection where there is an appeal by a distributor against a decision or determination of the AER. By allowing for these interventions we can ensure greater electricity distributor accountability in relation to costs.

The current process is that the Australian Energy Regulator determines the amount of cost recovery that electricity distributors can obtain and pass on to consumers for advanced metering infrastructure and for the rollout of those advanced meters under the AMI order that I referred to earlier. Currently the AER sets a cost budget for electricity distributors. Electricity distributors cannot recover AMI costs in excess of that budget unless the AER determines its costs were prudent and efficient. Working out what prudent and efficient costs are might sound obvious, but in practice it is a difficult task for regulators.

The AER is provided with significant power under its act to dig into the books of electricity distributors to determine whether their costs are prudent, but this is a very complicated task that involves judging those costs against a benchmark. As an example, the complexities relate to the difficulties of determining the specific reasonable cost structures for each electricity distributor given the area in which they operate, the conditions under which they operate and the very specific and unique cost structures they face. Regulators face all of the typical problems of trying to break down costs that are directly attributable to particular services within the company and other costs that might be reasonably thought to be attributed to functions across the company. How should those costs that are attributable across the entire organisation or distributor be broken down into different functions? For example, which head office costs should an electricity distributor be able to reasonably allocate to a particular function such as advanced meter rollout?

Given the complexity of this task it is not surprising that occasionally electricity distributors will challenge those determinations. We are talking about amounts of money that are often quite material to the organisation. There is a lot of complexity, and judgement can be needed at times, therefore it is not surprising that on occasions there will be challenges to these determinations. It is critical that consumers' voices are heard in any such challenges, and this bill provides for that, through intervention either by the minister or by consumers themselves or their representatives, there will be far more scope under the new regulatory regime for consumers' interests to be represented in any such appeals.

The bill inserts new section 29A into the National Electricity (Victoria) Act 2005, which will allow the minister or consumer groups that intervene in an appeal to raise a ground that an appellant may raise in such an appeal even if the ground has not been raised by the appellant. The new section also makes it clear that a person who represents a consumer or user group includes an end user representative. New section 29(4) provides that 'end user' means a person who acquires electricity for consumer purposes or a person who represents that person. These provisions mean that end users, such as residential electricity consumers, may be represented in electricity distributor appeals to the Australian Competition Tribunal.

Electricity is a really important industry, and I think everybody would agree that electricity is an essential

service. In addition to providing an essential service, the electricity industry also provides an essential service within the context of an industry where many elements of that industry exhibit the features of significant market power, indeed monopoly in many instances. However, in addition to those characteristics electricity is also an industry which now, far more than was the case two or three decades ago, is subject to significant technological disruption. I worked in an electricity regulator two decades ago; at that time it was a much more sedate industry, one might say, with fewer technological changes on the radar. One might say that one went through the motions more than is the case today.

Now we see significant technological change in areas such as distributed generation. We see a cost curve falling dramatically in relation to solar technology that can be placed on residential homes and many other buildings. There is the prospect over the coming decade or two for significant changes in energy storage, which could have a dramatic impact on the value of distribution assets and could have a significant impact on the risks in investing in transmission and distribution assets going forward.

We now have an industry that is very capital intensive, that is an essential service and where there is significant market power; however, at the same time there is a significant amount of technological disruption. In that context it is absolutely essential that we get the regulation right, whether or not the assets are held in government hands. It does not matter in any particular jurisdiction whether electricity is a public asset or a private asset; we are talking about characteristics of the market that transcend that issue.

This is a really important bill because it strengthens an aspect of the regulatory regime that facilitates important and much-needed technological advancement but does so in a way in which consumer interests are protected.

As I mentioned earlier, in practice regulation is often far more complex than would appear is the case from simply writing down in a bill that regulators will have access to the books and that regulators will only allow prudent and efficient costs. When one digs down into the detail of what it means to be prudent and what it means to set an efficient benchmark, one finds that they are extremely difficult tasks in practice. That is why we need to put mechanisms in place that enable the strongest possible appeals mechanism, because we know that these kinds of complicated decisions potentially will be appealed.

I recommend this bill to the house. It strengthens the capacity of consumer voices to be heard in appeals in this context, it is another important step following on from other bills that this government has brought forward that protect consumers, it puts downward pressure on their bills and it improves efficiency in an industry that is critical not only for providing essential services but also for employment in this state.

Ms FITZHERBERT (Southern Metropolitan) — I am pleased to rise to speak on the National Electricity (Victoria) Amendment Bill 2015. The bill has a number of objectives, and its main purpose is to amend the National Electricity Victoria (Act) 2005 to give rights to the Minister for Energy and Resources and consumer or user groups to intervene in appeals against decisions made by the Australian Energy Regulator under the advanced metering infrastructure (AMI) order.

This bill is about the continuing saga of how smart meters have been introduced to businesses and domestic dwellings in this state, which has been a litany of poor administration, poor regulation and failure, and also about some time frames that have continued to shift over time. Unfortunately what we see today is a system which is not achieving what it was intended to do.

Late last year some reports appeared about how smart meters are not doing what they were intended to do and indicating that Victorian households are paying increased fees on their electricity bills following the Australian Energy Regulator approving power company requests to increase fees.

Three out of five of the state's major energy distributors submitted requests to increase fees as a result of budget overruns related to the rollout of smart meters. The technology was introduced to give people more control over how and when they bought their electricity and from whom, but it has failed to deliver what was intended originally. The *Herald Sun* of 13 March reports that household budgets have suffered a hit of up to $1000 and outlines the sorts of fees that householders have had to cough up as a result of this failed scheme.

I think it would be useful to go back to the start and look at how this program came to be. The Victorian Auditor-General's report *Realising the Benefits of Smart Meters*, which was issued this week, provides an excellent summary of the history of this program. It was way back in 2006 when the then Labor government committed to introducing smart meters. This meant introducing electrical metering infrastructure in all Victorian residential and small business premises. The idea was to put digital smart

meters in every one of those premises by December 2012, so over some six years. At the time it was expected to involve 2.6 million meters going out to 2.4 million sites. But even before the rollout commenced in 2009, again under a Labor government, the deadline for completion was changed to December 2013. So the sands started to shift as early as that in the project.

Back in 2005 there was a business case that anticipated a net incremental benefit of $79 million, which was relative to a 2004 cost-benefit analysis of the rollout of meters. The audit summary of the Auditor-General's report sets out the intended benefits of the rollout as follows:

> improve consumers' ability to monitor and control their electricity use, potentially allowing for cheaper and more efficient energy use;
>
> reduce the cost to industry of planning and managing power supply, potentially leading to lower retail prices for consumers;
>
> increase retail competition through new services, potentially resulting in a greater choice of retail offerings to consumers.

I vividly remember the sorts of claims that were made along those lines about the benefits of smart meters back in the late 2000s, and I also remember the scepticism of consumers about whether this would in fact be possible. The big selling point was that it was going to give people choice about where they got their electricity and hopefully there would be savings as a result. But it all came down to having good equipment and distributing that in a way that meant that people had the information they needed and that around that there was a process that enabled people to have clarity about the information and to move from retailer to retailer. That is what the Labor government failed, from a very early stage, to provide.

In 2009 the Victorian Auditor-General's Office (VAGO) released a report, *Towards a 'Smart Grid' — The Roll-out of Advanced Metering Infrastructure*. This was highly critical of the original business case developed by the Labor government. VAGO, through the report, made a number of recommendations about how things could be improved, because it was plain that things were falling off the rails at that early stage — well before the original implementation date was even reached. Its recommendations included improving governance and stakeholder engagement, reassessing the economic viability of the smart meter program by updating the cost-benefit analysis to reflect existing and emerging risks, and assessing the impact of changes to scope and underlying assumptions.

This report was released in 2009. As you may recall, Acting President, there was an election in 2010 which resulted in a change of government. One of the recommendations made by that VAGO report was that some $20 million should be invested to address those recommendations, and that was done by the incoming Baillieu government. In 2011 the government reviewed the AMI program and decided to continue the program, rolling out smart meters to all Victorian and residential small business customers by 31 December 2013.

The Auditor-General's report assesses whether the Department of Economic Development, Jobs, Transport and Resources has effectively addressed the recommendations from VAGO's original 2009 audit and can demonstrate that the program is delivering the expected benefits. The report provides a useful summary of the costs of this program to date. It is pretty clear from it that much of these costs can be sheeted home to the original very poor planning and implementation by the government that initiated the program. By the end of 2015 Victoria's electricity consumers will have paid an estimated $2.239 billion for metering services, which includes the rollout and connection of smart meters. That figure also includes money that was allocated by the coalition government in order to try to make a silk purse out of a sow's ear, play the cards it had been dealt and fix a program that it had not initiated, that had on the VAGO's assessment failed to proceed in the way that it should and that had involved waste and poor administration of a major IT program. Mr Drum has spoken of the litany of IT failures overseen by Labor administrations in this state.

What the coalition government was doing was facing the fact that a range of contracts had been entered into and a large amount of public money had been devoted to a program that was all about ensuring that consumers had more choice, something that we on this side of the house are philosophically in favour of. We think it is a very good thing; however, we think consumers should be properly supported to get the information they need. That was a very basic way in which the previous Labor government failed. It introduced a system that, on the account of those who were in a position to judge independently, was not working and that needed help, assistance and more money from a very early stage.

It is worth contrasting this with the actions of the current government when it was faced with the east–west link contract, something it simply did not support. It did not want to do it, and it said, 'We'll just rip up the contracts'. What we did in government when we were faced with the obvious and publicly recorded failings of the rollout of smart meters was set about

fixing the problem, which was the responsible thing to do.

What we see today, though, is that the system is still in need of assistance and needs to be the subject of additional changes through administration to ensure that it is working properly and does what it is intended to do for consumers.

I am now going to return briefly to the Victorian Auditor-General's Office report, which notes that benefits realisation is behind schedule. In 2011 the then government commissioned a cost-benefit analysis (CBA), which has become the benchmark against which measures of benefits realisation are assessed. Benefits realisation as at December 2014 had already fallen behind the 2011 CBA forecast, and current projections are that consumers can only expect to achieve approximately 80 per cent of the full benefits to 2028, which I must say is a very long way away. My five-year-old will be paying for electricity by that stage. She might have an interest in this being gotten right at this stage — —

Mr Finn — She can pay for mine if she likes.

Ms FITZHERBERT — I do not think so, Mr Finn. Thank you for the offer, but I think I will reject that on her behalf.

To return to the report, it makes the observation that achieving even these benefits by 2028 is based on many assumptions that have not yet materialised and are dependent on the actions of many stakeholders. Page 8 of the report states that the department is now re-evaluating the expected benefits and acknowledges that some key assumptions underpinning the expectations of benefits realisation may no longer be valid. It has very much been a case of shifting sands in relation to this project.

The bill contains a number of details. As I said earlier, the establishment of the advanced metering infrastructure of smart meters in Victoria is now considered complete by electricity distributors. The Australian Energy Regulator (AER) set distributors a budget for the remaining AMI rollout for 2012 to 2015. Distributors can seek to recover costs incurred for the rollout of AMI that exceed the budget set by the AER. The AER will then decide how much of those extra costs can be recovered through customers. Should a distributor wish to appeal such a decision by the AER, they must do so through the Australian Competition Tribunal. Currently the minister or consumer or user groups must seek leave to intervene in the appeal. The bill will allow the minister and consumer or user groups to intervene in the appeal without leave.

There have been a number of forms of consultation undertaken in relation to this bill, but I think the most powerful form is public opinion, and it is pretty clear that consumers have had doubts about this program from the start, which they have expressed quite loudly. In many ways their lack of faith in the Labor government that initiated this project has been shown to be correct. There has been a litany of changes. It has not been a case of, 'Here's the project. This is what we are going to do. This is the budget. This is how we will administer it', and sticking to those parameters of the original project. There was change almost from the get-go. There were increases in budgets, deliverables were not reached and it was left to the incoming Baillieu government to address the inadequacies and failings of the introduction of smart meters.

Additional funds were put in by the previous government and other initiatives were undertaken to make sure it was as good as it could be, but I think that today, when we look back at what was originally set out to be achieved, it is clear that not only were the original parameters of the project not achieved but they have still not been achieved now. While we accept the changes that will be brought about by this bill as a positive way of advancing this, it is clear that there is still a huge amount of work to be done in achieving the original goal of introducing smart meters.

It was not meant to be about governments putting a lot of money into projects and changing time frames and doing all those sorts of things; it was meant to be about providing a service for consumers. That is something the government that initiated this project failed to do. In some ways the government now has to face up to dealing with the deficiencies of its original actions. I look forward to seeing further change which will realise, in a much greater form for consumers, the benefits of smart meters.

Mr LEANE (Eastern Metropolitan) — Thank you, Acting President, for the opportunity to speak on this bill. It is quite a simple bill. It will form part of the end of the rollout of the smart meter system and ensure that when companies are recouping the costs of rolling out the meters there is an opportunity for consumers to appeal what they have been charged for that process.

People need to understand with electrical meters that no matter what type of meter they are, they are not owned by the householder but by the owners of the networks. The networks also own the wires, the poles and anything associated with the delivery of power to the

point of the meter at one's home. I am an electrician by trade so I understand that it is illegal for someone other than a person authorised by the networks to work on the meters, remove the meters or do any alterations to the meters. This makes a lot of sense.

That is important to note from the start, because right at the outset of the rollout of smart meters the Liberal opposition at the time started this fearmongering around smart meters — what was going to happen with smart meters, how evil they were and how they were going to be horrible. Part of the confusion created by the then Liberal opposition was that the actual meters were owned by the householder and therefore the householder had a great say in what type of meter they would like to have in their meter box.

The reality of the smart meter rollout is that the existing meters on the existing network needed to be replaced. The existing meters in Victorian households were aged and at the point of potentially breaking down, just as any old electrical device would break down. The decision to roll out smart meters was a decision that had to be made. I will not claim, as a previous transport minister did, that the network was 300 years old, but it was old and needed to be attended to with constant updates. The decision to put in meters that were state of the art at the time was a simple decision, an obvious decision and the right decision. Implementing the technology that was available at the time should not have been controversial at all.

Previous speakers from the opposition said that when they came into government in the last term they fixed the problems — but there were no problems to fix, really. What the previous government did was stop scaremongering. The coalition stopped scaremongering about what smart meters were. It stopped scaring elderly people into thinking that their smart meter was something evil.

Mr Finn interjected.

Mr LEANE — I am sure Mr Finn will carry on with that same theme when he speaks on this bill. Smart meters have only ever been devices that use what were at the time of the rollout state-of-the-art elements. If the Liberal Party wants to say that exactly the same type of meter should have replaced the old meters, it would be moronic. If you have to replace part of a network because of age, the best way forward, the obvious way forward and the intelligent way forward is to replace them with the technology of the day, and that is all that happened.

For example, if you follow the logic and the scaremongering of the Liberal Party at the beginning of the rollout, we should still have meters that do not electronically indicate to the suppliers when power has been lost at a premises. With the previous meters power companies relied on somebody contacting them to say that power had been lost. If power were to go out on a street when every person who lived on that street was at work, at school or otherwise occupied, as most of us are during a weekday, and if the Liberal Party had its way, no-one would know that power had been lost on that street until everyone came home at the end of the day.

Mr Herbert — And would have had their meat rot in their freezers.

Mr LEANE — Absolutely. Have you ever tried refreezing ice-cream after it has melted? Have you ever tried it?

Mrs Peulich — You would not be freezing it, you would have eaten it all.

Mr LEANE — I have to acknowledge that interjection so it gets into *Hansard*, that was a very good interjection by Mrs Peulich. I have to agree, I would have eaten it all, I would not have given it a chance to defrost — but people other than me would have had to face the reality that their frozen goods were spoilt. If they had a security system installed that relied on the mains, it would have been off. If they had anything else they needed that relied on power, it would have been off for the whole day.

What happens now is that smart meters — these evil smart meters — instantaneously indicate to the supplier that supply has been lost for a street or for a suburb. The supplier then has an opportunity to immediately get crews out to the affected area to get the power back on. The company can locate where the fault is — it might not even be a fault, it might be something that can be fixed by changing the switching to have power supplied from a different part of the network — and the power in the street can be switched back on. These are the evil smart meters the Liberal Party was running around scaring everyone about, saying how terrible they were going to be for everyone once they had been rolled out.

Members opposite said they would stop the rollout of smart meters if they were to win government, but when they came into government they did not do it. They said to individual householders that if they did not want a smart meter, they would have every right to refuse it — but that is crazy because, as I said at the start of my contribution, the meters do not belong to the householder. If the meters were owned by

householders, they would have every right to do whatever they liked with them. They would be able to get into the back of the box with a screwdriver and spin the meter backwards. It would be like *Ferris Bueller's Day Off*. If householders owned them, it would be a free-for-all.

Mr Finn interjected.

Mr LEANE — Mr Finn, with a no. 3 Phillips head screwdriver they could get into the back of that meter and interfere with the reading. As I said, the Liberal Party, at the time in opposition, was going to come in and stop the rollout. It did not stop the rollout. Those opposite were telling individual people, 'If you don't want a smart meter, you can refuse to have it', which was wrong. Then when they came into government, what did they tell the same people? They told them, 'No, sorry, that is not true. That is not correct'. To claim that they made any improvements or fixed any problems is false. What happened is that when they came into government, they stopped scaremongering. That is what happened. As soon as Mr Finn came into government it was like Maxwell Smart in a *Get Smart* episode. It was like, 'I hope you didn't take too seriously what we said about the smart meters. I hope we didn't offend you. We didn't really mean it'.

I am very pleased that we are at the point where the rollout is finished. I notice there has been no 'Where's all the controversy gone?'. The world was going to end. These smart meters were going to grow arms and legs, form some sort of evil robot army and come into elderly people's bedrooms in the dark of night. That never happened. Apparently they were going to explode everywhere. That never happened. A smart meter is just an innocent piece of electronic technology. If you are going to replace any part of the network at any time, you would be doing the people you represent a disservice if you did not implement what was available, the state-of-the-art opportunities, at the time.

I am glad that this rollout is near completion. I commend the minister for making sure that there is an opportunity for consumers to appeal if they are unhappy with any charges that come their way as a result of the end of this rollout. As I said, this is nothing new. Electricity bills always contain a component for the upkeep of the poles, the wires, the meters and the transformers, because someone has to help pay for them. We have to have that system. It is so important. We are reliant on electricity whether we like it or not.

Ms Shing — You bring a degree of electricity to this place.

Mr LEANE — Thank you very much. How we generate electricity in the future is a question we will all have to face on another day owing to what the generation of electricity contributes to climate change. I am sure Mr Finn will support me on that. It is important that we think about how we generate our electricity in the future, acknowledging that we are all reliant on electricity in our day-to-day activities. One thing that keeps people off other people's premises is that with smart meters there is no need for anyone to come and walk down the side of your house to read a meter. If your meter is down the side of the house, that could be unsettling. Some meters are behind gates. Now the smart meter is smart enough to indicate the power use remotely.

The smart meter rollout has been a winner. It does not matter how anyone wants to paint it or what they want to say about it — the meters had to be replaced. They got replaced by a certain type of meter that has a lot of capabilities and were state-of-the-art at the time. I commend the minister on this bill, and I commend the bill to the house.

Mr FINN (Western Metropolitan) — As delighted as I am to follow Mr Leane, I have to say that when I go to my eternal reward, I may request that the good Lord give me those 15 minutes back because I am not sure they were quite worth it. However, it is good to see Mr Leane up and about again and back on his feet after he was done over by the factions earlier in the year. It is worth noting that whilst Mr Leane talks about the supposed scaremongering of the Liberals with regard to smart meters, it was one of his old mates from the Electrical Trades Union, Dean Mighell, who was also very concerned about the impact that smart meters might have. He was very concerned that they may cause house fires. We know the Labor Party has some considerable history with house fires. You just have to look at the Rudd government of a few years ago. A few houses went up then. Perhaps if you add the smart metres to the pink batts, you have grounds for a fairly decent blaze. It is good to see Mr Leane back on his feet and contributing in this house again after what was a fairly hefty and very nasty blow by his factional colleagues and former colleagues earlier in the year.

We have heard at some length today about smart meters. We have heard about smart power. I have to ask the question: how smart?

What we have failed to talk about today and what we need to take into consideration is the human impact of electricity. Electricity is essential in modern life. I do not think there is anybody who would argue with that, apart from maybe the odd Green who is living in a tree

or cave or something. Everybody else would agree that electricity is absolutely crucial, it is essential, for us to survive.

I then have to ask the further question: if it is so important, why can we not all use it? I ask that question because there are a lot of people out there who cannot afford to use electricity. I have heard stories of pensioners going to bed at 5.00 p.m. during the winter just to keep warm because they cannot afford to warm their homes. I have heard of families not being able to provide hot water to bathe their children because they cannot afford the electricity. The battlers out there, who on a daily basis are sitting around the kitchen table wondering how they are going to pay the bills and coming to the view that something has to give, are going to cut back, and have been cutting back, on their electricity usage.

I have to say that at my place when the electricity bill comes and we see the envelope the breath is held until such time as we open the envelope to discover whether we will be able to eat that week. I am talking about amounts of a thousand or, in one instance, almost $1500 — just on one electricity bill. I am certainly not on my own in expressing my concern about this. It is something that everybody should take into consideration, particularly governments.

I think we have to give thanks for the privatisation program of the Kennett government in the 1990s when we look around at some of the other states that are now very keen to privatise. One must realise that if we had not taken the steps we did back in the 1990s, Victoria would now be in a very bad way. Victoria would have more expensive power and a far less reliable power supply. That is something the Kennett government has left us: a reliable electricity supply — to a certain degree — which is certainly not as expensive as in some places interstate.

The other thing with regard to our electricity supply that we have to consider is availability. I have to say that in Victoria in 2015 when I hear or see warnings on the radio or television or other media forms telling me in the middle of winter or in the middle of summer — the two extremes that we have, and as we know, this winter in particular has been a particularly cold one despite — —

Mr Ramsay interjected.

Mr FINN — It has been wet in certain parts. Follow me: I will show you where it is wet.

Honourable members interjecting.

Mr FINN — No, we will leave it alone. It has been particularly cold, and despite the warnings from our friends over there in the corner, the summers in the last few years have not been as hot as we have come to expect.

Ms Pennicuik — They are in California; they are in Canada.

Mr FINN — I have to say that I do not live in Canada, and I do not know what the power supply in Victoria has to do with Canada. But I am sure Ms Pennicuik would be happy to enlighten me at some stage.

On very hot days we frequently hear warnings that some areas will have their power supply cut. It is a nonsense that in Victoria we have situations where on a 40-degree day — as rare as they are these days — people are inside around their air conditioners sheltering from the heat but they are living under the threat of a power cut by the power companies. Availability and having a reliable service is clearly an issue, and it is beyond me why that would be so in Victoria in 2015. It is clear that we need a new coal-fired power station in Victoria. We have the capacity to do that, and in my view we need to do that as a matter of priority. In this state we should never ever have a situation where availability of power is an issue.

On the issue of electricity prices, one contender for the prime ministership of this country was talking about the reintroduction of a carbon tax. We just got rid of the carbon tax. We know what a carbon tax is — it is a tax on electricity. We saw how much the power bills went up when Julia Gillard was the Prime Minister briefly a few years back — 'Juliar' — before she was knifed. She introduced the carbon tax, and power prices went up immediately. The mate of Mr Melhem over there, Bill Shorten, tells us that he does not care about the battlers, he does not care about the pensioners, he does not care about the families, he just wants Greens preferences, so he will reintroduce a carbon tax. He is happy to slug those who cannot afford electricity. He is happy to slug those who struggle to pay their power bills. That is what Australia has to look forward to under a Labor government after the next election.

It is quite extraordinary that, after what we have been through and the fact that we have a government that was elected on getting rid of the carbon tax, we have an opposition leader who would seek to be elected Prime Minister on a platform of reintroducing this weird, weird tax. That is something that needs to be taken into consideration by every Australian but particularly those

who struggle to pay their electricity bills as we come up to a federal election sometime next year.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Electorate office staff

Mrs PEULICH (South Eastern Metropolitan) — My question is directed to the Deputy Leader of the Government. I refer to standing order 8.01, specifically that questions may be put to 'ministers of the Crown relating to public affairs for which the minister is directly connected'. Has the minister ever paid campaign field organisers, as described in today's *Herald Sun*, through her electorate office budget?

Ms PULFORD (Minister for Agriculture) — I thank the member for her question. My electorate officers have always worked in accordance with the guidelines, and as I have indicated in the house on previous occasions, I have contributed to a pool staffing arrangement for the entire time I have been a member of Parliament.

Supplementary question

Mrs PEULICH (South Eastern Metropolitan) — Has the minister ever been asked, directed or emailed by John Lenders or staffer Jadon Mintern to hire any specific person to work as a casual electorate officer?

Ms PULFORD (Minister for Agriculture) — I thank the member for her further question. As I indicated in my answer to the substantive question, my electorate officers have acted and always act in accordance with the guidelines and conduct their duties in an entirely appropriate way in support of me in my role as a member of Parliament.

Mrs Peulich — On a point of order, President, the minister has not provided the answer to the question that was asked, and I ask that you take the opportunity to ensure that there is a written response within the appropriate time frame.

Electorate office staff

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is also to the Deputy Leader of the Government. I refer to standing order 8.01, specifically that questions may be put 'to ministers of the Crown relating to public affairs for which the minister is directly connected'. Given the allegations of rorting activities described in today's *Herald Sun* and on radio 3AW this morning, was the minister aware of Mr Jadon Mintern's alleged involvement in these activities when he was appointed to her ministerial staff?

Ms PULFORD (Minister for Agriculture) — I thank the member for his question. Jadon Mintern has been working for me as a ministerial adviser since 5 December last year. He is an outstanding adviser and provides support to me in my role as Minister for Agriculture and Minister for Regional Development. The matters to which the member is referring that are reported in the papers today are inaccurate in the way they reflect pool staffing arrangements that have existed for close to 20 years and that have been applied by members from many political parties and overseen and approved by Presiding Officers from a variety of political backgrounds.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister for her answer. Since those allegations were first raised in the media on 2 September, has the minister raised them with Mr Mintern to satisfy herself that he has not been involved in the allegations as repeated in the media today?

Ms PULFORD (Minister for Agriculture) — I thank the member for his further question. The discussions that I have with my advisers canvass a broad range of subjects on any given day. I have known the individual that Mr Rich-Phillips is inquiring about for a long time. He is an outstanding adviser and supports me in a very capable way as a ministerial adviser in helping me to acquit my responsibilities as Minister for Agriculture and Minister for Regional Development.

Mr Rich-Phillips — On a point of order, President, that goes to relevance, the question was very specific as to the discussion on a particular matter. I ask that you consider whether the minister should be required to provide a written response to that question.

Electorate office staff

Mr O'DONOHUE (Eastern Victoria) — My question is to the Leader of the Government. Given the revelations in today's *Herald Sun* and on radio 3AW, what exactly did the minister mean this morning when he said, 'Electorate staff may have been confused about their roles'?

Mr JENNINGS (Special Minister of State) — I am very comfortable with what I said at a doorstop this morning in relation to these matters. I was clearly

reminding members of our community through the media, and I will do it through the chamber, that the way in which the employment relationship works between my colleagues — the members of the Labor Party, in opposition and in government — is that we would expect those employment arrangements to fall within the rules and expectations of the Parliament. That has been our clear undertaking and our clear expectation. That means that whether people work directly within an electorate office or whether they work within a pool staffing arrangement, they comply with the guidelines and the expectations — they comply with the rules. That is the answer that I stand by and will continue to stand by.

It was put to me specifically, 'How do you account for a variation of a story that appeared in today's press?'. My indication — —

Mr Drum — It is not just a story. It is a sworn testimony.

Mr JENNINGS — It is a story. It is a story that appears in the press. And my response is that it may well be not beyond the pale that somebody who is employed under clear direction and with the clear expectation of acquitting their work responsibility may in fact be confused about the demarcation between the work they do on the payroll and the work they do at other times in relation to campaigning activities. I am saying to you that that accounts for the discrepancy. I stand by my answer and I stand by my colleagues, who believe that the employment relationship has been entirely in accordance with the guidelines and the expectations of the Parliament.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) — Noting the minister's answer to my substantive question, I now ask: is it the view of the Andrews Labor government that the specific activities described in the *Herald Sun* and on radio 3AW this morning are within the Parliament of Victoria's rules and guidelines as issued by the Presiding Officers?

Mr JENNINGS (Special Minister of State) — What I am confident about is that the employment relationship between members of Parliament and those who work for us on the electoral payroll is compliant with the guidelines and the rules. That is what I have said, that is what I continue to say and that is a continued expectation that I have.

Electorate office staff

Ms WOOLDRIDGE (Eastern Metropolitan) — My question is to the Leader of the Government. As the minister responsible for Victoria's integrity system, what action will he now take in relation to the allegations of rorting in today's *Herald Sun* and detailed further on radio 3AW this morning?

Mr JENNINGS (Special Minister of State) — I thank the member for her question. As I volunteered at my doorstep this morning and as I volunteered in answers to questions in previous sitting weeks, the government is not hiding from scrutiny in relation to these matters. We are happy for the Parliament to exercise its full discretion, whatever the Parliament determines in terms of the Presiding Officers and in terms of the scrutiny that is actually applied to these circumstances. We are completely open to that and will participate in any inquiry.

In relation to any further scrutiny that may be drawn to the attention of any — any! — agency, I have taken advice about whether thresholds may be reached or considerations or conclusions may be reached by any agency that the member may wish to identify, or any member of the community may identify. In fact it is very hard to see immediately, without evidence that may be further supplied, that there is anything that would warrant the scrutiny and the attention of any relevant agency. I am not in possession of any information that means that I would need to make a referral to any agency. If the member or anybody has that information available and provides it to me, I will make the appropriate referral if any referral is warranted from any information they may have.

Honourable members interjecting.

The PRESIDENT — Order! Interjections are unruly and are really not tolerated under our standing orders, despite the fact that the Chair does provide some leniency. I indicate, though, that the nature of some interjections is particularly unparliamentary, particularly when they relate to accusations about a member. Members are aware that the only way to make such allegations is by substantive motion. If members persist in making accusations about members without such a motion, then I will deal with such interjections by removing the member from the chamber.

Supplementary question

Ms WOOLDRIDGE (Eastern Metropolitan) — Given the Leader of the Government's response, can I then seek an assurance from the Leader of the Government that the Andrews Labor government will fully cooperate with any agency, be that the Ombudsman, IBAC or Victoria Police, which may undertake further investigations into these allegations?

Mr JENNINGS (Special Minister of State) — That is totally consistent with every comment I have made on this issue up until now. I do not believe that the information has been provided in any shape or form which would warrant the scrutiny of any of those agencies, but if they pursue those matters, then the answer of course is yes, we would fully comply.

Public holidays

Mr ONDARCHIE (Northern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade. In relation to the government's grand final eve public holiday, the minister has said:

> This government is not about imposing trading restrictions on the men and women who operate small businesses across this state.

He has also said that:

> … the introduction of the public holidays does not force a small business to open.

As the minister will be aware, Friday is the busiest day of trade for the Jewish community in preparation for Shabbat, with shopping precincts such as Carlisle Street in Balaclava at their vibrant best on a Friday afternoon. What choice does the minister think Jewish businesses have other than to open and pay the extra costs?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Mr Ondarchie for his question and his cultural sensitivity, given he knows that I am also Jewish. I am sure that any shop owner who happens to be Jewish, Muslim or Christian will make decisions according to their own business practices and not their religious observance.

Supplementary question

Mr ONDARCHIE (Northern Metropolitan) — Noting that the minister is the local member as well as the relevant minister, I ask: did he even consult with Jewish businesses about the grand final parade public holiday and about the impact it would have on their busiest day of trading, and was this concern brought to his attention prior to gazetting this public holiday?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — What I have to say, and I take my responsibilities as a minister very seriously, is that I am not the minister for the Jewish community and I am not the minister for the pluralistic community. I am the Minister for Small Business, Innovation and Trade. I am the minister for businesses that operate within those three portfolios. I do not discriminate from one religion to another, and shame on you for bringing religion into this chamber. Shame on you!

Mr Ondarchie — On a point of order that goes to relevance, President, the question was quite narrow. In his capacity as small business minister and minister responsible for the public holiday, I asked Mr Dalidakis quite simply if he consulted with these businesses. I ask you to ask him to furnish a more direct answer, a more fulsome answer perhaps, within the standing orders.

The PRESIDENT — Order! This one is a close call. I am not in a position to direct Mr Dalidakis on exactly how he should answer the question. I accept that the question was fairly direct in terms of whether there was consultation with businesses in the area, but interestingly enough Mr Ondarchie also blurred Mr Dalidakis's ministerial responsibilities with his representative role for his electorate, and that was an interesting blur in terms of how the minister might respond. Does the minister wish to add anything in terms of consultation?

Mr DALIDAKIS — No, I am comfortable with my answer.

Child protection

Ms SPRINGLE (South Eastern Metropolitan) — My question is to the Minister for Families and Children. Last Friday what the minister has called a wideranging expert advisory group met for the first time to discuss its review into Victoria's entire child protection system, called the Roadmap for Reform. Among the four experts listed in the minister's press release were Deutsche Bank's Australian and New Zealand divisions vice-president Steven Skala and the National Australia Bank's group executive in governance and reputation Michaela Healey. Can the minister guarantee that the presence of senior executives of private companies on her expert advisory group will not mean that the Roadmap for Reform will recommend further privatisation and outsourcing of the Victorian government's child protection and out-of-home care responsibilities?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. I can advise the member that in fact the first meeting I chaired of my expert advisory group did in fact meet on Friday. This is a group that I have tasked to assist me with the Roadmap for Reform. As I have said to the house previously, we have a number of challenges in the child protection and out-of-home care system. I take my responsibilities as minister in this portfolio extremely seriously, and since day one as minister I have been working assiduously with the department and with the sector to look at making improvements to that system.

We have already put in place a number of reforms that I am very proud of in terms of improving outcomes for children in out-of-home care, in terms of improving the capacity of the child protection system to respond, a very positive budget outcome — a 17 per cent increase in funding in this year's child protection and family services budget compared to last year's budget — and a range of initiatives right across the continuum of care in the budget in relation to making improvements to the system.

The Roadmap for Reform is a project that we will be working very closely with the community sector on to make these improvements. Apart from the road map, which has a very broad membership, Ms Springle has highlighted some individuals who do bring some commercial expertise to that advisory group. I do not apologise for that. I think it is important to have a broad range of expertise when you are looking at making systemic reform of the system.

