PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 29 March 2012

(Extract from book 6)

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Legislative Council committees

Privileges Committee — Ms Darveniza, Mr D. Davis, Mr P. Davis, Mr Hall, Ms Lovell, Ms Pennicuik and Mr Scheffer.

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

Legislative Council standing committees

Economy and Infrastructure Legislation Committee — Mr Barber, Ms Broad, Mrs Coote, #Ms Crozier, Mr Drum, Mr Finn, #Ms Hartland, #Mr Leane, #Mr Lenders, #Mr Ondarchie, Ms Pulford, Mr Ramsay and Mr Somyurek.

Economy and Infrastructure References Committee — Mr Barber, Ms Broad, Mrs Coote, #Ms Crozier, Mr Drum, Mr Finn, #Mr Leane, #Mr Lenders, #Mr Ondarchie, Ms Pulford, Mr Ramsay and Mr Somyurek.

Environment and Planning Legislation Committee — Mr Elsbury, #Mr Finn, #Ms Hartland, Mrs Kronberg, #Mr Leane, Mr Ondarchie, Ms Pennicuik, #Mrs Petrovich, Mrs Peulich, Mr Scheffer, #Mr Tarlamis, Mr Tee and Ms Tierney.

Environment and Planning References Committee — Mr Elsbury, #Mr Finn, #Ms Hartland, Mrs Kronberg, #Mr Leane, Mr Ondarchie, Ms Pennicuik, #Mrs Petrovich, Mrs Peulich, Mr Scheffer, #Mr Tarlamis, Mr Tee and Ms Tierney.

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

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

 # Participating member

Joint committees

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Drugs and Crime Prevention Committee — (*Council*): Mr Leane, Mr Ramsay and Mr Scheffer. (*Assembly*): Mr Battin and Mr McCurdy.

Economic Development and Infrastructure Committee — (*Council*): Mrs Peulich. (*Assembly*): Mr Burgess, Mr Foley, Mr Noonan and Mr Shaw.

Education and Training Committee — (*Council*): Mr Elasmar and Ms Tierney. (*Assembly*): Mr Crisp, Ms Miller and Mr Southwick.

Electoral Matters Committee — (*Council*): Mr Finn, Mr Somyurek and Mr Tarlamis. (*Assembly*): Ms Ryall and Mrs Victoria.

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

Family and Community Development Committee — (*Council*): Mrs Coote and Ms Crozier. (*Assembly*): Mrs Bauer, Ms Halfpenny, Mr McGuire and Mr Wakeling.

House Committee — (*Council*): The President (*ex officio*) Mr Drum, Mr Eideh, Mr Finn, Ms Hartland, and Mr P. Davis.. (*Assembly*): The Speaker (*ex officio*), Ms Beattie, Ms Campbell, Mrs Fyffe, Ms Graley, Mr Wakeling and Mr Weller.

Law Reform Committee — (*Council*): Mrs Petrovich. (*Assembly*): Mr Carbines, Ms Garrett, Mr Newton-Brown and Mr Northe.

Outer Suburban/Interface Services and Development Committee — (*Council*): Mrs Kronberg and Mr Ondarchie. (*Assembly*): Ms Graley, Ms Hutchins and Ms McLeish.

Public Accounts and Estimates Committee — (*Council*): Mr P. Davis, Mr O'Brien and Mr Pakula. (*Assembly*): Mr Angus, Ms Hennessey, Mr Morris and Mr Scott.

Road Safety Committee — (*Council*): Mr Elsbury. (*Assembly*): Mr Languiller, Mr Perera, Mr Tilley and Mr Thompson.

Rural and Regional Committee — (*Council*): Mr Drum. (*Assembly*): Mr Howard, Mr Katos, Mr Trezise and Mr Weller.

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Heads of parliamentary departments

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

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FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

President: The Hon. B. N. ATKINSON

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Deputy Leader of The Nationals:
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Coote, Mrs Andrea	Southern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	O'Brien, Mr David Roland Joseph	Western Victoria	Nats
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Davis, Mr Philip Rivers	Eastern Victoria	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
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Hall, Hon. Peter Ronald	Eastern Victoria	Nats	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Tarlamis, Mr Lee Reginald	South Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP

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THURSDAY, 29 MARCH 2012

Thursday, 29 March 2012

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

ABORIGINAL AFFAIRS TASKFORCE

Indigenous affairs report 2010–11

Hon. W. A. LOVELL (Minister for Housing), by leave, presented report.

Laid on table.

LEGAL AND SOCIAL ISSUES REFERENCES COMMITTEE

Organ donation in Victoria

Mr VINEY (Eastern Victoria) presented report, including appendices, extracts of proceedings and minority report, together with transcripts of evidence.

Laid on table.

Ordered that report be printed.

Mr VINEY (Eastern Victoria) — I move:

That the Council take note of the report.

This is the first report of the Legal and Social Issues References Committee on a reference proposed by the government to undertake an inquiry into organ donations in Victoria. I want to say at the outset that a very comprehensive process was undertaken by the committee. I particularly want to acknowledge the submissions at public hearings, where the committee received evidence from recipients of organs, people on the waiting list and the families of donors. On behalf of the committee, I would like to express our appreciation to all those who gave such evidence to the committee. Obviously often these were very personal and emotional matters that people were making submissions about.

There are a number of significant findings in relation to the inquiry. The overwhelming evidence received by the committee was about issues around whether or not there ought be presumed consent. For members who do not know, that is an opt-out model. It is an assumption that someone consents to donating organs at the time of death. I make the point that differing views were presented to the committee in relation to this matter, but the overwhelming evidence received during the inquiry did not support the presumed consent model. This was one of the key issues that came before the committee, and the committee has not recommended any change in that regard.

It is important to recognise that there has been a significant increase in organ donations as a result of the national reform agenda. In fact in 2010 — that being the first year of the program — there was a 35 per cent increase in organ donations in Victoria and a further 8.5 per cent in 2011. The committee also found that there is a need for families to have early discussions about their donation wishes so as to foster a greater emphasis on raising awareness of tissue donation and the facilitation of timely tissue donation as well as some consideration in relation to reimbursing expenses in the case of living donors.

I want to acknowledge the great work of the committee secretariat, including Richard Willis, Lisa Kazalac and Sean Marshall. I want to acknowledge the work of all members of the committee. In particular I would like to acknowledge the work of the deputy chair, Mr O'Donohue, who on a number of occasions had to step in for me during some family issues. The committee members worked well together.

During the course of the committee's investigations there was an incident where the lung transplant program at the Alfred hospital was suspended for what was planned to be two weeks but ended up being only one week. This became a matter of some considerable concern to the committee. There had also been some significant public concern in relation to this, and representatives of health organisations had expressed their concerns about it. The committee was unable to get to the essential reasons for the cancellation of the program, and it was very concerned, because this is a serious health issue and people's lives are put at risk by such decisions.

Because the committee was unable to get to the bottom of the reasons for this cancellation, the committee made two significant recommendations. One involved requesting that the Victorian Ombudsman conduct an inquiry into the cancellation of lung transplantation at the Alfred in September and October of 2011. The second was to seek that Mr Andrew Way, the chief executive of Alfred Health, return to explain some inconsistencies that, based on the transcript of evidence and a briefing note to the health board, appeared to have occurred in his evidence before the committee.

The PRESIDENT — Order! Does Mr Viney seek an extension by leave of, say, 10 minutes?

Mr VINEY — No.

Mr O'DONOHUE (Eastern Victoria) — Like Mr Viney, I was pleased to be a member of this committee. At the outset I also would like to thank the secretariat of Richard Willis, Lisa Kazalac and Sean Marshall for their efforts. I would also like to acknowledge the submissions and evidence we received. It has been an absolute privilege to be a member of this committee. We heard from surgeons and health professionals who at the drop of a hat and in the middle of the night would jump on a plane to Darwin, Adelaide, Hobart or New Zealand to turn a tragic event — the death of a person — into an event of hope: the retrieval of an organ or organs to give life to others.

It has been an absolute privilege also to interact with people such as Kim and Allan Turner of Zaidee's Rainbow Foundation, who, after the tragic loss they experienced, have devoted themselves to organ donation awareness. I would encourage all members of this place and anyone who listens to this debate or reads the transcript of it to sign up to the organ donation register. Before this inquiry I was not registered as an organ donor; now I am, and I would encourage all others to be so. One of the most significant findings and aspects of evidence we heard was the importance of family discussions about the issue of organ donation; when time is short and when a loved one may be in the process of passing away it makes a critical difference to whether a decision to donate is made or not.

As Mr Viney said, the national reform agenda has been a great success. Commonwealth funding for that expires on 30 June, and whilst there is some comfort about a continuation of funding, the government members — the minority on this committee — believe an opportunity exists to look at this issue in a different way. We could look at a new way of bringing the various health centre operators together to look at a centre of excellence. The minority reject the reference to the Ombudsman; we do not believe the case has been made. We believe too much time was spent by the majority focused on the issue of a six-day, temporary reduction in organ donation services at the Alfred.

Ms HARTLAND (Western Metropolitan) — I was an organ donor — that is, I was on the register before this inquiry occurred. I am not giving organs away! It was really interesting for me to learn so much about how organ donation comes about and to hear the incredible testimony we received about people who had given that ultimate gift of life to someone else under tragic circumstances. I know that for all members of the committee some of those testimonies were most difficult to sit through and hear. It was also the testimony from doctors at the Alfred, particularly, that really put into focus for me the fact that this is not just about retrieving the organ and about the transplant; it is about the accommodation for families and about how you make sure that families are informed. Even though if someone is on the register the consent of the family is not technically required, the hospital will always ask for that consent, and I think that is part of the deep respect hospitals have for families when they have to go through such an agonising choice about giving away the organs of a family member who is dying.

I supported the majority on the matter of looking at the issues around the Alfred. I felt quite clearly there was a contradiction in the evidence we had received; that is why I supported the majority on that. I think we need to look at that and to investigate why there was the closure and whether there is a problem with funding. This is too important an issue not to be funded and resourced properly.

Ms MIKAKOS (Northern Metropolitan) — Organ donation is the gift of life. I was very privileged to have been a member of the parliamentary committee that concluded this report, and I have to say at the outset that I believe it was one of the most challenging inquiries I have participated in, because we heard evidence from families who have faced these difficult circumstances.

We understand from the committee's evidence that families face difficult decisions during a heartbreaking time when they are grieving, but the evidence clearly showed that it is not enough just for people to register on the Australian organ donor register. Because families ultimately need to give consent for their loved one's organs to be donated, it is critical that people have discussions with their families to make it clear to them what their wishes are, as family members are unfortunately refusing to give consent at the critical time. It is important that we continue to have more education and awareness about the need for organ donation, and a number of the recommendations in this report relate to those issues.

I briefly want to come to the issue of funding, because as we have so many people on the waiting list for organ transplants it is important that there is adequate resourcing of our health system. The recommendations also relate to the need for increased resources, and I was disappointed that there was a minority report in relation to this chapter.

I want to conclude by thanking all those individuals and organisations who made submissions to the committee.

It was very useful and valuable evidence to us. I also wish to thank the secretariat staff for their support in assisting us in concluding this report. I hope the government takes up the recommendations in the report; they are critical to so many Victorian families.

Ms CROZIER (Southern Metropolitan) — I am also pleased to make a few comments in relation to this very important matter. I also acknowledge the committee members, the great work of the secretariat staff and most importantly all those witnesses who provided submissions and gave evidence to the inquiry. Some very extraordinary personal accounts were given that made the understanding of organ donation far more worthy for all members.

A number of issues emerged — funding and resourcing is one — but what also came out in this inquiry is that Victoria is the leader in the field in this area. It undertakes services for a number of other jurisdictions, including Tasmania, South Australia, New South Wales and New Zealand, and I think that is an important issue to take note of.

There is also the issue of the complexity of transplantation services. This is not just a one-off, acute act; it involves very sick patients, and the major institutions that undertake transplantation services have teams of personnel involved in the process, including working with the families of the donors and the traumatic and emotional experiences they are going though. There are teams of surgeons, physicians, intensivists, nurse coordinators, theatre nurses, social workers and translators — there are many people involved in this — and these institutions have to make decisions in relation to the other major traumas and emergency admissions they are dealing with. That requires planning from not only administrative staff but also clinical staff in relation to how they handle the cases and what they are dealing with on a day-to-day basis. Those institutions do a tremendous job; they juggle lots of priorities. It is at times a very unpredictable and fluid situation, so I acknowledge that. I also urge all within the chamber to consider joining the organ donor register.

Mr ELASMAR (Northern Metropolitan) — I rise to speak about this important report, which examines ways to increase Victoria's organ and tissue donation rates. Since the 2008 national reforms in organ and tissue donation, Victoria's total number of organ donors has doubled. In 2010 alone Victoria had a 35 per cent increase in total organ donor numbers. Victoria now leads Australia in regard to organ donation. However, in order to save lives and enhance the quality of life for the people who desperately need organ transplants, Victoria must continue to encourage and facilitate organ donation.

The committee supports some existing mechanisms and legislative frameworks, including the current informed consent system. It is clear that as organ donations increase, so will the level of transplant activity. This places a significant strain on existing hospital resources. The committee recommends that the current resourcing levels need to be reviewed to ensure that transplant activity can operate to maximum capacity. It is also important that families have early discussions about their wishes regarding organ donation and that more community education and awareness raising takes place. In particular there should be a greater awareness of the importance of tissue donation.

We heard from many individuals who have had firsthand experience of organ donation or transplantation or who remain on transplant waiting lists. I particularly want to thank those people for their important contributions, and I wish them well in the future. I would also like to thank the committee staff for their hard work on this inquiry — Mr Richard Willis, Ms Lisa Kazalac and Mr Sean Marshall. I am proud to be a member of a committee chaired by my friend and colleague Mr Matt Viney and also to work with deputy chair Mr Edward O'Donohue and all the members of the committee.

Mr O'BRIEN (Western Victoria) — I rise to add my voice to the support for this report on the inquiry into organ donation in Victoria. I also join the chair and deputy chair in thanking all members of the committee secretariat, and I support Mr Elasmar's kind remarks about the way in which the committee sought to cooperate and work through matters of common evidence and common consideration and, where necessary, dividing in relation to the minority report.

In extending my thanks, I also concur with the remarks made in recognition of the testimony that was provided by both the families of donors and organisations representing the families of donors and the recipients. The gift of organs — the gift of life — is a very important gift and, picking up the contribution from Ms Crozier, it is an emerging and very specialised area of medicine in which Victoria provides a leading role to the nation. In that respect the practitioners in the various Victorian hospitals who have to deal with this difficult area, both from the technical medical point of view and in relation to the emotional and ethical framework, have led the nation in this area.

That is why one of the key recommendations of the minority report is that this work should be extended,

both in seeking greater contribution from the commonwealth government in relation to funding organ donation retrieval and transplantation services and possibly in the formation of a Victorian centre of excellence, as has been recently done in other medical areas where Victoria leads the world, such as the cancer and brain centres.

The submission and evidence stressed that it is important that the discussion in relation to whether you wish to donate or not be had with community members and family members as early as possible in life so that the decision does not need to be made at a time of grief. I commend the report to the house.

Mrs PETROVICH (Northern Victoria) — I commend the committee and the committee staff for the work that was put into this report. It is a very complex issue. We had many poignant submissions from people waiting for life-saving and altruistic donations. As has been said earlier, it is very important to have that discussion with your family early and not at a time of crisis because then it is far too traumatic.

I commend the work of hospitals during times of crises, which we have seen recently in Victoria's history, including the Black Saturday bushfires, and also — not so recently but still front of mind — the Bali bombings. In many ways Victoria is leading the way in organ donation, and we should commend our highly trained medical staff who look after these patients. Once these patients are in the system and on the register, they require lifelong care, and I commend that work.

I was very impressed by the quality of evidence given by a range of people in their submissions. Many of these were heartfelt, and many were also very professional recommendations. A lot has been said about some of the media reports around Alfred Health's submission. I would like to quote Mr Andrew Way, the CEO of Alfred Health, speaking on its submission. He was very clear in saying that whether to have the resilience of two programs, two sets of hospital capacities and so on, was a complex issue. He said:

> There are some quite big questions if the program continues to grow at the rate it is going.

His submission was quite valuable to us. The Alfred Health transplant program generated some media interest during the course of this inquiry, but we were concerned that the focus of the majority on this issue had the potential to have an adverse effect on organ donation.

Hon. D. M. DAVIS (Minister for Health) — I am pleased to make a brief contribution on the report entitled *Inquiry into Organ Donation in Victoria* that has been tabled. I indicate that the government will take on board the contribution of the committee. The committee has worked hard and taken broad evidence which is of great value. This is an area that has intense significance for many people, and the stories of individual people who have had organ donations and been donors are very touching. The committee has obviously considered many of these matters at great length.

I also want to compliment the support and evidence that was given to this inquiry by many of our major hospitals — the Alfred, the Austin and others. This inquiry has involved support from not just my department but also those hospitals, which have generously given their time to the committee, providing it with information and important evidence.

An all-party committee has delivered this important report that will provide additional support for us into the future and makes a number of important recommendations. The government will consider those recommendations and will respond in due course. Obviously I have not read the entire report in the period since it has been tabled. I welcome the report. It is an important step forward. I indicate my strong support for those who are donors in Victoria — we still need to do much more work to lift the donation rate — and also to those involved in the transplantation services we have in our state. They are very high-quality services. I particularly pay tribute to the Alfred.