I can assure the member that there is a very wideranging membership of that expert group. It goes to people with academic backgrounds, it goes to people who are CEOs of some of our current child and family welfare agencies and it goes to people who work with Aboriginal families and children. We have a very wideranging membership of that expert advisory group. I am happy to provide the full list of the membership to the member at a later point in time, but I do not apologise for the fact that I have brought into that expert advisory group individuals with some commercial expertise. I am very grateful to them for giving of their time, because this is a voluntary expert advisory group; no-one is being remunerated for their participation. They are willing to devote their time and energy on a voluntary basis to look at improving outcomes for the most vulnerable children and families in our community.

We also have on that committee experts who have an early childhood education background. They bring their own expertise as well. What I am looking at doing is ensuring that our response to vulnerable children and families takes a wideranging perspective and that we look at how we can intervene as early as possible, including through our universal early childhood services, to provide support for vulnerable children and families.

I can assure the member that my agenda is not one about privatisation. My agenda is about improving service delivery to and improving outcomes for the most vulnerable children and families in our state. I look forward to having wideranging conversations with people in the community who have an interest in these issues from wideranging backgrounds, whether they have a business and commercial background, whether they are people who work in the community sector or whether they are people who work in the early childhood sector, and any other interested individual.

Supplementary question

Ms SPRINGLE (South Eastern Metropolitan) — I thank the minister for her answer. Listening to her talk, it was gratifying to hear that there are other experts from a wide range of disciplines in that group. Would the minister be prepared to rule out any further privatisation of that sector?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. My agenda is not one of doing what the previous government did, which was a recommissioning of our mental health services and a recommissioning of our drug and alcohol services, which caused absolute havoc for some of the most vulnerable people in our community. We as a government are now having to pick up the pieces and address the problems that the previous government caused.

I want to hear wideranging ideas and thoughts about how we can improve the system from people who have an interest in these issues. We are at the start of the process. We are looking at taking on the ideas and thoughts of people right across the community about how we can achieve better outcomes for vulnerable children and vulnerable families in our community. I can assure the member that my agenda is a very different one from that of the previous government.

Questions interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! I take this opportunity to indicate to members of the house that in the gallery we have a former member, Andrew Ronalds. We welcome you to the gallery today, Mr Ronalds.

QUESTIONS WITHOUT NOTICE

Questions resumed.

Child protection

Ms SPRINGLE (South Eastern Metropolitan) — My question again is for the Minister for Families and Children. I direct her attention to Anglicare Victoria's *Children in Care Report Card*, released on 27 August. It tells us that only 15 per cent of children in care have regular contact with their siblings. Can the minister inform the Parliament of what action she is taking to increase the number of children in care who have regular contact with their siblings?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. In fact earlier this year I attended a forum that had been organised by the Centre for Excellence in Child and Family Welfare and Berry Street to discuss exactly the issue of sibling contact and how we can improve sibling contact for children who are in out-of-home care. I was very moved that day by the stories I heard of experiences that children have had and the loss of contact that they have had with their siblings. I value very much the relationship that I have with my own sibling, and I think it is important that all children, whether they are in out-of-home care or not in out-of-home care, have opportunities to have strong bonds with their siblings.

In fact just on the weekend I was at an event organised by the CREATE Foundation, which is an organisation that gives a voice to children who are in out-of-home care. I had the opportunity to speak to some young people there about their own relationships with their siblings and other family members and how they have experienced out-of-home care both historically and in a contemporary setting.

It is very important that we try to promote these relationships as much as they are possible. I do make the point to the member that sometimes there are issues around sexual abuse occurring between siblings and there are very valid reasons why there cannot be contact or there is supervised contact between siblings. It is about protecting very vulnerable children and keeping them safe.

I can assure the member that in Victoria where possible siblings are placed together in out-of-home care and where this is not possible contact between siblings is promoted and supported through regular get-togethers. As I said, for safety reasons it is not always possible that that occurs, but that is certainly an outcome that the system seeks to promote, and I am very keen to have that outcome improved upon.

I also mention to the member that, as she would be aware, one of the very first announcements that I made as minister earlier this year related to the allocation of $43 million for targeted care packages so that we can move children out of residential care into home-based care. Part of the thinking behind that is to enable sibling groups to be placed together in home-based care. That would mean that, for example, where a grandmother is renting a house and she is unable to take on the care of a sibling group, we would give her some financial assistance to enable her to rent a larger home to be able to take on the care of that sibling group. So we are putting in place practical measures to assist carers to be able to care for sibling groups.

I can assure the member that we as a government are very committed to keeping families together and we are seeking to promote the goal of having siblings have as much contact together as is possible.

Supplementary question

Ms SPRINGLE (South Eastern Metropolitan) — I am also gratified to hear that there is a commitment there from the government to ensure that sibling reunification in some regards and contact in others is maintained. As part of that commitment, will the minister set a target for the percentage of children in care who have regular contact with their siblings, where it is safe to do so, by 2018?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question, and I refer the member to what I said in answer to her previous substantive question in relation to the Roadmap for Reform. The Roadmap for Reform is looking at systemic reform of the system. It is looking to address a range of issues around how we better respond to the needs of vulnerable families and vulnerable children, how we seek to have more children placed in home-based care and how we can intervene earlier and more effectively before things escalate and get into crisis, but also a range of other issues that have come to light in discussions that I have had both with children who are in out-of-home care and also with the community sector.

One of those issues is around sibling contact. I will be working with those representatives both of the expert advisory group and of the sector broadly on this issue and many other issues.

Firearms

Mr YOUNG (Northern Victoria) — My question is to the Minister for Training and Skills in his capacity representing the Minister for Police. Did the federal Minister for Justice, Mr Keenan, initiate contact with the Minister for Police regarding the Adler lever-action shotgun?

Mr HERBERT (Minister for Training and Skills) — I missed the last bit — regarding what? Sorry, I could not quite hear it.

Mr YOUNG (Northern Victoria) — It was regarding the Adler lever-action shotgun.

Mr HERBERT (Minister for Training and Skills) — It probably does not make much difference getting that clarification. I do not know whether there has been that sort of interface. I am sure there would have been discussions, and I do not know who began those discussions, but I will have to take that on notice. I will get back to the member as soon as I can.

Supplementary question

Mr YOUNG (Northern Victoria) — I thank the minister for his commitment to take that on notice and provide me with an answer. It is a very simple question. To ensure that I get the correct answer, my supplementary question is: did the Minister for Police initiate contact with the federal Minister for Justice, Mr Keenan, regarding the Adler lever-action shotgun?

Mr HERBERT (Minister for Training and Skills) — I said in earlier answers that in terms of those types of firearms the police board and the various interstate jurisdictions have been working on this in terms of policy. But in terms of a specific answer to a very specific question, I will get the member a very specific answer as soon as I can.

Stock underpasses

Mr PURCELL (Western Victoria) — My question is to the Minister for Agriculture. I consistently receive contact from farmers regarding cattle underpasses. This culminated during the last fortnight, when I received two contacts from farmers wanting to install cattle underpasses on their properties in south-west Victoria. Both farmers have been through the correct process and have had approval from their respective councils and VicRoads. This government has given the Victorian Farmers Federation (VFF) the funding responsibility for these underpasses. One farmer has been waiting three months and the other has been waiting over three years. Both farmers believe they are being ignored because they refuse to become members of the VFF. I ask the minister: what funds are currently available for cattle underpasses, and why is the VFF rather than local councils responsible for determining eligibility?

Ms PULFORD (Minister for Agriculture) — I thank Mr Purcell for his question. The cattle underpass scheme, which I think our constituents have been inquiring about accessing, is a scheme administered by the Victorian Farmers Federation. This is a $2 million fund to support the installation of stock underpasses in regional Victoria, which was established under the Regional Growth Fund by the former government. Those arrangements have existed for some time, preceding my time in the role. I am informed, though, that that has been fully allocated. The way that that fund worked was to provide grants of up to one-third of the underpass cost.

We are in the process of establishing the Agriculture Infrastructure and Jobs Fund. This is a $200 million fund that will be established following the passage of the port lease transaction legislation in this house. The guidelines for that are currently being developed, but I had an opportunity to be in Windermere with the member for Buninyong in the Assembly, Geoff Howard, and Windermere farmer Lyle Powell recently to talk to Mr Powell about the benefits of his underpass on his property. This is precisely the kind of project that could be supported by the Agriculture Infrastructure and Jobs Fund, and we look forward to establishing that fund as soon as we possibly can.

Supplementary question

Mr PURCELL (Western Victoria) — Considering the minister's answer, if the farmers construct and pay for their underpasses, would they be eligible for retrospective funding?

Ms PULFORD (Minister for Agriculture) — I thank Mr Purcell for his further question. I sympathise with what is obviously an extraordinarily frustrating situation for the constituents who have contacted Mr Purcell — in particular, three years is a very large amount of patience required of someone. But what I would say is that whilst the guidelines for that fund are being established and while the legislation still needs to proceed through the upper house, I would caution his constituents against doing that and assuming that there could be retrospective application, because I do not

imagine that the guidelines would allow for retrospective application. I encourage the member instead to urge a little more patience on the part of his constituents rather than that they proceed, spend the money and then not be able to chase it afterwards.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) — I have written answers to the following questions on notice: 808, 819, 820 and 822.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Order! In respect of today's questions, Mrs Peulich raised a point of order on her supplementary question to Ms Pulford. In regard to the supplementary question as to whether or not there had been any direction by Mr Lenders or Mr Mintern, I ask that the minister consider providing us with an answer to that question in writing. Whilst I understood the minister's response and perhaps it did provide some clarification, I am not sure that the central issue was addressed in that answer, and I would give the minister a chance to consider that. That would be on the next day of meeting.

With regard to Mr Rich-Phillips's supplementary question also to Ms Pulford in terms of whether or not there had been a discussion with Mr Mintern to seek assurances in respect of the matters that were broken in the media on 2 September, I invite the minister to consider whether or not a written answer could be provided on that, albeit that I recognise that there are some confidentialities around the discussions that ministers have with their advisory staff, particularly ministerial staff. So I am asking the minister for a written response, but I do not necessarily direct exactly how that response should come, given those circumstances. I seek some further clarification to be provided to the house on the next day of meeting.

In regard to Mr Young's question to Mr Herbert on the consultation between various governments on the lever-action firearm that he mentioned, Mr Herbert has undertaken to find out more information from the Minister for Police in respect of both the substantive and supplementary questions. Given that is with a minister in another house, that would be under the two-day rule.

CONSTITUENCY QUESTIONS

Northern Metropolitan Region

Ms PATTEN (Northern Metropolitan) — My constituency question for the Minister for Training and Skills is about the arbitrary censorship that has occurred at the University of Melbourne — that is, a ban on students at Ormond College accessing sexual material. Students at this world-class university are paying $200 a semester to access the college's wi-fi and are now being denied the ability to access legal adult material. Not only is this knee-jerk ban condescending and paternalistic but it does not acknowledge that adults have a right to access the material they want to in the privacy of their own rooms.

An honourable member — And they can pay for it!

Ms PATTEN — They are paying for it. Furthermore, it does not acknowledge that censorship never works. If the University of Melbourne feels it is not providing enough respectful relationship education to its students, simply banning lawful erotica will not help. I am speaking at Ormond College next week, and I would like to know from the Minister for Training and Skills what the government is doing to reinstate full and uncensored internet access to the students of Ormond College.

Eastern Victoria Region

Mr O'DONOHUE (Eastern Victoria) — I raise a matter for the Minister for Police. The previous government funded the highly successful Communities that Care program being run by Cardinia Shire Council in my electorate of Eastern Victoria Region. I note that Mornington Peninsula Shire Council has had a long-term relationship with the Communities that Care organisation to address disadvantage and alcohol and drug dependence through encouraging community participation and community action to tackle these issues from a grassroots perspective. Communities that Care is a well-renowned organisation.

I note the government is currently undertaking a review of all programs the former coalition government had in relation to its crime prevention portfolio, and I encourage the minister as part of his review to endorse and expand the Communities that Care program both in my electorate of Eastern Victoria Region where it has been successful and more broadly across Victoria.

Eastern Metropolitan Region

Mr LEANE (Eastern Metropolitan) — I direct my constituency question to the Minister for Families and Children, Jenny Mikakos, and it is regarding the Manningham Men's Shed, which is one of the longest established men's sheds at least in the metropolitan area. Demand is growing all the time for this men's shed, which is outstripping its capacity, and it would like to be able to extend services to as many men as it can. My question for the minister is: could she alert me if there is a round of funding for men's shed improvements sometime this year if not early next year?

Western Victoria Region

Mr RAMSAY (Western Victoria) — My constituency question is for the Minister for Police. I speak on behalf of hundreds of people attending the Colac Magistrates Court in the Polwarth region of western Victoria who were more than justifiably concerned for their safety after an anonymous bomb scare was delivered via telephone to the court on Monday, 14 September. Procedurally these incidents are time consuming, put fear in the hearts of all who are there and disrupt the smooth running of the court system. The threat followed an altercation at the court earlier in the day between two family members. These terrible incidents highlight the urgent need for the old courthouse to be upgraded and brought into the 21st century with the appropriate security. Before more threats, violent incidents or worse occur, can the minister say when the community of Colac will receive a new and much-needed secured courthouse?

South Eastern Metropolitan Region

Ms SPRINGLE (South Eastern Metropolitan) — My constituency question is for the Minister for Planning. On 13 July this year the *Dandenong Journal* reported that Keysborough Golf Club might be moving its course from its 60-year-old home to a new site 2.5 kilometres away. The existing course would then be converted by a property developer, Intrapac, into a massive new housing estate. The difficulty is that the existing golf course is located within the green wedge, so the whole deal hinges on the state government rezoning the existing course for residential housing. What is the minister's attitude to removing 76 hectares from the green wedge so that a property developer can make a killing?

Western Victoria Region

Mr MORRIS (Western Victoria) — My constituency question is directed to the Premier, but at this point I would like to briefly acknowledge the service of two members of the Victorian Parliament, the Honourable Dr Denis Napthine and the Honourable Terry Mulder, who have served their Assembly electorates of South-West Coast and Polwarth with distinction for many years. I wish them both very well in their retirement. My question relates to these electorates, which fall within my electorate of Western Victoria Region. I ask the Premier: why does the Labor Party not care enough about western Victoria to announce candidates for the South-West Coast and Polwarth by-elections?

Northern Victoria Region

Mr YOUNG (Northern Victoria) — My constituency question is for the Minister for Environment, Climate Change and Water. Over recent weeks the debate over kangaroo populations and the problems they present to people in regional Victoria has reached many people. I have been contacted countless times by members of the community regarding this issue over concerns about damage to property, grazing pressures and road safety. On 7 September it was reported by several sources that the government was not considering any culling of kangaroos, which has raised the question: what is the government doing to monitor and control kangaroo populations in Victoria, both on private and public land?

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My constituency question is for the Minister for Families and Children and it is regarding the Wallan Neighbourhood House being ignored for occasional care funding in the recent grant round. Under the previous occasional care program in Victoria, Wallan Neighbourhood House received approximately $6000 per annum for its occasional care program.

The centre runs occasional care three days a week and after the Liberal federal government restored the funding that had been cut by the Gillard government for the provision of occasional care, the centre applied for its funding to be restored to continue this service. Unfortunately, the funding application was rejected by the Andrews Labor government. The centre contacted Danielle Green, the member for Yan Yean in the Legislative Assembly, in an attempt to discuss the centre's plight with her. I am advised that Ms Green has not returned the phone call. My question to the minister

is: will she review Wallan Neighbourhood House's application and provide funding for the continuation of its occasional care program?

South Eastern Metropolitan Region

Mrs PEULICH (South Eastern Metropolitan) — In a response to a constituency question recently the Honourable Lisa Neville, the Minister for Environment, Climate Change and Water, indicated that she would not compel Melbourne Water to provide essential water flow through the Quiet Lakes in Patterson Lakes for the purpose of managing hazardous blue-green algae. This is contrary to the recommendations of a 2013 independent review which found that the lakes provide an important public drainage function and that Melbourne Water should manage water quality by maintaining and operating the bore water pump system to be paid for by a waterways and drainage charge.

In light of the recent decision by the Minister for Environment, Climate Change and Water not to compel Melbourne Water to continue flushing the Quiet Lakes at Patterson Lakes to manage the hazardous blue-green algae outbreaks, I ask the minister to advise why she is allowing Melbourne Water to ignore the recommendations of the independent review in relation to operating, managing and funding the pipeline and pumping system and how she plans to proactively protect the health of the people, pets and wildlife that live near this important public regional drainage reserve?

Western Metropolitan Region

Mr FINN (Western Metropolitan) — My constituency question is to the Minister for Local Government. The Andrews government continues to muddy the water surrounding the establishment of a stand-alone Sunbury municipality. The general view in the Sunbury area is that the government is using the audit review to justify its decision to break an election promise to the Sunbury community that it would respect a democratic vote to establish a Sunbury council. Nonetheless, the Sunbury community would like to see what the auditors have to say. Will the minister provide a time frame for the public release of the auditor's report?

NATIONAL ELECTRICITY (VICTORIA) AMENDMENT BILL 2015

Second reading

Debate resumed.

Mr FINN (Western Metropolitan) — Prior to question time I was speaking about the threat to the working poor — the battlers of this nation — of a carbon tax and the impact that would have on electricity prices in this country. We have already seen what it will do. We remember what happened the last time we had a carbon tax, when electricity prices went through the roof. We saw a number of companies go out of business, and we saw unemployment increase as a result of a carbon tax. It is beyond all comprehension that we would have somebody who seeks the office of Prime Minister now proposing that he would introduce a carbon tax if he became Prime Minister.

Mr Jennings interjected.

Mr FINN — I do not care who proposes the carbon tax. I will oppose it, let me assure you. This is a nonsense, based on a fallacy and fighting something that does not exist. Here we are proposing that we inflict greater pain on the general community to fight something that genuinely does not exist. Before members opposite get up and start talking about the science being settled, it is a question of which scientists you speak to because there are tens of thousands, if not hundreds of thousands, throughout the world who will tell you that there is no conclusive evidence that man-made climate change is a reality. Even if it were, a carbon tax in Australia would have no impact on it at all — absolutely no impact on it at all.

The previous Labor federal government referred to the carbon tax as an economic reform. It was not an environmental reform and had nothing to do with the environment. There was nothing about changing temperatures or weather, as extraordinary as it seems. The former Assistant Treasurer is here at my feet, and I would be interested in hearing his advice on what tax he would impose to change the weather, because that is what the left in this country and indeed around the world seem to think we can do. They think we can change the weather by imposing a tax. We know that is fairyland stuff. It is nonsensical. All it will do is hurt business, hurt workers and hurt the battlers. That is what it will do.

I have to admit that the Labor Party was once the party of the workers, but it is the party of the workers no more. The fact that the Labor Party is proposing the

reintroduction of the carbon tax tells us that members of the Labor Party could not give two stuffs about the workers, the families, the battlers or the pensioners of this country. They just do not care, and they are displaying that for all the world to see. As I said before question time, Deputy President, I hope people will take this into consideration and will remember that before the last federal election they voted to remove the carbon tax, which was the most monstrous tax on electricity this country has ever seen. The imposition of the carbon tax caused the greatest leap in electricity prices that this country has ever seen.

Using my family as an example, there was a significant reduction in our electricity bill when the carbon tax was removed. I was particularly pleased by that, and I am sure many other people would have been very pleased to receive that reduction as well. People in the media would not talk about it because they only like to talk about bad things. However, as a result of what former Prime Minister Abbott and his government did, there was a significant reduction in electricity prices for people across the board in Australia when the carbon tax was removed.

I support this bill, but I hope the comments I have made here today are taken into very serious consideration because this is a matter that really does matter to real Australians.

Mr MORRIS (Western Victoria) — I rise to make a contribution to the debate on the National Electricity (Victoria) Amendment Bill 2015. This bill seeks to amend the National Electricity (Victoria) Act 2005 to grant rights to the Minister for Energy and Resources and consumer or user groups to intervene in appeals against decisions made by the Australian Energy Regulator under the advanced metering infrastructure order.

I note that the rollout of smart meters in Victoria is now considered complete by electricity distributors; however, the rollout of smart meters reminds me of a debate that was had yesterday in regard to a motion about the regional rail link, where we once again saw a Labor government — —

Mr Finn interjected.

Mr MORRIS — Thank you, Mr Finn. I was quite surprised by that motion and the fact that it went through without government members calling a division, in effect condemning their own minister, which I found quite remarkable indeed.

Mr Finn — You cannot defend the indefensible.

Mr MORRIS (Western Victoria) — That is very true, Mr Finn. You cannot defend the indefensible.

Mr Drum interjected.

Mr MORRIS — That is right. They did condemn Jacinta Allan, the Minister for Public Transport.

Mr Finn — And understandably so. Who wouldn't? What reasonable person wouldn't?

Mr MORRIS — That is very true, Mr Finn. In terms of the regional rail link, we saw a project that was underfunded by the Labor government to the tune of $1 billion, and it took an excellent minister in the Honourable Terry Mulder to get that project back on track. It is reminiscent of what has happened with smart meters.

I am very pleased to have with me a copy of the Victorian Auditor-General's report entitled *Realising the Benefits of Smart Meters*. I find the conclusions from this report rather enlightening. The report says:

> By the end of 2015, Victoria's electricity consumers will have paid an estimated $2.239 billion for metering services, including the rollout and connection of smart meters. The net position of the program has changed significantly since its inception, and there is now expected to be a substantially increased net cost to consumers over the life of the program.

Unfortunately that would come to no surprise to many of my colleagues — that a project rolled out by a Labor government would have a net negative impact on consumers in Victoria. It is of great concern to me that Victorian energy consumers are paying the price of having Labor governments.

In my home city of Ballarat, a fine city in my electorate, and of course your electorate as well, Deputy President, there has been some significant work done on the undergrounding of powerlines, particularly in Armstrong Street, which is a lovely street. My electorate office is on the corner of Armstrong and Dana streets, and I am always keen to hear from constituents who would like to raise issues with me at my electorate office. This excellent project, which was rolled out by the previous coalition government, has significantly improved the streetscapes in the area.

However, there was a matter of concern regarding electricity that was of significant concern to everybody in Ballarat just earlier this year. Two important transformers take care of Ballarat's electricity supply. One of them broke down, leaving the city with just one transformer for its entire electricity supply. Had the other transformer broken down, the city of Ballarat would have been left without electricity for many

weeks, if not months. It was a particularly chilly winter. We are made of strong stuff in Ballarat, but if we had had to battle through last winter without electricity, it would have been of great concern to many. This is not to make light of the fact that there are people in Ballarat who need medical equipment and similar equipment that requires electricity. Despite the best efforts of this Labor government, there is still some manufacturing happening in Ballarat as well, and the impact of an unreliable power supply on industry and manufacturing would have been significant and devastating. There are some great companies and businesses in Ballarat that are doing wonderful work. Mars is a great company that not only makes magnificent chocolates but is also doing a great job in ensuring its electricity supply.

Ms Lovell — They are making dog food in Wodonga, Mars.

Mr MORRIS — Does it? Just last year the Ballarat Mars factory unveiled Project Stegosaurus.

Honourable members interjecting.

Mr MORRIS — I did not understand why it was called Project Stegosaurus either. It is a solar panel project, and it is called Project Stegosaurus because it is big and green.

Mr Finn — But there is no sun in Ballarat!

Mr MORRIS — There is plenty of sun in Ballarat, Mr Finn.

When I was in a former role the then Deputy Premier, Peter Ryan, came to Ballarat to open that project. I want to acknowledge that Mars is a great company that employs a significant number of people in Ballarat. It is a great corporate citizen and is doing some wonderful work in ensuring the future prosperity of Ballarat.

This brings me to the Ballarat West employment zone. The project was funded not only by the state coalition government but also by the federal coalition government to ensure its progress. I am rather concerned at the stalling of the Ballarat West employment zone project under this Labor government. We have not heard boo from the Labor government regarding the Ballarat West employment zone. Mr Ondarchie kindly came to Ballarat to raise some of the significant issues in regard to the stalling of the project, and the response of the Minister for Regional Development, Ms Pulford, was basically 'No, we are doing it. We are getting on with it. Just trust us'. However, I have significant concerns about trusting some of the promises made by the Labor government in regard to this.

Mr Finn — They can't tell the truth. That's their problem.

Mr MORRIS — The truth is an issue. The rollout of smart meters under Labor is reminiscent of a couple of other rollouts, such as the rollout of myki. It has constantly amazed me that the myki rollout was so horribly done. If we have a look internationally, we see there are systems across the world that manage to look after public transport in a remarkable way, to ensure that it is efficient and that it is done well.

The DEPUTY PRESIDENT — Order! I will now interrupt Mr Morris as it is time for the luncheon break.

Sitting suspended 1.00 p.m. until 2.05 p.m.

Mr MORRIS — I will conclude my contribution there.

Mr BARBER (Northern Metropolitan) — I move:

That debate on this bill be adjourned until later this day.

In doing so I want to provide my rationale. As I said this morning, I believe that out there among the public, outside this place, people are hearing very disturbing reports — literally from the horse's mouth in some cases — that suggest that misuse of parliamentary entitlements has occurred, and I find it fairly preposterous that we would spend our time here this afternoon debating some minor piece of legislation when the most important thing for the protection of this democracy is to restore public confidence in this institution.

As far as we know — and we will get this feedback as members — people are sitting out there thinking that every single one of us is a rorter. The reality is that at the end of the day it is members of Parliament who have to enforce the rules upon themselves. I think that makes our burden even higher in terms of winning and maintaining the public trust.

We could have heard first up this morning a ministerial statement from the government explaining the full particulars of this matter and disclosing all the necessary information for us to make a judgement. Instead what we are getting is denial, denial, denial. When confronted with the words of what we understand is a whistleblower with some veracity, the Leader of the Government said, 'Well, that person must be confused'. We need to very much get past the confused stage and get some real facts on the table.

I learnt from listening to the lower house's question time that the Speaker of that place has asked the audit

committee of Parliamentary Services to look into the matter. I am familiar with the terms of reference of the audit committee and I do not think it achieves the objectives that I have been waiting to hear for some weeks now. Therefore I believe we are headed towards some sort of investigation in this place. But as I said, my objective would be to hear the government give a full accounting of this matter and not simply continue to deny that any wrongdoing attaches to it.

For the benefit of any doubt let me just read into the record what the member's guide says about electorate officers:

> Electorate officers are employees of the Parliament of Victoria, and are directly accountable to the member in whose electorate office they work.
>
> Each member of the Legislative Assembly and the Legislative Council is entitled to two … full-time equivalent … electorate officer positions funded by the Parliament. These positions are provided to support the member in their parliamentary and electorate duties. The Parliament does not fund positions to support the member's political or party duties.

Some people might say that is a grey area; some people might try to apply a pub test to it. I think the simple and ordinary common-sense meaning of these words is what is at issue here. Even in question time today we heard ducking and weaving around this. This is an urgent matter. If the government wants to come forward and make further disclosures and give a further explanation of its position, we would welcome that, but we cannot just sit here debating minor bills pretending that nothing is happening.

Ms WOOLDRIDGE (Eastern Metropolitan) — I rise to speak on the procedural motion put forward by Mr Barber that debate be adjourned on this bill until later this day and indicate to you, President, that the coalition will be supporting an adjournment of the debate. That is because this is such an important issue that needs to be considered in the short term, as Mr Barber has outlined, in order to get some clarity in relation to what has actually occurred, which we have not been getting from the government either in this house or in the other house, and as Mr Barber has also said, to restore the public's confidence in the institution of this Parliament and its members.

At the conclusion of this procedural motion I will be seeking leave that notice of motion 160 in Mr Davis's name be brought on for debate forthwith. This motion asks the Leader of the Government to give a full explanation to the house of the allegations raised in the press in relation to rorting. The reason this is so important is that it has engulfed the very heart of the government and involves the very place in which we sit today. From the statutory declarations we have had from a former Labor staff member there is no longer any doubt that staff were paid and that Victorians were recruited and paid by the taxpayer to campaign for the Labor Party. As has been outlined by Mr Barber, this is very clearly in contravention of the intent of the guidelines provided to all members of Parliament. It really is an indication, from the allegations made today, that many members in this place from the Labor Party, as well as a number of members in the other place, did systematically rort the use of those parliamentary funds.

We have had comments made by members from the other side of the house seeking to talk about the pooling of staff. There has not been an issue with the legitimacy of pooling staff, but it was clarified when Minister Mikakos said in the last sitting week that Labor's Community Action Network and Labor's pooled staff are two separate pools. That is the issue at hand. Every time a question has been asked the response has been to try to muddy the waters with a response solely related to the pooling of staff rather than addressing the heart of the questions about the Community Action Network. Were there dedicated campaign field officers paid with parliamentary funds? The government consistently fails to provide an answer to this very significant question.

This is important for the Parliament and for the Department of Parliamentary Services — they cannot be checking every timesheet, and they need to have confidence that when a member of this house signs a timesheet for an employee they are actually assisting that member in his or her duties, not campaigning for the Labor Party in Bellarine, Bentleigh, Carrum, Cranbourne and the list goes on. We need to have absolute confidence in the veracity of the signature of a member of Parliament and in the work that their staff member is doing.

We heard today from a field officer that they were told to:

> … shut your mouth about the way we were being paid …

If they were told not to divulge who was paying them or how they were being paid, is that not a very clear indication of guilt in and of itself? What we have very clearly is systematic rorting by the Labor Party, and we need the Leader of the Government to stand up in this place to answer the question and debate the motion. We will be encouraging the Leader of the Government to support motion 160, which goes to the very heart of the Andrews Labor government.

Is this the reason that Daniel Andrews is now Premier of Victoria? His comments on the night made clear how

important the Community Action Network was and that the field organisers were the basis for his win at the election last year. If the Labor Party's win was based on a fraud on the people of Victoria, as the allegations that have been made under statutory declarations very clearly expose, then it is vital that we have an explanation from the government, that the debate is suspended and that motion 160 is debated immediately.

Mr JENNINGS (Special Minister of State) — If the member who has just spoken believed that motion 160 — Mr Davis's motion that deals with matters that were raised in the press on 2 September — was so urgent, there was ample opportunity yesterday for it to be made an order of business and given priority.

Mr Davis — There was another instalment of material today.

Mr JENNINGS — Is it about the story today? In fact the crystal ball that Mr Davis had on 2 September has given rise to Mr Davis abusing the prerogatives of the house by holding up a copy of today's newspaper. If this issue was significant to Mr Davis — —

The PRESIDENT — Order! I notice three members brandishing copies of today's paper. I can understand that in anticipation of the debate members may have copies of the paper for quotes for their contributions, but members are aware that there are to be no props in the house. I ask them not to flourish copies of that front page around the house. The minister to continue without assistance.

Mr JENNINGS — I was drawing the chamber's attention to the fact that if Mr Barber, Ms Wooldridge or any other member of the chamber thought that these were matters of significance, they had ample opportunity yesterday to make them a priority during general business. To pass the test of whether the government is prepared to be subjected to scrutiny on this matter, there is not one question that I have not answered in this chamber about these matters. On every occasion I have given a fulsome answer to any question that has been raised in this chamber.

Honourable members interjecting.

The PRESIDENT — Order! The minister is providing the government's position in respect of the motion moved by Mr Barber. It is quite extraordinary to have a choir behind him at the same time. I dare say the minister is capable of putting the government's position without the assistance of that choir.

Mr JENNINGS — Thank you, President, for your concern about the viability of my vocal chords. The point I was making was that I have answered any question that has been put to me, whether it has been in the Parliament or on the steps of Parliament. This morning I spent quite a number of minutes answering any question that was asked of me by the media in relation to this issue. I did not stop that doorstop. I did not walk away before answering all the questions that were put to me. At that doorstop and in Parliament today I answered fulsomely in relation to what I was asked to account for regarding the government's position on the circumstances and the material that has been put to me, to the government and in the public domain. The government is confident that the employment relationship between members of Parliament and their electorate staff is in accordance with the guidelines. That is what we in government continue to assert. We continue to believe it. We continue to believe we have complied with the guidelines. If there are others in the public domain who believe that that is not the case, they are welcome to bring that to light so that the appropriate light of scrutiny might be shone on it.

At no stage has the government indicated that it will not comply with any determination of the Presiding Officers. In fact I would counter Mr Barber's assertion. I had a look at the scope of the audit committee's considerations, and my reading of it was in stark contrast to Mr Barber's. I saw them in Mr Barber's tweet this morning, and when I read through them to see, in terms of the responsibility of the audit committee, whether codes of conduct had been complied with, I read that the books can be signed off by the Parliament, and that is exactly within the scope of the issues that we are talking about. In terms of the determination of the Presiding Officers and the audit committee's consideration, I believe that that is an appropriate space — and clearly the Presiding Officers believe that it is an appropriate space — for these matters to be considered.

I am not on the audit committee; it is made up of the Presiding Officers and other relevant officers of the Parliament to advise on and consider these matters. The committee makes its conclusions according to the evidence brought to it. I think that is a totally appropriate circumstance in which these matters might be considered. I will continue to answer on behalf of the government any question that is put to me in this chamber on these matters. I will respond to any evidence or consideration that is put to me. I see that as my obligation. I have done so. I have not left unanswered any question that has been put to me, including today.

I refute that this is a priority for the Parliament today. I refute the assertion that there is anything in the public domain today that could not have been considered at great length over a number of hours yesterday if it were a priority. It is absolute nonsense to suggest that this matter is a priority today and to hold up government business when it was not a priority yesterday. The assertion that we now make judgement calls about the significance of legislation, which is a pretty subjective, arbitrary call coming from Mr Barber and members of his party who spend hours of this Parliament's time on the fine detail of legislation — they see it as their mission in life to pursue the minutia — is a bit rich.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise to support the motion moved by Mr Barber this afternoon that debate on the current bill be adjourned to allow this matter to be given appropriate scrutiny by the Parliament this afternoon. I listened with interest to the Leader of the Government at his most eloquent advocating his case, as he does, but it does not stand up to scrutiny. When talking about the motion foreshadowed by Mr Davis, motion 160 on the notice paper, the Leader of the Government was disingenuous in his comments about the house having had the opportunity yesterday to debate the matters that are before it today.

Ms Pulford interjected.

Mr RICH-PHILLIPS — The Deputy Leader of the Government refers to 4 September. The reality is that two weeks ago, when this house last sat, the government was asked a number of questions relating to this matter. The response from the government two weeks ago was to consistently indicate that there was nothing wrong, there was nothing to see and we should move on. It indicated that everything is in accordance with parliamentary requirements and guidelines, that everything is being done appropriately, that everything is being done the way it has always been done and that there is nothing to see here. The reality, as we saw through disclosures in the media two weeks ago and as has been confirmed by further disclosures today, including by people who claim to have been participants in this scheme coming forward and talking to the media, is that there is substantially more behind this issue than the government has acknowledged at any point.