Mr JENNINGS (South Eastern Metropolitan) — This morning I have heard very profound and moving contributions by the members of the Legal and Social Issues References Committee on its report into the organ donation program in Victoria. I thank the committee members, the staff that support them and the witnesses that appeared before them for making sure that the people of Victoria appreciate this issue more fully than they might have before and embrace the concept of organ donation now and into the future.

This morning I have also heard a range of matters that the committee has grappled with in determining its final report to us and the pathway forward. In light of what some of the members of the committee deem to be inconsistencies in the evidence that was provided about some of the challenges and shortcomings within the current service provision of that program, as a matter of natural justice the committee has asked some witnesses to come back to clarify those inconsistencies and that evidence. If this evidence leads to the conclusion that there may be some shortcomings in the program into the future, then a reference to the Ombudsman may be appropriate to establish the veracity of that evidence. The committee has been very considered and

thoughtful in the way it has dealt and is dealing with those issues in the spirit of natural justice and full disclosure. I congratulate the committee on taking that action.

Motion agreed to.

PAPERS

Laid on table by Clerk:

Interpretation of Legislation Act 1984 — Notice pursuant to section 32(3)(a)(iii) in relation to Statutory Rule No. 14.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 17 April 2012.

Motion agreed to.

STANDING COMMITTEES

Membership

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

That Mr Leane and Mr Tarlamis be participating members of the Environment and Planning References Committee and the Environment and Planning Legislation Committee, and that Mr Lenders be a participating member of the Economy and Infrastructure References Committee and the Economy and Infrastructure Legislation Committee.

Motion agreed to.

ENVIRONMENT AND PLANNING REFERENCES COMMITTEE

Reporting date

Ms TIERNEY (Western Victoria) — By leave, I move:

That the resolution of the Council of 5 April 2011 requiring the Environment and Planning References Committee to inquire into, consider and report on environmental design and public health in Victoria within 12 months be amended so as to now require the committee to present its final report by 31 May 2012.

Motion agreed to.

MEMBERS STATEMENTS

Manufacturing: job losses

Mr SOMYUREK (South Eastern Metropolitan) — Australian Bureau of Statistics figures released earlier this month show that 7000 full-time jobs have been lost in the manufacturing sector in Victoria in the 12 months prior to February 2012. This is a damning indictment of the Baillieu government's term in office. These continuing job losses in the manufacturing sector are causing a crisis of confidence in Victoria and creating great anxiety for the thousands of working families earning a wage from the manufacturing sector.

I take this opportunity to urge the Minister for Manufacturing, Exports and Trade and the Premier to stop spending money on more reviews, inquiries and task forces and instead get on with the job of fixing the problems in the Victorian manufacturing sector. I urge the government to formulate a proper manufacturing plan which outlines a strategy to ameliorate the deleterious effects of the high Australian dollar on our manufacturing sector. I urge the government to formulate a plan that has as its objective the stimulation of the various drivers of the Victorian manufacturing sector, such as government procurement, infrastructure investment, skills training and research and development. I also urge the government to develop a plan that will preserve the jobs of the 264 000 people employed in the Victorian manufacturing sector.

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

Gowrie Street Primary School: student leaders

Hon. W. A. LOVELL (Minister for Housing) — Too often we forget to give credit where credit is due. For this reason I would like to publicly recognise the students, teachers and parents who make up the Gowrie Street Primary School community in my home town of Shepparton. Gowrie Street is my closest local primary school — I live just around the corner from it — which made it extra special for me on Friday, 23 March, to present the school's leadership team members with their badges.

These young people are a cross-section of Shepparton's multicultural community. They come from many different backgrounds, but they all work together — something that would be an example for many people two or three generations older than them. The badges I presented them with will tell other students that these are their role models — that is, young people to aspire to be like.

I was told that this year's leadership team is larger than those in previous years because of the high quality of candidates. This is a credit to the children, their parents and their teachers. These young people take their roles seriously, and as one student told me they plan to lead by example. Congratulations to principal Travis Eddy and his staff for creating a warm, inclusive and caring school environment. Congratulations also to the students for achieving their positions as school and house captains. I hope these young people continue to play a leading role in their school and their community. You never know, I may have met some of our future members of Parliament and local community leaders.

Springvale Benevolent Society: Wes Eggleston community service award

Mr TARLAMIS (South Eastern Metropolitan) — Last week I was humbled to present the inaugural Wes Eggleston community service award, founded in honour of Wes Eggleston, at the 50th anniversary reception for the Springvale Benevolent Society hosted by the City of Greater Dandenong.

The Wes Eggleston community service award has been established as an annual award to recognise an individual in the community who, by their selfless actions, has enriched the lives of others through care, compassion, courage and leadership. Sadly Wes Eggleston passed away in 2009. He dedicated his life to helping others and ran the Springvale Benevolent Society from his furniture store in Springvale, serving as its secretary for around 40 years. He was a worthy recipient of the Springvale Citizen of the Year award and was declared a living treasure by the City of Greater Dandenong.

It was fitting that the inaugural recipient of the Wes Eggleston community service award was Wes's good friend John Beus, OAM, who also received an award on the night for 50 years of continuous service. John was a founding member of the Springvale Benevolent Society in 1962 and received the Wes Eggleston community service award for his outstanding community service, compassion and commitment to the community.

Wes was highly regarded within the community and is sorely missed. I am comforted that John, along with the many other dedicated members of the society, is continuing Wes's good work.

Springvale Benevolent Society: 50th anniversary

Mr TARLAMIS — I would like to take this opportunity to congratulate the Springvale Benevolent Society on reaching its 50th anniversary, which is a significant milestone. I thank the wonderful hardworking and dedicated people who have contributed their time and support and have made a real difference to the lives of so many local residents and families over the years. Without them this achievement would not have been possible.

In particular I would like to commend Joe Rechichi, who stepped up during a challenging time for the society and has done an outstanding job, which was recognised earlier this year when he became the City of Greater Dandenong's Citizen of the Year.

City of Casey: community events

Mrs PEULICH (South Eastern Metropolitan) — Yesterday the member for Narre Warren South in the Assembly, Judith Graley, made some remarks that I would classify as catty in relation to my lateness to one particular event and my inability to attend another event in the city of Casey. Given the poor representation of local Labor MPs in the city of Casey — which has a dynamic and diverse community and is well supported by the Baillieu government, which is best exemplified by the delivery of a $24 million promise to the City of Casey to support the Brookland Greens methane gas rectification works — I thought the comments were a bit rich.

The City of Casey faces many challenges, but its biggest challenge is the lack of effective representation of its community due to the fact that the Assembly members for Cranbourne, Narre Warren South and Narre Warren North are all members of the Labor Party. These MPs have been missing in action when it comes to representing the community. A rollcall of attendance has revealed Judith Graley, the member for Narre Warren South, and other local MPs as being absent at the all-abilities cricket day at Casey Fields, the Cranbourne night racing launch, Casey's ovarian cancer International Women's Day fundraiser, Casey's motor neurone fundraiser in Cranbourne, Casey-South Melbourne Cricket Club's presentation night, all City of Casey civic dinners, Australia Day celebrations, the City of Casey barbecue to celebrate the start of new year and the Nossal High School foundation assembly.

I am sorry; there is a call coming through on my phone.

The list also includes the Melbourne Business Awards south-east region presentation, where there were five nominees and three winners from the city of Casey; Rotary's Longest Lunch, which was a Casey-wide event; the Casey-Cardinia Business Breakfast Series, featuring guest speaker Steve Moneghetti; the International Women's Day business breakfast; the annual general meeting of the Merinda Park Learning and Community Centre; Girl Guides Victoria; Women of Note — —

The PRESIDENT — Time!

Mrs PEULICH — And the list goes on.

The PRESIDENT — Order! The list may well go on, but Mrs Peulich is out of time — and she had better take that call from Ms Graley!

Elwood: flood mitigation

Ms PENNICUIK (Southern Metropolitan) — Last Monday, 26 March, I attended a forum hosted by a local community group known as LIVE, which stands for Locals into Victoria's Environment, at Elwood Secondary College to discuss the floods that happened in Elwood on 4 February 2011. Also in attendance were all of the councillors of Port Phillip City Council; Cr Clifford Hayes from Bayside City Council; councillors Cheryl Forge and Neil Pilling from Glen Eira City Council; Martin Foley, the member for Albert Park in the Assembly; and a representative of the Liberal Party, Mr Kevin Ekendahl. Despite the LIVE organisers inviting members of the government, none of them attended the forum. The State Emergency Service and the Consumer Action Law Centre were also in attendance. The room that the forum was held in was full to overflowing with people whose homes around the Elwood Canal had been flooded on 4 February 2011.