In his contribution earlier Mr Jennings said that he has responded to every question put to him. I would submit that a statement by the government, be it through the Premier in the other place earlier today or be it through the Leader of the Government, that there is nothing to see here and a denial of all the issues is not a response to those issues. We now have people talking on the record specifically about the way in which they were engaged, the fact that they were not working in electorate offices and the fact that they were asked to sign casual employment forms in bulk to be submitted to members of Parliament to be randomly signed off. These are far beyond the matters that the Leader of the Government has addressed in this place. They are far beyond the matters that the Premier has addressed in the other house.

These matters have not been adequately responded to by the government. There is an increasing body of evidence in the public domain and in the media, be it by statutory declaration or interview with parties who have participated in this exercise, to suggest that the conduct surrounding the Community Action Network that the Labor Party engaged leading up to the last election and to which the Premier attributed so much of his success did not operate in accordance with the guidelines as they are known to members of Parliament.

We have seen ministers in this place — with the exception of Ms Mikakos, who two weeks ago did draw the distinction between pooling arrangements and the Community Action Network — attempt to obfuscate the situation with staffing. We have had a very clear indication today that the way in which these staff have been engaged has been entirely different to conventional employment of electorate officers, where staff have been engaged who have never been into the electorate office and members of Parliament allegedly have never met the staff they are signing forms for. The suggestion that that is in accordance with parliamentary requirements and has been addressed by the Leader of the Government or the Premier in the other place is totally unfounded.

So it is appropriate that while the house is sitting this afternoon debate on this bill be adjourned so these matters can be appropriately considered by Parliament to move some way towards restoring that confidence, which Mr Barber spoke about, that all Victorians should have in their Parliament, and only through transparency around this matter and disclosure from the government will such transparency and confidence be possible.

Debate interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! Before I call Mr Davis I acknowledge former minister of the Crown the Honourable Kay Setches, who is in the public gallery today. Welcome.

NATIONAL ELECTRICITY (VICTORIA) AMENDMENT BILL 2015

Second reading

Debate resumed.

Mr DAVIS (Southern Metropolitan) — I want to make a contribution to debate on Mr Barber's procedural motion to adjourn government business to enable a debate to occur on notice of motion 160, particularly around the serious matters that have come to light increasingly in the last few weeks. It is true that a series of questions have been asked in this chamber and in the lower house over recent days, and the government has sought to stonewall on those questions, has not been forthcoming and in my view has not been honest about the way it has responded.

It is now very clear there are in existence relevant statutory declarations and statements by people on the public record. There are also statements by government members to journalists about the serious matters that have occurred with Labor's Community Action Network. The Community Action Network was a part of the Labor Party's approach to the last election. But what is now clear is that the Community Action Network was in fact funded in part by public money through the Parliament of Victoria. This is not like the standard pooling arrangements that have been in place over a number of years. This is quite new and novel. It is quite distinct, and it is potentially a very serious breach of statutory obligations and potentially a very serious breach of ministerial and members duties on a number of levels. That is why the opposition takes this matter so seriously and why the opposition believes this is a matter that needs to be dealt with urgently.

It is clear that Labor has systematically sought to rort public money in this way. I see value in what the Presiding Officers have decided in terms of audit oversight, but frankly I do not believe that goes far enough. This is a very serious matter — a matter that may well touch on a series of criminal and other matters — and it will need to be closely investigated. It is also — —

Honourable members interjecting.

Mr DAVIS — It may in fact involve corruption. But what is clear is that it does go to the heart of our democracy.

Honourable members interjecting.

The PRESIDENT — Order! I did not call members to order to give gift to Mrs Peulich's voice, and I certainly do not want this elevated level of noise to continue. I know this is a contentious motion; I know the house is energised. This is a very significant issue, and it is an issue that reflects on the reputation of the Parliament. Therefore I dare say that the way we deal with this today in debate is also something that we should think about very carefully.

Mr DAVIS — President, as people have said, this is a very serious matter, and it does go to the heart of democracy. If public money has been misused in this way to systematically bolster Labor's election campaign and election campaigning — —

Ms Mikakos interjected.

Mr DAVIS — I have to say that the idea that money would be used in distant places on people removed from the electorate offices and oversight of the members of Parliament involved — engaged not in some role of research or other but in political campaigning in local electorates in a distant location — is reaching new lows, and I am very concerned. I am particularly concerned after listening to the lower house responses today and hearing the Premier and others clearly stonewalling, clearly using less than the frankness that I think this community and Parliament would have expected.

This may well be about obtaining property by deception. It may well turn out to be something the Labor Party has been systematically covering up since this matter came to light. We have heard now that a former member of this chamber may well have been involved in trying to hush this matter up — trying to stop these young activists from providing broad commentary on what they were doing and what they were about. This has all the smell of a cover-up. It has all the smell of corrupt behaviour. It has all the smell of a party that is determined not to face up to its responsibilities in a democratic system, a party that is determined to use any means whatever to get into government and any means whatever to rort the system to use public money — and to do that in a way that, frankly, I think the community will think is despicable and reprehensible.

Mr BARBER (Northern Metropolitan) — I was not seeking to write the dust jacket blurb for the bestseller that Mr Davis has already got penned on this matter. I was simply pointing out that a prima facie case exists that, if not refuted, would represent a relevant offence, and that is what it is that requires an investigation.

In relation to the audit committee it may very well be wise that the Presiding Officers have asked

Parliamentary Services to check its own internal processes, which is specifically what an audit committee is responsible for. The Leader of the Government said, 'Why didn't you deal with this yesterday?'. In fact it would have required notifying other parties the previous Wednesday that we were going to do it. I have been simply giving Parliamentary Services and others the benefit of the doubt that they would come forward and tell us what it was that was intended by way of an internal investigation. I learnt that from the Speaker of the lower house during question time today, and it is that as well as the information that continues to come out today, even as we sit here, that has led me to this course of action.

We read in the *Herald Sun* story that there were some Labor members who did not want to participate in this particular scheme as it was set up and some others who, perhaps against their judgement, were forced to do so. Since this is a matter of the conduct of members, not a particular statement by a government leader, it is important that we get further and deeper into this matter. The misuse of parliamentary resources is a breach of the code of conduct that has been established by the lower house Privileges Committee in relation to Mr Shaw, and since a simple calculation shows us this involves a large amount of dollars, it is a serious matter that has to be addressed.

Motion agreed to and debate adjourned until later this day.

BUSINESS OF THE HOUSE

Standing and sessional orders

Ms WOOLDRIDGE (Eastern Metropolitan) — By leave, I move:

> That standing and sessional orders be suspended to the extent necessary to allow notice of motion, general business, no. 160 standing in the name of Mr Davis to be moved and debated forthwith.

Motion negatived.

NATIONAL ELECTRICITY (VICTORIA) AMENDMENT BILL 2015

Second reading

Debate resumed from earlier this day; motion of Mr JENNINGS (Special Minister of State).

Mr BARBER (Northern Metropolitan) — We return to one of my favourite topics, which is the future energy needs of the state of Victoria and the reforms that need to be made in the entire electricity space. I return to a theme that I started talking about yesterday, and that is that Labor, despite having had four years in opposition and 10 months in government to think about this topic, still does not seem to be able to bring forward something that you would refer to as a plan. Even in the last few days we have seen more and more information coming out about the extraordinary difficulty people are having with their electricity bills.

In my opinion the retail privatisation of electricity in Victoria has been a failure. I say that because despite the fact that a large number of people — up to one-third of them — change their energy provider each year and this figure is often proffered to show that we have a competitive electricity market, in fact the measure being used is churn. There are many other measures we can look at in order to determine if electricity is being traded on a competitive basis. Even so, there are other matters that clearly indicate that new forms of competition are rising. The number of people who are entering into solar panel arrangements or who are systematically reducing their energy bills through energy efficiency is really quite dramatic.

In earlier contributions to the debate on this bill this morning, I heard other members talking about how bad it was that one group of consumers, those with solar panels, would be cross-subsidised by another group of consumers, those who could not afford solar panels. That is the fundamental mistake people are making. The assumption is that we are talking about one group of consumers subsidising another group of consumers, but people who have solar panels are not just consumers, they are also producers. The question we should be turning our mind to is: what is the correct price to pay those producers for the electricity they drop into the grid alongside hundreds of other producers, such as coal-fired power stations, hydropower stations, small generation units associated with hospitals and the like? If you start off by asking the wrong question, you are certainly never going to get the answer. What we should be asking ourselves is: why is it that some producers of electricity, solar panel operators, cannot get a level playing field with other producers, coal-fired power stations?

The decisions this government is making and the events it is letting unfold while it fails to act are making the problem worse. Just last month the Essential Services Commission cut by 20 per cent the payment that household and small business solar generators get when they feed into the grid. Cutting 1.2 cents per kilowatt hour off that solar feed-in tariff was equivalent to $12 per megawatt hour, and in the current set-up of our power grid that is equivalent to about $12 being avoided per tonne of electricity. By being a solar

operator, one would be paid an extra $12 per tonne to avoid CO_2, which is what I thought this government was all about. This government says it supports a price on carbon. The other mob — the Liberal Party and The Nationals and their federal counterparts — certainly do not support a price on carbon.

Then yesterday we got the Auditor-General's report that said that only 0.27 per cent of consumers were taking advantage of the functionality of their interval meter — some call them smart meters, but they are interval meters. Only 0.27 per cent of consumers have taken up a time-of-use tariff. The time-of-use tariffs and the shifting of the load that they may involve was identified as one of the key benefits of the smart meter program, which has cost us $2.2 billion to date. Yet that benefit is clearly not being realised.

There have been several business cases for smart meters which have clearly identified the benefits that would come from load shifting and the softening of the peak electricity demand when we all had smart meters. We all have them, but almost no-one is taking up the opportunity to get an interval tariff because frankly they have been lied to by their power companies systematically over many years. Some power companies have even been pinged by the Australian Competition and Consumer Commission for sending out people who went door to door and told you lies about your power bill. That is now a matter on the record. These are all the measures that one would have to look at to understand whether in fact we have a healthy functioning market in electricity. Well, we do not.

What is this bill going to do? It is going to give the minister and third parties representing users and consumers the right to participate in appeals regarding decisions on charges related to the installation of smart meters — that is, interval meters. That is jolly good; we have pretty much all got one now. The main benefit that has been achieved from smart meters that was identified in the original business cases is that they sacked all the meter readers, but that cost saving went into the pockets of the power companies. The Auditor-General says that electricity consumers have not been able to get that benefit so far. The bill provides for the minister and consumers to participate in the process if there is an appeal. It is in effect a process bill that allows for participation without having to get leave from the Australian Competition Tribunal, but it does not change the rights of any of the parties.

There is very little to actually say about this bill. I think I have made it pretty clear the bill is not going to set the world on fire, but the electricity market itself is involved in a massive transition. Some of it is driven by changing consumer attitudes to power bills. Some of it is driven by technology. Some of it is driven by other policies that Labor, together with the Greens, has implemented in various parliaments at various times. The consequences of those policies were completely predictable at the time they were implemented. That is why we have a surplus of coal-fired power stations across the grid at the moment. The Australian Energy Market Operator, hardly a radical environmental organisation, says this is the case.

With all these trends moving so steadily, systematically and predictably as the direct response to decisions that have been made in this Parliament — including the expansion of the energy efficiency scheme, which we have applauded and supported — you really wonder why the government has not caught up with the action. My personal fear is that it is too busy dealing with its own internal problems. When your own campaign staff are whistleblowing on you in the media, you definitely have internal problems. It makes you wonder whether any actual governing is getting done week by week around here.

Motion agreed to.

Read second time.

Third reading

Ms PULFORD (Minister for Agriculture) — By leave, I move:

That this bill be now read a third time.

In doing so I thank members for their contributions to this debate.

Motion agreed to.

Read third time.

FIREARMS AMENDMENT (TRAFFICKING AND OTHER MEASURES) BILL 2015

Second reading

Debate resumed from 3 September; motion of Mr JENNINGS (Special Minister of State).

Mr O'DONOHUE (Eastern Victoria) — I am pleased to speak on behalf of the opposition in the debate on the Firearms Amendment (Trafficking and Other Measures) Bill 2015. I indicate to the house that the coalition will support this legislation, and we do so for a number of reasons. One reason is that new provisions in this bill mirror those in a bill the previous

government introduced to the Parliament last year, a bill that did not pass. Many of the reforms that form this bill were advocated for and presented to the Parliament previously by the coalition — with an exception in relation to clause 9, which inserts a new section 74AA into the Crimes Act 1958 to provide for a new offence of stealing a firearm, which carries a higher penalty than that applying to the general theft offence. I understand that the genesis of that provision comes from work done by the Shooters and Fishers Party, which was contemplating presenting a private members bill to implement a similar effect.

An honourable member interjected.

Mr O'DONOHUE — I take up the interjection: I understand a private members bill had been written to deliver that effect. In substance much of this legislation reflects a bill presented to the other place by the coalition government last year, with that notable addition that followed work done by the Shooters and Fishers Party.

The other principal reason for supporting this bill is that both Victoria Police and the Police Association Victoria support this legislation. I thank the minister for providing an opportunity during the briefing to discuss this with and directly question Victoria Police, which was most informative and gave greater context to some of the challenges that Victoria Police confronts in a dynamic environment. The range of challenges includes the growth of illegal firearms in Victoria, more sophisticated military-style weapons being uncovered by Victoria Police, a greater threat from armed crime, the greater sophistication of outlaw motorcycle gangs (OMCGs) and other sophisticated criminal syndicates and an increase in the number of drive-by shootings. Until recently we thought the latter was an issue for Sydney and not Victoria, but regrettably parts of Melbourne have seen a dramatic increase in drive-by shootings.

As Victoria Police told me, there is also a correlation between the use of firearms and family violence disputes, which of course escalates family violence disputes to a whole different level with a significant increase in risk. I thank the minister for the opportunity to discuss these issues directly with Victoria Police and learn more about some of the challenges it is confronting in a very dynamic and challenging space. For us as a community it is a very confronting space. Therefore it is our responsibility as legislators to respond to the challenges, and that is what this bill seeks to do.

To move to the bill more specifically, it amends the Firearms Act 1996 to amend the definition of evidence of possession of a firearm at section 145, which is a deeming provision that will hopefully deal with some of the challenges the police have had in reducing convictions where a specific individual is difficult to identify as the owner of a firearm. It will lower the threshold number of unregistered firearms deemed to be of trafficable quantity from 10 to 3 and introduce a new specific offence for the unlawful manufacture of firearms. As I described before, following the work of the Shooters and Fishers Party, the bill introduces a new specific offence of theft of firearms.

As I said in my introductory comments, OMCGs and criminal syndicates are becoming more sophisticated, not just in the way they use firearms but in the way they seek to import, ship and manufacture firearms. While technology has many benefits for the broader community, it can create opportunities for criminal syndicates as well and that is a challenge for Victoria Police. The reduction in the number of unregistered firearms deemed to be a trafficable quantity will bring Victoria more into line with other jurisdictions, including New South Wales, Western Australia, South Australia and the ACT.

As I said, creating a new specific offence for the unlawful non-licensed manufacture of firearms is an important step. It is distinctly separate from the offence to carry on the business of dealing in firearms, and the illegal manufacture of firearms attracts a higher penalty. I just make the important distinction that there are of course legal firearms sellers who conduct their business according to the regulations and prescribed rules. With this legislation we as a Parliament are seeking to confront those who manufacture and seek to traffic firearms illegally.

The coalition unequivocally supports this legislation. It will help Victoria Police members to respond to the challenging environment in which they find themselves. The bill mirrors many of the provisions that the former coalition government introduced last year in its bill, with that addition from the Shooters and Fishers Party. The coalition congratulates Victoria Police members on the very challenging and difficult work they do, particularly in this space. As I said in a 90-second statement earlier today, one of the great challenges for a member of Victoria Police responding to a call-out is never being 100 per cent sure of who is on the other side of a door and what the intent of an individual may be. We congratulate them on the work they do in the challenges they face and we thank them for keeping our community safe. With those words, the coalition will support this piece of legislation.

Mr MELHEM (Western Metropolitan) — I rise to speak on the Firearms Amendment (Trafficking and Other Measures) Bill 2015. As outlined by Mr O'Donohue, the bill makes the following changes to the Firearms Act 1996. It amends the definition of evidence of possession and shifts the focus away from a person's relationship with a firearm to one of a relationship between the person and the premises or vehicle where the firearm is found. It strengthens a number of provisions to facilitate the successful prosecution of firearms trafficking offences by lowering the threshold number of trafficable quantities of unregistered firearms from 10 within a period of seven days to 3 within a period of 12 months. It introduces a specific offence for the unlawful manufacture of firearms, being distinctly separate from the offence to carry on the business of dealing in firearms. It introduces a new offence of theft of a firearm under the Crimes Act 1958.

The Victorian government is giving Victoria Police members the powers they need to effectively combat the illegal use of firearms and the illegal firearms market in the community. The bill is about the illegal trade. It is not targeting people who lawfully possess or own firearms. In fact, the bill provides protection for citizens who do the right thing, who get a licence to own a firearm and comply with all the applicable legislation. Those people use the firearms for whatever purpose the licence was issued and they store the firearms in the appropriate manner so that they are not accessible to other people. They do everything lawfully. The bill is about stopping other people who do not want to adhere to the legal requirements for owning firearms and those who want to commit criminal acts.

Members have spoken about bikie gangs and various other criminals around the state who use the loopholes in the current legislation to go about their business of using firearms to commit crimes. The Victorian government is committed to ensuring that our firearms laws balance the interests of those who will responsibly use a firearm, such as sporting shooters and primary producers, and the interests of the broader community to live safely and securely. It is very important to make sure that we get the balance right. The government has worked closely with a range of groups on this bill, including Victoria Police and the Police Association Victoria. The government also welcomed the contribution of the Shooters and Fishers Party in discussions. Members of that party played a major role in putting the bill together and I commend them on their efforts.

In my local community, firearms offences have increased over recent time. For example, in 2013–14 the City of Hume experienced the highest firearm-related crimes, with 587 offences. The biggest increase in firearm-related offences was in the City of Wyndham, with the number increasing by 63.3 per cent from 2012–13 to 2013–14. In 2013–14 there was a total of 2367 offences across the west, with an average of 394.5 offences per local government area. From 2012–13 to 2013–14 there was an increase of 244 offences or 10.3 per cent across the west. These figures clearly demonstrate that unless we can strengthen our current firearms laws people will go out and commit crimes.

As I said, people who lawfully own firearms in this state are not the people who commit crimes. It is more than likely that the people who commit crimes are those who obtain firearms unlawfully through the black market. In part, as I said earlier, the bill is about providing law enforcement agencies with the tools they need to get on top of the current problem.

The bill introduces a new deemed possession provision by amending the definition of evidence of possession in section 145 of the Firearms Act. The amended provision shifts the focus from a person's relationship with the firearm to one of a relationship between the person and the premises or vehicle where a firearm is located. The amendment redefines evidence of possession to include the provision that a person is taken to be in possession of a firearm if the firearm is on land or premises occupied by, in the care of or under the control or management of the person, or is in a vehicle that the person is in charge of. Currently in many cases where a person who has a firearm in his or her car and is pulled over by the police that person will say, 'That's not my firearm. I don't know how that firearm made it into my car'. Police officers might find a firearm on somebody's property and they will have the same argument put, with the occupant saying, 'It's not mine'. The police are not able to go after those people, who are in illegal possession of a firearm, because they get off on a technicality.

There will probably be some concern about that definition. People will say that innocent people might be caught by the definition. There could be some exceptions, with that sort of thing happening from time to time but, more importantly, we need to catch the overwhelming majority of people who illegally use firearms to commit crimes. They are the people we are after; we are not after innocent people.

The definition of possession will not apply if the person can establish that they did not know and could not reasonably have been expected to know that the firearm was in the premises or vehicle or if it can be established

that the firearm is in the lawful possession of another person or that they believed on reasonable grounds that the firearm was in the lawful possession of another person.

The objective here is to overcome the problems faced by Victoria Police in dealing with serious and organised crime, which I talked about earlier, because these illegal firearms have, in most cases, been found in the hands of these organisations or individuals. In a lot of cases Victoria Police has dealt with scenarios where firearms have been found on the premises or the in vehicles of organised crime gangs but all members of those gangs have denied knowledge of such firearms. This includes situations where firearms have been secreted. This is something we need to address, and this bill attempts to do that.

Another part of the bill relates to the illegal manufacture of firearms. Commonsense tells me that to manufacture firearms you should have to be licensed. It is simple as that. These are dangerous weapons. People are required to have licenses to manufacture goods that are not lethal, so they should have to be licensed to manufacture or deal with firearms. That is what this legislation will put in place. It will address the unlawful manufacturing of firearms, which potentially leads to unregistered and unlawful firearms spreading throughout the community, which is something we need to avoid. Mr O'Donohue mentioned earlier about drive-by shootings and the culture of firearms in Sydney, which we have seen on TV. These tendencies are slowly creeping into Victoria, and we need to avoid them at all costs.

A new offence will be created, of a person who is not a licensed firearm dealer being involved in the illegal manufacture of firearms or firearm parts. This offence will carry a penalty ranging from 600 penalty units or five years imprisonment for illegally manufacturing category A or B longarms or paintball markers to 1200 penalty units or 10 years imprisonment for illegally manufacturing the more prohibited and restricted category C, D or E longarms or category E handguns. More importantly, this amendment will bring Victoria into line with all other Australian jurisdictions, which currently have specific offences for illegally manufacturing firearms.

Another part of the bill concerns the trafficking of firearms. Section 7C of the Firearms Act 1996 will be amended to lower the trafficable quantity of unregistered firearms that a person cannot possess from 10 to 3. An amendment will also be made to section 101A of the act lowering the number of unregistered firearms from 10 to 3, which will prohibit a person who is not a licensed firearm dealer from acquiring or disposing of more than 3 unregistered firearms within a 12-month period. The current time frame provided in section 101 of the principal act is seven days.

New section 74AA of the Crimes Act, inserted by clause 9 of the bill, will introduce the new offence of theft of a firearm. The new offence will carry a significant penalty of 15 years imprisonment or 1800 penalty units, which is considerably higher than the general offence of theft under section 74 of the Crimes Act.

The bill enjoys the support of a cross-section of the community and all parties in this Parliament, including the government, the opposition and the Shooters and Fishers Party. I believe it will also receive significant support from the wider community. Australia has been a good place to live. We do not have the culture of firearms that exists in the US. I think we have the balance right here. People who want to use firearms for sports shooting, game hunting and so on have the ability to do so. Primary producers need to use firearms from time to time, and they can do so. But we must avoid creating a culture of firearms like that in some states of the US, where any person can buy whatever firearms they want, including automatic weapons. We have seen reports of horrific mass shootings in the US, and we do not want those replicated in this state or this country. It is about getting the balance right. This bill will do that. I finish my comments at that point, and I commend the bill to the house.

Mr RAMSAY (Western Victoria) — This bill is an extension of the work already done by the previous government in drafting a bill based on advice from Victoria Police. On that basis we are happy to support the bill. We do so on the basis that during our previous term in office we clearly demonstrated our commitment to law and order. I congratulate the lead speaker for the opposition on this bill, the former Minister for Crime Prevention and Minister for Corrections, Ed O'Donohue, on the work he did at that time as the minister responsible for law and order legislation. This bill is an extension of the work done under his direction as a result of advice from Victoria Police.

This legislation is timely because crime is changing. Among those changes is the increased use and availability of illegal firearms in the community. We need to respond to that fairly urgently. Having said that, I have grown up all my life with guns, as have many farmers, and use them responsibly and lawfully. This gives me an opportunity to thank Field & Game Australia for hosting a day out at Yarra Valley where

we participated in the clay shoot. Given that the Shooters and Fishers are here en masse today, I offer my congratulations for them taking out the clay shoot points. Well done, boys.

Mr Bourman — It would have been embarrassing otherwise.

Mr RAMSAY — It would have been embarrassing if they had not, that is true. Next time we might see if there is some way where they do not participate officially in the point-scoring, because they have a distinct advantage over the rest of us.

Ms Patten — They are going to take me on their team next time.

Mr RAMSAY — I am sure Ms Patten will be warmly invited to join the team, though I suspect she will have to brush up on her shooting technique. I digress.

The purpose of the bill is to amend the Firearms Act 1996, amend the definition of evidence of possession of a firearm in section 145 of that act, lower the threshold for unregistered firearms deemed to be a trafficable quantity from 10 to 3, introduce a new specific offence for the unlawful manufacture of firearms, and introduce a new specific offence for theft of firearm under the Crimes Act 1958. I do not intend to go into detail like Mr Melhem did, but I will make some commentary around those provisions.

In relation to the Firearms Act 1996 and section 145, the definition of evidence of possession of an actual firearm shifts the focus away from a person's direct relationship with a firearm to a deemed possession in which the evidence relationship is between the person and the premises or vehicle where the firearm is found. The bill also strengthens provisions in order to facilitate the successful prosecution of firearms trafficking offences by lowering the threshold number of trafficable quantities of unregistered firearms from the current 10 with a period of seven days down to 3 within 12 months. I will be interested to hear the position of the Shooters and Fishers in their contribution in response.

Advice from the Department of Justice and Regulation and Victoria Police proposed two new provisions to bring Victoria into line with other jurisdictions. New South Wales, Western Australia, South Australia and the ACT have similar lower trafficable thresholds. Queensland's threshold remains at 10, but it has a terminology change to 10 weapons as opposed to firearms. Northern Territory and Tasmania have no specific threshold.

The bill also creates a new special offence in new section 59A, inserted into the principal act by clause 8, for the unlawful and unlicensed manufacture of firearms, which is distinct from the separate offence of carrying on a business of dealing in firearms, and provides higher penalties for such illegal manufacture. The bill also creates a separate new offence of theft of firearm under the Crimes Act 1958 with a new section 74AA, inserted into that act by clause 9, with higher penalties than currently exist. Currently, firearm thefts are prosecuted under the general theft offence and penalty provision of the Crimes Act. The maximum penalty for theft of a firearm is 10 years, and this will be increased to 15 years.

I understand this legislation has support from most of the parties. I am yet to hear from the Shooters and Fishers, but we expect the legislation to go through. An issue that might confront the public in relation to firearms when this legislation goes through is around trafficable quantity. The trafficable quantity from 10 to 3 appears reasonable now and potentially there may be a push for further reductions in the future, so we have to give time to see if the number of unregistered firearms from 10 to 3 is reasonable and actually has an impact on the increasing use of unregistered, unlawful firearms, particularly in relation to violence.

We will continue to watch that to see the impact. As I said, both Victoria Police and the police association support the bill and its provisions, and further amendments to trafficable quantities may result from continuing reviews including the current commonwealth-state review of the national firearms agreement. We will see what comes out of that.

It is timely that the bill has come before the house, with the use of illegal firearms increasing significantly in Victoria. More military-grade weapons are being uncovered and used in unlawful activity. The higher rate of firearm use in family violence incidents is increasing, so once again we need to do all we can to remove those illegal firearms from the system.

Sadly, firearms are used by a person involved in a family violence incident every three days, so we have a problem in this society in relation to the use of firearms and particularly with unregistered and unlawful firearms being used to aid and abet family violence and other serious violence in our community. We must take responsibility for reducing the impact of firearms in relation to violent acts. With my colleague Ed O'Donohue, I am happy to support this bill as it goes through the chamber.

Ms PENNICUIK (Southern Metropolitan) — The Greens will be supporting the Firearms Amendment (Trafficking and Other Measures) Bill 2015. This bill will amend the Firearms Act 1996 and the Crimes Act 1958 to tighten the state's firearms laws in relation to the trafficking of illegal firearms, possession of illegal firearms, manufacture of homemade firearms and theft of firearms.

The Greens have long campaigned for the tightening of gun laws across Australia, and I have spoken on this issue many times in this Parliament. The Greens have always opposed any winding back of gun laws, particularly those based on the national firearms agreement in 1996. It is worth remembering what was contained in that agreement made back in 1996, which was the ban on specific types of firearms and establishment of a genuine reason for owning, possessing or using a firearm. In addition it introduced basic licence requirements, such as having proof of identity, undertaking adequate safety training, being aged over 18 years, and being a fit and proper person.

The national firearms agreement established a nationwide register of all firearms; required all first-time licence applicants to complete an accredited safety training course; implemented uniform standards for the security and storage of firearms; specified the grounds for licence refusal or cancellation of the seizure of firearms; ensured that permits are required for the acquisition of every firearm, with a waiting period attached; required firearm sales to be conducted through licensed dealers and that all sales be recorded and the quantity of ammunition limited; and controlled mail order sales, including the movement of firearms, advertisements and commercial transportation.

It is almost 20 years since the implementation of the national firearms agreement and laws that were passed subsequently in the states with regard to that agreement. I think it is fair to say that national uniformity has been whittled away in one way or another in certain states. Even here in Victoria in the last couple of years the requirements for how many sporting shooting events people with a sporting shooters licence need to participate in to demonstrate their bona fides as sporting shooters have been whittled away.

At the time those in favour of those amendments brought forward by the previous government put forward the idea that it was a rather onerous requirement for sporting shooters to demonstrate that they had participated in a certain number of events to enable them to keep their licences. My answer to that is that that is the point. The point is that a shooter needs to demonstrate their bona fides, otherwise we have the situation where people can too easily get hold of guns by joining gun clubs and not by participating in a genuine and bona fide way in sporting shooting. That is just one example of the whittling away of national uniformity, but many others have occurred in other states and territories. We need to be forever on guard that we do not lose the good gun laws that have been brought into Australia, and certainly we know there is a review going on at the national level at the moment, which I will return to later in my contribution.

The Greens support this bill because we do need to tighten the laws with regard to trafficking, to illegal manufacture, to theft and to possession of illegal firearms. There are many reasons for this. Firstly, Police Association Victoria and Victoria Police have raised many times recently the need for the government to address the loophole whereby criminals can sell up to nine unlicensed guns in seven days and not be charged with trafficking.

There have been numerous reports of an increase in the use of firearms and in criminal activity in Victoria. Just recently two police officers were shot at in Moonee Ponds when they intercepted a car. Recent reports also state that police are discovering guns in cars every two days in Melbourne's north-west. Police are very concerned about a growing culture of gun ownership in that region and its high crime rate.

Police working in that north west metro region have reported firearm-related incidents, such as drive-by shootings every six days; an increasing trend of children aged as young as 16 years carrying guns; regularly finding guns in cars, including sawn-off shotguns and an automatic machine gun during a routine car intercept; and guns stolen from rural homes being used in violent crime. The secretary of the police association, Ron Iddles, has said that it is a very concerning and hazardous time for police, who are going about their ordinary business, particularly when they intercept cars and find firearms secreted in them.

Having just mentioned the north-west metropolitan area, I refer to figures that appear in the brief provided by the parliamentary library. As always, I thank staff in the parliamentary library for their work on preparing this brief. A table on page 4 of the brief shows that there has been a rise in the number of prohibited weapons found in the north west metro police region, jumping from, in the 2010–11 time period, 2500 guns — which I would have thought was scary and concerning enough — to the latest statistics, from April 2014 to March 2015, showing that that figure had doubled to 5000 guns being intercepted in that area of Melbourne. The vast majority of Victorians would be

very concerned about that particular figure as part of the overall figure of the number of firearms that are in circulation.

In June Crime Statistics Agency Victoria released figures showing an almost threefold jump in firearm offences in the north west metro region over the past five years. The Australian Crime Commission conservatively estimates that in 2012 there were more than 250 000 longarms and 10 000 handguns in the illicit firearm market. The Australian Institute of Criminology's *Firearm Theft in Australia 2008–09* estimates that around 1500 firearms are stolen every year, the majority of which are longarms, with relatively few being recovered. The Australian Crime Commission estimates that serious and organised crime costs Australia at least $15 billion every year, in addition to the loss of people's lives and the impact on the lives of people who are injured.

We need to not only stop illegal gun imports but also recognise that many illicit firearms are taken from legitimate sources or taken from what is called the grey market, including the gun that was used in the Sydney siege.

There is a growing trade in firearms stolen from farms across rural and regional areas by criminal elements, and it has been reported that so-called rookie gang members are sent on missions to visit farms and specifically target firearms.

The Australian Institute of Criminology has also reported that while some owners of guns are very responsible in terms of the secure storage of their firearms, others are less so. That is why we have so many stolen firearms in circulation. Stolen firearms are then used in armed robberies, home invasions and other crimes in the metropolitan area.

Tackling gun crime requires a multifaceted approach. Research by the Australian Crime Commission also shows that money and power are the key drivers for organised crime and that organised crime has evolved well beyond being a simple law and order problem. The social, economic, systemic, environmental, physical and psychological harms caused by serious and organised crime also have a huge impact on the community.

I return to the genesis of the national firearms agreement and pay tribute to my Greens predecessors Christine Milne and Bob Brown. Christine was a driver of gun law reform in Tasmania when she was a member of the Tasmanian Parliament. In 2013 she wrote in an article.

> It would surprise many people to learn I was brought up around guns. My grandfather won prizes for clay pigeon shooting …

However, when she was elected to the Tasmanian Parliament in 1989 gun control was a key area of reform for the Greens, following the Hoddle Street massacre and other shootings overseas. The Greens moved several times to ban automatic and semiautomatic weapons over the following years, but were voted down each time by the other parties.

After the Port Arthur massacre occurred the government, the opposition and the Greens came together for an emergency meeting after visiting the site, which Christine described as one of the most shocking and gut-wrenching experiences of her life. But at that first meeting there was no appetite, she said, for banning weapons, but the presence of the world's media and the pressure that she was able to begin to bring, as the Greens had the balance of power, resulted in a tripartite committee charged with gun law reform as a dignified and appropriate response to the tragedy. During that process Prime Minister John Howard came to Tasmania and announced federal bans on semiautomatic and automatic long-barrelled weapons.

But then again, in spite of the visit of the fathers of the Dunblane children, who were massacred in their classroom by semiautomatic handguns, they were not banned. Since then Australia has imported over 100 000 handguns, most of them semiautomatic. Many that started out as legal have been stolen, as I said, with over 7000 guns stolen between 2005 and 2012. Most have not been recovered or have ended up in criminal hands. The federal and state governments are struggling to keep gun violence off the streets and to stop illegal firearm imports, yet the law says that a licensed gun owner may legally purchase a military style automatic pistol with unlimited ammunition. Christine Milne asks why this is so. Surely we need to ban semiautomatic handguns.

I have raised that issue many times. I hope the national review looks at it. I was preparing to propose an amendment to the bill to this effect, but I have not done so. However, it is still an issue that I think needs to be addressed. There is no need for semiautomatic handguns to be in circulation in Australia. The fact that there are so many is of concern. They are used in criminal activities, and firearms generally are used in family violence incidents. Other speakers have spoken about this issue, but we saw another incident only last week when a woman was shot by her ex-partner, who then killed himself. This is something that is playing out in Australia week by week.

I know we are taking this issue seriously, but we need to not take our eyes off it. Nearly 20 years on from the firearms reforms we need to take stock of where we are with our national firearms regulations and make sure that we restrict access to firearms in any way we can and not wind back those restrictions on the possession and use of firearms and even the lawful possession of firearms. In an article in the *Guardian* just last month Lenore Taylor talked about much of the winding back that has happened to certain parts of the national agreement across the country and made the point that while almost 1 million guns were handed in and destroyed in the post-Port Arthur massacre period, imports have now taken that national gun inventory back to 1996 levels. We really need to regroup on this issue, to keep an eye on what is happening and, as I said, keep access to firearms restricted.

Of course during the last Parliament the previous government allowed children as young as 12 to fire shotguns on the water in duck shooting season, which is completely in contravention of the spirit of the national agreement that persons should be 18 years or over to use a firearm.

Mr Young interjected.

Ms PENNICUIK — Through you, Acting President, I am sure Mr Young will have his chance to put his point of view soon.

Going through the provisions of the bill quickly, the bill will lower the number of unregistered firearms that is a trafficable quantity from 10 firearms to 3 firearms. Most people would be amazed that it was as high as 10 in the first place. As Mr Ramsay said, we might even find that three is too high a number, and that is something we need to keep an eye on. The bill will expand the time period for trafficking from 7 days to 12 months. Again, I wonder whether we need to limit it to 12 months, but certainly 7 days is far too short. The bill provides for higher penalties for persons who manufacture firearms without the appropriate licence and creates a new offence for the unlawful manufacture of firearms by separating it from the existing offence of carrying on a business of dealing in firearms without a licence. The penalties will be up to 600 penalty units or five years imprisonment for the unauthorised manufacture of category A or B longarms and paintball markers and up to 1200 penalty units or 10 years imprisonment for the unauthorised manufacture of category C, D or E longarms or handguns. These amendments will bring Victoria into line with other jurisdictions.

The bill clarifies the circumstances under which a person is taken to be in possession of a firearm found on land or in premises occupied by or in the care, control or management of that person, or found in a vehicle which that person has charge of. For the information of the house, the Greens queried the term 'vehicle', but the term does include vessels or aircraft. This is all in clause 7, which is aimed at dealing with organised crime more effectively. It reverses the evidential onus on the accused so that, as other speakers have said, people cannot falsely deny knowledge of the existence of, or their possession of, an illegal weapon.

Just briefly, we emailed quite a few questions to the minister's office with regard to some concerns about substituted section 145, to be inserted by clause 7, as to whether innocent parties, such as people involved in family violence situations, would inadvertently be caught up by this particular provision. After several emails to and fro, we have been assured that that is not the case. We also consulted with our colleagues in New South Wales, who have a similar provision, and that has not been an issue there.

The amendments to the Crimes Act 1958 will create a new offence of stealing a firearm that carries a higher penalty than that applying to the general offence of theft. So that just recognises that stealing a firearm is more serious than stealing other things under the act.

I want to make a couple of other points with regard to firearms. Earlier this year the Senate Legal and Constitutional Affairs References Committee report, *Ability of Australian Law Enforcement Authorities to Eliminate Gun-related Violence in the Community*, made a number of recommendations. This committee was chaired by former Senator Penny Wright of the Greens. I assume there will be other conversations about this particular report because there was a minority report as well. It made some recommendations, which I think are worthy of talking about here. Given the number of guns that are now in the community, which I referred to earlier, one of the recommendations was that we need another Australia-wide gun amnesty, without limiting the needs of police to pursue investigative leads for serious firearm-related crimes.

The former head of international counterterrorism at New Scotland Yard, Charles Sturt University associate professor Nick O'Brien, also supported this recommendation, stating that not only should there be tougher penalties for illegal possession of guns but that it was now time for another amnesty and that Australia risks losing its reputation for the world's best practice in gun control if it does not do more to control guns now.

Another recommendation is about continued monitoring of the risks posed by 3D-printed weapons and for all jurisdictions to consider further regulatory measures with regard to this issue. This is an area of concern. In a recent article in the *Herald Sun*, and in other publications that I have seen, it appears that it is not hard for anyone with a backyard engineering workshop to make weapons, especially using a 3D printer and a computer that works a lathe to make the gun's parts.

Another recommendation of the report was funding for the Australian Institute of Criminology to conduct a review of current data collection and reporting arrangements. As Penny Wright stated when she tabled the report, the Greens believe better data and getting all levels of government speaking the same language and sharing of information will help to tackle the illicit firearms trade and keep firearms off the streets.

The national Firearms and Weapons Policy Working Group is looking at the classification of firearms more generally under the 1996 National Firearms Agreement. This includes looking at the Adler A110 shotgun, which the Greens agree should be banned. I know the police have raised concerns about finding those types of guns when they intercept cars or go on other operations and have spoken about the danger those weapons pose to them. The national firearms working group is chaired by the commonwealth Attorney-General's Department and consists of all state and territory police and a number of justice agencies, including the Australian Federal Police, the Australian Institute of Criminology and CrimTrac.

Wade Noonan, the Minister for Police, said the group would make recommendations to state, territory and federal police ministers on the classification of firearms. He said he will argue that firearms such as the Adler should have a category C registration, which is the same as automatic weapons. That would be the very least of the outcomes we would want to see. The national firearms working group will report to the Council of Australian Governments through the Law, Crime and Community Safety Council and the technical elements of the National Firearms Agreement would be put to the ministers at the second meeting in 2015 for consideration by COAG in 2016.

I note that the National Firearms Agreement review has set up an industry reference group, which includes the National Firearms Dealers Association, the Sporting Shooters Association, Field & Game Australia, the Shooting Industry Foundation Australia, Firearms Safety Foundation (Victoria) and an independent technical expert. That is an industry reference group, but I do hope during this review that it is balanced by the working group consulting with people who are not representatives of gun manufacturers, gun salespeople or sporting shooters.

One would have to say that the majority of Australians support our very tough gun laws and do not want to see them watered down. They want to see them strengthened where necessary due to the growing number and types of firearms that have gone into circulation since 1996. The Greens will support the proposed legislation, but suffice it to say that we still do not think it goes far enough. However, we support the provisions in this bill.

Mr BOURMAN (Eastern Victoria) — The Shooters and Fishers Party will wholeheartedly be supporting the Firearms Amendment (Trafficking and Other Measures) Bill 2015, which among other things amends the number of firearms that constitute trafficking from 10 to 3 and makes it a specific offence to manufacture firearms, although at the moment you cannot manufacture a firearm without having a dealer's license.

There is also a deeming provision, which will be very interesting. As an ex-policeman I fully appreciate how this provision could be powerful, but there is also a need to be careful about how it is used. Having said that, I have full confidence that Victoria Police will use it properly. I am sure it will get tested in the courts numerous times, but in the end it is going to fill a gap where a criminal gets found with a firearm and there is nothing to actually say it is theirs — no fingerprints, nothing like that — with the onus of proof as it is the criminal will most likely get away with it, and we just cannot have that. The Shooters and Fishers Party is about representing recreational shooters not criminals. Anything that makes it harder for criminals must be considered.

The stealing of firearms is a separate offence which, as has been noted, is an issue we raised. Stealing a firearm is different to stealing a TV. It must be the case that the offence of stealing a firearm and its consequent punishment is made so unattractive that criminals would rather leave a firearm there. The punishment of this offence will depend on the courts.

I now turn to some comments made by members in the other place. I will not quote many people specifically, but some interesting statements were made, including the following:

> I pay tribute to the then Prime Minister, John Howard, with the support of the then federal Leader of the Opposition, Kim

> Beazley, for introducing world's best practice legislation to cut down on guns and gun crime.

A worthwhile effort, maybe.

However, in the very next sentence:

> Since that awful tragedy there has been an escalation in the number of guns and gun crime …

So is it best practice or is it not? It cannot be both. The debate went on:

> Military-grade weapons are being increasingly uncovered and there has been a substantial increase in the rate of armed criminal offending in recent times, particularly armed hold-ups of licensed gaming venues.

Military-grade weapons, without getting into what that means, are not freely available, so one must wonder how they can become increasingly available if they are — I will not use the word 'banned' — very hard to get. Again, it cannot be both — you cannot say that gun crime is increasing and also say that our gun laws are so good. The Crime Statistics Agency shows an almost threefold increase in firearms offences in the north-west over the past five years, from 581 offences recorded in March 2011 to 1332 offences in the 12 months to April 2015. Again, if we have best practice firearms laws and the number of guns being stolen do not make up those numbers, one must wonder in which way these laws are best practice.

One of the better contributions to the debate in the lower house came from Mr Eren, the Minister for Tourism and Major Events. This is one of the things that the Shooters and Fishers Party is very big on:

> … we must be careful not to lump law-abiding gun owners together with illegal firearm operators.

Any law that tries to make it harder for the criminals is good, but any law that is strong but not effective is useless. The review of the national firearms agreement is already underway, and the proposals are to strengthen — what they call strengthen — the gun laws by reclassifying a whole lot of firearms, despite the laws introduced after 1996 clearly being ineffective. These sorts of laws, the laws we are debating today, are far more effective. Stopping people like Mr Young or myself from having semiautomatic .22s is not worth a cracker. Criminals do not obey laws, that is why they are criminals. Mr Eren continued:

> We are all well aware of the firearm violence that has been on the rise …
>
> …
>
> These regions have reported firearm-related incidents such as drive-by shootings every six days …

I also refer to Christine Milne who said:

> When the government, opposition and Greens came together in the emergency meeting that followed, there was no appetite from either of the major parties for banning weapons.
>
> But the presence of the world's media …

I will leave it at that. Unfortunately what you would call cold, calculated and responsible gun laws basically folded because of the pressure from people watching and the hysteria associated with guns.

Ms Pennicuik — That is being selective, isn't it?

Mr BOURMAN — Very selective — but I am reading from the contribution of the member for Prahran, Mr Hibbins, in the lower house, actually. There was also mention of mass killings in the lower house debate. Mr Hibbins, in response to a quote from President Obama, said:

> He is right: our gun laws are the envy of the world …

Yet again I refer to military-grade weapons and increases in violent crime — we cannot have legislation that is the envy of the world when it clearly does not work. Mr Hibbins also told the Assembly that several states have introduced minor's permits, but Victoria has had them for so long that I cannot even remember when they were introduced. They are not new. He quoted from an article in the *Guardian*, which said:

> The agreement established a 28-day 'cooling-off period' between applying for, and getting a gun, but four states have now done away with that for second and subsequent guns.

First of all, I have been a shooter since long before 1996 and, if I recall correctly, there has always been a permit-to-acquire waiting period of 28 days for only the first gun. That is logical — if you have one gun, what is waiting 28 days for another one going to do? What public safety function is that going to fulfil? If you are that way inclined, you would already have gone and done what you were going to do — you are not going to decide to rob a bank and then wait 28 days for a permit to buy a second gun.

I recall some figures from the Senate inquiry into gun violence that expressed that there are 'more than 250 000 longarms and around 10 000 handguns' on the illicit firearms market. However, it is a fact that no-one knows exactly how many or even roughly how many longarms or firearms are on the illegal firearms market, because criminals do not register their guns. That is just a fact. There is somewhere between zero and 1 million guns on the illicit market, and I personally have no idea what the correct number may be. What I do know is that there are too many on the illegal market. There is a

black market and a white market; the grey market is just a poor attempt to tie legitimate shooters into the black market.

This is my favourite quote from Mr Hibbins:

> … there is concern about the Adler self-loading shotgun …

Unfortunately for Mr Hibbins, that gun is not self-loading, and unfortunately for Mr Hibbins he has also given me plenty to work with. The member for Prahran continued that there:

> … is the idea that the Greens are waging some sort of scare campaign when it comes to gun laws.

That is actually a fairly accurate description, if he does say so himself.

An honourable member interjected.

Mr BOURMAN — From page 88 of *Hansard*:

> … is the idea that the Greens are waging some sort of scare campaign when it comes to gun laws.

Mr Hibbins also referenced a few quotes from Senator McKenzie. Quite rightly Senator McKenzie says:

> … illicit firearms on the streets were a concern and a continued focus on stamping out illegally imported firearms must be a top priority for government.

One of the problems we have is the number of containers coming into the country that are not being properly searched. By any sort of balanced measure less than 10 per cent of containers being searched is not enough. It does not matter whether it is guns, drugs or pirated DVDs, having more than 90 per cent of containers not being looked at is not enough. I suggest that there could be a far better public safety outcome by working on that.

Unfortunately this next quote is not from Mr Hibbins. The firearms legislation addresses:

> … emerging technologies … to look at enhanced manufacturing capabilities and the accessibility of overseas weapons.

People have been making firearms for a couple of hundred years now, if not longer. All you need are a lathe, a drill press and maybe a mill. If you are very patient, you could probably file your bits. While it is a new technology, 3D printing does not actually provide anything of use. Victoria Police itself said something to the effect that in firing one of the 3D printed guns you are more likely to lose your fingers — that is a paraphrase — than have anything come out of the end. What may come in the future is another story, but at the moment they are not a threat. Illegal firearms are a threat. A very good quote I have here is:

> It is to the credit of the political system in Australia that we were able to address this matter and to reform the law and get the guns off the streets.

However, there have been plenty of admissions that there are 100 000 guns on the illegal market and that there has been an increase in firearms offences, which would dispute that. There has been a 300 per cent increase in firearms offences in the past five years in north-western metropolitan Melbourne. There is a gun found every two days. They are not the legal guns, that is for sure. In one case an M16 assault rifle was found. It could well have been an AR15, but if it was a real M16 assault rifle, which is in category E and requires a dealers licence, that is not general circulation. It is not something you can buy under category A, B, C or D. It may require a category E licence.

A Thureon machine gun was seized in police raids at Point Cook, Wyndham Vale, Tarneit and Werribee. Where did it come from? In effect those guns have been banned because of their classification for 20 years. It is proving that laws like the ones we are debating today are more useful than the national firearms agreement.

An Adler shotgun was previously mentioned. If one was stolen, what kind of damage could it do in the wrong hands? As I go back a page, I see in the case of an M16 assault rifle — —

Ms Pennicuik — I raise a point of order, Acting President, with regard to standing order 12.19, which states that members are not permitted to quote from the Assembly debate within the last six months.

Mr Rich-Phillips — On the point of order, Acting President, I have been listening carefully to Mr Bourman's contribution, and I put to you that Mr Bourman is not quoting; he is merely referring to a debate that took place in the other house. It is entirely appropriate that he be able to refer to matters which were considered in the debate in the other place without directly quoting.

Ms Pennicuik — On the point of order, Acting President, I heard the member saying he was quoting several members.

The ACTING PRESIDENT (**Ms Dunn**) — Order! In relation to the point of order I remind Mr Bourman that he may not quote from any debate in the Assembly during the previous six months of the same session. However, he may refer to the debate.

Mr BOURMAN — As it happens, I was done with that part of my contribution anyway. It was a good try. I will get back to the national firearms agreement and the review that is currently underway. Reference was made previously to the fact that there is an industry reference group made up of various bodies, including associations, and that there was a hope that non-shooting people would have input into that review. As it happens, all the previously listed attorneys-general along with people from the department of justice and the federal police are the people pushing for the same thing as our colleagues in the Greens. Having industry representation is bringing it into line with what one would consider to be a proper consultative process. How that works out is anybody's guess, but it is fairly safe to say, judging by some of the information I have provided today, that strengthening laws that do not work will not achieve anything.

Firearms, whether or not they are lever action, have been around for 128 years. The Adler is nothing new. Changing them to make them a category C will not stop the criminals. They will bring in their M16s and their Thureons. I remember back in the 1980s one of the crime gangs in Melbourne had an F1 submachine gun just sitting there, and nobody could be prosecuted for the lack of the deeming provisions. This is the sort of thing that will actually reap results.

I will conclude my contribution here. Anything that makes it harder for the criminals is better. The Shooters and Fishers Party obviously had a bit of input into the trafficking offence, but I wholeheartedly commend this bill to the house.

Ms PATTEN (Northern Metropolitan) — I have enjoyed the debate today, and I thank my colleagues from the Shooters and Fishers Party. I know a lot more about guns than I ever wanted to know, but I have certainly found it very interesting. I would like to speak somewhat briefly on this bill.

The bill redefines the evidence of possession in section 145 of the Firearms Act 1996 clarifying that a person who occupies or is in the care or control or management of premises or is in charge of a vehicle where the firearm is located is deemed to be in possession of that firearm. It lowers the threshold number of trafficable quantities of unregistered firearms from 10 to 3 and creates a new offence for the unlawful manufacture of firearms. It also creates a new offence for the theft firearms in the Crimes Act 1958. Again I thank my colleagues from the Shooters and Fishers Party because it is their work as a small party that has brought a lot of these issues into this house. It is their work that has brought this onto the agenda. That is the beauty of having small parties like ours in this place. We can move that agenda forward, and we can introduce elements to government bills that might not have otherwise been thought about.

Just recently, in June, the *Age* reported on a number of issues raised by police with regard to Melbourne's north-western region, which includes parts of my electorate of Northern Metropolitan Region, and the fact that this area has become a bit of a hotspot — or a red zone, as police officers like to call it. There are firearm-related incidents, such as drive-by shootings, every six days, and guns stolen from rural homes are being used in violent crimes in the north-west. From what I understand, some 530 guns were stolen from rural areas in just one year.

It is important to note — I am surprised it has not been noted before — that the theft of a firearm is somewhat more serious than the theft of an Xbox or a TV. I am pleased to see we are now recognising that while you may use an Xbox to kill people on your TV, these guns can actually kill people or injure them or be used to compel.

I am not sure of the number of firearms on the illicit market. I do not think anybody actually knows. The Australian Crime Commission estimates it is just over a quarter of a million. Increasing the penalty to 1800 units or up to 15 years imprisonment recognises the seriousness of the theft of a firearm and the difference in comparison to the theft of another product — which, if it is like an Xbox, cannot kill you but can possibly kill Pac-Man.

I refer to the offence of unlawful manufacture of firearms. I had no idea and was surprised that this was not already in the act. That is another thing I learned. I have listened to much of the media around all of us being able to make guns on our 3D printers, and I am glad I did not try that at home because from what I hear it would be illegal and I would be missing a thumb. Obviously new technologies are making it easier for people to manufacture just about anything, and, as I said, I am surprised we are creating a new offence that will make it illegal to manufacture firearms.

I have some concerns about the bill, particularly clause 7. This clause removes the current definition of 'evidence of possession' and introduces a new 'deemed possession' provision. I have concerns about the wording of this. It harks back to the deeming provisions we put into drug laws. I would like to spend a moment making that comparison. Under the drug laws 'deemed possession' means that if an illicit drug is found on any land or premises occupied by a person — such as his or

her house, unit or backyard — the accused is presumed to have possessed the drug unless they can somehow prove that somebody else did. It reverses the onus of proof. Instead of requiring the prosecution to prove possession beyond reasonable doubt, it reverses that so the person has to prove they were not in possession of it.

This goes against some of our basic tenets of law. A requirement of intent, a presumption of innocence and the burden of proof are the three basic tenets of our law. Deeming provisions skip over these, and I am very concerned that this could lead to unjust and arbitrary misuses of power. Even the charter of human rights says that there is a presumption of innocence and that that it is a fundamental principle of our common law, and I believe that the changes made by this bill remove that presumption. If an accused is required to prove some fact on the balance of probabilities to avoid conviction, that provision violates the presumption of innocence.

I refer to an article headed 'Deemed supply in Australian drug trafficking laws — a justifiable legal provision?', which was published recently in the *Current Issues in Criminal Justice* journal. The article concluded that deemed supply laws should be subject to legislative review. It found that they contributed towards harm to users, led to miscarriages of justice and increased pressure to use police and prosecutorial discretion in ways that may ultimately adversely affect community confidence in the administration of criminal law.

I think we need to tread very carefully with any law that reverses the onus and creates an obligation for individuals to prove innocence rather than the state having an obligation to establish guilt beyond reasonable doubt, as it is counter to the tenets of due process. I believe the presumption of innocence should remain, and there should be an onus on the state to prove otherwise. I am concerned. While I am very supportive of attempts to keep our police and our citizens safe by some of the new provisions in this bill — and I again congratulate my colleagues on the crossbench from the Shooters and Fishers Party on bringing this bill forward — I am concerned that we need to guard against laws that encroach on the vital principles of our system. I will be supporting the legislation, but I urge consideration whenever we are introducing legislation that goes against due process.

Mr ELASMAR (Northern Metropolitan) — I will be very brief. I rise to contribute to the Firearms Amendment (Trafficking and Other Measures) Bill 2015. Firstly, I would like to place on the record that it is important to find the right balance between ensuring that the interests of those who are responsible gun owners, such as sporting shooters and primary producers, are protected and the prosecution of criminal elements within our community who seek to make our streets unsafe.

The bill makes the following amendments to the Firearms Act 1996. It changes the definition of 'evidence of possession' by moving the emphasis away from a person's relationship with the firearm to the relationship between the person and the premises or vehicle where the firearm is found. The bill facilitates the successful prosecution of firearms trafficking offences by lowering the number of unregistered firearms considered to be a trafficable quantity from 10 down to 3. It introduces a new offence of theft of a firearm. Under these reforms anyone caught acquiring or disposing of three or more unregistered firearms over a 12-month period can be prosecuted for trafficking.

In 2012 the Australian Crime Commission estimated that there were over 260 000 firearms on the illicit market. This is in contrast to the crime commission's finding that there are 2.75 million registered guns held by 730 000 licence-holders. My electorate in Melbourne's north-west has seen a 300 per cent increase in firearm offences in the past five years.

Even children as young as 16 years old have been found to be in possession of firearms. More education is needed to inform young people about the dangers of illicit firearms. Maybe action movies and violent video games have a lot to answer for. The glorification of gangster characters like those shown in movies has the ability to grab kids' imagination — but who knows? In my day it was the western shootouts we loved to watch at the movies and often we would play cowboys and Indians with mock pistols, but this was considered childish fun. But there is no amusement in seeing people, sometimes innocent people, being gunned down in our suburban streets, and we will never forget the ultimate sacrifices that Victoria Police men and women have made in the course of protecting us, the public.

It is incumbent on the Victorian Parliament, in fact all parliaments in Australia, to enact legislation that will provide police with the tools they need to crack down on arms trafficking. We need to eradicate the illegal weapons currently in circulation. Our lives and the lives of our children depend on Victoria Police and the judiciary having the legislative power to enforce the elimination of this evil trade. The amendments contained in this bill are designed to do just that. I commend the bill to the house.

Mr YOUNG (Northern Victoria) — I also rise to contribute to the debate on the Firearms Amendment (Trafficking and Other Measures) Bill 2015. It is a bill that will have a number of positive outcomes in the fight against criminal activity and the criminal use of firearms. It lowers the number of firearms that is considered a trafficable quantity from 10 to 3; that is a pretty common-sense idea. It makes it an offence to manufacture a firearm without the appropriate licence; again that is a common-sense idea. It amends the definition of evidence of possession so as to tie an illegal firearm to the owner more easily; that is a little more contentious, but it is a good idea. Finally it provides a specific offence for the theft of a firearm, which carries heavier penalties than for other forms of theft. I think this is the most important part of this bill, probably for selfish reasons as I myself have been the victim of firearm theft — albeit by extension to my family, but I was nonetheless a victim of it. It was one of the things that was pretty important to me when I first came into this place, knowing the impacts that this had on me and my family. We had some items stolen that were heirlooms; they were very important to us. It was devastating to think that they were in the hands of a criminal who had no other intention but to pawn off all my grandmother's jewellery and some electronic goods and to do whatever they had planned with those firearms. It was horrible, considering how much we valued those things.

I think the Greens have a funny idea when talking about gun control, because their efforts are always to tighten gun control. That effort is made whether it is effective or not. It really does not make sense to me to go down one path so dedicatedly even when evidence does not suggest it is the right thing to do. Our position on firearm laws is one that we have to explain to many people. We are not for tight or strong gun laws; we are not for loose or easy gun laws. At the Shooters and Fishers party we are for effective gun laws.

We recognise that a certain level of regulation is required for the safety of the community, and what we want is effective gun laws — gun laws that target the right people, gun laws that work. We want laws that reduce the number of illegal guns, in particular those used in acts of crime. We want laws that make criminals think twice about even using firearms. This takes me back to the theft. I am sure Mr Bourman is sick of hearing me say this, but one of the things I wanted to achieve coming into this place was to introduce a law to put in place higher penalties for stealing a firearm. I wanted to make it set in a criminal's mind that when he breaks into a house, goes through all the jewellery, rummages through the place and comes across the gun safe, he thinks twice. I want him to stop and think, 'Hang on! What I am doing over there is going to cop me a slap on the wrist', which is most of the time what happens, 'but if I go into that safe and steal a gun, I am committing a serious offence', and he may think twice about doing it.

This bill is the first example I have seen of the government pursuing the real problem of guns in our community — that is, illegal guns in the hands of criminals being used for illegal purposes. It is great that we have had the opportunity to work on this kind of bill. But many in the shooting community were worried when news of this bill reached them just because of the words in the bill's name, 'Firearms Amendment'. That scares us. We are worried that once again the government is in need of a cheap or easy win. That is what we are: an easy target. We are law abiding by our very nature — even more so than others, in many instances.

As a gun owner I am more accountable for my actions than anyone else in the community. In many ways I am in fact considered guilty before being proven innocent. If I am thought to have committed a certain crime, regardless of whether or not I have, I am punished by having my firearms and my licence taken from me. That is being considered guilty before you are proven innocent. It takes a long time to go through the process to get the firearms and licence back, so it is something that weighs on my mind all the time. I behave in a certain way because it is always in the back of my mind that I could lose something even if I have not done anything wrong.

That is why law-abiding firearm owners are probably the safest people in the community. The fact that the shooting community is in constant fear of being vilified once again is a very sad situation. This would not be tolerated if it happened to other groups, whether defined by ethnicity, religion, sex or social choice. In today's society in terms of equality the shooting community is still looked down upon. So it pleased me to look at this bill with the words 'Firearms Amendment' in its name and see that the right people are being targeted by its intent — not the law-abiding but the criminal element of our society. The first sentence of the second-reading speech notes that:

> The focus of serious and organised crime groups in Victoria has expanded from illicit drugs to also include illicit firearms activity.

That is the key: 'serious and organised crime'. I congratulate the government on realising this and making efforts to reduce gun-related crime by way of this bill. I know it brought it on a lot earlier than it had intended to, thanks to the work and input of Victoria

Police and Police Association Victoria. The Shooters and Fishers Party also tried to give the government a bit of a kick.

It seems that these days, though, no conversation regarding firearms can be had without mentioning Port Arthur, and I cringe every time. But there is a reason for this: it is all they have got. The anti-gun lobby is continually looking for excuses to sensationalise this issue. I do not wish to detract from the seriousness of what happened that day — it was an absolute tragedy — but it was an isolated event. The fact that it keeps being dragged up is a testament to the fact that there are no other supporting arguments.

Statements have been made about the Greens waging some sort of scare campaign when it comes to gun laws, and although I doubt that any Greens member would deny it, they in fact do. But using emotive words, referring to 'weapons' instead of firearms and describing the Adler shotgun as a 'dangerous weapon' with 'serious restrictions' needing to be in place for it in Australia is an attempt to scare people. Calling these guns or firearms rapid-fire weapons — an arbitrary term — does not make sense. This is also an attempt to scare people. Referring to the Adler as a self-loading shotgun, which is factually incorrect, is another attempt to scare people, to make them think it is something it is not. I suggest people get the facts right before mouthing off and running scare campaigns, and I sincerely hope that the government disregards this emotive garbage when forming policy on firearms in the future.

Mr Ramsay made an interesting point about whether this piece of legislation can be monitored in the future to see if it is effective. It is very important that we monitor the effects of any law. In the case of it being effective, it is reviewed and possibly improved upon; in the case of it being ineffective, it should be reviewed and, if there are unintended effects that it has that impact on people, they should be removed. That goes for all gun laws, I think.

Mr Bourman — All laws.

Mr YOUNG — All laws in general — that is right — not just gun laws. If they do not have the effect that they were intended to have, they should be reviewed and changed for the better of the community and for the better of the people who are being put out by them. Hopefully laws can be changed in such a way that they will target the people they were supposed to affect.

With that I commend this bill to the house. It is a fantastic initiative. I am happy to be standing here with the Shooters and Fishers Party supporting it.

Mr HERBERT (Minister for Training and Skills) — I thank all participants in the debate on the Firearms Amendment (Trafficking and Other Measures) Bill 2015. It has been a good debate that outlined some of the different views that are held in the community about guns, apart from showing support for the bill, which is pretty universal. From the government's viewpoint, this bill is very simply about trying to facilitate the removal of illegal arms that are circulating in our community. The reason behind that is they pose an unacceptable risk of injury to people. In 2012 the Australian Crime Commission estimated there were about 260 000 illicit, illegal weapons in the marketplace — and that is 260 000 too many.

This is a fairly small bill but it is an important bill. It has four basic provisions. It has new deeming possession laws. If there is a gun in, say, a bikie headquarters, police will come in and everyone will say they do not know whose it is. If it is stuck in a glass box or in a clear display, everyone will now be part of that scenario in terms of possession under the law. It cracks down on illegal manufacturing of firearms, which is crucial. The bill has new provisions which bring us closer to New South Wales and some other states in terms of trafficking of firearms offences, dropping from 10 to 3 the number of illegal firearms that you can be seen to be trafficking. For the first time in our history, unlike in other states, it creates a specific offence of theft of a firearm. Up until now the theft of firearms was treated like any other theft; this bill ups the ante and adds a higher penalty of up to 15 years or 1800 penalty units under the Crimes Act 1958, and I think that is a good thing. It illustrates that the theft of a firearm is usually for an illegal purpose which could be a very serious offence, and it is a smart move to create this offence.

In summarising I acknowledge all members who participated in the debate and particularly Mr Bourman and Mr Young for their contributions and assistance in the preparation of this legislation. It is an important piece of legislation. Their assistance has been very valuable in terms of its drafting. I commend the bill to the house.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 and 2 agreed to.

Clause 3

Mr YOUNG (Northern Victoria) — The reason for the series of questions I have — and there will not be many, so do not stress — is off the back of concerns the shooting community has on this bill. This community is quite often worried that people who are trying to do the right thing will get caught up in something without the law intending that. My questions are around the specifics of what will constitute trafficking and at which point someone becomes a trafficker of firearms.

Mr HERBERT (Minister for Training and Skills) — I hope I have got the question correct, otherwise I will get some advice on this. Previously if you had 10 unregistered firearms, that would be considered trafficking. It has now dropped down to 3, as you know. That puts us roughly in line with New South Wales, which has 3. It is interesting that right across Australia there is an incredible diversity as to how many unregistered firearms comprise a trafficking offence as opposed to ownership. In New South Wales, it is 3; in Queensland, 10; in Western Australia, 3; Tasmania has none, no threshold at all, so it is 1 or more if it is unregistered; the ACT has a structured thing with 10 or more or 3 or more; and there is no threshold, so 1 or more, in the Northern Territory and South Australia. If I have misunderstood the question, I am happy to get some advice.

Mr YOUNG (Northern Victoria) — Perhaps the easiest way to explain what I am trying to ask is with a scenario. For example — and this happens quite often; I have known it to happen — the husband of a little old lady passes away. Unbeknownst to her, he was in possession of several firearms from pre-1996, when they were not registered. In the process of cleaning out the garage, 10 firearms — or 4 now — are uncovered. At what point does someone take possession of those firearms for the purpose of trafficking?

Mr HERBERT (Minister for Training and Skills) — I am advised that in circumstances such as those the police will use their discretion. I think it is fairly clear what we have here, and that is a circumstance where people have a large number of unregistered firearms and the police think that is a risk. I understand that in those sorts of cases the police do have discretion in terms of not charging.

Mr YOUNG (Northern Victoria) — On three being the number of firearms, will that include parts of firearms? What constitutes an actual firearm? If I were to be in possession of, say, 10 barrels of a firearm, that by definition would not be firearms, would I be caught up in this, and is the definition of firearm in this bill the same as it is in other legislation?

Mr HERBERT (Minister for Training and Skills) — That is a very good question. I am advised that in terms of the definition of firearm for the purposes of this bill, it would probably be the components of the gun that are there to fire the bullet. If you had a shotgun stock or a sight or something like that, which really did not constitute the components with which you could fire a weapon, they would not be counted. It is those components of a gun that are there to fire a weapon, which is basically the purpose of a firearm.

Mr YOUNG (Northern Victoria) — On a point of clarification, could the minister specify that when he is talking about parts — sights, stocks — it is only that part of the firearm with the serial number that is registered that counts as a firearm?

Mr HERBERT (Minister for Training and Skills) — The advice I have is that there is probably a bit of discretion here in terms of what constitutes a firearm. The truth of it is that if it is for a criminal activity it will probably have the identification number filed off or taken off in some other way. If it is a component of a gun that maybe does not have a stock but is the main component of a gun and it is clear that that is for the purpose of a firearm, it will be counted; if it was a stock, it might not be, because it has no components that can actually do any physical damage. In terms of the serial number, I would think that in many cases that would have been filed or taken off in some way. The police will have some discretion in this, obviously.

Mr YOUNG (Northern Victoria) — I still would like to have it clarified, though. In terms of the serial number being on the specific part of a gun that is termed the receiver, being the only part that is registered as a gun, is that the only part that will be determined to be in that number of a trafficable quantity?

Mr HERBERT (Minister for Training and Skills) — The advice I have been given is that if we have a situation where there is a gun, with the number having been filed off or whatever, that has been broken down and it is clearly the major part of the weapon's firing system in terms of what makes up a gun, then the

most likely scenario would be that the police would deem that to be a weapon. Obviously there will be some discretion in this. If Mr Young is talking about not illegal activity but a case where, before registration, someone might have a range of components of guns and a number of full guns, I would think the police would have some discretion. I might be able to get some advice on something a bit more specific.