Melbourne Water representatives were not in attendance, despite being asked to attend the forum. Council representatives said that despite the works the council can do in relation to local drainage, major works need to be done by Melbourne Water and the state government. The resolution of the meeting was that Melbourne Water and the state government attend a meeting with the council and residents. I urge the government to make sure that happens.

Link Up: young parent support program

Ms PULFORD (Western Victoria) — Last week I joined participants of the Link Up program, a program for young parents, for lunch, a chat and a play. The young parents' Link Up program is an innovative, holistic program that seeks to address the myriad issues facing young parents, some of whom are as young as 14 or 15 years old.

Volume 2 of the Cummins inquiry report identifies maternal age as a known risk factor in relation to vulnerability. On page 36 it states:

> A young mother and her child are likely to be more vulnerable because of the frequently associated social stresses of single parenthood at a young age.

Recommendation 9 is for the development of a universal evidence-based parenting information support program to be delivered to communities with high concentrations of vulnerable children and families. Recommendation 12 is for the expansion of early parenting centres to service vulnerable families. The government could learn a great deal from the young parents' Link Up program, which is now in its sixth year, about how this can and should be achieved.

National Ride2School Day

Ms PULFORD — On another matter, I congratulate 178 riders and walkers from Forest Street Primary School on their participation in National Ride2School Day. We pedalled hard to keep warm on an icy Ballarat morning, while talking about healthy transport and road safety. The Forest Street Primary School ride was coordinated by teacher Cameron Landry and was one of 1000 activities involving 140 000 kids across Australia on 23 March as part of National Ride2School Day.

Queensland: election result

Mr FINN (Western Metropolitan) — I rise to congratulate the new Premier of Queensland, Campbell Newman, and in particular our many new parliamentary colleagues in that state. To have so many new faces is invigorating for democracy, and when, additionally, they are conservative faces, it is not just good for democracy but a boon for the economic and social health of the Sunshine State. I wish the new government well; sadly it will need it.

Labor, as it so often does, has left Queensland a total basket case, with a debt of more than $80 billion. North or south, state or federal, Labor just cannot handle money anywhere. Premier Newman will need all the energy and can-do attitude he can muster to turn things around, but I have no doubt he will. It is great to welcome Queensland back to the fold, and it is wonderful to see both sides of Australia, east and west coasts, in good hands, with the added confidence that

the entire northern coastline will be joining us by year's end.

Australian Football League: season start

Mr FINN — On another topic, tonight sees the beginning of the real football season. This is the most exciting part of the year. The hopes of Victorians are high as we join together to celebrate our great game. Australian Rules football is so much more than a very handy income stream for politically correct blokes in suits; it is a way of life for millions of Australians. Tonight I will be joining close to 100 000 people at the MCG as the Tigers and the Blues continue their decades-long rivalry. May the best team win — and may that team be Richmond!

International Women's Day

Mr ELASMAR (Northern Metropolitan) — On 14 March, together with several parliamentary colleagues, I attended a lunch for International Women's Day to celebrate all Labor women who have served in Victoria's Parliament — from the first, Fanny Eileen Brownbill — 28 April 1890 to 10 October 1948 — who became the member for Geelong in 1938 having stood for election to Parliament after the death of her husband, William, the sitting member for Geelong at the time, to our first woman Premier, Joan Kirner, to our newest women members. I applaud and salute their enormous contribution to the Victorian Parliament.

Assisi Centre Aged Care: refurbishment

Mr ELASMAR — On another matter, on 17 March, together with several parliamentary colleagues, I attended a ceremony for the opening of 30 new beds at the Assisi Centre Aged Care facility in Rosanna. The centre is also undergoing extensive refurbishment and will ultimately house 90 residents. The event was hosted by the former Chief Justice of the Supreme Court of Victoria and former Governor of Victoria, Sir James Gobbo, who is also the patron in chief of the centre. Ms Jenny Macklin, the federal Minister for Disability Reform, was also present. We toured the facility and later had the opportunity to have a chat with some of the residents. All in all, it was a very interesting morning, and I thank the organisers for making it a pleasant occasion.

Queensland: election result

Mrs KRONBERG (Eastern Metropolitan) — The Queensland election result was a stunning victory, and I congratulate the new Premier, Campbell Newman. All those in the entire Liberal National Party team, both elected representatives and others in the organisation, are to be heartily congratulated on their historic win. As of today, the Newman government holds 72 seats and is predicted to win 77. Currently Labor holds 6 seats and may ultimately win 8, thus falling short of the 10 seats required to be held to function as a party in opposition. This means that the Labor Party has failed to fulfil a basic tenet of the Westminster system of parliamentary democracy. Queenslanders have also shown what they think of the Greens — and what a joy that is.

The Queensland Treasurer, the Honourable Tim Nicholls, the member for Clayfield, is someone I know and admire. He is to be congratulated on his individual triumph in Clayfield, where, on a two-party preferred basis, he won 71.3 per cent of the vote and brought home a 15.5 per cent swing — in a seat regarded back in 2009 as notionally Labor. At last the Queensland economy is in safe hands, with a government that will encourage investment and prudent financial management.

When our Premier, Ted Baillieu, sits down next month at the Council of Australian Governments meeting with Premier Colin Barnett, Premier Barry O'Farrell and Premier Campbell Newman, it will be a vision splendid. The premiers of those four states, representing the greater proportion — —

The PRESIDENT — Time!

Cleaners: United Voice Clean Start campaign

Ms MIKAKOS (Northern Metropolitan) — I wish to congratulate the organisers of yesterday's United Voice National Day of Action rally, which highlighted the poor working conditions of shopping centre cleaners. Cleaning is an essential job that many of us take for granted. We expect the environment we shop or work in to be kept hygienic and clean. However, it is our lowest paid workers who do this much-needed work.

In November last year I met with cleaners from Epping Plaza in my electorate, and they gave me firsthand accounts of their meagre working conditions. I support United Voice's Clean Start campaign for a livable wage, job security and a fair and safe workload for Australia's shopping centre cleaners working for Spotless, one of Australia's biggest retail cleaners.

WorkSafe Victoria: dividends

Ms MIKAKOS — Later today the Victorian Trades Hall Council will hold a rally on the steps of Parliament protesting the raid of $471.5 million of WorkCover

dividends by the Baillieu government to cover up its mismanagement of the budget. None of this amount will be used to offer relief to employers for WorkCover premiums. By contrast, the previous Labor government reduced WorkCover premiums six times and brought them down to historic lows. Benefits for injured workers were also greatly improved under Labor. The Baillieu government's redirection of dividends to cover up its mismanagement of the Victorian budget will lead to higher WorkCover premiums for businesses at a time of rising unemployment and will provide no improvement to worker benefits.

Senator Bob Brown: comments

Mr ELSBURY (Western Metropolitan) — Douglas Adams, the author of *Hitchhiker's Guide to the Galaxy* said, 'Space is big. Really big. You just won't believe how vastly, hugely, mind-bogglingly big it is'. Now I am a bit of a sci-fi fan. I enjoyed *Star Wars*, *Stargate*, *Babylon 5* and all of the *Star Trek* shows and movies, although *Enterprise* was a bit disappointing, but I have to say that when you use science fiction to justify an entire policy you are really clutching at straws. That is why when Senator Bob Brown said at a recent conference, 'Why aren't the intergalactic phones ringing?', you had to wonder where this guy actually came from. He was further quoted by the *Herald Sun* of 28 March as saying:

> Here is one sobering possibility for our isolation: maybe life has often evolved to intelligence on other planets with biospheres and every time that intelligence, when it became able to alter its environment, did so with catastrophic consequences. Maybe we have had many predecessors in the cosmos but all have brought about their own downfall.

You have got to wonder which planet this guy is on, but ladies and gentlemen, I would prefer fact to fiction, and I would rather use other sources than L. Ron Hubbard.

Helen Davis

Ms TIERNEY (Western Victoria) — I rise to pay tribute to Helen Davis, who passed away last week. Helen was a lifelong union and community activist. Helen's working life in Victoria started at Mistral Fans, where she became a shop steward for over 300 people, serving them for more than eleven and a half years. Then in the early 1980s she broke through to become the first woman organiser with the Metal Workers Union, now the Australian Manufacturing Workers Union. Helen served as a Preston councillor for sixteen and a half years, including two terms as the mayor. She was an active member of the Australian Labor Party at a grassroots or branch level, as well as being a delegate to state conferences. Helen was awarded ALP life membership by the Premier at the time, Steve Bracks.

Helen led a very full and active family life, raising four boys with much love and care. Helen's contribution to making this world a better place was endless, and I am sure her work will live on. I take this opportunity to extend my sympathy to Helen's partner, John Speight; her sons, Terry, Gary, Arthur and Mark; and her daughters-in-law, step-daughters and grandchildren. Vale Helen Davis.