To provide a bit more clarity, which may assist Mr Young, I will read the definition of 'firearm' in the Firearms Act 1996:

> ***firearm*** means any device, whether or not assembled or in parts —
>
> (a) which is designed or adapted, or is capable of being modified, to discharge shot or a bullet or other missile by the expansion of gases produced in the device by the ignition of strongly combustible materials or by compressed air or other gases, whether stored in the device in pressurised containers or produced in the device by mechanical means; and
>
> (b) whether or not operable or complete or temporarily or permanently inoperable or incomplete —
>
> and which is not —
>
> (c) an industrial tool powered by cartridges …; or
>
> (d) a captive bolt humane killer; or
>
> (e) a spear gun …; or
>
> (f) a device designed for the discharge of signal flares …

Basically it is the parts that are designed or capable of being modified to discharge shot or a bullet, if that helps.

Mr YOUNG (Northern Victoria) — At the beginning of that definition the minister said 'any device, whether or not assembled or in parts'. If we had a number of parts that were missing the main receiver or breech, the part that is registered — so we have a number of parts without that and they cannot be assembled to constitute a firearm — would they be deemed to be a trafficable quantity of firearms?

Mr HERBERT (Minister for Training and Skills) — It is a technical question. I would have thought that that is a question for the police, in terms of determining that under that definition. We could probably run through a million scenarios such as where the firing pin was filed down or where there was a particular part missing because it had been taken somewhere to be modified. I think it is clear that within that definition of a firearm there would be some discretion for the police, and that would be a matter for the courts.

Mr BOURMAN (Eastern Victoria) — I am sorry to labour a point here, but we have had some considerable angst over this definition, hence we are going on about it. Would it be safe to say that the firearm is what you would currently need a permit to acquire, if it were a legal firearm? You only need a permit to acquire for the action. The parts are freely available because they will not work without the action or the receiver, depending on the type of firearm.

Mr HERBERT (Minister for Training and Skills) — As I said before, on that point I am advised that the police will judge whether it is defined as a firearm under that definition within the act. From that point on if there is a dispute, then that will be a matter for the courts.

Clause agreed to; clauses 4 to 6 agreed to.

Clause 7

Ms PATTEN (Northern Metropolitan) — I had a question about 'deeming to be in charge of a vehicle'. In this section it says that if a firearm is found in a vehicle, you are deemed to be in charge of it. I wanted to get some clarification on what 'to be in charge of a vehicle' means? Does it mean you own the car or the vehicle, or you are driving the vehicle? What if you have hired the vehicle, as in a limousine?

Mr HERBERT (Minister for Training and Skills) — Borrowed someone's car to go to the shops?

Ms PATTEN (Northern Metropolitan) — Say you are a taxidriver and you have a passenger in the taxi, and the police pull you over and there is a firearm found in the taxi. Is the driver of the car, being the taxidriver, deemed to be in possession of that weapon?

Mr HERBERT (Minister for Training and Skills) — I thank Ms Patten for her question. The issue is about whether you would reasonably have knowledge that the weapon was in the car or the person had the weapon. In the scenario Ms Patten has outlined, the question would be: did the driver, the owner, the person in the car, have reasonable knowledge that there were firearms in the car? That would be the test in terms of the police acting on that component of the bill.

Mr YOUNG (Northern Victoria) — This is on the same point — where a firearm was in possession of another person who was lawfully authorised to possess the firearm, except in a premises rather than a vehicle. In a case where — and this happens often — I was, for example, looking after someone else's firearms at my property, three, for example, and I had them in my safe, if that person disappeared and I lost contact with him

and did not know where he was, and in the period before I found out or did anything about it his licence lapsed and those firearms became illegal firearms, would it be assumed that I was in possession of illegal firearms, or are there reasonable grounds to assume that another person was legally in possession of those firearms?

Mr HERBERT (Minister for Training and Skills) — These kind of hypotheticals are of course difficult. There are a whole range of issues here. If you are storing someone's guns and that person absconds, there will be the question of whether you should not hand them in to the police anyway, but I would think that in that case once again it would be at the discretion of the police whether you have committed the act. The crucial point here would be that you did not know that they had become unregistered.

The purpose of the bill is to toughen up on the number of illegal firearms in the community. That is the reason we have this legislation and why it is supported by so many people in this chamber. There are probably a number of hypotheticals which come down to the discretion of the police, but if you were in a bikie gang headquarters and you ran that argument, it might be difficult. If you had other substantive facts, then police would have discretion there.

Clause agreed to; clauses 8 to 10 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

HEAVY VEHICLES LEGISLATION AMENDMENT BILL 2015

Second reading

Debate resumed from 3 September; motion of Ms PULFORD (Minister for Agriculture).

Mr O'DONOHUE (Eastern Victoria) — I am pleased to speak on the Heavy Vehicles Legislation Amendment Bill 2015 and say at the outset that this is a straightforward piece of legislation that the opposition does not oppose. I note the advice furnished by the shadow minister for roads and infrastructure, the Honourable Ryan Smith, the member for Warrandyte in the Legislative Assembly, that the opposition has consulted with stakeholders and there is broad support for the reforms in this bill.

This is an interesting piece of legislation in the sense that it seeks to amend a national scheme that was brought in by other jurisdictions and the previous government in 2013 under the Heavy Vehicle National Law Application Act 2013. As members are aware, when we in Victoria seek to codify or implement a national legislative scheme we can refer a power and hand it over to the commonwealth, as the Kennett government did with the industrial relations power in the 1990s; jurisdictions can enact the same legislation at a similar time and seek to develop national legislation that way; or for want of a better word we can 'outsource' legislation to a home jurisdiction, as took place in 2013 when we adopted the Queensland legislation.

While it is imperfect, the latter model is probably the best in that each jurisdiction ultimately has the ability to take back that responsibility if they so desire through a simple act of Parliament. The other model of jurisdictions all implementing the same piece of legislation requires jurisdictions to continue to update their legislation as the scheme needs to be changed from time to time.

I am aware that there was a significant gestation period before this national scheme came into being in 2013, and it involved many meetings of the Council of Australian Governments and the Standing Council on Transport and Infrastructure, or SCOTI, as the council was then known. As I say, it makes sense for us to have a national scheme in this area. The freight task — that is, the movement of freight — sees heavy vehicles travelling across jurisdictional boundaries every day and possibly across multiple jurisdictional boundaries in a single day. It makes a lot of sense to have consistency as much as possible in the application of rules and regulations that apply to heavy vehicles.

Before we deal with the provisions of the bill, which are straightforward and uncontroversial, I will say this. As I understand it, this is the first piece of legislation the Minister for Roads and Road Safety has brought to the Parliament. I cannot miss the opportunity to make reference to the fact that the roads minister has axed the country roads and bridges program, which was a critical program for heavy vehicles and for delivery of the freight task. I also note that country bridges are often located close to farm gates, which means that their maintenance and upgrade are critical to the ability of large trucks to pick up milk and get it to a milk factory for processing.

The axing of the country roads and bridges program is a backward step on the part of this government, but perhaps relatively insignificant in relation to the decision of this government to axe the east–west link. The genesis of the east–west link was during the time of former Premier John Brumby, who commissioned Sir Rod Eddington to prepare a report on Melbourne's transport needs. The east–west link project had bipartisan support right up until the eve of the election campaign. How regrettable it is that hundreds of millions of dollars have been wasted to not build a critical piece of infrastructure.

At a time when Victoria's population is growing significantly and when we need to accelerate the delivery of key pieces of infrastructure, it is indeed a retrograde step that that important project has been cancelled, and at significant financial cost to Victorians, and since its cancellation there has been very little in the transport space to replace it — very little indeed. No program of any note has come from the government for arterial road upgrades, duplications, extensions et cetera. There are some projects that continue the work of the previous government, but there is precious little from this government in this space.

The reality is that the bulk of the freight task around Australia, or a significant proportion of it, will continue to be done by road. Public transport is very important, but public transport and roads are not mutually exclusive, so we should be looking to develop further the arterial road network for productivity so that it can accommodate the growing freight task that is ahead of our community.

Returning to the bill, I will follow up a point I was making earlier. Page 1 of the explanatory memorandum states:

> The Heavy Vehicle National Law, as in force from time to time, is set out in the Schedule to the Heavy Vehicle National Law Act 2012 of Queensland. The Heavy Vehicle National Law has effect in Victoria by virtue of section 4 of the Heavy Vehicle National Law Application Act 2013, and as so applying is referred to as the Heavy Vehicle National Law (Victoria).

Clause 1 of the bill states:

> The main purpose of this Act is —
>
> (a) to amend the Heavy Vehicle National Law Application Act 2013 to make provision for evidence of the mass of a heavy vehicle; and
>
> (b) to amend the Road Safety Act 1986 —
>
> (i) to apply provisions of the Heavy Vehicle National Law (Victoria) in respect of the fatigue management of drivers of light buses; and
>
> (ii) to provide for an exception to those applied provisions in relation to drivers of light buses in certain circumstances.

That is all relatively straightforward and uncontroversial. They are common-sense amendments, and the opposition does not oppose this legislation.

I will conclude by saying that, as someone who has had a heavy vehicle licence for 20 years or so, I think that this is an important piece of legislation. This scheme is an important part of the framework to enable our freight industry to work in a productive way across Australia and with some degree of consistency. This bill makes minor amendments to a scheme that was introduced a couple of years ago after much negotiation and consultation across two jurisdictions, and at the Council of Australian Governments ministerial conferences, so the opposition does not oppose this legislation.

Ms SYMES (Northern Victoria) — It is a pleasure to speak on the Heavy Vehicles Legislation Amendment Bill 2015, an important bill. In preparing for this debate I reflected upon the road toll and checked the latest figure. Some 179 people have died on Victorian roads this year, 96 of them on rural roads.

Country roads are notorious for unfortunate accidents and attract their fair share of tragedy. The major thoroughfare between our great state and our northern neighbours forms the spine of my vast electorate, which also prompted me to speak on this bill. This is yet another bill which has community safety at its heart, one of the issues at the forefront of this government's agenda. This bill is about making improvements that will make things better for all Victorians.

I have known a few truck drivers. I grew up in Benalla with a lot of kids whose parents — mostly their fathers — were truck drivers, so I know that they work hard in challenging circumstances. Truck drivers are often away from their families and friends for long periods of time. By and large they are quite professional in their approach to their jobs and cognisant of the seriousness of their responsibilities and the impact that they have on the road, both positive and negative.

I reflected on the number of deaths on country roads so far this year. Many people who live in country Victoria have been impacted by the tragedy of road trauma in some way. I myself lost a very good friend in a road accident when I was 21, and a lot of country kids have lost schoolmates. Unfortunately that is a not uncommon experience of growing up in the country.

Driver fatigue contributes to more than 20 per cent of overall road crashes in Victoria, which is an issue of serious concern, particularly for drivers across regional Victoria and for drivers who travel. When we drive by road in rural areas, we travel further and longer distances at a time and often do not have the benefit of extensive street lighting, multi-lane roads and the amenities we experience on city roads.

This government has a real focus on reducing the road toll. We will do everything we can to reduce the number of people who die on our roads, so any efforts to reduce the number of fatalities as a result of or contributed to by fatigue are incredibly important.

Research has shown us that going without sleep for 17 hours has the same effect on driving ability as having a blood alcohol concentration of .05, and that going without sleep for 24 hours has the same effect of having a blood alcohol concentration of .1, double the legal limit. The Andrews Labor government has renewed and reinvigorated its focus on reducing the road toll to zero by 2020. I for one am pretty impressed with the latest advertisement launched a couple of weeks ago in connection with that campaign. It is very moving. All road users — private commuters, commercial drivers, truckies and bus operators — deserve the highest level of protection, be it from themselves or from other road users.

Earlier this year I visited the town of Alexandra and had the pleasure of meeting with Andrew Embling, head of the Alexandra Traders and Tourism Association. His organisation puts on the Alexandra Truck, Ute and Rod Show every year. In conjunction with that, it has established the Victorian Truck Drivers Memorial honour board, which serves as a sombre reminder of every truck driver killed while doing their job. I encourage any member visiting Alexandra to make a pit stop to not only check out what this beautiful town has to offer but also take the time to visit and reflect on the memorial. I note that next year's truck, ute and rod show will be the 20th show, and it will be the biggest yet. It will be held on the Easter long weekend. I will be going, and members should feel free to join me.

Coming back to the bill, in summary it seeks to ensure that the fatigue management provisions that apply to drivers of heavy buses also apply to drivers of light buses that seat 12 or more passengers, including the driver, and have a gross vehicle mass of 4.5 tonnes or less. The bill also applies exemptions during times when such vehicles are required to respond to emergencies or are being used as rail replacement buses.

The bill reflects changes that are happening nationwide. It is therefore logical and common sense. I am happy to commend the bill to the house.

Ms PATTEN (Northern Metropolitan) — I am pleased to make a quick contribution to the debate on the Heavy Vehicles Legislation Amendment Bill 2015. I understand it is bringing Victorian legislation into line with that of other states, and it is important that we have fatigue and safety standards that are national rather than local. However, I want to bring the house's attention to clause 4 in part 2 of the bill. This clause inserts new section 36A into the Heavy Vehicle National Law Application Act 2013, and subsection 36A(2) begins:

> Without prejudice to any other method of determining the mass of a heavy vehicle or of its load —

this obviously applies when there is no weighing bridge —

> … the mass … may … be calculated on the basis that the mass of 16 adult passengers is 1 tonne.

That works out at 62 kilograms a passenger. I am sorry, but I think we are in a little bit of denial to think that. The Australian Bureau of Statistics says the average Australian man weighs 85 kilograms and the average Australian woman weighs 71 kilograms, so 1 tonne would equate to only 11 male passengers. I would also have to say that most of us are not average either — —

Ms Dunn interjected.

Ms PATTEN — Instead of 'average' we could say 'special'. You are right, Ms Dunn.

I just want to note that not only in Victoria but around the country we are in complete denial. We are kidding ourselves if we think 16 passengers equals 1 tonne. I thought I needed to point out that we are heavier than the bill assumes — —

Ms Shing interjected.

Ms PATTEN — Except me, of course!

Ms DUNN (Eastern Metropolitan) — I rise to speak on the Heavy Vehicles Legislation Amendment Bill 2015 in the hope that we do not have to disclose the weight of individual members as part of this debate.

Honourable members interjecting.

Ms DUNN — I think I might have achieved consensus.

The purpose of the bill is to make amendments to support, extend and modify Victorian compliance with

the national heavy vehicle regulatory scheme. The Heavy Vehicle National Law and regulations commenced in the Australian Capital Territory, New South Wales, Queensland, South Australia, Tasmania and Victoria in February 2014. In addition to passing the Heavy Vehicle National Law, states and territories agreed to four regulations made under the national law. The National Heavy Vehicle Regulator looks after one rulebook for heavy vehicles over 4.5 tonnes in gross vehicle mass.

State and territory police and authorised officers are appointed to enforce heavy vehicle offences under the Heavy Vehicle National Law. Some aspects of the heavy vehicle regulation remain as they were before the Heavy Vehicle National Law. Heavy vehicle registration, inspections, driver licensing and all matters related to the carriage of dangerous goods are still the responsibility of the relevant state and territory authorities. Legal and court processes largely remain as they were before the national law commenced. The Northern Territory and Western Australia, it should be noted, have not commenced the Heavy Vehicle National Law at this time.

The bill before the house amends the Heavy Vehicle National Law Application Act 2013 to prescribe a method for assessing the weight of a heavy vehicle, including the load. These provisions appear to be technical as they will assist in enforcement and compliance by ensuring that evidential matters are sufficiently defined to withstand technical defences, should the need arise. The bill amends the Road Safety Act 1986 to extend some of the fatigue management enforcement requirements for heavy vehicles to light buses. Light buses are defined as buses carrying more than 12 passengers but weighing less than 4.5 tonnes. Light buses have been subject to fatigue management requirements since 2003, but these provisions extend the national scheme's compliance and enforcement powers to Victoria. Originally the enforcement powers were not enacted. The provisions also exempt emergency buses and rail replacement buses from fatigue management record-keeping requirements.

The bill makes benign technical amendments to continue the implementation of the national heavy vehicle regulatory scheme. The Greens have not been approached by any stakeholder groups regarding any issues with the bill, and we can report that Bus Association Victoria has no concerns in relation to the provisions in the bill. With that, I can report to members of the house that the Greens will support the bill.

Ms SHING (Eastern Victoria) — What a relief to hear that we have come together today to form a combined mass of at least 4.5 tonnes, which is in fact the definition of a light bus under the bill, and have been able to have a conversation about the way in which this particular bill will deliver a harmonised framework around the way in which the Heavy Vehicle National Law Application Act 2013 applies in Victoria.

I would like to pick up the point that was made by Ms Patten in her contribution about the national average, which is referred to in the definition, to ensure that buses that are light buses, being buses that seat 12 or more passengers, including the driver, with a gross vehicle mass of 4.5 tonnes or less, are exempt from fatigue management provisions, and note that she was then concerned that the average weight that would be required of a passenger is 62 kilograms. I would like to say for the record and in order to avoid doubt that I have in fact been in rather a good paddock, so it might mean that I would need to be counted as two passengers in the event that we were looking at a light bus arrangement.

However, what we are seeing is a harmonisation of the way that definitions operate at a state level to ensure that, the concerns raised by Ms Patten notwithstanding, we are in a position to be more responsive to the community and adequately respond in a rail replacement situation or in an emergency situation.

The bill changes the way that light buses are treated and enforces fatigue management provisions outlined in the national law whilst also making incidental changes to remove ambiguity or confusion. The amendments will ensure that enforcement powers are more streamlined and consistent with powers that operate in relation to heavy vehicles as well as assisting in the way that the mass of a heavy vehicle is best able to be calculated, and that is necessary to determine whether it is in fact overloaded. The bill also makes a change by substituting 'police officer' for 'member of the police force' to ensure consistency with the Victoria Police Act 2013.

This bill, as evidenced by the contributions of other members, introduces a set of amendments which are supported across the board. In practical terms it means that we are better able to respond to emergency situations that require the movement of people from one location to another in situations where ordinary transport, such as trains, is not available and to make sure that people can be taken to safety. A good example of this was borne out by the 2009 Black Saturday bushfires. Many buses were called on to run emergency

routes and make sure that people were taken to safe places and cared for, often at little or no notice.

There are still means to regulate and enforce the general requirements of occupational health and safety standards and the Bus Safety Act 2009, which will continue to cover light vehicles. Although light buses and heavy buses may be exempt from the fatigue management requirements of the National Heavy Vehicle Law, they are still regulated by the general requirements of the Occupational Health and Safety Act 2004 and the Bus Safety Act. I note that the contributions of other members have been in the same vein. I commend the bill to the house and wish it a speedy passage.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

CRIMINAL ORGANISATIONS CONTROL AMENDMENT (UNLAWFUL ASSOCIATIONS) BILL 2015

Introduction and first reading

Received from Assembly.

Read first time for Mr HERBERT (Minister for Training and Skills) on motion of Ms Mikakos; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Mr HERBERT (Minister for Training and Skills), Ms Mikakos tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the 'charter'), I make this statement of compatibility with respect to the Criminal Organisations Control Amendment (Unlawful Associations) Bill 2015.

In my opinion, the Criminal Organisations Control Amendment (Unlawful Associations) Bill 2015, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The purpose of this bill is to modernise the offence of consorting, currently found in section 49F of the Summary Offences Act 1966. This bill will amend the Summary Offences Act to repeal the existing offence of consorting and will amend the Criminal Organisations Control Act 2012 to insert a new offence of 'unlawful association'.

An offence of consorting has existed in Victoria, in one form or another, since 1931. The introduction of such offences in Victoria and elsewhere in Australia was in response to the growing threat then posed by criminal gangs. The purpose of consorting offences is to prevent crime by preventing the formation, maintenance and expansion of criminal networks. The bill will ensure that Victoria has consorting provisions that are best suited to target the sophisticated forms of organised crime present in 2015.

The bill will establish a scheme under which Victoria Police can issue a notice to persons warning them not to associate with each other. The notice will warn that further associations might cause the persons to be committing the offence of unlawful association.

Only associations that involve one or more persons who have been convicted of one of a number of serious offences can be the subject of a warning notice, and a notice can only be issued where the issuing officer is satisfied that preventing associations between the two is likely to prevent the commission of a further offence.

Once a notice has been issued, the recipient of the notice will commit an offence if he or she associates with the person named in the notice three times in a three-month period, or six times in a 12-month period.

The bill will also provide a number of purposes for which associating does not constitute an offence. Persons subject to a notice will still be permitted to associate for purposes such as education, employment and training. Family members will be permitted to associate as long as it is not for an ulterior purpose.

Human rights issues

Protection of families and children

Section 17(1) of the charter provides that families are the fundamental group unit of society and are entitled to be protected by society and the state. Consorting offences, such as the one being repealed and replaced by the bill, can engage this right if they prohibit associations between family members.

The bill includes a provision that provides a person does not commit the offence of unlawful association by associating with another family member, provided that association is not for an 'ulterior purpose'. Here, 'family member' has the meaning given by section 8 of the Family Violence Protection Act 2008, which is an extended definition including relationships recognised as being like family in the person's community.

Accordingly, the bill will not prevent associations between family members, except where that association is for an 'ulterior purpose'. An 'ulterior purpose' is defined to include the purpose of planning, inciting or committing an offence, the purpose of expanding a criminal network, and the purpose

of deliberately frustrating the operation of these laws. The prohibition on associating for an ulterior purpose recognises that organised crime gang members often share common interests, and in some cases this common interest is a family or family-like connection. This prohibition will not prevent lawful associations between family members.

The bill will also include a provision under which a person subject to an unlawful association notice can apply to Victoria Police for specific permission to attend an event or gathering. This would allow, for example, attendance at a wedding or funeral by an individual without running the risk of his or her attendance being considered an unlawful association.

Section 17(2) of the charter provides that every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child. In recognition of this right, this bill does not apply to persons under the age of 18, and so no person under the age of 18 can receive an unlawful association notice.

Right to privacy

Section 13 of the charter provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with. The bill engages with this right, in particular the provisions that will allow for the issue of unlawful association notices. An unlawful association notice will inform the recipient that they are not to associate with a named individual. A person can only be named in a notice if they are a person who has been convicted of a serious criminal offence. Accordingly, the recipient of a notice will be made aware (if they were not already so) that the subject of the notice has committed a serious criminal offence. This may interfere with the person's right to privacy.

It is important, however, to note that there is only a limited disclosure of the person's criminal history. All that is disclosed is that the person was once convicted of one of a number of serious offences. The nature of the conviction itself is not disclosed, nor are aspects of the person's criminal record that are not relevant to the issue of an unlawful association notice.

The purpose of this bill is the prevention of serious crime by prohibiting individuals from associating with persons who have been convicted of serious criminal offences. As noted above, the bill will permit limited disclosure of a person's criminal record to another person who is associating with that person, where that association may lead to the commission of further criminal offences. Having regard to the need to prevent serious crime and for the reasons outlined above, I consider any limitation placed on a convicted person's right to privacy is proportionate and justified.

Right to freedom of association

Section 16 of the charter provides that every person has the right of peaceful assembly and every person has the right to freedom of association with others, including the right to form and join trade unions.

'Consorting' or 'unlawful association' laws, such as those contained in this bill, make certain associations unlawful, on the basis that preventing certain associations can prevent the commission of criminal offences. In doing so these laws limit the freedom of association of persons affected by the laws. The charter's right to freedom of association with others under section 16(2) does not include the right to associate for the purpose of criminal activities.[1]

Under the scheme proposed in the bill, a person who receives an unlawful association notice will be effectively banned from associating with the person or persons named in the notice. The persons named in the notice will also generally be banned from associating with the recipient of the notice (through provisions that allow for reciprocal notices to be issued). Should the persons continue to associate, they will be at risk of committing an offence punishable by imprisonment for three years.

Unlawful association notices, however, cannot be issued arbitrarily. Notices can only be issued banning association with a person convicted of an 'applicable offence' tried on indictment. An 'applicable offence' is defined in the Criminal Organisations Control Act; it includes all offences punishable by at least five years imprisonment, and certain other offences listed in the schedule to that act. These are very serious offences. A notice cannot be issued to ban associations between people with no criminal record, or where people have committed serious offences that fall short of the 'applicable offence' threshold.

Furthermore, a notice can only be issued by a senior police officer (at or above the rank of senior sergeant) and only where that police officer reasonably believes that issuing a notice will prevent the commission of further offences. If a person believes that a notice is issued in error, he or she is able to seek an internal review by Victoria Police. The review will be conducted by an officer not involved in the first decision to issue the notice.

The bill provides that many forms of association are permitted after the issue of a notice. These include associations in the course of lawful employment, associations for the purpose of obtaining legal advice, associations for genuine political purposes and associations for participating in vocational training. The bill also includes provisions by which a person can seek a 'lawful association authority' from Victoria Police to permit an association that is not specifically listed as permitted in the bill.

It is important to note that section 38 of the charter provides that it is unlawful for a public authority to act in a way that is incompatible with a human right or, in making a decision, to fail to give proper consideration to a relevant human right. The effect of this provision is that when exercising powers under this act, Victoria Police will be required to have regard to a person's freedom of association. This means that Victoria Police will have regard to this right (and other charter rights) when issuing unlawful association notices, and where issuing lawful association authorities. It is proposed that this requirement will be incorporated into Victoria Police guidelines for the use of these powers, so that police officers are aware of their responsibilities.

Section 16 of the charter protects the right to peaceful assembly and the right to form and join trade unions. These are not limited by the bill, as associations for the purpose of political purposes, lawful protest, and industrial action are all permitted associations. Furthermore, the powers contained in this bill will be subject to section 11 of the Criminal Organisations Control Act, which provides that these powers

[1] Scrutiny of Acts and Regulations Committee, *Alert Digest* No. 17 of 2012, p 7.

are to be exercised in a way that does not diminish the freedom of persons in Victoria to participate in lawful protest, advocacy, dissent or industrial action.

It should be noted that associating with a person convicted of a criminal offence is in some circumstances already a criminal offence in Victoria, under section 49F of the Summary Offences Act. This offence is being repealed and replaced by the bill. Section 49F of the Summary Offences Act places a blanket prohibition on habitually consorting with a person who has been found guilty of, or who is reasonably suspected of having committed, an 'organised crime offence'. 'Organised crime offence' is defined as an offence punishable by 10 years imprisonment, with certain other characteristics such as that it involved substantial planning. While this is a higher threshold than the level of offending required to trigger the new unlawful association laws, the current offence lacks many of the other protections on the right to associate found in the new offence.

The current offence provides no mechanism for the issue of a formal warning as a precondition to the committing of an offence. This means a person may be unsure over whether an association with a convicted person is lawful or unlawful. The current offence also provides no clarity over how many meetings constitute 'habitual' consorting, whereas the new offence will stipulate precisely how many meetings and over what time period will constitute the offence. The current offence also does not exclude legitimate forms of associations; instead it provides that a person accused of consorting must provide a 'reasonable excuse' for the meetings.

As noted above, the purpose of the bill is the prevention of serious crime and the promotion of community safety by preventing associations that may lead to the commission of serious criminal offences. In achieving this purpose it is necessary to limit the freedom of association contained in section 16 of the charter. Section 7(2) of the charter provides that reasonable limits can be placed on charter rights where they are demonstrably justified in a free and democratic society. In this case I consider that the limits are justified. The bill limits only associations involving one or more persons convicted of a very serious offence, and only where the limit on association will limit further offending. Associations involving a range of legitimate purposes — including peaceful assembly and participation in industrial action — will remain protected, and will have a greater level of protection than under current consorting laws. There are no less restrictive means available to achieve this purpose.

Right to freedom of movement

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

This bill will potentially limit to some extent this right, as a person who receives an unlawful association notice will have limitations placed on his or her freedom of movement. These are not likely to be substantial limitations — as discussed above, a person will not commit the offence of unlawful association if he or she engages in chance encounters with the prohibited person, or where he or she associates with the prohibited person for any of the permitted purposes. A person would however be likely to commit the offence if he or she frequented the same clubhouse or other venue for social gathering as the prohibited person, or made frequent social visits to the house of the prohibited person. For the reasons discussed above I consider that these limitations are justified for the purpose of this bill.

Right to a fair hearing

Section 24 of the charter provides that a person charged with a criminal offence has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. This bill does not limit that right. A person charged with the offence of unlawful association will have the charge decided by a court.

The issue of unlawful association notices will not be determined by a court, but will be issued at the discretion of Victoria Police. This is appropriate as the issue of a notice is not in itself a criminal penalty. If a person is subsequently charged with the offence of unlawful association, the validity or otherwise of the notice will be able to be determined by the court hearing the charge.

A recipient of a notice who believes it is invalid will also be able to seek internal review of the notice by Victoria Police. This review must be conducted by an officer not involved in the original decision to issue the notice, who is of equal or higher rank to the officer who issued the notice.

Recognition and equality before the law

Section 8(3) of the charter provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination.

The bill will require that Victoria Police report annually on the number of unlawful association notices issued each year, and on the number of notices issued to Aboriginal and Torres Strait Islander people. This provision recognises that Aboriginal and Torres Strait Islander people are over-represented in the criminal justice system and so the bill may have a disproportionate effect on Aboriginal and Torres Strait Islander people (as was found by the NSW Ombudsman when considering the outcomes of the operation of the NSW consorting offence in 2013). The requirement for specific reporting on the number of Aboriginal and Torres Strait Islander people issued with a notice is an important safeguard and will enable any disproportionate impact on Aboriginal and Torres Strait Islander people to be monitored and acted upon.

Section 8(4) of the charter provides that measures taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination do not constitute discrimination. Accordingly, the provision requiring specific reporting on notices issued to Aboriginal people does not constitute discrimination.

Taking part in public life

Section 18 of the charter provides that every person has the right to participate in the conduct of public affairs, directly or through freely chosen representatives. This bill will not limit this right. The bill will provide that associations that are for genuine political purposes are not to be considered unlawful. Furthermore, the powers contained in this bill will be subject to section 11 of the Criminal Organisations Control Act, which provides that these powers are to be exercised in a way that does not diminish the freedom of persons in Victoria to

participate in lawful protest, advocacy, dissent or industrial action.

The Hon. Steve Herbert, MP
Minister for Training and Skills

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms MIKAKOS (Minister for Families and Children).

Ms MIKAKOS (Minister for Families and Children) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill will amend the Criminal Organisations Control Act 2012 and the Summary Offences Act 1966 to modernise the offence of consorting so that it is better suited to preventing serious and organised crime.

The purpose of consorting offences is to prevent crime by preventing the formation, maintenance and expansion of criminal networks. Laws that prohibit consorting, in one form or another, have existed in Victoria since 1931. The introduction of these offences in Victoria and elsewhere in Australia was in response to the growing threat then posed by criminal gangs — known as 'razor gangs'.

In 2015, criminal gangs continue to pose a threat to public safety in Victoria. These gangs — including bikie gangs — have become significantly more sophisticated, particularly in terms of recruiting new members. Associations between gang members — and between members and 'prospects' — occur not only in meetings at clubhouses but through social media and online. The amendments in this bill will ensure that Victoria has consorting provisions that are best suited to target the sophisticated forms of organised crime facing us in 2015.

This government has committed — through the Premier's *Ice Action Plan* — to reducing the supply of the drug ice on our streets. Outlaw motorcycle gangs play a key role in Australia's ice market. The Australian Crime Commission reports that approximately 45 per cent of the highest risk criminal targets in the methylamphetamine market can be characterised as outlaw motorcycle gangs. Disrupting these gangs is key to disrupting the supply of ice.

The bill will repeal the current offence of consorting found in the Summary Offences Act 1966, and replace it with a new offence of 'unlawful association' in the Criminal Organisations Control Act 2012. The new offence will address certain shortcomings of the existing offence which has not been used since it was introduced in its current form in 2005.

The current offence prohibits habitual consorting with a person who has been found guilty of an organised crime offence. The act defines 'organised crime offence' but in a way that provides no clarity to either police or the community whether a particular offence is or is not an organised crime offence. The act also provides no guidance as to how many meetings or encounters are required to constitute 'habitual' consorting. This bill will address these problems, and provide clarity so that both Victoria Police and the community know what is and what is not considered an unlawful association.

The amendments will allow Victoria Police to issue a notice to persons warning them not to associate with each other. The notice will warn that further associations might cause the persons to be committing the offence of unlawful association. No offence can be committed unless a warning notice has been issued first.

Only associations that involve one or more persons who have been convicted of one of a number of serious offences can be the subject of a warning notice. The provisions cannot be used to prevent associations between persons never convicted of an offence, or persons convicted of offences that fall below this threshold. Furthermore, a notice can only be issued where the issuing officer is satisfied that preventing associations between the two is likely to prevent the commission of an offence.

Once a notice has been issued, the recipients of a notice will commit an offence if they associate with a person named in the notice three times in a three-month period, or six times in a 12-month period. The requirement for multiple associations ensures that chance, one-off meetings do not cause a person to commit the offence.

The bill will also provide a number of situations in which associating is not an offence. Persons subject to a notice will still be permitted to associate for purposes such as education, employment and training. Family members will be permitted to associate as long as it is not for an ulterior purpose. However family members can be prohibited from associating for the purposes of planning an offence or for the purposes of expanding their criminal networks. This will ensure that this safeguard cannot be exploited by criminal gangs based on family connections.

In addition to the above provisions, the bill contains safeguards to ensure that a person's right to freedom of association is not unduly limited. A person affected by an unlawful association notice will be able to seek an internal review of that notice by Victoria Police. This review will be conducted by a senior police officer not involved in the original decision.

These new laws have been modelled on new consorting laws introduced in New South Wales in 2012. South Australia has also recently introduced new consorting laws based on the NSW model. NSW has reported significant success in reducing the number of outlaw motorcycle gang members within NSW following the introduction of these laws.

There is, however, a significant risk that the success of other jurisdictions in reducing organised crime may come at the expense of Victoria, if gangs choose to relocate their operations here. These laws will ensure that Victoria does not become an attractive target for members of outlaw motorcycle gangs seeking to avoid new laws introduced interstate.

I am aware that there have been some concerns raised about the introduction of new consorting laws in NSW. The NSW Ombudsman found, after reviewing the first year of operation of the new laws, that young persons and Aboriginal persons were being issued with warning notices disproportionately.

The government has sought to ensure that similar issues do not arise in the Victorian laws. Under the Victorian scheme, police will not be able to issue an unlawful association notice to anyone under the age of 18. Victoria Police will be required to report annually on the number of notices issued, on the age of persons who receive notices, and on the number of Aboriginal and Torres Strait Islander persons who receive a notice. The government will know if any groups are being unfairly targeted by these laws. There will also be an independent review of the new provisions required to take place three years after operation.

I want to make it clear that it is not this government's intention to affect the rights of law-abiding Victorian motorcycle riders and their families. The unlawful association provisions are being inserted into the Criminal Organisations Control Act 2012 to make it clear that they are appropriately targeted at the activities of criminal networks.