PORT BELLARINE TOURIST RESORT (REPEAL) BILL 2012

Second reading

Debate resumed from 27 March; motion of Hon. P. R. HALL (Minister for Higher Education and Skills).

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to speak on this bill, which is modest in terms of its length but which is a very important bill nonetheless, because it sets a number of precedents that we on this side are concerned about.

The Port Bellarine proposal was a vision of the 1970s. It was a vision of the then government that was enshrined in legislation in 1981. It was a vision to create a canal-style development with 1000 residential lots — a sort of Venice of the south — outside Portarlington. It was a vision that was very unusual in the sense that it was enshrined in legislation. It was unusual in that an agreement between the developer and the government was enshrined as part of the 1981 legislation. It was a vision of its time and for its time, but I think that time has clearly gone.

There is no doubt that, if put forward today, this proposal would be rejected, and it would be rejected on a whole host of grounds, not the least of which would be local community opposition to the development. I know that the member for Bellarine in the other place, Ms Lisa Neville, has been passionate in her advocacy to ensure that this development does not occur.

The development would not be successful today, because it is inconsistent with planning and zoning in the area. It is inconsistent with the vision for ensuring that communities and development occur within existing settlements rather than increasing the sprawl. It is inconsistent with today's standards around environment, because the development could only proceed after the dredging of some environmentally sensitive areas. There is no doubt that this vision of the

1970s, enshrined in 1981, is out of step with community expectations, with planning expectations and with environmental standards of today.

The issue then becomes: how do you end the dream? The previous government took steps to engage with the issue of how you would end this vision. The current government has now introduced this legislation, and while the opposition supports the outcome in terms of removing this option from the landscape, it does have a number of concerns about the means. The legislation purports to extinguish all property rights. It extinguishes the agreement and it extinguishes the 1981 legislation, and it does so on the basis that no compensation will be payable. In and of itself, this is something that would concern us for a number of reasons — in part because of the signal it sends to the community, and particularly the business community, about the basis upon which you can do business in Victoria.

The government needs to be very clear and very careful about how this is seen. We do not want a situation where the business community is wary of doing business in Victoria. In essence, you have an agreement with the government, the government believes it wants to terminate that agreement and the government does terminate that agreement by legislation that purports to take away all of your rights. This is a heavy-handed approach, and I think there is a real risk in terms of the signal it sends to the business community. That is something we are concerned about and are very alive to.

The right to compensation for the removal of a person's property rights is an important part of our system; it is fundamental to the economic system under which we operate. It is such a fundamental tenet of our economy, our society and our political structure that it is one of the few rights that are enshrined in the constitution: the right to just terms for the removal of property rights. This is an issue that concerns us in terms of how this bill purports to sit alongside those fundamental rights and how it purports to match up to those rights. The bill is clear in its intent to take away any rights to compensation. Clause 10 is very clear:

> … no amount is payable by the Crown (as compensation, damages or otherwise) to any person … for any loss or damage arising out of, or in connection with, the enactment of the act … the Crown is not liable to any person … for any claim arising out of or in connection with the termination of the agreement —

or the Crown lease. Those are very expansive provisions that, in this case, purport to take away the developer's right to compensation. It is not surprising then that the developer, who is entitled to the benefits of the 1981 legislation, has commenced litigation for a considerable amount of compensation — $100 million.

Not only are these fundamental questions about the way in which our system operates and the signal that this government is giving to the business community about the way in which it operates, but there is also a very important question about the state's liability to pay $100 million worth of compensation. In its second-reading speech the government has already admitted that it will make an ex gratia payment, but the amount that is being claimed — $100 million — is a very significant threat to the budget bottom line.

We are very concerned about a number of the aspects of the way in which this government is attempting to close down the Port Bellarine tourist resort option. Our discomfort is heightened by the fact that this is now the third time in as many months that the Minister for Planning has been sued for the actions he has taken as minister. We have said publicly, and I will say it again, that we do not have any confidence in the way this minister operates. The business community does not have any confidence and the community more broadly does not have any confidence.

Every month for the last three months — and we are only one-quarter of the way into the year — we have seen the minister being sued, and that has occurred again this week. We have very low confidence in the acumen, the ability and the capacity of the minister to see through what is a very serious challenge. We are therefore very wary about the capacity to get an outcome here which is an appropriate outcome so far as Victorians are concerned.

We also know that the actions and the behaviour of the government are shrouded in secrecy. I am very confident that whatever arrangements are reached between the developer and the government in relation to the litigation — and we note that litigation almost always settles — the taxpayer will never find out exactly how much money has been paid by way of compensation. Not only do we have this fundamental question about property rights and not only do we have this fundamental question about how they will be explored in this case, we are also very concerned that the outcome will not be known. We are very concerned that not only will the outcome not be known but the taxpayers will never know whether or not they have got value for money.

When we have a question mark hanging over the capacity of this minister to deliver an outcome which is fair, reasonable and competently delivered, I think it

concerns us that there will be no transparency or accountability and no way in which to judge how the minister acquits himself on this occasion.

We do not oppose the bill, although we have very serious reservations about it and I have tried to set them out. We will be monitoring the situation very closely because we know the litigation is likely to persist for some time and we know there are entrenched constitutional rights to just compensation, so there is a real claim on foot here. We will continue to try to monitor this so we can shed a light on what occurs next, because the sums of money here are vast and the issues of principle are very important. As I said, it is our view to not oppose the bill; it is our view that the bill should go through, but we caution the government about the message and the signal that is being sent in terms of the way in which it operates.

Mr BARBER (Northern Metropolitan) — The government's pitch in relation to this bill is that the Port Bellarine project would be environmentally damaging, but for it to get out of it legally would be very expensive. That being the government's argument, why do we still have the desalination plant? Why do we have any number of projects that are environmentally damaging and yet very expensive for the government to get out of? It is because the government has a very highly selective attitude to how it interprets the very important question that is critical to our debate on this bill here today — that is, the question of sovereign risk.

I concur completely that this project is environmentally unacceptable and should not go ahead, and I have no problem with supporting legislation to repeal the original 1981 agreement to prevent this project from going ahead; there should be no doubt about that. That leaves the one residual issue with the bill, as embodied in clause 10 — that is, that of sovereign risk. There have been many instances when members of the other parties in this place have reached for the touchstone of sovereign risk, even in the case of the Minister for Planning, Mr Guy, who wanted to throw across the chamber at the Greens the argument that we cannot undertake such and such a course of action because of the touchstone of sovereign risk.

In sorting out what is the right thing to do here in relation to clause 10 of the bill and some other amendments which I gather are forthcoming, I have had to go back through a number of recent instances where the question of sovereign risk has been raised. Obviously it is an overused concept. Governments are constantly changing their policies for the betterment of our society and our environment, and as time stretches on it becomes clearer that the acceptable standards of decades ago no longer apply in the modern context.

In November last year we had a debate here on the Mines (Aluminium Agreement) Amendment Bill 2011 where a 1961 agreement allowing for 100 years of coal mining at Anglesea was extended by another 50 years. When the Greens dared to suggest that that was a bad course of action and that the legislation governing that operation needed to be radically updated to represent modern standards — and for that matter that there needed to be a time line for the ceasing of coalmining at Anglesea — we were told by the minister in the chair, Mr Hall, that such a move and what he described as its associated sovereign risk would place future investment in the state of Victoria in serious jeopardy and foster a reputation that would chase investment out of the state. That is a paraphrase of Mr Hall's words. He said it would send a terrible signal to both those who had made personal investments and those companies that had made investments.

Almost a year ago, on 7 April 2011, the Greens asked the Minister for Planning, Mr Guy, what he was going to do to sort out the terrible mess involving Kew Cottages, a long-running controversy his party had something to say about when in opposition but has virtually nothing to say about now. I will quote Mr Guy directly, given that standing orders allow me to do that with the time that has elapsed:

> I am not sure if the Greens understand the concept of sovereign risk. Where there is a contract in place, the state does not go about breaking contracts …

He said that in relation to the Kew Cottages development. Well, I will ask Mr Guy to further my education on the concept of sovereign risk as we go through the detailed consideration of this bill. I genuinely hope that we elucidate a clearer line on what it is that this Parliament believes, and that all parties can agree, represents sovereign risk and also what does not represent sovereign risk — what represents the absolute right of the Parliament to make laws, change policies and improve standards for the betterment of our society in Victoria, its environment and the future generations.

On 3 September 2011 in relation to some changes to the Mineral Resources (Sustainable Development) Act 1990 the Minerals Council of Australia said there was a sovereign risk issue. That related to mining exploration licences, which function in a way that means that their area shrinks year by year on a use-it-or-lose-it kind of basis. That is a totally legitimate exercise of the state's power. We are granting people the right to explore for minerals, and over time if a mining company does not fully explore an area, that right starts to expire.