This bill delivers on this government's commitment to take action against serious and organised crime, in particular outlaw motorcycle gangs. It will ensure that police have the tools they need to disrupt the ability of these gangs to associate for the purposes of planning crimes, and to groom new members.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 24 September.

ENERGY LEGISLATION AMENDMENT (CONSUMER PROTECTION) BILL 2015

Introduction and first reading

Received from Assembly.

Read first time for Ms PULFORD (Minister for Agriculture) on motion of Mr Herbert; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Ms PULFORD (Minister for Agriculture), Mr Herbert tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

Opening paragraphs

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the charter), I make this statement of compatibility with respect to the Energy Legislation Amendment (Consumer Protection) Bill 2015.

In my opinion, the Energy Legislation Amendment (Consumer Protection) Bill 2015, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill amends the Electricity Industry Act 2000, the Gas Industry Act 2001, and the Essential Services Commission Act 2001 to strengthen consumer protections in the energy sector. Among other amendments, the bill allows the Essential Services Commission to issue penalty notices for the contravention of licence conditions and wrongful disconnection notices for the contravention of wrongful disconnection provisions.

Human rights issues

The right to a fair hearing

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

Clause 17 of the bill amends the Essential Services Commission Act 2001 to allow the Essential Services Commission to serve on an energy licensee a penalty notice (either an energy industry penalty notice or a wrongful disconnection notice) if the commission has reason to believe the licensee has contravened a licence condition or, in respect of a licensed energy retailer, has failed to comply with the requirements of the energy retail code in respect of disconnection of a customer's supply of electricity or gas. The commission must serve a penalty notice not later than 12 months after the date on which the commission forms the belief that there has been a contravention of a penalty provision.

A person is not required to pay the penalty set out in a penalty notice, and the bill sets out the proceedings for a court order should this be the case. The bill permits the commission to apply to the Supreme Court for an order if a person on whom a penalty notice is served does not pay the penalty specified in the notice. The court may make an order to pay the penalty, or any other order the court considers appropriate, only if the court is satisfied that the person has committed the contravention.

These amendments are consistent with the right to a fair hearing.

The right not to be tried or punished more than once

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

The bill prohibits the commission from taking enforcement action in respect of the contravention for which a penalty notice was served while that notice is on foot. The bill further provides that no enforcement action may be taken by the commission against a person on whom a penalty notice was served if the penalty is paid within the required time, or paid outside of that time and accepted by the commission.

The bill provides that payment of a penalty is not, and must not be taken to be, an admission of contravention, or an admission of liability, for the purpose of any proceedings commenced in respect of the contravention.

These amendments are consistent with the right not to be tried or punished more than once.

The new penalty notice provisions under clause 17 of the bill are not criminal penalties for the purposes of the charter, having regard to their nature and severity.

Hon. Jaala Pulford, MP
Minister for Agriculture
Minister for Regional Development

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr HERBERT (Minister for Training and Skills).

Mr HERBERT (Minister for Training and Skills) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Energy is an essential service for all Victorians. Without access to energy, Victorians cannot cook food for their children, wash clothes for their family and provide warmth to the elderly.

Under the previous government, too many Victorians were being disconnected from this essential service. Between 2012–13 to 2013–14, electricity disconnections rose by 36 per cent and gas disconnections increased by an alarming 42 per cent. Wrongful disconnections doubled, and average debt upon entry into a hardship program rose. In addition, between 2009–10 to 2013–14, the energy and water ombudsman of Victoria observed a 211 per cent increase in energy affordability cases.

These trends cannot continue. Victorians should be protected, rather than disconnected. That is why the Andrews Labor government is introducing this bill to ensure the Victorian energy retail market produces positive outcomes for consumers.

This bill will amend Electricity Industry Act 2000, the Gas Industry Act 2001 and the Essential Services Commission Act 2001 to strengthen the ability of the energy sector regulator, and the Essential Services Commission, to enforce compliance with energy sector consumer protections. It will also strengthen those protections so that consumers can have greater confidence when dealing with their energy sector service provider.

The bill amends the Essential Services Commission Act 2001 to provide the Essential Services Commission (the ESC) with additional enforcement powers. The ESC will now be able to require payment of a $20 000 penalty by an energy sector licensee if that licensee has breached its licence obligations, including obligations to comply with energy sector codes and guidelines. The licensee may resolve the case with the ESC, without admission of breach, by paying the penalty. However, if the licensee chooses to not pay, the ESC may seek a Supreme Court order requiring payment.

The ESC may also accept voluntary undertakings from energy sector service providers to take remedial or preventative action in relation to non-compliance with its energy sector regulatory obligations. Again, if the licensee fails to comply with this undertaking, the ESC may seek a Supreme Court order requiring compliance.

The ESC will now be able to amend the licence conditions under which an energy sector licensee operates to require the licensee to take remedial or preventative action in relation to the breach of a licence obligation and the ESC will now be able to direct an energy sector licensee to publish a notice informing consumers about enforcement action which has been taken against it.

In addition, the existing enforcement powers of the Essential Services Commission will be enhanced by increasing the penalty level for civil penalty notices that may be issued to energy sector licensees from 120 penalty units (or approximately $17 700) to 680 penalty units (or approximately $100 000). Where the Essential Services Commission takes enforcement action against an energy sector licence-holder, the commission will be required to publish details of that action on its website.

This increased range of enforcement powers will mean that the Essential Services Commission is able to better protect consumers. It will also mean that energy sector licence-holders have greater incentive to ensure that their systems and procedures are robust enough to ensure compliance with their energy sector regulatory obligations.

The bill will also amend the Essential Services Commission Act 2001 to require the Essential Services Commission to publish an annual report — a compliance and enforcement report — on the performance of energy retailers. This report, which will be made public and which will be updated quarterly, will provide information on enforcement action the Essential Services Commission has taken over the reporting period. It will also include information, to be reported for each retailer, on compliance with energy sector consumer protection obligations and on performance against specified performance indicators. To support the preparation of these reports, energy retailers will be required to provide information to the Essential Services Commission in accordance with guidelines to be issued by the commission.

This new compliance and enforcement report will consolidate and enhance the existing energy sector performance reports published by the Essential Services Commission, and will provide a regular and independent source of information to consumers about how an energy retailer is performing. This will, in turn, allow consumers to make a better and more informed choice about their energy retailer.

Another source of information about performance of energy sector licence-holders is the energy and water ombudsman of Victoria. The ombudsman is a customer dispute resolution scheme approved by the Essential Services Commission, available to consumers to assist in resolving concerns they may have with the performance of their energy retailer or distributor. It publicly reports on systemic issues with energy retailer or distributor performance identified through its interactions with energy consumers. The bill will amend the Essential Services Commission Act 2001 to introduce a formal process to allow such a dispute resolution body to refer these systemic issues to the Essential Services Commission for investigation. The commission will report to the Minister for Energy and Resources on the action it takes in response to that referral.

No Victorian household should be wrongfully disconnected from their gas or electricity supply. Disconnection may cause a consumer to suffer significant distress. The energy retail code strictly governs the process a retailer must follow before disconnecting a customer. Disconnection without good cause or due notice, is a serious breach of those requirements. This is acknowledged by the wrongful disconnection compensation scheme prescribed by the Electricity Industry Act 2000 and the Gas Industry Act 2001. To recompense customers who had been wrongfully disconnected, this scheme entitles a customer to a $250 per day payment. However, the value of this payment has not changed since it was introduced in 2004. The bill will remedy this by doubling the payment to $500 per day.

In addition, this bill will amend the Electricity Industry Act 2000 and the Gas Industry Act 2001 to introduce a wrongful disconnection penalty scheme. Under this scheme, the Essential Services Commission may impose a $5000 penalty for each breach of the energy retail code that has led to a wrongful disconnection. The scheme will further strengthen the commission's power to address breaches that lead to wrongful disconnections and will provide a clear message to retailers about the importance of delivering on their obligations to prevent customers from being wrongfully disconnected.

The bill will amend the Electricity Industry Act 2000 and the Gas Industry Act 2001 to abolish 'exit' or 'early termination' fees except where they are linked to a genuine fixed-term, fixed-price contract. This means that retailers may only apply an exit fee where a customer seeks to leave a fixed-term retail contract where all applicable tariffs, charges, fees, discounts and terms and conditions have not been varied during the life of that contract. In all other cases, customers may leave a contract without suffering an exit fee. These amendments will allow consumers to more readily change their energy retailer, including in response to a retailer unilaterally varying the price at which it sells electricity, and more confidently engage in the energy retail market.

The bill will also introduce a requirement into the Electricity Industry Act 2000 and the Gas Industry Act 2001 for retailers to publish standing offer tariffs in the *Government Gazette* on a date or within a period specified by the Minister for Energy and Resources. This change will promote the publication of efficient standing offer prices by energy retailers.

The bill will amend the Electricity Industry Act 2000 to prohibit retailers from including eligibility criteria in their supply offers that restrict customers who have solar or other renewable energy generation from taking up an offer that would otherwise be available to them. That is, while energy retailers may still make electricity sale offers that are specific to solar and renewable energy customers, such customers must also be able to access the same offers as any other customer. This will ensure that current incentives for investment in solar and other renewable energy sources are not adversely impacted by energy retailers imposing higher charges for this customer group.

Finally, the Electricity Industry Act 2000 and the Gas Industry Act 2001 will be amended to support these additional powers and protections. There will be a specific acknowledgement in each of these acts that the objectives of the Essential Services Commission for the energy sector include the promotion of consumer protections. The commission's compliance, monitoring and enforcement role in relation to the energy sector will also be expressly stated in the Essential Services Commission Act 2001.

I commend the bill to the house.

Debate adjourned for Mr DRUM (Northern Victoria) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 24 September.

LOCAL GOVERNMENT AMENDMENT (IMPROVED GOVERNANCE) BILL 2015

Introduction and first reading

Received from Assembly.

Read first time for Mr JENNINGS (Special Minister of State) on motion of Mr Herbert; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Mr JENNINGS (Special Minister of State), Mr Herbert tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the 'charter'), I make this statement of compatibility with respect to the Local Government Amendment (Improved Governance) Bill 2015.

In my opinion, the Local Government Amendment (Improved Governance) Bill 2015, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The purposes of the bill are to amend the Local Government Act 1989 ('act'), to enhance the standards of governance and behaviour across local government. The key changes will include requiring newly elected councillors to make a declaration that they will abide by the council's councillor code of conduct, introduce a mandatory internal resolution procedure within councils and make improvements to the councillor conduct panels including the capacity for panels to hear serious misconduct matters. The amendments will also strengthen powers of the chief municipal inspector ('CMI'), and allow the minister to seek an order in council to stand down problematic councillors.

The bill also amends the act, the City of Melbourne Act 2001 and the Electoral Act 2002 to make immediate improvements in electoral processes for the forthcoming local government general elections scheduled for October 2016.

Human rights issues

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

Taking part in public life

Section 18 of the charter establishes a right for an individual to participate in the conduct of public affairs, to vote and be elected at state and municipal elections, and to have access to the Victorian public service and public office, without discrimination.

This bill will strike the right balance in achieving the highest standards of behaviour and conduct, as expected of elected councillors as they exercise their right to participate in public life, while providing appropriate oversight by the state government. The bill also includes reforms to strengthen the local government electoral system, further promoting and increasing opportunities to participate in the conduct of public affairs.

Clauses 4, 5 and 13 of the bill, which amend existing sections 29 and 63, and substitute a new section 64 of the act, provide that a person elected to be a councillor is not capable of acting or continuing to act as a councillor until he or she has made a declaration stating that he or she will abide by the councillor code of conduct. Clause 13 of the bill also amends section 29 of the act to lower the threshold for disqualifying a councillor where convicted of a criminal offence punishable with a term of imprisonment of five years to two years. It also increases the period for which a councillor is disqualified if convicted, from seven to eight years.

Clauses 25 and 26 of the bill, which amend sections 81J and 81K of the act, provide that where a finding of misconduct, serious misconduct or gross misconduct has been made in relation to a councillor by a councillor conduct panel or the Victorian Civil and Administrative Tribunal ('VCAT'), a range of disciplinary actions may be imposed including directing the councillor to take leave of absence, suspending the councillor or disqualifying the councillor from holding office.

Clause 36 of the bill inserts a new section 219AF in the act which provides that a councillor may be stood down by order in council on the recommendation of the minister on the grounds he or she poses a threat to the safety of other councillors or council staff, or is disruptive of council business, or is not acting in accordance with the role expected of a councillor.

The right to take part in public life is relevant here since there are occasions where people are prevented from serving or continuing to serve as councillor. However, any restrictions are justifiable because there are standards required of people who hold public office, and the community is entitled to be represented by people who are capable of performing their duties as councillor, and do so with integrity and respect of others. It also ensures that appropriate disciplinary measures are taken against councillors depending on the seriousness and nature of their conduct.

Further, clause 34 of the bill inserts new section 81U in the act to provide that the minister must establish a councillor conduct panel list of eligible persons. A person is eligible if the person is an Australian lawyer of more than five years or has any other experience the minister considers relevant to the position.

While this may engage the right to participate in public life, this requirement ensures panel members have appropriate legal and other necessary experience, and therefore a greater likelihood that decisions are made competently, fairly, impartially and in accordance with the principles of natural justice.

Clauses 49 and 82 of the bill remove the requirement for an exhibition roll to be prepared prior to the certification of the final voters roll for a council election. The right to take part in the conduct of public affairs through voting at municipal elections may be relevant here, however it is noted that no longer having an exhibition roll that can be inspected by voters does not prevent a person from inquiring about their voting entitlements with the Victorian Electoral Commission or the local council at any time before the roll closes. It is also noted that the act allows the final voters roll to be subsequently amended before an election if it is found to contain an error or omission.

Clause 56 introduces an additional ground for disqualification from becoming a councillor — where he or she is disqualified from managing a corporation under the Commonwealth Corporations Act. This clause engages the right to participate in the conduct of public affairs through being elected at municipal elections. It is considered that such a prohibition is reasonable as it is not appropriate that an individual banned from managing a corporation should be allowed to act as a local government office-holder with significant responsibility for public assets.

Clause 69 requires all candidates to nominate in person with the returning officer. A candidate will no longer be able to nominate via a third party. The right to be elected in municipal elections is relevant to this clause. However, the right to nominate is not removed outright and the obligation to nominate in person is reasonable as a disincentive to the involvement of 'dummy' candidates who run at an election solely to give preferences to another candidate.

Clause 70 requires a candidate's nomination to be rejected if they are not enrolled on the voters' roll for the relevant election. The right to be elected at municipal elections is engaged by this clause. It is considered reasonable and not onerous for candidates to take appropriate steps to ensure they are enrolled at local government elections, in the same way that applies in state elections.

Clauses 71 and 72 allow a returning officer to remove a candidate from an election if he or she believes they are disqualified from contesting the election. The right to be elected in municipal elections is engaged here, but it is noted that before making any such decision the returning officer must make inquiries as to the candidate's bona fides and seek information from them. It is reasonable to remove a candidate from an election if it is clear they are disqualified; to allow a candidate in this instance to contest runs the risk of voiding an election and requiring a new election to be held.

Freedom of movement

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

Clause 42 of the bill, which amends section 223B of the act and clause 44, which inserts new section 223CC of the act, provides that the CMI and municipal monitor ('monitor') may require a person, by notice, to give all reasonable

assistance in connection with the exercise of their powers of examination and investigation, such as appearing before them for questioning.

Whilst this power may interfere with a person's right of freedom of movement, the CMI or monitor must provide notice in writing to the person to appear before the CMI or monitor, giving that person the opportunity to arrange to do so. Further, the person may refuse to attend if he or she has a lawful excuse, such as that it may incriminate them. Such powers of examination and investigation are important to allow the CMI and monitor to properly perform their statutory functions in ensuring potentially misbehaving councillors are brought to justice and good governance is maintained within local government.

The CMI's key functions under the bill include investigating and prosecuting offences under the act, advising on and bringing applications for serious and gross misconduct against a councillor, as well as advise on council governance matters and ways of improving governance practices. A monitor will also have a key role in monitoring council governance processes and practices, as well as advise on whether a councillor's behaviour should result in them being stood down.

Privacy and reputation

Section 13 of the charter provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with, and not to have his or her reputation unlawfully attacked.

Clauses 42 and 44 of the bill also provide that the CMI and monitor may require a person, by notice, to produce any document in the person's custody or control that relates to any matter that is the subject of the CMI's or monitor's examination or investigation, and permit any other person entitled to inspect the document to do so. Such documents may contain personal information.

Any interference with a person's privacy is lawful and not arbitrary in this case, since the requirement to provide information will be clearly set out in the bill and information may only be requested where it is relevant to the examination and investigation, and may only be inspected by the CMI or monitor, or other person entitled to do so. Furthermore, a person may refuse to comply with a request of the CMI or monitor where he or she has a lawful excuse.

Freedom of expression

Section 15 of the charter establishes a right for an individual to seek, receive and impart information and ideas of all kinds, whether orally, in writing, in way of art, in print or other medium.

Clause 18, which inserts new section 81AB of the act, and clause 25, which amends section 81J, provides that if a councillor is found to have breached the councillor code of conduct following an internal resolution procedure, or engaged in misconduct or serious misconduct following a councillor conduct panel hearing, the council or panel, whichever applies, may direct the councillor to make an apology.

The freedom of expression is relevant here since potentially a councillor may be required to make an apology. However, this right would not be limited or if it is, it is justifiable on the basis that requiring a councillor to make an apology ensures that the community is made aware of the councillor's breach, and serves as a disincentive to the councillor to engage in similar misconduct given their reputation may be compromised as a result. Further, while such reputational issues may engage and interfere with a councillor's privacy under section 13 of the charter, this statutory requirement is considered lawful and not arbitrary.

Property

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

Clause 36 of the bill inserts new section 219AF in the act, which provides that a councillor's allowance is to be withheld where that councillor has been stood down by order in council on the recommendation of the minister on the grounds they are a risk to council.

There is no deprivation of property in this instance since the councillor who is required to stand down is unable to perform his or her functions as councillor. For this reason the councillor should not be entitled to an allowance during this period. Further, the withholding of the allowance is only for the period of the order in council and not permanent.

Clauses 42 and 44 of the bill further provide that the CMI and monitor may take possession of any document produced for so long as he or she considers necessary in the exercise of their powers and functions.

Requiring a person to provide the CMI or monitor with documents within their possession does not amount to a permanent deprivation of property, and is therefore compatible with the charter. Also, a person may refuse to comply with a request of the CMI or monitor where he or she has a lawful excuse under section 223C(2) of the act.

Rights in criminal proceedings and right to a fair hearing

Section 25(2)(k) of the charter establishes a right for an individual charged with a criminal offence not to be compelled to testify against himself or herself or to confess guilt. This is also an aspect of the right to a fair trial protected by section 24 of the charter.

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

Clauses 42 and 44 of the bill amend the act to provide that the CMI and monitor may require a person, by notice, to appear before the CMI or monitor for examination on oath and to answer questions, as well as require the person to produce any document that relates to the matter under examination or investigation. Such powers are important to ensure the CMI and monitor can effectively perform their functions under the act and achieve fair, informed and appropriate outcomes in doing so.

Section 223C(2) of the act provides that a person may refuse to comply with a request of the CMI or monitor if that person has a lawful excuse to do so, such as that answering the questions may incriminate them. This demonstrates that the

least restrictive approach to interfering with a person's rights under sections 24 and 25 of the charter has been taken.

In addition, a person appearing before a CMI or inspector is entitled to be represented by a lawyer and be advised of their rights in this regard, which is an important safeguard.

The bill seeks to balance the need for the CMI and monitor to be able to obtain relevant information and properly conduct examinations and investigations against the need to protect the rights of individuals who provide the information. The least restrictive approach has been taken. To the extent that the bill could enable a person's right to protection against self-incrimination and right to a fair trial to be limited, I consider that this is reasonable and justified.

Further, the bill provides that a councillor who is the subject of a council's internal resolution procedure, an application for misconduct, serious or gross misconduct before a councillor conduct panel or VCAT, or an investigation of the CMI or monitor, is given a fair hearing by ensuring appropriate requirements and mechanisms are in place. These include making it mandatory for an independent arbiter to be appointed and preside over a council's internal resolution procedure, that appropriately qualified and experienced persons constitute councillor conduct panels and VCAT, and that councillors are given every opportunity to respond to allegations against them before the arbiter, panel, VCAT, or CMI or monitor. Further, councillors are given a right to seek a review of decisions made by a councillor conduct panel or VCAT under the bill and act.

Gavin Jennings, MLC
Special Minister of State

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr HERBERT (Minister for Training and Skills).

Mr HERBERT (Minister for Training and Skills) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill will improve standards of governance and the conduct of councillors in local governments across Victoria.

In particular it will ensure councillors know and understand what is required of them and accordingly adopt appropriate standards of behaviour from the outset of their terms of office. It will do so by requiring all persons newly elected to be councillors, including those who have previously been councillors, to read the council's councillor code of conduct and declare that he or she will abide by that code. Failure to do so, or failure to take the oath of office within three months of being elected, will result in the person not being capable of becoming a councillor. All councillors must repeat this declaration process each time a new councillor code of conduct is adopted.

The bill also encourages councils to take responsibility for resolving conduct issues internally so far as possible by strengthening internal councillor codes of conduct. It does this in three ways. First, councils will be required to review and adopt their codes within four months of the election at a special meeting set aside for this purpose. Second, the bill requires councils to have an internal resolution procedure within codes that makes it clear to all councillors how allegations of breaches of the code are to be handled. Third, the bill provides that councils may impose sanctions where a finding of breach of the code has been made following an internal resolution procedure. These must be voted on by council and include requiring an apology and excluding a councillor from attending or chairing meetings and removing them from any role representing council on an external body. This is aimed at ensuring councillors know the consequences of their actions in breaching the standards of behaviour that they as councillors have adopted. It is also aimed at ensuring councils accept responsibility for resolving behavioural and conduct issues occurring in their councils.

In a further measure to encourage better understanding of what is expected of them in terms of their behaviour and their role as councillors, the bill defines the roles of a councillor and mayor for the first time. The role of a councillor is set out in the bill as participating in decision making of the council, representing the local community in that decision making, and contributing to the strategic direction of the council. The role of the mayor includes providing guidance to councillors about what is expected of them as councillors and supporting good working relations between councillors. It also includes acting as the principal spokesperson for the council and carrying out civic and ceremonial duties.

The CEO's responsibility for the organisational structure and day-to-day management decisions of council is also expanded in the bill. The bill provides that the CEO must also ensure council receives timely and reliable advice about its legal obligations under this act and any other legislation. This means there is an obligation on CEOs to inform councillors about the legal implications of all decisions or actions council is considering. Such advice must be given without fear or favour. In addition a CEO is also required to provide support to the mayor and to manage interactions between councillors and staff. This includes putting in place appropriate policies, practices and protocols for how that interaction should take place.

The bill enables regulatory authorities to more effectively enforce the appropriate behaviour of councillors through strengthened councillor conduct panel processes and a broader jurisdiction for panels. It also puts the chief municipal inspector on a more modern footing providing the inspector a role in serious conduct matters.

Councillor conduct panels processes

In respect of panels, the bill provides that the minister will appoint suitably qualified people to a central list of panel members. This replaces the current arrangement whereby the Municipal Association of Victoria is responsible for this process. Legal practitioners and any other persons whom the minister considers suitably qualified to the position will be appointed to the list. A new position of principal councillor conduct registrar will be established to then manage the establishment of panels when applications against councillors for misconduct and serious misconduct are made. The registrar will be appointed by the Secretary of the Department of Environment, Land, Water and Planning, and will be employed under the Public Administration Act 2004. The registrar will importantly have an important new function.

This is to vet applications to ensure they are properly supported by evidence and are not made for frivolous or vexatious reasons. The registrar will be able to refuse to establish a panel if there is no clear evidentiary basis for the claim of misconduct or serious misconduct. However, where the application is made by the chief municipal inspector for a serious misconduct, the registrar must establish a panel. The registrar will also be empowered to refer an application back to a council if he or she determined the matter has not properly been dealt with through the council's own processes.

Expanded councillor conduct panel jurisdiction

Panels will now be able to hear applications against councillors for both misconduct and serious misconduct. Misconduct is defined to mean failure by a councillor to comply with the internal resolution procedures in the councillor code of conduct or repeated contraventions of the councillor conduct principles in the act.

Serious misconduct is defined as failure to comply with a panel direction which includes attending, providing information to or otherwise cooperating with the panel. It also includes continued misconduct after a panel direction, bullying another councillor or a member of staff, attempting to direct council staff or releasing confidential council information. Bullying is defined in the bill in the same way it is defined in the commonwealth Fair Work Act 2009, which is the definition used by WorkSafe Victoria. This is repeated, unreasonable behaviour that creates a risk to health and safety.

Panels will be able to direct councillors to make an apology, undertake counselling or, if found to have engaged in serious misconduct, take leave for up to two months or be suspended for up to six months. The Victorian Civil and Administrative Tribunal will continue to be the only forum in which allegations of gross misconduct will be heard with applications now to be made by the chief municipal inspector rather than the secretary of the department. The definition of gross misconduct has been amended to mean behaviour that demonstrates a person is not of good character or is not a fit and proper person. Appeals to the Victorian Civil and Administrative Tribunal may be made from all panel determinations.

These changes have been made to create a clearer hierarchy of dealing with misconduct allegations against councillors to ensure allegations of misbehaviour are escalated to the appropriate forum at the appropriate time.

Chief municipal inspector

The chief municipal inspector plays an important role investigating and prosecuting offences against the Local Government Act 1989. The bill provides a statutory basis for the chief municipal inspector to reflect this primary role.

The chief municipal inspector will also be given a role in investigating and prosecuting serious and gross misconduct matters. This reinforces that breaches of the conduct provisions are as important as other offences under the act.

The bill will introduce two new offences for breach of confidentiality and directing staff. An offence under these provisions will now invoke a penalty of up to 120 penalty units (over $18 000) which is on a par with breach of the conflict of interest provision of the act. The chief municipal inspector will now be able to investigate and prosecute these two matters either as offences under the act or as serious misconduct. A councillor, however, cannot be both prosecuted and taken to a councillor conduct panel for the same behaviour.

The chief municipal inspector is also recognised in the bill for the first time to put the chief municipal inspector on a modern statutory footing. This position will be a statutory appointment made by the Special Minister of State, and the chief municipal inspector will be employed under the Public Administration Act 2004. He or she will retain the current powers of investigation and be able to delegate these powers to employees of the chief municipal inspector, who will be known as inspectors of municipal administration. This replaces the current appointment of individual inspectors by the minister.

Monitors

The role of municipal monitor is set out separately in the bill for the first time so that the minister will continue to have the capacity to appoint persons to monitor the activities of councils where governance issues have been identified. Municipal monitors will have the same investigatory powers they hold at present, which are now described as the powers of the chief municipal inspector.

Municipal monitors will also provide advice to the minister when a complaint is made that conduct by a councillor represents a threat to health and safety, or is completely obstructing council business, or is not acting in accordance with the role expected of a councillor. In these circumstances, if the municipal monitor confirms that the conduct is occurring, the minister can stand the councillor down while a claim of serious or gross misconduct is being heard by either a panel or at the Victorian Civil and Administrative Tribunal. This will be through an order in council on the recommendation of the minister. Such an order will lead to a councillor being stood down and not permitted to attend council meetings or to attend council premises while awaiting the panel or the Victorian Civil and Administrative Tribunal hearing of the substantive matter. A councillor's allowance will be set aside during this period and either withheld if the claim of serious or gross misconduct is upheld, or paid to the councillor if no such finding is made. This is an important new power for the minister and one that has not been embarked on lightly. However, as we have seen in recent times in extremely serious cases of serious or gross misconduct, the removal of a councillor may prevent a complete failure by the council to provide good government.

In addition to being able to appoint monitors, the minister is empowered by the bill to issue directions about governance matters to councils where the minister considers governance processes and policies require improvement. The minister can only exercise this power following advice from the chief municipal inspector or municipal monitor. How a council responds to such a direction will be taken into account when the minister exercises the power under the act to recommend suspension of the council. This provides a minister with power to direct a council to take specific actions or discontinue current practices.

A range of other governance reforms are included in the bill. These include lowering the threshold for disqualifying a councillor where convicted of a criminal offence punishable with a term of imprisonment of five years to two years. It also increases the period for which a councillor is disqualified if convicted, from seven to eight years.

Prohibition of councillor discretionary funds

The bill expressly prohibits councillor discretionary funds where a councillor is allocated funds for their discretion. This includes funds allocated to particular council wards. It is expected that allocation of council resources should all be dealt with in a transparent and accountable way and consistently with the strategic directions set by council in its key strategic plans and statements. Further, allocation of resources should follow expert advice from council officers on the appropriateness of the expenditure in the light of those strategic directions agreed to by council.

Audit committees

The bill provides for increased independence for audit committees by specifying that the chair of an audit committee has a right to have a report placed on the agenda of any council meeting. Whilst it is recognised that most councils have strong working relationships between audit committee chairs and CEOs, this provision will give audit committees the capacity to bring things to the attention of councillors without requiring CEO agreement if they feel that is needed.

Electoral reforms

A number of electoral reforms are also being introduced, for implementation in time for the 2016 Victorian council general elections. A key reform includes making the Victorian Electoral Commission the statutory provider for all council elections, a role it has provided for all councils since at least 2003. Other reforms include removing the requirement for an exhibition voters roll which does not occur in state elections, preventing a person who is banned from being a company director from being a candidate at an election or continuing as a councillor, and requiring councils to have an election period (or 'caretaker') policy and clarifying limitations on publication of council documents during the election period.

The highest standards of behaviour and conduct are rightly expected of elected councillors as they exercise their right to participate in public life. This right is not absolute, and the government is confident that this bill strikes the right balance in supporting the independence of the local government sector as a third tier of government while providing appropriate oversight by the state government.

I commend the bill to the house.

Debate adjourned for Mr DAVIS (Southern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 24 September.

SAFE PATIENT CARE (NURSE TO PATIENT AND MIDWIFE TO PATIENT RATIOS) BILL 2015

Introduction and first reading

Received from Assembly.

Read first time for Ms MIKAKOS (Minister for Families and Children) on motion of Mr Herbert; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Ms MIKAKOS (Minister for Families and Children), Mr Herbert tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter), I make this statement of compatibility with respect to the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Bill 2015.

In my opinion, the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Bill 2015, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The purpose of the bill is to set out the requirements for operators of certain publicly funded health facilities to staff certain wards with a minimum number of nurses or midwives. These minimum requirements are referred to in this statement as the nurse-to-patient and midwife-to-patient ratios.

The bill also provides for:

compliance and reporting arrangements in circumstances where the nurse-to-patient and midwife-to-patient ratios (including as varied) are not met; and

mechanisms for enforcement of those ratios in the Magistrates Court.

Human rights issues

Peaceful assembly and freedom of association (section 16)

The bill may engage section 16(2) of the charter which provides for the right of every person to form and join trade unions. However, the bill does not limit that right.

The bill defines a 'relevant union' to mean an organisation within the meaning of the Fair Work (Registered Organisations) Act 2009 of the commonwealth that represents or is entitled to represent a nurse or midwife in a ward of a relevant hospital. The bill confirms the role of a relevant union to act on behalf of nurses and midwives to:

negotiate and enter into local agreements to vary the nurse-to-patient and midwife-to-patient ratios or the relevant rounding methods for those ratios;

be provided a copy of a direction of the secretary of the department to require an operator of a relevant hospital to comply with the nurse-to-patient and midwife-to-patient ratios;

participate in local dispute resolution processes regarding an alleged breach of nurse-to-patient and midwife-to-patient ratios; and

act as a party in any subsequent litigation in the Magistrates Court.

The bill therefore does not limit the right of a person to form and join a trade union.

For the reasons outlined it is my view that the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Bill 2015 is compatible with the Charter of Human Rights and Responsibilities Act 2006.

Jenny Mikakos, MP
Minister for Families and Children

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr HERBERT (Minister for Training and Skills).

Mr HERBERT (Minister for Training and Skills) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill is an Australian first.

It will help nurses and midwives do what they do best, it will guarantee every Victorian patient the care they need and it will protect the integrity of our highly respected nursing profession in the future.

This bill enshrines nurse-to-patient and midwife-to-patient ratios in legislation, delivering on a key election commitment of the Andrews Labor government.

Victoria is the first Australian jurisdiction to initiate this type of legislation to protect the safety of patients and the nursing profession.

With this bill — the first of its kind to guarantee minimum healthcare staffing levels in primary legislation — Victoria will have the most comprehensive nursing and midwifery staffing legislation anywhere in the world.

Enshrining nurse-to-patient and midwife-to-patient ratios in legislation means there will always be a certain number of nurses and midwives present to care for Victorian patients — now and into the future.

It protects the strength and integrity of the nursing profession, by taking this essential requirement of care off the bargaining table and into the law — safe from the risk of being stripped away by future governments.

This is a significant and historic change in the way minimum nurse and midwife staffing levels are specified within Victoria's health system — its public hospitals, publicly operated denominational hospitals, public health services and multipurpose services.

Nurse-to-patient and midwife-to-patient ratios were first introduced to Victoria in 2000 as part of the enterprise agreement.

When ratios were first introduced, the subsequent recruitment campaign led to an additional 2650 nurses and midwives working across the Victorian public hospital system — an increase of 12 per cent.

The majority of these additional nurses were employed to meet the newly introduced nurse and midwife-to-patient ratios at that time.

Since then, the minimum nursing and midwifery staffing levels within our public hospitals and health services have been maintained.

There is evidence from Australia and around the world that confirms that if a nurse has more time to provide care to a patient, then the risk of that patient having an unintended complication or event — like falling or developing a pressure ulcer — is far less than if the patient was left unattended.

This fundamental requirement that protects the safety of patients within our health system is not something that should be traded away or threatened during an enterprise agreement negotiation, as it was with the current agreement.

With this bill, the ratios of nurses and midwives will be permanently quarantined from industrial relations disputes. They will no longer come under threat by future governments.

This bill achieves three things:

First, the bill sets out the current numeric nurse-to-patient and midwife-to-patient ratios that are already in place by setting specific requirements for the minimum number of nurses or midwives for a set number of patients.

These provisions do vary across different hospitals, different types of wards and different shifts, and are intended to replicate the arrangements and scope contained within the current public sector nurses and midwives enterprise agreement.

Second, the bill retains some important elements of the enterprise agreement that relate to the interpretation and application of the ratios.

These provisions allow either employers or employees some flexibility to propose and negotiate variations of the ratios to allow for a further refinement where required.