On 3 June 2010 in relation to the Crown Casino taxation regime Mr Dalla-Riva took to task the then Treasurer, Mr Lenders, and Mr Lenders invoked the concept of sovereign risk in that Crown Casino had a licence — a licence by definition is not a property right — and that we wanted to change the tax rates applying to Crown Casino.

I save the best till last. This involves possibly one of the most erudite members in this chamber, a man who rarely gets it wrong: Mr Philip Davis. Mr Davis was speaking on 14 September 2006, just before I arrived in this Parliament, on the issue of the Hazelwood power station, and his respondent was Mr Theophanous, the former Minister for Energy Industries and Resources. Mr Davis said:

> International Power had a reasonable belief upon acquiring the Hazelwood asset that it had an undertaking from the sovereign government of Victoria in regard to access to coal.

Did it, or did it simply have a licence to extract coal? As I said, Mr Philip Davis rarely gets it wrong; it is just that the times do not always suit him. In this case he gave us a very good observation in relation to sovereign risk that applies perfectly in the instance we are dealing with today. It is just unfortunate for him that it does not back up his government's push. He said further:

> Sovereign risk is difficult to legislate away; it can only be addressed by real leadership from our parliamentarians and leaders, and I do not see any leadership in this place at the present time.

He said that in 2006 in relation to Hazelwood. Well, in this chamber today the leadership in relation to sovereign risk is coming from the Greens. It is the Greens who will argue that clause 10 of this bill is a bridge too far — and we will be seeking a division on that clause. Because I can completely agree with and support the right of the Parliament to change its mind about a particular proposal — in this case the Port Bellarine development — I do not believe at all that the Parliament of 1981 had an inalienable right to bind forever all future parliaments. This is the exact argument I made in relation to the Anglesea coalmine, and I will just as happily make it today in relation to the Port Bellarine development — a clearly unacceptable development.

I do not believe the developer sought federal approval for its action under the Environment Protection and Biodiversity Conservation Act 1999. If the developer had done that, the federal minister would have found the development to be clearly unacceptable in terms of the EPBC act, which gives the federal minister the power to reject the development even without going through the process of an environment effects statement.

I know members of the government are not on too good terms with the federal Minister for Sustainability, Environment, Water, Population and Communities, Tony Burke, so it is not like they can ring him up and say, 'Can you do us any favours?'. But I should point out that the executive, in now defending a legal claim by the owners of the rights associated with this development, is worried about the compensation it may have to pay. It is not worried about the message on sovereign risk, because as a matter of politics it simply does not believe that this group of developers is big enough for it to worry about. Of course it is not going to take on the consortium building the desalination plant, and of course it is not going to take on Alcoa or Australand or any of those big fish, but here we have a rather obscure developer.

I certainly have not had time to find out anything about the personal circumstances of this developer, as this bill has gone racing through the houses, so I cannot tell you anything about its particular circumstances. I understand that it is launching a series of legal actions in the courts, even during these days, in response to the bill as it moves through the house. That, like any other legal action, is the government's problem. Every executive government enters into a range of legal relations through contracts and quite often gets itself in legal trouble. I myself have taken this government to the Supreme Court in relation to the secret myki report, and I wonder whether the government simply intends to legislate my action out of existence, as it is doing now in relation to these. I would not put it past it; if it is picking on this developer, I am sure it would have no qualms going against me.

The Liberal Party used to hold the rights of the individual against an authoritarian government above all else, but that does not describe this Liberal government any more. It is not a liberal government any more; it is a different flavour that is much more authoritarian. I do not know whether it has picked it up from the US, or perhaps it is more like the Christian Democrats — that might be the way to explain its current positioning — but those sorts of Jeffersonian concerns about the overbearing nature of the state and the impact that that has on the individual at every level is no longer a defining ideology.

This issue and this particular bill have now become a matter of convenience for the government. I blame not just this government but a series of governments. The government has gotten itself into legal trouble, and it wants the Parliament to bail it out; hence we see the

quite tyrannical clause 10, which wipes out someone's right to bring a cause of action to the courts. Yes, they can bring the action — there is no prohibition on that — but clause 10 seeks to ensure that the action will be unsuccessful.

It may be some relief to Mr Guy, though, to know that this is not the most tyrannical example that has ever been brought into legislation in the state of Victoria. There is a worse example, and it is reasonably recent. It is from 11 June 2009, and it is the Major Sporting Events Bill 2009. In the debate on that bill my colleague Ms Pennicuik took us back even further, to the Australian Grand Prix (Amendment) Bill 1995, which set up a provision such that the residents of Albert Park around the racetrack were excluded by legislation from taking a civil action against the government for any damages caused by the holding of the race or the construction in getting ready for the race. Ms Pennicuik was able to quote the then opposition leader, John Brumby, saying that the residents of Albert Park have no automatic right to just compensation and that they could have hundreds of thousands of dollars taken off the value of their properties as a result of the construction and other impacts around the Australian Formula One Grand Prix event.

That was 1995, but on 11 June 2009 the Labor government made that injustice immeasurably worse by broadening it out to include other sorts of major events and giving to itself — that is, the government — the power to determine, simply by signing a piece of paper, which major events had the exemption from civil claims. That provision went much wider than simply this bill here today, and it gave the government discretion in buying itself a free get-out-of-court card whenever it needed. That is an extraordinarily worrying direction for a government to go anywhere, anytime. While it may seem like a small and obscure legal point, it is actually a fundamental bedrock to our democracy. The ability of citizens to take their own government to court to defend whatever residual rights they have to compensation or other types of damages, redress, relief or remedy can simply be written away at the stroke of a pen.

I understand fully what the government is trying to do here: it is trying to save the taxpayers of Victoria some money. The government is in a legal dispute, and a constant series of court actions have been launched in both directions. It is trying to get out of this by legislating. Governments are involved in legal actions all the time against any number of citizens on any number of issues. The unique nature of this action is that it arises out of an act of Parliament; however, in the view of the Greens that does not qualitatively change the principle that is at stake. We opposed the provision in the Major Sporting Events Bill of 11 June 2009, brought to this place by Labor. Our amendments were not supported by the coalition opposition. Today, from what I understand, we are going to find ourselves in exactly the same position — the 3 of us on one side of the chamber and 37 on the other. We will make our point on the particular clause, but if we are unsuccessful, we will take the next best option, which is to support the bill for those reasons I introduced at the beginning.

The government is quite right: many speakers who have addressed the question of sovereign risk in this chamber — including, as I said, most accurately and completely Mr Philip Davis — are quite right. This sort of action sends little invisible ripples through our state. It sends messages to investors, property owners and those who expect to be able to rely on a fair system of acquisition, for example, under legislation for major infrastructure. It even gets right down to the message it simply sends as a political message: if the government is willing to do this to someone who is powerful enough to have lawyers, what will it do in relation to you and your public housing flat, which might be the most important thing to you and your wellbeing?

It is extraordinarily disappointing that this government, so early in its term, is making such weak choices to get itself out of trouble or in some cases simply to let the public suffer for the mistakes of the previous government, referring back to examples such as the desalination plant. I could also get into myki if I had time.

I have thought long and hard about, and discussed with my colleagues, the particular issues associated with clause 10. As I said, we have extensively gone back through the debates for some years in considering the different arguments that have been made, and on that basis we believe the best balance, although not the perfect outcome, is for us to oppose clause 10, but if we are unsuccessful in that, to still support the remainder of the legislation.

Mr O'BRIEN (Western Victoria) — I rise to make a contribution in relation to the Port Bellarine Tourist Resort (Repeal) Bill 2012. The bill is a relatively short one, but it is an important bill. The main purposes of the bill are to repeal the Port Bellarine Tourist Resort Act 1981, to terminate the agreement between Grawin Pty Ltd and the state of Victoria for the development of a tourist resort on certain lands near Portarlington and to terminate a Crown lease granted under that act to Grawin Pty Ltd.

The background to the bill is that the proposed development, which is located on land in my electorate of Western Victoria Region, was contemplated under legislation to ratify and otherwise give effect to an agreement made in 1981 between the Honourable Rupert Hamer, then Premier of Victoria, on behalf of the state and Grawin Pty Ltd to facilitate the development of a tourist accommodation resort and marina, known as Port Bellarine, on land south-west of Portarlington township along Port Phillip Bay. Under the agreement Grawin was obliged to complete stage 1 first, that being the marina component.

Work on the tourist resort was never commenced, despite all required approvals having been issued by 1985 and despite the state having extended the commencement date for the works three times. The government has therefore introduced this bill to repeal the Port Bellarine Tourist Resort Act in its entirety, to end the agreement and all arrangements made under that act and to extinguish any potential for future liabilities.