It is important that the act is flexible enough to factor in local needs and issues while keeping pace with the evolving nature of health care.

Finally, the bill introduces a compliance and enforcement regime. As ratios will no longer be subject to the enterprise agreement, the Fair Work Commission and the Commonwealth Fair Work Act 2009 will no longer have jurisdiction to conciliate, arbitrate and otherwise deal with matters relating to ratios.

This enforcement regime includes specific direction powers for the Secretary of the Department of Health and Human Services to ensure health services' compliance with the ratios. These powers can be utilised by the secretary either pre-emptively or following a declaration of a court.

The bill sets out an alternative enforcement regime under Victorian jurisdiction, whereby the Magistrates Court of Victoria could be referred a matter when it cannot be resolved at a local level.

The enforcement regime replicates the enforcement mechanism under the enterprise agreement and is intended to

have similar effect to the dispute resolution arrangements under the enterprise agreement and impose no additional burdens on any of the stakeholders.

For serious and wilful breaches of the ratios or a ratio variation, the Magistrates Court may, at its discretion, impose a civil penalty of up to a maximum of 60 penalty points. This, combined with reporting requirements is enough to deter hospitals from breaching their requirements under the act.

Health services will also be required to report on any breaches as part of their published annual report.

The nursing profession works tirelessly to provide safe and effective care to the sick, injured and some of the most vulnerable members of our society.

Midwives equally work tirelessly to support and care for expectant and new mothers during this pivotal time in their lives.

In 2015, nursing was rated by Australians as our most highly regarded profession, for the 21st year in a row.

The staffing levels of our most ethical and honest profession help determine the safety and care of patients within Victoria's health system.

Something so basic and essential should never need to be defended time and again during industrial negotiations.

It is pleasing to note that, during consultations, the bill received widespread support from across the health sector.

Health services and employees alike recognise the irreplaceable role that nurses have in our health system and our lives.

The Andrews Labor government looks forward to working collaboratively with the Australian Nursing and Midwifery Federation and public hospitals, public health services, denominational hospitals and multipurpose services to make sure the changes are discussed in a clear and timely manner.

This will enable stakeholders to plan for the introduction of the act and to ensure a smooth transition.

The Andrews Labor government will continue to work with nurses and health services to make further improvements to these ratios over time.

This bill will help nurses and midwives do what they do best.

It will guarantee every Victorian patient the care they need.

And it will protect the integrity of our highly respected nursing profession in the future.

I commend the bill to the house.

Debate adjourned for Ms WOOLDRIDGE (Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 24 September.

SERIOUS SEX OFFENDERS (DETENTION AND SUPERVISION) AND OTHER ACTS AMENDMENT BILL 2015

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr HERBERT (Minister for Training and Skills); by leave, ordered to be read second time forthwith.

Statement of compatibility

Mr HERBERT (Minister for Training and Skills) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the charter), I make this statement of compatibility with respect to the Serious Sex Offenders (Detention and Supervision) and Other Acts Amendment Bill 2015 (the bill).

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

Overview

The bill amends the Serious Sex Offenders (Detention and Supervision) Act 2009 (the SSODSA) in order to, amongst other things, provide new police powers in relation to offenders and to further provide for the management of offenders and to further provide conditions of supervision orders. The bill also amends the Bail Act 1977 (the Bail Act) concerning an accused's entitlement to bail when held in custody, by creating a new presumption against bail.

Human rights issues

To preface my consideration of relevant human rights affected by these amendments, it is necessary to restate the purpose of the SSODSA and the nature of orders made under the SSODSA. The main purpose of the SSODSA is to enhance community safety by requiring offenders who have served custodial sentences for serious sex offences and who pose an unacceptable risk of harm to the community to be subject to either a supervision or detention order. The secondary purpose of the SSODSA is to facilitate the treatment and rehabilitation of such offenders so as to reduce their risk of harm to the community. The scheme is not punitive in nature, and ensures that the orders effect the minimum level of limitation upon rights necessary to ensure community safety. In making a supervision order, a court must be satisfied that an offender poses an unacceptable risk of reoffending if the order is not made and the offender is in the community. The evidence justifying the decision must be cogent and the court must be satisfied by that evidence to a high degree of probability. The court retains discretion as to whether or not to make any order. It may take account of any matter in exercising its discretion.

Amendments to management of offenders

Clause 4 inserts new section 158F into the SSODSA, which empowers the secretary to authorise certain prison officers to exercise the existing powers or functions of a community corrections officer under the SSODSA. Clauses 11 to 25 amend provisions of the SSODSA to provide that specified prison officers may exercise the powers of community corrections officers, that is, to:

be responsible for the day-to-day management of an offender, if directed by the commissioner;

be subject to the direction of the commissioner;

give reasonable instructions to an offender necessary to ensure compliance with rehabilitation or treatment plans or directions of the adult parole board;

if directed by the commissioner, to exercise search powers on an offender's residence, vehicle or person (garment or pat-down search);

if carrying out a search, seize any compromising item found in possession or under the control of the offender;

be obligated to record seized items on the seizure register; and

direct an offender to submit to alcohol and drug testing in accordance with the SSODSA.

I note that these powers are the same as those that are currently held by community corrections officers, and the amendments merely extend the class of persons who can exercise such powers. I consider that this extension does not change the underlying compatibility of the existing SSODSA provisions with the charter, nor the efficacy of the existing legislative safeguards, as considered by the Statement of Compatibility to the Serious Sex Offenders (Detention and Supervision) Bill 2009. I rely on the reasons advanced in that statement.

However, in addition to extending the class of persons which can exercise existing powers, new section 158F grants specified prison officers a unique power to direct an offender to do or not do anything that the officer believes on reasonable grounds is necessary for the safety of the officer, the offender or any other person, and to use reasonable force to compel an offender to obey such a direction if the officer believes on reasonable grounds that the use of force is necessary to prevent the offender or another person being killed or seriously injured. The use of reasonable force may also include the application of authorised instruments of restraint by specified officers who fall within a relevant exemption under the Control of Weapons Act 1990, such as extendable batons and oleoresin spray, if the application of that instrument of restraint is necessary to prevent the offender or another person being killed or seriously injured.

Relevant human rights

The power to use reasonable force to compel an offender to obey a direction may involve the physical restraint or apprehension of a person, which may constitute an interference with an offender's rights to life (s 9) bodily privacy (s 13) security of person (s 21) humane treatment when deprived of liberty (s 21) and protection from cruel, inhuman or degrading treatment (s 10).

The use of force may reasonably limit these rights provided it occurs within the framework of the law and with the objective of protecting public order, people's lives or property. Human rights principles require that the law and policies governing the use of force protect life to the greatest extent possible and safeguard the circumstances in which force is used. Any use of force must be no more than absolutely necessary and strictly proportionate to achieving a clearly defined lawful purpose.

New section 158F accords with these principles as it permits reasonable force to be used only in strict circumstances directly connected to protecting life. It is only authorised where a specified prison officer has given a direction to an offender that is necessary for the safety of a person, and reasonable force is required to compel an offender to obey this direction to prevent a person from being killed or seriously injured.

The primary purpose of the provision is to ensure the security and safety of the offender, the specified prison officers and others in the community. The very nature of supervision orders necessitates that offenders subject to such orders may present a danger to officers tasked with their management, as well as to the community. Such offenders constitute an increased risk to safety in the absence of authority for officers to use force to prevent loss of life or serious injury. Further, the provision meets important community expectations that specified prison officers tasked with the supervision or management of high-risk offenders are able to use reasonable force if necessary to prevent loss of life or serious injury. This expectation forms part of a broader and legitimate expectation that officers with duties under the SSODSA are able to fulfil their role in contributing to public order and public safety. Finally, the secretary has an implicit duty of care to ensure a safe working environment for specified prison officers, which may require the use of reasonable force when necessary to prevent loss of life or death to any person, including staff, prisoners or members of the public.

Existing operational procedures for prison officers exercising similar powers under the Corrections Act 1986 ensure that the use of force is always proportionate to the relevant safety risk and a last resort. Officers are trained to appropriately assess security risks and must identify possible courses of action that involve the use of all other options before resorting to the use of force to manage risks to safety, such as verbal direction, communication or negotiation.

Accordingly, I am satisfied that any interference with human rights caused by new section 158F is compatible with the charter.

New entry and arrest powers for Victoria Police

The SSODSA currently provides police officers with power to arrest a serious sex offender who is in breach of a supervision order. However, under section 459A of the Crimes Act 1958, Victoria Police members may only enter premises to make an arrest if the police officer reasonably believes such a breach has occurred or will continue. Moreover, unlike supervision officers at Corrections Victoria, Victoria Police members do not have a general power to enter premises where the offender resides to monitor their compliance with a supervision order.

As an increased community protection measure and a stronger response to breaches of supervision orders, a stronger

suite of police powers will be introduced by the bill. Clauses 4 and 5 of the bill provide for a greater ability to enter premises to check whether serious sex offenders are complying with their orders and creates a lower threshold to enter premises to arrest an offender in breach of a supervision order. The need to monitor compliance and address breaches of supervision orders can arise at places where the offender resides as well as places where they should not be residing.

Clause 4 inserts new sections 158C to 156E into the SSODSA to enable a police officer to enter any premises where an offender is residing if the police officer reasonably suspects the offender is present at the premises and the entry is reasonably necessary to monitor the offender's compliance with a supervision order. If necessary, a police officer may use reasonable force to enter premises.

Clause 5 inserts new sections 171A to 171C into the SSODSA to provide that a police officer, for the purpose of arresting an offender under existing section 171 of the SSODSA (which relates to an offender who is reasonably suspected of breaching a supervision order), may enter and search any premises (including any residence or vehicle) where the police officer reasonably suspects the offender is to be present. If necessary, a police officer may use reasonable force to enter premises.

To ensure appropriate protections for the offender and other persons in the premises where entry is being effected, the bill provides a police officer must announce that the officer is authorised by law to enter the premises. If the police officer has been unable to obtain unforced entry, the police officer must give any person at the premises an opportunity to allow entry to the premises.

Immediate unannounced entry to the premises can still be made if the police officer reasonably suspects that such entry is required to ensure:

> the safety of any person;
>
> that the effective monitoring of the offender's compliance or that the prevention of a breach or a continuation of the breach of a supervision order is not frustrated; or
>
> that the arrest in relation to the breach of a supervision order is not frustrated.

Relevant human rights

The power to enter any premises by force to monitor an offender's compliance with the supervision order or to search for an offender who is suspected of breaching a supervision order may constitute a limit on a person's right to privacy (s 13), including of persons not subject to a supervision order.

However, like with the new specified officer powers above, I am of the view that any limits on human rights resulting from the exercise of these new police powers are reasonably necessary. These powers meet important community expectations that police have the capacity to monitor an offender's compliance with the SSODSA where necessary, and be able to respond to suspected breaches of the SSODSA. While the power of entry to monitor compliance is broad, the extent of the limitation on an offender is likely to be low, as an offender will already be subject to other limits on privacy arising from the conditions of the supervision order, such as monitoring conditions.

The entry power is also limited to circumstances where entry is reasonably necessary to monitor compliance. This means that police will only be able to exercise their power of entry as a last resort. The power to search premises to effect an arrest is limited to the very serious circumstances of where a breach of conditions is suspected, which poses real community safety concerns given the purpose of the scheme and its application to offenders posing unacceptable risk. While the exercise of these powers may involve unintended breaches of privacy of other persons not subject to a supervision order who may be residing at the same premises as an offender, I am of the view that there is no less restrictive means available to achieve the purpose of these provisions.

Further, existing operational procedures for police officers require that these entry powers be exercised proportionately. Accountability is further provided through the operation of oversight provisions (new sections 158E and 171C); which require the Chief Commissioner of Police to advise the Secretary to the Department of Justice and Regulation of any exercise of these powers, who in turn must report the matter to the adult parole board. Clause 42 requires the details of the exercise of powers of entry under section 158C and 171A to be annually reported to the board under section 72 of the Corrections Act. Section 72(2) of that act requires the minister to cause the board's annual report to be laid before the Legislative Council and the Legislative Assembly before the end of the 14th sitting day of the Legislative Council or the Legislative Assembly after the annual report has been received by the minister. This provides for parliamentary oversight of the exercise of these new powers.

Accordingly, I am satisfied that any interference with human rights caused by new sections 158C and 171A is compatible with the charter.

Amendments to bail entitlements when held in custody

Clause 40 extends the application of section 4(4) of the Bail Act to include circumstances where an accused is charged with an indictable offence that is alleged to have been committed while the accused is the subject of a supervision or interim supervision order, or the accused is the subject of a supervision or interim supervision order at any time during the proceeding with respect to bail.

Section 4(4) of the Bail Act imposes a presumption against bail where an accused is charged with certain offences. The standard of proof is one of 'show cause', which involves a weighing of all relevant circumstances to support a conclusion that the detention in custody is not justified. While a reverse onus in the context of criminal proceedings is normally evaluated under the right to be presumed innocent in section 25 of the charter, this reverse onus is more appropriately evaluated in the context of the right to liberty in section 21, as it is concerned with matters relating to pre-trial detention rather than with proving guilt of an offence.

Right to liberty and security of person (s 21)

Section 21(6) of the charter provides that a person awaiting trial must not be automatically detained in custody. The right is not compatible with a complete prohibition on the grant of bail, but recognises that the denial of bail is justified in certain circumstances, such as where there is risk of an accused absconding, interfering with criminal justice processes (such as influencing witnesses or destroying evidence), committing

further serious offences or where it is necessary in order to protect the accused or prevent a disturbance of public order.

While clause 40 introduces a new obstacle in certain circumstances to an accused being granted bail, I am of the view that a reverse onus in this context which requires an accused to show cause why detention in custody is not justified does not limit this right. Clause 40 applies to a narrow range of circumstances, involving a person charged with an indictable offence who is the subject of a supervision or interim supervision order. This is a serious and concerning category of offending, as it involves a person who has served a custodial sentence for certain sexual offences, who has been found by a court to present an unacceptable risk of harm to the community to warrant the imposition of a supervision or interim supervision order, and who has committed a further indictable offence in addition to the offence which has drawn the application of the SSODSA. The mere fact that the accused is subject to a supervision order is indicative that there are serious community protection issues relevant to the granting of bail.

It is my view that it is reasonable to draw an inference that an accused in such circumstances presents an elevated risk of absconding, a threat to public safety or a likelihood of committing further serious offences while on bail, including further sexual offences, which justifies a reversal of onus requiring the accused to show that he or she should be released on bail. The standard of proof of 'show cause' will allow an accused opportunity to discharge the presumption if the nature of alleged offending and personal circumstances of the offender support a conclusion that detention in custody is not justified.

Accordingly, I am satisfied that the amendments in clause 40 do not limit the right not to be automatically detained in custody when awaiting trial in s 21(6) of the charter.

Amendments to electronic monitoring conditions of supervision orders

Clauses 7 and 8 introduce new conditions which must be imposed alongside any electronic monitoring condition imposed by the court in relation to an offender, or the court authorised the adult parole board in relation to an offender at a residential facility. This relates to requiring an offender to submit to electronic monitoring of the offender's compliance with a supervision order under s 17(1)(m) and 20(1)(c) of the SSODSA.

The new conditions are that the offender must:

> comply with any direction given by the adult parole board relating to electronic monitoring;
>
> for 24 hours of each day, be electronically monitored by wearing an electronic monitoring device fitted to the offender at the direction of the adult parole board;
>
> not tamper with, damage or disable any electronic monitoring device or equipment used for the electronic monitoring; and
>
> accept any visit by the secretary (or delegate) to the place where the offender resides, at any time that it is reasonably necessary and for any purpose including to install, repair, fit or remove any electronic monitoring device or equipment used for the electronic monitoring of the offender's compliance with the supervision order.

Relevant human rights

To preface my discussion of relevant human rights, it is important to note that the scheme is based on the risk of reoffending, rather than the fact of a person having been convicted. Whilst conviction may be a 'trigger' for eligibility, whether an order is imposed is based solely on an assessment of future risk. Accordingly, the imposition of new conditions does not limit the rights not to be tried or punished more than once (s 26), or the protection against retrospective criminal laws (s 27) in the charter.

While criminal process rights are not affected by these amendments, a number of other human rights may be relevant, including:

> protection against degrading treatment (s 10(c)), by requiring offenders to wear an ankle bracelet, which if seen may result in stigmatisation of a person so as to interfere with their relationships and employment prospects;
>
> right to freedom of movement (s 12) and right to liberty (s 21(1)), by controlling or restricting a person's capacity to move freely; and
>
> right to privacy (s 13), through interference with a person's personal privacy and physical integrity caused by the ankle bracelet, the 24-hour monitoring, the requirement to accept visits at any time and the sharing of information collected in the course of monitoring, such as information relating to an offender's location and journey.

In my view, the requirement to wear an electronic monitoring device in this context does not meet the threshold of 'cruel, inhuman or degrading treatment' so as to limit the charter right in section 10(c). Any stigma experienced by an offender is an incident of this particular supervisory measure and is not intended to be punitive. For example, the new requirement can be distinguished from an offender having to wear a bracelet of a particular colour in public to signify they are a supervised sex offender, which might be more of a punitive measure than a protective measure and may engage section 10. The bracelet contemplated by these amendments may be concealed by long pants or thick socks, allowing the interference with an offender's dignity to be minimised.

I also do not consider the right to privacy under section 13 of the charter to be limited, because although the cluster of new electronic monitoring conditions will interfere with an offender's privacy, the imposition of these conditions are neither 'unlawful' nor 'arbitrary' for the following reasons:

> the conditions are confined to the purpose of electronic monitoring the condition of the order;
>
> it will not be arbitrary as it will only apply to persons who, by virtue of being subject to a supervision order, have been found to pose an unacceptable risk of committing a relevant offence. The test applied in order to determine that a supervision order ought to be imposed is precise, transparent and accessible. The supervision order, and therefore the monitoring condition, will cease to apply upon the determination that the offender no longer poses an unacceptable risk;
>
> the amendments do not interfere with procedural and judicial safeguards relating to the imposition and

periodic review of supervision orders, the court's power to determine the appropriateness of a supervision order, or offenders' rights to seek appeal or review of the imposition of the condition of monitoring; and

in relation to the sharing of information collected in the course of monitoring, clause 34 amends section 189 of the SSODSA to limit the sharing of such information to circumstances reasonably necessary to enable persons to carry out functions under the SSODSA or other legislation, and creates a new offence prohibiting any unauthorised use or disclosure of such information.

Finally, in my opinion the new conditions relating to electronic monitoring do not impose any further restriction on liberty (s 21) or movement (s 12) distinct from the other conditions of an offender's supervision order. In other words, any restriction on an offender's liberty or freedom of movement is a consequence of the other conditions of the supervision order, such as residence, accompaniment, exclusion areas and curfew.

If the alternative view is taken that these amendments limit human rights, I am of the view that any such limitations are demonstrably justified. The inclusion of additional conditions relating to electronic monitoring enhances the efficacy of the SSODSA scheme, which has the primary object of community protection through preventing the risk of further offending by persons already convicted of a relevant sex offence.

Electronic monitoring is directed at reducing the risk of offending because it monitors an offender's relevant conditions of the order, which can be used to detect whether the offender is breaching, or is at risk of breaching, the conditions of the order, such as by having contact with other offenders or frequenting areas of exclusion where risk of offending is heightened. In this way, it can alert authorities to patterns of potential offending so that case management practices can be adapted to meet the particulars of the offender and preventative steps can be taken in advance of reoffending. The requirement for 24-hour monitoring and prohibition on tampering with or removing the bracelet is essential to ensuring the proper operation of the monitoring scheme. The requirement to accept visits at any time is a necessary interference with an offender's privacy to ensure the proper operation of monitoring equipment and the ability of the secretary to promptly respond or address any malfunctions or failures in the operation of the equipment. The supervisory measure in itself has a further deterrent effect, as the wearing of a bracelet acts as a physical cue that reminds offenders of their obligations under the order. Accordingly, there is close relationship between any limitation on rights and the purpose for which the limitation is imposed. The discretion to remove a condition to electronic monitoring another condition of a supervision when justified on a variation, review or renewal of the order also allows for less restrictive means to be employed when the circumstances require.

Accordingly, I am satisfied that clauses 7 and 8 are compatible with the charter.

Hon. Steve Herbert, MLC
Minister for Training and Skills

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr HERBERT (Minister for Training and Skills).

Mr HERBERT (Minister for Training and Skills) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

A recent event has rightly raised community concern about those serious sex offenders who are under supervision in our community. Immediately after this event, the Andrews government took swift action and ordered an immediate review by the Department of Justice and Regulation of the management of this individual. All recommendations of this review have been acquitted. In addition, Corrections Victoria immediately reviewed the compliance of all serious sex offenders under supervision orders in the community at the time and stronger management arrangements were put in place including in some circumstances new residential arrangements.

The Andrews government announced earlier this year a review of the Serious Sex Offenders (Detention and Supervision) Act 2009 (SSODSA) led by former Court of Appeal Judge David Harper. The Harper review is considering how the Serious Sex Offenders (Detention and Supervision) Act could be improved or another post-sentence legislative framework be created to strengthen the protection of the community from complex adult victim sex offenders and improve the management of complex adult victim sex offenders who may also be violent. It is also considering the governance models for improved decision-making and case management between the criminal justice and mental health service systems in relation to these offenders. The review is to be completed at the end of October this year.

In the meantime this bill will strengthen the current scheme for serious sex offenders. The government will consider additional reforms and associated legislative amendments that may be required as a result of the Harper review.

In that context, the governing principle demonstrated by this bill is that the paramount consideration is for the safety and protection of the community from risks posed by serious sexual offenders.

The Serious Sex Offenders (Detention and Supervision) and Other Acts Amendment Bill 2015 will amend the SSODSA and the Bail Act 1977. The main purpose of the bill is to strengthen and improve the supervision and management of serious sex offenders for the safety and protection of the community from sexual offending including through new police powers and a new presumption against bail.

The SSODSA is a civil, non-punitive scheme to provide ongoing supervision or detention of offenders who have completed their prison sentence and present an ongoing unacceptable risk of committing further sexual offences. The Supreme Court or County Court determines who will be on these orders and sets the conditions which must be aligned to their risk of sexual offending, such as where they are to reside

in the community, whether they will be subject to electronic monitoring and treatment.

A stronger role and powers for Victoria Police for community safety and protection

The bill will introduce a new stronger role and powers for Victoria Police in the monitoring of serious sex offenders in conjunction with the management role of Corrections Victoria. Supporting the reforms in the bill is a new operational unit in the sex offenders management branch of Corrections Victoria. This unit will contain embedded Victoria Police members to monitor, supervise, case manage, and respond to identified risks from serious sex offenders subject to the serious sex offenders scheme. To this end, developed in consultation with Victoria Police, the amendments in the bill provide for stronger entry and arrest powers for Victoria Police to enhance the protection of the community from risks posed by serious sex offenders.

The SSODSA currently provides police officers with power to arrest a serious sex offender who is in breach of a supervision order. Under section 459A of the Crimes Act 1958, Victoria Police members however may only enter premises to make an arrest if the police officer reasonably believes such a breach has occurred. Moreover, unlike supervision officers at Corrections Victoria, Victoria Police members do not have a general power to enter premises where the offender resides to monitor their compliance with a supervision order.

The bill provides for a greater ability for Victoria Police to enter premises to check whether serious sex offenders are complying with their order and creates a lower threshold to enter premises to arrest an offender in breach of a supervision order.

The need to monitor compliance and address breaches of supervision orders can arise at places including where the offender resides or where they should not be residing and at night or early morning.

First, the bill will amend the SSODSA to enable a police officer to enter any premises where an offender is residing if the police officer reasonably suspects the offender is present at the premises and the entry is reasonably necessary to monitor the offender's compliance with a supervision order. If necessary, a police officer may use reasonable force to enter premises.

Secondly, for the purpose of arresting an offender who is reasonably suspected of breaching a supervision order, a police officer may enter and search any premises (including any residence or vehicle) where the police officer reasonably suspects the offender is to be present. If necessary, a police officer may use reasonable force to enter premises.

To ensure appropriate protections of the offender and other persons in the premise where entry is being effected, the bill provides a police officer must announce that the officer is authorised by law to enter the premises. If the police officer has been unable to obtain unforced entry, the police officer must give any person at the premises an opportunity to allow entry to the premises.

Immediate entry to the premises can still be made if the police officer reasonably suspects that such entry is required to ensure:

the safety of any person;

that the effective monitoring of the offender's compliance or that the prevention of a breach or a continuation of the breach of a supervision order is not frustrated; or

that the arrest in relation to the breach of a supervision order is not frustrated.

This reflects that these new police powers are designed to be protective, not punitive.

As explained below, specified corrections officers will also have new powers to address these breach of supervision order issues. Community corrections officers will also continue to use their current powers under the SSODSA to visit offenders to monitor their compliance. These powers will be better integrated under the new operational unit embedded with police officers in the sex offenders management branch of Corrections Victoria.

To ensure oversight of the exercise of these police powers, the bill requires the Chief Commissioner of Police to report on instances of entry to the Secretary to the Department of Justice and Regulation who then reports the matter to the detention and supervision division of the adult parole board. Each year, the adult parole board is then legally required in the bill to report on the operation of entry powers under section 72 of the Corrections Act 1986 which is then required to be tabled by the minister in Parliament. This ensures appropriate oversight of these significant new powers.

Victoria Police may test serious sex offenders for alcohol and/or drug use

The bill also amends the SSODSA to give a police officer the power to test serious sex offenders for alcohol or drug use if a police officer reasonably suspects that the offender has breached a condition of the order by consuming alcohol or drugs. The amendment broadly aligns with the current power of community corrections officers to alcohol and drug test serious sex offenders under section 156 of the SSODSA. Police officers' testing procedures will be approved by the Chief Commissioner of Police.

Specified corrections officers may use certain safety powers when supervising serious sex offenders

The bill will also amend the SSODSA to provide that a specified prison officer or class of prison officer can be directed by the secretary to exercise certain safety powers when the officer is assisting in the supervision of a serious sex offender, including at Corella Place or another location where the offender resides. The 'specified officers' are intended to be the prison officers in the Security and Emergency Services Group (SESG) who are also community corrections officers.

The bill provides that the specified officer who is a community corrections officer can exercise some functions and powers analogous to SESG prison officers on safety grounds. Due to their special training and experience (including specialised communication and negotiation skills), the effect of the bill will be that, when these officers are assisting in the supervision of serious sex offenders in the community, these officers will have powers to protect themselves, the offender, or any other person.

The officers will have the power to order an offender to do, or not to do, anything which the officer believes on reasonable grounds is necessary for the safety of a person. The officer may use reasonable force (including using authorised instruments of restraint) if the officer believes it is necessary to prevent the offender or another person being killed or seriously injured. The functions and powers of the officer will include the use of reasonable force, batons and capsicum spray, but only on safety grounds to carry out their official duties and in accordance with an exemption order to be made pursuant to the Control of Weapons Act 1990. These powers are defensive and aim to ensure community protection. Firearms cannot be used.

As a further measure for community safety and protection, the officer may garment or pat-down search the offender or search a location occupied by the offender, as directed by the commissioner of Corrections Victoria. Items found may be seized on safety or welfare grounds or due to a risk of reoffending. The officer may alcohol or drug test the offender. Those offenders required to reside at Corella Place who are temporarily outside the facility can be accompanied by these officers and returned to that residential facility. These amendments align with the existing powers of supervision officers under the SSODSA.

The new role of SESG officers in supervising serious sex offenders in the community does not undermine the proper role of Victoria Police. The SESG officer will be, in effect, a specialist community corrections officer responding to safety issues when supervising serious sex offenders in the community. The chief role of Victoria Police in community safety under the SSODSA is enhanced and strengthened by this bill. Corrections Victoria will continue to closely work with Victoria Police including on after-hours responses that require police support including under the new operational unit supporting this bill.

A new presumption against bail

Further offending by serious sex offenders who are also on bail is a very serious matter. A serious sex offender is already judged by the courts to be a risk to the community and a supervision order is designed to address that risk. Further offending therefore demonstrates a new risk to our community.

The Bail Act however creates a presumption in favour of bail for all offenders. In general, an offender will be bailed unless the court is satisfied that there is an unacceptable risk that, if released, the offender would fail to answer bail, endanger the safety of the public, interfere with witnesses, or obstruct the course of justice.

However, there are two classes of offences under section 4(2) of the Bail Act that, when alleged against any offender, displace this presumption. First, if a person is charged with murder, treason or serious drug offences then they must show exceptional circumstances to justify the grant of bail.

Secondly, if a person is charged with (among other things) any offence under the Bail Act or a repeated and serious breach of a family violence intervention order or an indictable offence involving the use of a firearm or offensive weapon, then section 4(4) of the Bail Act provides that the court must refuse bail unless the offender shows cause why their detention in custody is not justified.

The current law is inadequate in relation to serious sex offenders charged with further serious offending. There are no provisions in the Bail Act that deal specifically with people subject to a supervision order under the SSODSA.

The bill will add a person, subject to a supervision order or interim supervision order, who is charged with any indictable offence, to the list in section 4(4) of the Bail Act. Any person in this category will be required to show cause why their detention in custody is not justified before they may be granted bail.

If a person is able to show cause, the court will also consider the general test for bail and may still refuse bail if the person poses an unacceptable risk.

The amendment creates an extra hurdle before bail may be granted to those subject to a supervision order or interim supervision order who are alleged to have committed a further indictable offence. It will ensure that courts consider the particular risk to the community posed by people who are subject to these serious orders, yet are alleged to have continued to offend.

If a serious sex offender under a supervision order under the SSODSA is charged with any indictable offence it is to be presumed that bail will not be granted. This reform aims to ensure all the risk to the community is considered by the courts in bail decisions with the starting point that they are not released unless community safety can be satisfied first.

Further measures to strengthen the current sex offender scheme

Quicker charges for breach of supervision orders

Importantly, the bill will also allow prosecutions to be brought more quickly where serious sex offenders are charged with breach of their supervision order. The bill will repeal sections 172(2) and (3) of the SSODSA.

Following consultation with Victoria Police and the Office of Public Prosecutions, the requirement that an offender be given at least 14 days notice of the intention to charge them for an alleged breach has become redundant. As most breaches are considered serious, notice is often dispensed with. The bill does not alter existing protections in the Criminal Procedure Act 2009 and the common law which allow an accused person to raise a reasonable excuse to a charge.

Quicker charges will also mean quicker bail hearings and hence the more immediate use of the new presumption against bail introduced by this bill.

Electronic monitoring conditions

The SSODSA currently empowers courts with discretion to impose on a supervision order a condition that the offender be electronically monitored for compliance with the order. The bill amends the SSODSA to make explicit that electronic monitoring is 24-hour monitoring and includes wearing a device. The offender must not remove, tamper with, damage or disable the device or equipment. The offender must obey directions by the board and the secretary regarding the electronic monitoring. It is currently an offence carrying up to five years imprisonment to fail to comply with conditions of a supervision order without reasonable excuse and this offence will now explicitly include these conditions.

These amendments ensure there are clear, basic and universal obligations for those serious sex offenders who are subject to electronic monitoring including at the residential facility at Corella Place in Ararat.

These reforms align with conditions of electronic monitoring under parole orders and community correction orders.

Instructions by supervision officers

Section 137 of the SSODSA permits a supervision officer to issue instructions to these offenders whether they are inside or outside the residential facility (Corella Place). Clause 5 of the bill also provides that it is a core condition under section 16 of the SSODSA requiring an offender to obey those instructions. Failure to comply will be a breach of a supervision order under section 160.

This additional amendment addresses the issues raised regarding these instructions in the case of *Jack Heath (a pseudonym) v. The Queen* [2014] VSCA 319. In that case, the instruction that was issued to the offender outside the facility was to cease attempting to drive away from the supervision officer.

The bill amends section 16 of the SSODSA to confirm it is a core condition that an offender must comply with a direction of a supervision officer even if the instruction is given outside a residential facility and that failure to do so is an offence of breach of a supervision order under section 160 of the SSODSA.

The bill provides that if the court has attached a condition that the adult parole board may direct an offender to reside at a residential facility, then the court may also attach a condition giving the board the power to direct that an offender be subject to a curfew and direct the conditions under which the offender may leave his or her place of residence (i.e. to be accompanied). The amendment ensures that all offenders residing at Corella Place are subject to these directions.

Eligible offenders: sex offenders transferred into adult prison by the Youth Parole Board

In February 2015, the County Court held in a case that a sex offender sentenced by the Children's Court to detention in a youth justice centre, but transferred to adult prison by the Youth Parole Board, is an eligible offender for the purposes of the SSODSA. An interim supervision order was imposed by Judge Chettle. The offender appealed.

On 19 June 2015, the Court of Appeal in *Carroll (a pseudonym) v. Secretary to the Department of Justice* [2015] VSCA 156 unanimously dismissed the offender's appeal. The bill makes explicit within the current definition of 'custodial sentence' in section 3(c) of the SSODSA that it does have the meaning as interpreted by the courts in that case.

'Intimate image' offences and other amendments to the list of schedule 1 sexual offences

Schedule 1 of SSODSA contains a list of sex offences (called 'relevant offences') to determine eligibility of offenders for SSODSA orders and that also constitute a breach of a supervision order under section 160 by further commission of those sexual offences.

The bill amends Schedule 1 to add the offences of distributing or threatening to distribute an 'intimate image' under sections 41DA and 41DB of the Summary Offences Act 1966. While the scheme will be available for offenders imprisoned for these offences, it is subject to an assessment of their risk for further sexual offending. Imprisonment alone may not ordinarily give rise to an application for a SSODSA order for these offences. However, they may be part of, or follow, other sexual offending. Ordinarily, these offences will be most relevant in cases of breach. For example, a sex offender may distribute, or threaten to distribute, an intimate image to a child. This conduct would also breach a condition not to contact children.

Further, the bill corrects an error in cross-referencing of offences made within schedule 1 to the SSODSA and within schedules 2 and 4 of the Sex Offenders Registration Act 2004 to clarify that the offences include aggravated burglary and burglary committed with intent to commit sexual penetration or with intent to commit any sexual assault or any related sex offences which are listed in subdivision (8A) to (8EA) of division 1 of part 1 of the Crimes Act 1958. Schedule 1 is also updated to reflect new or revised sex offences under the Commonwealth Criminal Code Act 1995.

Sharing of information

Part 13 (including section 189) of the SSODSA will be amended by the bill to permit information sharing to manage offenders across the whole corrections system. Information concerning a sex offender will be able to be shared within the Department of Justice and Regulation and the adult parole board to manage offenders at every point in the corrections system including prison, parole, SSODSA or other community-based orders. This amendment permits sharing of information between Corrections Victoria and Victoria Police, for example, which will support the new operational unit supporting this bill.

To remove doubt, the bill also makes clear that information can be shared with persons advising (paid or unpaid) the Secretary to the Department of Justice and Regulation in relation to serious sex offenders, for example, to assess their suitability for the scheme.

The bill also allows sharing information under the Family Violence Protection Act 2008 and the Personal Safety Intervention Orders Act 2010. For example, information shared with Victoria Police in relation to issuing a family violence safety notice against a serious sex offender.

It is not currently an offence to share information contrary to the rules set out in section 189 of the SSODSA, so the bill creates an offence to do so. The maximum fine of 120 penalty units accords with similar offences in the SSODSA and the Corrections Act.

Consequential and minor amendments

The bill also makes a range of other, consequential and minor amendments to improve the operation of the SSODSA. For example, the bill also amends section 75 to make clear that the review of a supervision order must be conducted as soon as practicable after a release of the offender from prison after being on remand. This aligns with the process for review after release from prison under a sentence.

Further reforms

This bill will strengthen the current scheme for serious sex offenders. At the end of October this year, the Harper review

> will provide eminent expert advice on how the management and supervision of offenders under the current scheme can be improved. Additional reforms and associated legislative amendments may be required as a result of the Harper review.
>
> A recent event has rightly raised concern in the community. We must be vigilant about the improvements needed to our justice system. We must act when justice commands it. And we will do so again to further the safety and protection of our community.
>
> I commend the bill to the house.

Debate adjourned for Mr O'DONOHUE (Eastern Victoria) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 24 September.

ADJOURNMENT

Mr HERBERT (Minister for Training and Skills) — I move:

> That the house do now adjourn.

Winchelsea Primary School

Mr RAMSAY (Western Victoria) — My adjournment matter is for the Minister for Education and concerns the ridiculous situation of the Winchelsea Primary School not having funding to fix its gutters and downpipes. The school has had to remove half of its gutters due to them being a safety hazard and being totally rusted out. The school has been seeking $30 000 for urgent repairs, but the only response from this government has come from Ms Tierney, who said that she might be able to have a look with the Minister for Education in December. Given that the Colac region has not seen a government minister since the election, this has not given the Winchelsea community much confidence.

If Mr Merlino does in fact visit the area, he might also like to visit Birregurra Primary School, which has been waiting for a new building for decades despite being on the high-priority list, given the temporary nature of the buildings and having had no significant upgrade since I was there as a student. He might also want to travel a further 10 minutes to Colac to make a decision on the Colac high school site, which has remained vacant and neglected for a number of years. It seems outrageous that Winchelsea's desperate need for basic maintenance funding to fix its gutters went unheard when the school was not included in the recent $27 million round of basic maintenance funding to 153 schools.

The fact that the minister could not even be bothered to travel down the beautiful coalition-funded duplication of the Princes Highway west to sort this gutter issue out is a disgrace and a real slap in the face for the Winchelsea community. The action I seek from the minister is that he have his department approve the additional maintenance funding for Winchelsea Primary School so it can fix its gutters and downpipes.

Grange Road, Carnegie, pedestrian crossing

Ms PENNICUIK (Southern Metropolitan) — My adjournment matter is for the Minister for Roads and Road Safety, Mr Donnellan, and concerns the need for a safe pedestrian crossing on the corner of Grange and Oakleigh roads, Carnegie. The matter was raised with me and other members by a constituent by email on 10 September. The constituent wrote:

> I live on Oakleigh Road in Carnegie, within approximately 50 metres from Grange Road. I am married and have a toddler.
>
> …
>
> I am very concerned with the danger to not only myself but to my family and other pedestrians when crossing over Grange Road. I am aware this has been brought up in the past, however I believe something should be done.
>
> There is a kindergarten directly across Grange Road, not to mention schools and childcare centres, all of which have families that live —

on the other side of —

> Grange Road. For anyone with mobility issues, be it disabled, elderly pensioner or young children, this is an almost impossible place to cross. I am aware that there are crossings at Glen Huntly Primary School and North Road, however, when mobility is an issue these are much too far away.
>
> I believe traffic lights or at least a pedestrian crossing is needed at this intersection. There have been countless near misses both pedestrian and vehicular with several accidents actually occurring. This is a very busy intersection during peak hours as well as at kinder/school pick-up times. This is made more difficult still by reduced visibility of oncoming traffic caused by parked cars.
>
> The website for the Rosstown walking trail which extends from Elsternwick to Oakleigh advises that the track 'is suitable for all ages'. Further, it gives directions to '13. Continue along Oakleigh Road to Grange Road' and '14. Cross over Grange Road to Melton Avenue on the right'. This is unsafe for people using the walking trail as there is no safe way to avoid the traffic.

I am very familiar with the location mentioned, and I understand that the Glen Eira Council has been advocating for a safe crossing at the site for a long time without success. There is a pedestrian crossing at Booran Road where the cycle path crosses, and there should be one at Grange Road too. The constituent has also included a petition signed by 34 people who frequent the area, including local kindergartens and

schools, in support of the addition of traffic lights or a pedestrian crossing. I urge the minister to work with VicRoads to install a safe crossing at the intersection of Grange and Oakleigh roads.

State Netball and Hockey Centre

Mr DRUM (Northern Victoria) — My adjournment matter is for the Minister for Sport, Mr Eren, and it is in regard to the State Netball and Hockey Centre at Parkville, which is an amazing facility and part of our sporting assets that include Melbourne Park, the Melbourne Sports and Aquatic Centre and Albert Park. The State Netball and Hockey Centre is in desperate need of a makeover. Substantial development needs to take place out there at Parkville. We have the opportunity to bring four outdoor netball courts inside and to create a genuine centre of excellence for our state's best netballers and also for our best hockey players. There is the opportunity to give them a proper gymnasium, a proper medical centre and a rehabilitation centre for after their games. At the moment the best netballers and hockey players in this state have none of those facilities at Parkville.

Overall the project is going to be quite expensive. It will be in the vicinity of $30 million. However, at the moment Netball Victoria is asking for the opportunity to undertake a full business case associated with the master planning for this project. The ask is in the vicinity of $350 000 to $400 000 to ensure that the master planning is done correctly and in great detail so that when the project comes to fruition all the i's have been dotted and all the t's have been crossed. We will make sure that the facility continues to be one of the great sporting assets of this state and that the players who reach the top of their sport are afforded the facilities they deserve.

Cheshire School

Mr LEANE (Eastern Metropolitan) — My adjournment matter today is directed to James Merlino, the Minister for Education. The action I seek is for him to visit the Cheshire School, an independent school in Glen Waverley, to take in the important work done there and in the future support the school in any way he can.

The Cheshire School is an independent school, but it does get funding from state and federal governments as well as some support from industry. The school specialises in caring for students from prep to grade 6 who have significant social, emotional and behavioural problems that make it hard for them to survive in a mainstream setting. Some of the programs the school runs might only last four terms, and these young people are supported and helped to the point that they can go back into the mainstream system. However, some students may stay for a longer time. This school makes sure that these students are put in smaller classes and have their individual learning needs taken into account. It also takes into account the major issues that they might have in their life through no fault of their own. I ask the minister to go to this school in Glen Waverley, have a good look at the programs it runs and support it into the future.

Myamyn-Macarthur Road

Mr MORRIS (Western Victoria) — My adjournment matter this afternoon is for the attention of the Minister for Roads and Road Safety, and it relates to the Myamyn-Macarthur Road, which is in the electorate of Western Victoria Region and the lower house seat of South-West Coast. Unfortunately this particular road has been left to fall into significant disrepair by this Labor government. Calls for Labor to fix the road have fallen upon deaf ears.

Recently the shadow minister for roads and infrastructure, Ryan Smith, attended this road and labelled it 'an absolute disgrace'. At the moment Labor's plan for fixing this road is to just drop the speed limit from 100 kilometres an hour to 80 kilometres an hour as a result of the dangers that the road poses due to its significantly poor condition. This is an important and key freight route for dairy, livestock, woodchips and other agricultural products that travel through the area.

My adjournment request is that the Minister for Roads and Road Safety fix the Myamyn-Macarthur Road.

Cairnlea land rezoning

Mr EIDEH (Western Metropolitan) — My adjournment matter is for the Minister for Planning, Richard Wynne. The matter that I raise today is one I have raised in this chamber on several other instances in the past, yet this issue continues to concern residents in the suburb of Cairnlea and me. The very important issue affects over 9000 people who proudly call Cairnlea home.

As I have outlined before, the area in question is near Ballarat Road, Station Street and the Western Ring Road, covering an area approximately 2 kilometres by 2.5 kilometres. The suburb was marketed and sold by developers as being a new dynamic suburb in Brimbank with open spaces, playgrounds and parklands for families to be surrounded by native greenery.

Residents were promised easy accessibility to public transport, in particular the railway, and access to schools which their young children could attend locally. In addition to this, they were guaranteed that 30 per cent of the space would remain open and that a nine-hole golf course would be developed at the estate.

But the proposed redevelopment which was introduced under the previous government will completely change Cairnlea. This development will break the promises made to families when they camped out for days to secure a block. When I last raised this matter residents were informed that Places Victoria under the former Minister for Planning changed its proposal from 'industrial' to 'mixed commercial use' and failed to fully inform the residents of what that actually means.

I was advised that a revised master plan will separate commercial uses from residential uses. Commercial uses are now located at the corner of Cairnlea Drive and Ballarat Road. The commercial 1 zone allows for a range of uses, including community amenities such as primary schools and kindergartens. However, this advice did not answer the concerns of the community, and residents in Cairnlea have not received any further information regarding this issue.

I ask the minister: what is the progress of the Cairnlea redevelopment? Will Places Victoria open community consultation on the matter so it can really understand the impact this redevelopment will have on the community?

Wodonga West Primary School

Ms LOVELL (Northern Victoria) — My adjournment matter this evening is for the attention of the Minister for Education, and it is regarding the Wodonga West Primary School's rebuild time line. The Wodonga West Primary School received almost $4.5 million from the former government in the 2014–15 financial year for a rebuild of the school and to construct a co-located early learning centre. This is a school that the former government inherited from the Brumby government in a very poor condition.

Bill Tilley, the member for Benambra in the Assembly, was a champion and worked very hard to get for this school the priority to be funded for a rebuild. I was absolutely delighted as the then Minister for Early Childhood Development when the school also applied for a grant to build an early learning facility on site. This is an area where children are particularly disadvantaged, and those children will absolutely benefit from that early learning centre.

Last week Mr Tilley and I met with the school to get an update on the rebuild time line. We found that the Wodonga West Primary School is very concerned about delays in the school works and early learning centre build. Specifically, it is shattered that the works have not even commenced in over a year. Demolition of the old buildings needs to take place during school holidays because some of the old buildings contain asbestos. Under the former government this was scheduled to have happened in the 2014–15 summer holidays. Unfortunately just prior to those summer holidays there was a change of government, and the new government put the demolition of the old buildings and the rebuild on hold.

The school council wrote to the new Minister for Education on 25 February regarding the delay. It is still waiting for an answer to that particular letter. The school council wrote again on 4 May, and so far it has not received a response to either letter. That in particular shrieks of hypocrisy from a government whose leader, Premier Daniel Andrews, actually stood on that school site in 2013 and demanded immediate action for the school, yet we now find that the Andrews Labor government is delaying the rebuild of a school that already had funding allocated in the 2014–15 year.

The action I request from the minister is that he respond to the correspondence from the school council and expedite the redevelopment of Wodonga West Primary School by guaranteeing the demolition of old buildings during the September school holidays and the immediate commencement of the construction of the new buildings, including the early childhood learning facility.

Hadfield Park, Wallan

Ms SYMES (Northern Victoria) — My adjournment matter is for the attention of the Minister for Local Government, and it relates to applications for funding from the Interface Growth Fund. The fund — the first of its kind — is a $50 million fund dedicated to supporting Melbourne's interface councils and their communities. It is of particular interest to me as it applies to eligible applications from the Mitchell Shire Council in my electorate.

The Shire of Mitchell is one of the fastest growing municipalities in the country and is anticipating an increase of 50 000 new residents in the next 20 years. More than 80 per cent of those residents are expected to move into the towns of Wallan, Beveridge and the new suburbs of Lockerbie and Lockerbie North. I am particularly excited about the opening of my electorate office in Wallan in a couple of weeks.

Honourable members interjecting.

Ms SYMES — That is right; I am very excited. I will miss you, too.

Wallan has quite a young population, with more than 35 per cent of the population under 25, so it is not surprising that there is a very high proportion of young families in Wallan. They have told me that they would really like to see investment in community infrastructure and the things that will enhance the livability of their town. I have met with the council to discuss some of its priorities. It has submitted an application to the Interface Growth Fund for consideration by the minister in relation to improvements to Hadfield Park. Hadfield Park is the premier civic park in Wallan. It is directly across the road from my soon-to-be-opened electorate office, so I will be looking out of my front window at Hadfield Park.

The park looks a little tired, it has equipment from the 1990s and it is overdue for some attention. The plan the council has in mind is to rejuvenate the park with a fantastic play space. It is looking at a wet-dry play space that will be visually and functionally integrated, basically with a splash pad. Not only would I be very supportive of such things for the community of Wallan, but given that I am also relocating to the Shire of Mitchell, I think my kids would be pretty interested in a splash park that is not too far away from home.

My request is that the minister visit Hadfield Park with me and have a look at the merits of the application for her deliberations on funding in the future.

Kew development

Mr DAVIS (Southern Metropolitan) — My matter for the adjournment debate tonight is for the attention of the Minister for Planning, and it concerns the former Kew Cottages site. This is an issue that has been discussed at great length in this chamber over a number of years. Ms Pennicuik will understand very well the work that was put in by the public land development committee, and Mr O'Donohue and others will also remember that work.

I think the first time I raised issues in this chamber about the Kew Cottages site was in about 2000. I pointed to the need to protect public open space as well as vegetation. Unfortunately the then Bracks government went on a frolic, initially planning a 10-storey tower with the Walker Corporation as the proponent, which was later scaled back somewhat. There were a whole series of deals done at that time when it was subject to significant scrutiny by various authorities, including the public land committee of this chamber. But it was with shock the other day that I heard of a Victorian Civil and Administrative Tribunal (VCAT) ruling and that the responsible authority in this case had its views overturned. The responsible authority in this case was the previous planning minister — and the current one — who refused a five-level apartment building housing 26 dwellings, two levels of basement car parking and the location of a — —

Mr Jennings interjected.

Mr DAVIS — He opposed it indeed and was very concerned about the overly intense development that was — —

Mr Jennings — Who are you talking about? Who are you criticising?

Mr DAVIS — I am about to criticise the Bracks government in particular for what it did in laying out this process — a dog of a process from the start — that was opposed by many in this chamber from different political parties.

But the decision was made by VCAT the other day to give the go-ahead for a five-storey tower. For those who understand this area of Kew it is near Willsmere, it has houses on one side and it has a parkland area, Studley Park, that is immediately juxtaposed with this site, so an intrusive over-intense five-storey development is in my view completely and utterly inappropriate. The decision made by VCAT in my view is the wrong decision. The only thing that now stands in the way of this intrusive tower being built in the parkland in this way is the decision of the Victorian Heritage Council. In my view the Minister for Planning, Richard Wynne, will need to ensure that the heritage council has the material before it to ensure that the right decision is made. So I call on the planning minister to take what steps he can to ensure that this five-storey monstrosity is not built in the parkland in Kew.

The PRESIDENT — Order! I have some real concerns about that item because I wonder if the member has really considered what that means. Essentially we have a process in place, and if a decision of VCAT has an issue at law then proponents or objectors can take it to the Supreme Court. To effectively call the minister to overturn a VCAT decision — —

Mr DAVIS — No, I was much more careful. I said the minister should put it before the heritage council. I made it very clear that taking it to the heritage council was now the only step that I could see that could actually prevent this monstrosity being built, and I said that the minister needed to put material before the heritage council that would enable it to reach a decision to prevent damaging the heritage of the area and consequently the building being built.

The PRESIDENT — Order! It is very tenuous legal ground.

Drug law reform

Ms PATTEN (Northern Metropolitan) — My adjournment matter is for the Attorney-General. I had the great privilege to be part of a panel alongside a number of drug law reform advocates — author Johann Hari, Greg Denham from Law Enforcement Against Prohibition and Annie Madden from the Australian Injecting and Illicit Drug Users League — to discuss the problematic and tragically ongoing international war on drugs. The very fascinating evening began with the charting of the origins of the now century-old war, which started in America as a misguided racist measure to ensure that people from African and Asian backgrounds did not use drugs or forget their place and attack white people. It was also a fantastic job-creation scheme for members of the public service who were losing their jobs because of the end of alcohol prohibition. So they just started prohibiting a whole range of other drugs to keep them employed. One of the first victims of that new law was the wonderful singer Billie Holiday.

Australia made initial attempts at drug control in the early 1900s, which were also motivated by racism, with white Australians citing opium use by Chinese people as a danger to health and morality. Of course they did not apply this to the English housewives who were using the drug to treat depression and menstrual pain. Since then countless people have lost their lives and oppressive authorities have futilely attempted to fight an unwinnable war, or if people have not lost their lives, they have had their lives altered forever by an unnecessary criminal record. In Victoria alone an average of eight people per week are arrested for marijuana possession.

At its core the ongoing war fails to acknowledge that it is about addiction, which must be treated as a health issue, not a criminal one. It also fails to recognise that prohibition is a wonderful gift to criminals. In Victoria alone the cannabis hothouse business is worth $1.2 billion per annum. We as legislators now have a choice: to fall behind as more progressive countries such as the Netherlands, Peru, Portugal, the Czech Republic and that bastion of progressiveness the USA move forward and end this war or to acknowledge that the war has been lost and take a different approach.

The action I seek is that the Labor government admit it is failing and convene a broad inquiry into all illicit drugs, with a focus on decriminalisation and the value it offers to rehabilitation.

The PRESIDENT — Order! I will accept the broad inquiry as an action, but I will not accept the admission as an action.

Public holidays

Mr ONDARCHIE (Northern Metropolitan) — My adjournment matter is for the attention of the Minister for Small Business, Innovation and Trade, and it concerns the Grand Final Friday public holiday. Leigh Johnston and Philip Lancaster are the directors of Kyabram Hire Service and Kyabram Batteries, and may I say that Ms Lovell and Mr Walsh, the member for Murray Plains in the other place, are strong advocates for the Kyabram community. Mr Johnston and Mr Lancaster wish to register their 'strongest protest' at the proposed grand final public holiday. They say:

> This will be a huge financial impost on all businesses large and small in the state of Victoria.
>
> The grand final eve holiday is not even on the grand final. A lot of people will lose casual shifts as a result of this. We have never heard of anything so stupid ever before. Victoria will be a laughing stock of other states and countries.
>
> With so many public holidays this will discourage businesses either setting up in Victoria or even staying in Victoria.

The action I seek is that the minister provide me with a response so that I can advise Mr Johnston and Mr Lancaster, these important regional providers, of the government's view about the impost of the grand final public holiday on small business.

Waverley Park powerlines

Mrs PEULICH (South Eastern Metropolitan) — I raise a matter for the attention of the Minister for Planning, the Honourable Richard Wynne, and it concerns the Waverley Park powerlines in Mulgrave. In August 2014 the minister's predecessor, the Honourable Matthew Guy, the Leader of the Opposition in the Assembly, called in the Waverley Park powerlines dispute on the eve of the dispute being considered by the Victorian Civil and Administrative Tribunal and referred the matter to an independent advisory committee. The advisory committee

subsequently held public hearings extending over eight days, in December 2014, and delivered its recommendation to the minister in mid-February 2015.

I understand that the local member, the Premier, has had concerns surrounding this. Throughout 2013 and 2014 there were various forums, and at various times the now Premier personally expressed frequent and emphatic views that the development company, Mirvac, should honour the requirements of the 2002 Waverley Park planning permit and divert underground the aboveground high-voltage transmission lines currently crossing the Waverley Park estate in Mulgrave. Despite expressing frequent and emphatic views that the powerlines should be diverted underground as quickly as possible, the Premier has since been silent on the matter and the minister has not released the report.

I ask the Minister for Planning to meet with members of the Waverley Park Residents Action Group, with recommendations in tow, to explain whether he will release the report and what he is going to do. Hopefully it will be in favour of the community organisation, in line with the now Premier's views as a local member of Parliament. I ask that the minister arrange the meeting with my office — I am happy to facilitate it — or alternatively directly with the community organisation.

Sunbury municipality

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Local Government. If I sound a tad exasperated this evening, that exasperation is on behalf of the people of Sunbury. It follows the statement from the Minister for Local Government today that the audit review into the proposed Sunbury council recommends that Sunbury remain in Hume. Surprise, surprise! I express my personal disgust at this whole process. The result of this review was never in doubt. It was established by the government to get this very result. In fact Labor has been frustrating the bid by Sunbury for municipal independence since 1999.

The government should not pretend this was a fair review; it was not. The whole process was exceedingly dodgy — and you have to say there is much about this government that is exceedingly dodgy. There is real anger in Sunbury. It is palpable this evening. I know the minister made up her mind a long time ago, but I ask her yet again to change it. I ask her to respect the will of the people — the people who, in Sunbury and in Hume, voted to grant Sunbury freedom from Hume City Council. I ask the minister to listen to them, to reject the audit report and to allow the establishment of a stand-alone Sunbury municipality as put forward by the previous government one year ago —

Mr Davis — Gazetted!

Mr FINN — and gazetted and promised by the Labor Party when in opposition. I ask the minister to keep that pre-election promise on behalf of the ALP, not to fail the Sunbury people yet again and to reject the audit report and let the Sunbury council go ahead.

Public holidays

Ms BATH (Eastern Victoria) — My adjournment matter is for the Minister for Small Business, Innovation and Trade, Mr Dalidakis, regarding the common theme for this week — the two new public holidays that will cost the state's economy close to $1 billion every year. The regulatory impact statement that was released highlights the concerns, with 109 submissions made. Over 90 per cent of them demonstrated grave concerns and were against this idea. But the minister has still chosen to ignore this. The economic cost is estimated to be around $900 million, plus an increase in wage payments of around $286 million.

A local business has some difficult choices. If it chooses to open on Friday, 2 October, it can take a hit to its bottom line; if it is required to pay public holiday penalty rates, it can charge more for its goods and services, thus disenfranchising the public; or it can shut its doors altogether. As we have heard again this week, there are not too many winners. In my electorate recently I went to get a coffee, and when I was chatting to the owner of this large cafe he said it would have to shut. He has done his sums and said it was just not worth it to open. Interestingly enough, a Labor supporter who happened to be sitting next to me said, 'I've been a Labor voter all my life, but I can't understand why they're having a holiday. We just don't need more holidays'.

Another business operator in my electorate, an optometrist, said the business would incur a 5 per cent loss on a monthly turnover and would still have to pay staff. A builder said it was going to cost him $1800 in wages with no effective work. As a small business owner myself once upon a time I know there is competition with multinationals and online ordering. In my business we would have spent public holidays together because we would have been working in the shop, packing and serving. I do not know whether that is the idea that Labor had in mind at the time.

Labor is trying to spruik the idea that holidays will increase tourism. Yes, there may be added tourism in certain sectors — somewhere in the vicinity of $17 million to $51 million — but Labor seriously cannot think that this will offset up to $1 billion. The action I am seeking this evening is that the minister contemplate this, and I call for a review. If these holidays are going to be implemented, I request that this decision be reviewed so that Victorian small business and regional business owners will be relieved of further financial pressure in the future.

Crime prevention

Mr O'DONOHUE (Eastern Victoria) — I raise a matter for the attention of the Minister for Police. It concerns the review of the crime prevention program that is currently being undertaken by the Parliamentary Secretary for Justice and member for Niddrie in the Assembly, Mr Carroll. President, as you would be aware from previous contributions in this place, the government did not take to the election any form of agenda when it comes to crime prevention initiatives. Rather than having a program to implement upon coming to government, the Labor Party has re-funded part of the coalition government's program, but only for 12 months.

With Mr Carroll's review due to be completed in the next couple of weeks, I take this opportunity on the adjournment to call on the minister to commit to a forward agenda when it comes to crime prevention. Crime prevention is an integral part of community safety. It is an integral part of working with communities to deliver and develop local solutions to local crime problems and initiatives. Currently there is no agenda from this government when it comes to these issues, so I call on the minister to release the review as soon as is practicable after it is presented to him and as part of the release of the review to provide secure funding for these initiatives for the rest of the term of this government. Many of these initiatives require multi-year funding before real benefits can be achieved. At the moment we are in a holding pattern. There is no clarity, there is no forward plan and it is time this government set a forward agenda when it comes to community safety and crime prevention and funded that agenda.

Kindergarten funding

Ms CROZIER (Southern Metropolitan) — My adjournment matter is for the Minister for Families and Children. Community kindergartens provide early childhood education to thousands of Victorian children. The multiple benefits of community kindergartens are well known — not only the obvious education and engagement benefits for children but also parent engagement. Many parents volunteer their time and provide services to committees of management or become involved in supporting kindergartens by assisting with fundraising activities — something they both enjoy and want to do. The kindergarten community can also provide support and social opportunities for many parents, some of whom are single parents or may themselves be disadvantaged, so the kinder community becomes a vital link to other parents and to other children of similar ages to their own. Very often the kindergarten is entrenched within a local community.

This year has not been a particularly easy one for many kindergartens, and uncertainty for the sector remains. Base rate funding requirements have not been confirmed for 2016. The implementation of ratios has been hugely problematic, with many kindergartens still unable to guarantee that they will be able to implement the new ratios due on 1 January 2016 — only four months away — without having to pass on the additional costs to parents. This is something the minister has refused to rule out when questioned in this place.

There is a clear need for additional funding for kindergartens in order for them to be able to implement the new ratios as required by the national partnership agreement without passing on the additional costs to parents. In some cases additional money will mean they are able to remain viable and open in 2016 and beyond. The action I therefore seek from the minister is that she immediately address these funding shortfalls so that certainty and viability of kindergartens are known and those Victorian families and children who want and deserve to be able to attend their local kindergarten are able to do so.

Responses

Mr JENNINGS (Special Minister of State) — I have written responses to the adjournment matters raised by Ms Crozier on 6 August and Mr Eideh on 19 August.

In relation to the matters raised this evening, Mr Ramsay raised a matter for the attention of the Minister for Education concerning the approval of school rebuilding funding in Winchelsea.

Ms Pennicuik raised a matter for the Minister for Roads and Road Safety dealing with a road crossing in Carnegie.

Mr Drum raised a matter for the Minister for Sport seeking support for a business case to support master planning for the redevelopment of the state Netball and Hockey Centre in Parkville.

Mr Leane raised a matter for the attention of the Minister for Education seeking that he visit the independent Cheshire School in Glen Waverley to assess the great programs undertaken in that school to support children who experience some degree of difficulty in their school lives. The measures undertaken by the school are innovative and supportive of, and responsive to, the school community.

Mr Morris raised a matter for the attention of the Minister for Roads and Road Safety seeking an instant remedy of the condition of the Myamyn-Macarthur Road, which he asserts has actually fall into complete disrepair in the 10 months of the Labor government. Regardless of the rate of deterioration, I am sure the Minister for Roads and Road Safety will be alive to prioritising those roadworks into the future.

Mr Eideh raised a matter for the attention of the Minister for Planning seeking the minister's support for residents of Cairnlea, in particular additional clarification and confidence being given to the community about the implementation of planning zones within the municipality so that residents have greater confidence about what form of development may be undertaken adjacent to their houses.

Ms Lovell raised a matter for the attention of the Minister for Education seeking his support for a rebuild of the early learning centre in Wodonga — —

Ms Lovell interjected.

Mr JENNINGS — Thanks for the interruption. I had not quite finished my sentence, so thanks so much for that.

Ms Symes raised a matter for the attention of the Minister for Local Government — —

Honourable members interjecting.

Mr JENNINGS — I welcome any contributions those opposite can make. Ms Symes raised a matter for the attention of the Minister for Local Government. She introduced me to a whole series of opportunities for children through the prism of splash parks, which I have not been able to even envisage, not ever having been the sort of kind parent who takes their offspring to Waterworld or any of these sorts of things. There is going to be a whole new opportunity for people living in interface councils. In particular, those living out in Wallan are hoping to get the support of the Minister for Local Government and the opportunity that may arise through the interface funding that the minister administers.

Mr Davis is very bullish in his optimism about the level of intervention that the Minister for Planning may make in relation to a determination of the Victorian Civil and Administrative Tribunal. He has urged the minister to seek what remedies may be available to overturn that decision of the Victorian Civil and Administrative Tribunal. I share the concern of the President about the overly prescriptive nature of what that may be, but I am sure the Minister for Planning will be more than adequately able to assess the appropriate legal framework and the avenues that may be available to him.

Ms Patten raised a matter for the attention of the Attorney-General. She sought from me an admission of a failing of the government, which I think was a very broadbrush expectation she may have had of the adjournment that is normally not met. By interjection I indicated that I might make that admission, but on reflection perhaps I should not do that but more specifically I should encourage the Attorney-General to consider the reforms in our government's approach to issues to deal with drug reform, most importantly the implementation of programs to try to mitigate the adverse use of drugs within our community.

Mr Ondarchie raised a matter for the attention of the Minister for Small Business, Innovation and Trade seeking on behalf of the proprietors of Kyabram Hire Service and Kyabram Batteries that he provide Mr Ondarchie with information about the effect on small business of the public holiday initiative, so that Mr Ondarchie can furnish that to Kyabram Hire Service.

Mrs Peulich sought from the Minister for Planning his response to the Waverley Park Residents Action Group plea for not only a meeting with the minister but the release of the report into the desirability, appropriateness and costings to deal with the previous expectations that the powerlines in the Waverley Park housing development would be laid underground.

Mr Finn raised a matter for the attention of the Minister for Local Government imploring her to immediately reject the audit report that was released today and to re-evaluate what he asserts to be her preconceived view about what that report may show. I am sure the minister will assess that audit report on its merits and provide an appropriate response in the days to come.

Ms Bath gave a very considered assessment of the costs and benefits of the two new public holidays. Very rarely do we hear any member of the chamber identify the potential benefits when they are outlining costs, but to Ms Bath's credit she did admit that there may be some. I congratulate her and thank her for recognising that. In that spirit I will encourage my colleague to reflect on what he was asked by Ms Bath both in terms of the spirit of the request and in terms of being reflective about the effectiveness of the holidays and seeing whether a review is warranted.

Mr O'Donohue raised for the attention of the Minister for Police a matter concerning an evaluation of crime prevention programs currently being undertaken by Ben Carroll, the member for Niddrie in the Assembly, who is the Parliamentary Secretary for Justice. Mr O'Donohue urges the minister to take the results of that review by Mr Carroll into consideration, to develop a forward agenda that is supported in a tangible way and to mitigate against the risks of crime in our community into the future.

Ms Crozier raised a matter for the Minister for Families and Children seeking the provision of appropriate funding support to kindergartens to enable them to effectively administer the ratios that have recently been announced.

The PRESIDENT — Order! The house stands adjourned.

House adjourned 6.12 p.m. until Tuesday, 6 October.

WRITTEN RESPONSES TO QUESTIONS WITHOUT NOTICE

Responses have been incorporated in the form supplied to Hansard.

Victoria Police media policy

Question asked by: **Ms Patten**
Directed to: **Minister for Training and Skills**
Asked on: **15 September 2015**
RESPONSE TO SUBSTANTIVE QUESTION:

I am advised that the policy of publicly naming people who have been charged with criminal offences is long standing. Victoria Police commenced publishing names of charged persons on Twitter and Facebook in 2010.

Victoria Police are guided in this policy by the fact that bail hearings are, as a general principle open to the public, and unless the court makes an order or there are other legal restrictions which apply restraining publication of that information, the name of the accused may be publicised in the context of a fair and accurate report of court proceedings. For instance, consistent with the requirements under the Children, Youth and Families Act 2005, Victoria Police does not release information that identifies a child who is suspected of or charged with committing an offence.

RESPONSE TO SUPPLEMENTARY QUESTION:

Under Victorian law, the Minister for Police cannot direct the Chief Commissioner about the enforcement of the law or the investigation or prosecution of offences in relation to any person or group of persons in accordance with section 10 of the *Victoria Police Act 2013*.

Disability support workers

Question asked by: **Dr Carling-Jenkins**
Directed to: **Minister for Families and Children**
Asked on: **15 September 2015**
RESPONSE:

Funded non-government agencies are required to have an effective health and safety program that includes managing key risks. When such an employer becomes aware of information concerning potential risks to the safety and wellbeing of an employee, it would be expected that a risk assessment is undertaken. Risk control options or strategies should be developed based on that assessment and in conjunction with the requirement for responsible handling of private information.

Non-compliance with the requirements of the service agreement can result in a range of actions by the department, these may include a service review, through to suspension or termination.

South West Institute of TAFE

Question asked by: **Mr Drum**
Directed to: **Minister for Training and Skills**
Asked on: **16 September 2015**
RESPONSE:

The former Government's cuts to TAFE had a devastating impact on TAFE institutes' financial position in Victoria. Since 2011, TAFE's share of Victoria's Vocational Education and Training (VET) market has decreased to 25%. In 2014, the TAFE sector realised a $52.5 million operating deficit. This compares to an $8.9 million deficit in 2013 and $109.1 million surplus in 2011.

The Victorian Government has started immediately on the job of rebuilding our TAFE system. Our $320 million TAFE Rescue Fund is strengthening TAFE institutes by reopening closed campuses, upgrading buildings, and

providing much-needed support for community service provision. The $50 million TAFE Back to Work Fund will support the Government's Back to Work Plan to grow jobs and get people back to work.

The rebuilding of the TAFE sector will require strong leadership by Boards, including South West Institute of TAFE. Given this, I am carefully considering the performance of TAFE institutes and capabilities of all Boards in the context of the skills and experience Boards require to navigate this period of change, improve their performance, and ensure the Government's commitment that 50 per cent of all appointments will be women is met. This will inform the Government's appointments to TAFE institute Boards.

In addition the Government plans to introduce legislation later this year which implements an election commitment to restore independence and proper governance to TAFE institutes, by giving them greater control of their boards and making them more representative and independent.

The of constitution South West TAFE states that they can have up to 11 members two more than most other TAFE Boards. On the expiry of two Ministerial Nominee Directors the Board agreed on maintaining a board of nine ahead of the legislation being implemented.

As a result of this there are now two Ministerial Nominee Director vacancies and one Board Nominee Director vacancy. The Board Chair has as recently as last week put forward a number of nominees for my consideration. It is my intention to advise my Department of my approval of all TAFE Board appointments to vacancies in the coming weeks.