The proposed development is out of step with the contemporary regulatory and policy environment. Successive governments took steps to progress the development through the 1980s and early 1990s by extending the dates by which Grawin was required to commence works. With the state's assistance Grawin had obtained the necessary permits by 1985, and the state fulfilled its obligations under the act at that time. In the 30 years of operation of the act Grawin has not commenced any substantive works on the tourist resort and there has been a lack of government support for the tourist resort in the outdated form contemplated by the agreement since about 1995. Grawin has known of the lack of government support for the project since that time, and to pick up what is in effect the first point raised by the Greens, it is a position in which there is no sovereign risk, given all the above.

Mr Barber raised the issue of sovereign risk when he agreed in general terms with the principle both that it is an important issue and that it is also, as Mr Barber said, one that is sometimes overused. It does not apply in that there is no sovereign risk in this case. It is different from the Anglesea coalmine, which was a recent decision — a good one — by the government in relation to an ongoing development and a mine that delivered better environmental and planning controls. The Port Bellarine tourist resort development was never commenced and there is no sovereign risk arising from this bill.

In terms of leadership on this issue coming from the Greens, the question at issue here is whether or not leadership can in any way come from the Greens in this state. The leadership we rely on is the leadership from the Premier and the Minister for Planning, who has brought this bill to the Parliament. It is an unusual circumstance that arises out of an act of Parliament relating to the original agreement. The decision today, to take up Mr Barber's point, is not one of executive government; rather it is one of this sovereign Parliament, and that reflects that the original agreement and the Port Bellarine Tourist Resort Act 1981 were committed to by the Parliament and not merely the executive.

In relation to the points raised by Mr Tee, who ultimately supported the bill notwithstanding the concerns he expressed, any changes to planning policy schemes, as delegated legislation, can affect vested development rights without giving rise to compensation claims, and this is a bill that does not interfere with the company's freehold property rights. It has some effect on the development rights only, and the only impact at all on the company's property rights is in relation to the Crown lease over a small area of the foreshore. The lease can only be used for the purposes of the development, and this bill in no way affects Grawin's ownership of the land.

I correct Mr Tee on an important matter that he put to the Parliament — namely, that there is a just terms right to compensation in the Victorian constitution. There is no just terms right to compensation in the Victorian constitution. This bill does not affect property rights, save for the small area of foreshore land on Crown lease, and there is no sovereign risk.

In relation to the issue of planning for the Bellarine area, which is an important part of my region that has suffered under the previous government's failure to invest in both long-term strategic planning and infrastructure provision, I note that many organisations involved with the Bellarine Peninsula, including the Committee for Bellarine, the Committee for Geelong, G21 and the council are presently undertaking strategic planning initiatives in conjunction with the state and federal governments, and we support those initiatives and we support the community. It is a very sensitive environmental area.

This bill will protect the environmental values of the area, and future decisions in relation to the Bellarine generally will be a matter on which this government will listen to the community and take appropriate action. With those few words, I commend the bill to the house.

Motion agreed to.

Read second time.

Committed.

Committee

Hon. M. J. GUY (Minister for Planning) — I seek leave to have Mr O'Brien join me at the table.

Leave granted.

The DEPUTY PRESIDENT — Order! I advise the committee that this bill has a preamble, and in accordance with the standing orders the preamble will stand postponed so that its consideration will follow the consideration of the clauses of the bill.

Clauses 1 to 4 agreed to.

Clause 5

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

1. Clause 5, lines 14 to 17, omit all words and expressions on these lines and insert —

"(1) The Agreement is terminated.

(2) All rights and liabilities of the State and Grawin Pty. Limited arising out of or in connection with the Agreement are extinguished.

(3) Without limiting subsection (2), that subsection applies whether or not the Agreement is in force at the commencement of this Act.

(4) If the Agreement is not in force at the commencement of this Act, the termination of the Agreement is confirmed.".

Mr TEE (Eastern Metropolitan) — I just have a couple of questions in relation to the amendment. The current clause of the bill says that all rights and liabilities arising out of or in connection with the agreement are extinguished. That is the current clause 5, which appears to be replicated in new subsection (2). What appears to be different between the current clause in the bill and the minister's amendment is subsections (3) and (4); is that correct?

Hon. M. J. GUY (Minister for Planning) — That is correct.

Mr TEE (Eastern Metropolitan) — So my question really is: what do subsections (3) and (4) in clause 5 add? It is a bit unclear.

Hon. M. J. GUY (Minister for Planning) — The amendments will better reflect the original intent of the bill and will bring the matter to a close. Obviously a number of the amendments put forward respond to the repudiation issue, and we believe these amendments will fully cover the state from actions that are repudiative in nature.

Mr TEE (Eastern Metropolitan) — Subsection (3) talks about whether or not the agreement is in force at the commencement of the act, so the question is whether the agreement is currently in force, whereas the original clause assumes that the agreement is in force. Is that the difference?

Hon. M. J. GUY (Minister for Planning) — The change has been proposed to counter the legal action that the proponent brought forward two days ago, and in providing that clarity as stated this will, we believe, better reflect the original intent of the bill, which will bring the matter to a close.

Mr TEE (Eastern Metropolitan) — It appears that the difference between the bill and this amendment to the bill is the suggestion that the agreement may not be in force. That appears to be the difference between the bill and this amendment, and I am asking whether that is correct — that what the minister is asking us to vote for in this change is a suggestion that the agreement may not be in force, which is different to the provision currently in the bill.

Hon. M. J. GUY (Minister for Planning) — That is correct, because Grawin, the proponent, asserts that it is not in force and we assert that it is.

Mr TEE (Eastern Metropolitan) — Thank you, Minister. Just to be clear then: the change is in response to the writ that has been issued in which Grawin suggests that the agreement is currently not in force and therefore this amendment is designed to pick up that contingency?

Hon. M. J. GUY (Minister for Planning) — That is correct.

Amendment agreed to; amended clause agreed to.

Clause 6

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

2. Clause 6, lines 19 to 22, omit all words and expressions on these lines and insert —

"(1) The Crown lease is terminated.

(2) All rights and liabilities of the State and Grawin Pty. Limited arising out of or in connection with the Crown lease are extinguished.

(3) Without limiting subsection (2), that subsection applies whether or not the Crown lease is in force at the commencement of this Act.

(4) If the Crown lease is not in force at the commencement of this Act, the termination of the Crown lease is confirmed.".

Mr TEE (Eastern Metropolitan) — Again, I ask whether the same logic is applied to clause 6 as applies to clause 5, meaning that the plaintiff in the litigation asserts that the Crown lease has been terminated and that therefore this purports to act on a scenario whereby the Crown lease has already been terminated and therefore designed to extinguish that claim.

Hon. M. J. GUY (Minister for Planning) — The answer is yes.

Amendment agreed to; amended clause agreed to; clauses 7 to 8 agreed to.

Mr TEE (Eastern Metropolitan) — Sorry, I have questions on clause 8.

Clause 8 recommitted.

Mr TEE (Eastern Metropolitan) — I thank the house for its indulgence. I just want to explore the Port Bellarine Committee of Management for a moment. As I understand it, the committee has been reasonably inactive. I do not think it has met for a considerable period of time, but I do think it has a role in terms of the management of the area, its maintenance and its upgrade. I am just wondering what will happen now to the management of that coast?

Hon. M. J. GUY (Minister for Planning) — I am informed that the Minister for Environment and Climate Change will most likely assign the responsibility to another committee — the Bellarine Bayside Foreshore Committee of Management, which is next door.

Mr TEE (Eastern Metropolitan) — Excuse my ignorance, but is that a committee of the council or a statutory committee?

Hon. M. J. GUY (Minister for Planning) — We all learn something every day, including myself. This is a committee established under the Crown Land (Reserves) Act 1978.

Mr TEE (Eastern Metropolitan) — Will the management of this land be consistent with the management of land in the surrounding area?

Hon. M. J. GUY (Minister for Planning) — Yes, and it will also be consistent with the 2008 Victorian coastal strategy.

Clause agreed to.

Clause 9

Mr TEE (Eastern Metropolitan) — In terms of clause 9, can the minister inform us of the amount that is standing to the credit of the management fund?

Hon. M. J. GUY (Minister for Planning) — I am informed that the amount is $1600.

Clause agreed to.

Clause 10

Mr TEE (Eastern Metropolitan) — The second-reading speech refers to an ex gratia payment. My question is: what does that ex gratia payment cover?

Hon. M. J. GUY (Minister for Planning) — I am advised that legal fees and out-of-pocket expenses would be covered by the ex gratia payment.

Mr TEE (Eastern Metropolitan) — Is the minister able to quantify that amount?

Hon. M. J. GUY (Minister for Planning) — At this point in time the amount has not been determined, but I would say that a modest and minimal ex gratia payment will be made to cover the out-of-pocket expenses that have been incurred to date.

Mr TEE (Eastern Metropolitan) — The out-of-pocket and legal expenses?

Hon. M. J. GUY (Minister for Planning) — Yes, that is correct.

Mr TEE (Eastern Metropolitan) — On another matter, is this clause intended to extinguish the constitutional right to just compensation?

Hon. M. J. GUY (Minister for Planning) — I am informed that there is no Victorian constitutional right to just compensation.

Mr TEE (Eastern Metropolitan) — I suppose I am trying to see how this clause sits alongside not a Victorian constitutional right but the federal constitutional right to just compensation.

Hon. M. J. GUY (Minister for Planning) — The federal constitution would not apply to a state constitutional act.

Mr TEE (Eastern Metropolitan) — To be clear, the position, as you understand it, is that the federal constitutional provision in relation to just compensation would not apply to this Victorian legislation.

Hon. M. J. GUY (Minister for Planning) — That is correct.

Mr TEE (Eastern Metropolitan) — Can I seek an explanation for that? It is a bit unclear to me as to how a federal constitutional provision in relation to just compensation can be said to be excluded by state legislation.

The DEPUTY PRESIDENT — Order! I can see that Mr Barber is anxious, but I am allowing people to conclude a conversation and then I will call him.

Mr Barber — It might be unnecessary at that point, Deputy President.

Hon. M. J. GUY (Minister for Planning) — The federal constitution confers specific acquisition powers on the commonwealth Parliament, subject to paying compensation which obviously in a Victorian circumstance would not apply, so the Victorian Parliament has been given the ability to make laws in relation to this issue which would not come under the jurisdiction of the federal Parliament.

Mr BARBER (Northern Metropolitan) — If I can be of assistance, the federal constitution relates to actions taken by the federal government to acquire property and similar rights. There is no provision in the state constitution requiring compensation on just terms. We have our own legislation that sets out the requirements under which acquisition of property is undertaken. The only link between the two would occur when a different section of the constitution — the section providing for the federal government to make grants to the states where such grants are to fund projects that involve acquisition — is involved. In that case an action by a state government might be dragged into the question of the federal right to fair terms. But when the state government takes an action on its own, no such right exists except for the statutory rights laid out under the acquisitions legislation that we have. That is of great importance to you if you are living next to a railway line or a super-pipe or some piece of federal infrastructure.

Hon. M. J. GUY (Minister for Planning) — I thank Mr Barber for his far more eloquent constitutional interpretation. It is correct and assists in answering Mr Tee's question.

Mr TEE (Eastern Metropolitan) — The government has said it will make an ex gratia payment. Litigation has been initiated. As we know, in 90 per cent of cases litigation is settled. Is there any assurance the minister can give that there will be a degree of transparency in terms of the outcome of that litigation to the extent that, in effect, the taxpayer can be assured that he or she gets value for money?

Hon. M. J. GUY (Minister for Planning) — That will go through the normal Department of Treasury and Finances processes, and it may feature in the DTF and Department of Planning and Community Development annual reports.

Mr TEE (Eastern Metropolitan) — Just to clarify, is the minister suggesting that any compensation or settlement that is payable will be itemised in either of those annual reports?

Hon. M. J. GUY (Minister for Planning) — That is a matter for the departments. According to normal DTF practice it may feature in those annual reports.

Committee divided on clause:

Ayes, 36

Atkinson, Mr	Lenders, Mr
Broad, Ms	Lovell, Ms
Coote, Mrs	Mikakos, Ms
Crozier, Ms	O'Brien, Mr
Dalla-Riva, Mr	O'Donohue, Mr (*Teller*)
Davis, Mr D.	Ondarchie, Mr
Davis, Mr P.	Pakula, Mr (*Teller*)
Drum, Mr	Petrovich, Mrs
Eideh, Mr	Peulich, Mrs
Elasmar, Mr	Pulford, Ms
Elsbury, Mr	Ramsay, Mr
Finn, Mr	Rich-Phillips, Mr
Guy, Mr	Scheffer, Mr
Hall, Mr	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr
Koch, Mr	Tee, Mr
Kronberg, Mrs	Tierney, Ms
Leane, Mr	Viney, Mr

Noes, 3

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

Clause agreed to.

Preamble agreed to.

Reported to house with amendments.

Report adopted.

Third reading

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

That the bill be now read a third time.

I thank all members for their cooperation in passing this bill in a fairly prompt manner and for the management of amendments in the chamber. I put on record my

appreciation of the Greens and the Labor Party for assisting the government in this procedure.

Motion agreed to.

Read third time.

WATER AMENDMENT (GOVERNANCE AND OTHER REFORMS) BILL 2012

Second reading

Debate resumed from 15 March; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr LENDERS (Southern Metropolitan) — I rise to speak on the Water Amendment (Governance and Other Reforms) Bill 2012 and indicate the Labor Party will not be opposing the bill.

The bill is fairly self-explanatory. The passing of this bill will mean that very good work will have been done in relation to governance, particularly by bringing the three water entities of City West Water, South East Water and Yarra Valley Water under the Water Act 1989. This policy process was commenced when Tim Holding, the member for Lyndhurst in the Assembly, was the Minister for Water, and it has been continued and added to since Peter Walsh has been the Minister for Water. It is something that we on this side of the house think is good public policy, and we are very supportive of it.

Part of the reason for our support of this bill is that it removes the unnecessary complication of one set of governance rules applying to all of the other water authorities in the state and a second lot applying to the three corporate law water entities in Melbourne. It is sensible public policy, it reduces red tape, it adds certainty and it clarifies a whole range of things. We are fully supportive of that, and we are also delighted that Mr Walsh has proceeded with this bill, because clearly it makes any potential privatisation of those water authorities — despite there being a constitutional ban on that — far more challenging. Those authorities are no longer company corporate law entities; they are under the Water Act. We give full support to the minister for implementing a good policy. Without talking about its parentage, I can say that members from both sides of politics agree that the policy is good.

The second part of this legislation — and I will refer to it positively although there is one exception, which I will come to shortly — is about the unquestioned improvement in consumer rights. Without taking members of the house through issues that were dealt with at some length by members of all sides of politics in the Assembly, I do not think there is any question from anybody — and I will say this in simple terms and get to addressing the one exception — about the argument that the best of what happened to metropolitan water authorities for consumers is being extended to regional water authorities and consumer rights. You can couch this in terms of better consumer rights and greater clarity or you can couch this in terms of reducing red tape — you can put it under whatever heading you want.

I have read through the bill end to end. I remember that by the time I received a briefing from the department and had read up to page 82, which is near the end of the bill, I was almost cross-eyed because of the amount of information about amending section 98(1)(b) of the Water Act and taking other things out of other acts and trying to cross-reference those things. It is always a challenge. Essentially the details of the bill mean that these things are harmonised and the best of both systems have been brought together.

I congratulate the government on one area in particular from the point of view of those in regional Victoria, considering that there is an extension of consumer rights. There is one area of this bill that I will talk to. To an extent I am probably flagging, possibly inappropriately — I am sure Mr Barber will not be peeved about it — an amendment that I believe Mr Barber will move. I read it in the *Herald Sun*, so it is probably quite okay to say so. I speculate that an amendment might be moved by the Greens political party, and if it were to be moved, the Labor Party will support that amendment.

The matter goes to the morphing or merging of consumer rights in the metropolitan area so that they are extended to consumers in rural areas, which I do not believe anyone would be critical of. One aspect of the harmonising has been an ability for metro water authorities to charge interest on the late payment of water bills, which was not there before. Whether that is appropriate is a policy matter. When we were in government Labor certainly applied such a regime to the electricity and gas companies. The amendment that a number of consumer groups have suggested is exactly what I predict Mr Barber will move and, as I indicated, if he does, the Labor Party will support that amendment.

I got a very good briefing from officers of the Department of Sustainability and Environment. Again people in the office of the Minister for Water gave me the information I sought and in fact additional information. Given the size of the bill, I did not pick up

that defect in the briefing. In fact from the briefing I thought there was no diminution of consumer rights. Clearly there was a misunderstanding in that briefing process. Once the consumer groups drew the matter to my attention we in the Labor Party had a discussion about it, and we consider the suggested amendment to be a worthy one. Having said that, we will support the amendment, and we hope that the government will as well.

We need to see the bill in the context of what it is. It is good legislation. As a general rule it extends consumer rights. It puts in place a similar regime for all water authorities across the state, which is very good. In my role as shadow Minister for Water, it is interesting to note when reading annual reports, attending briefings and the like that the fact that different authorities are under different legislation makes it complicated. The fact that they are being brought under the one act will make the process easier for any consumer, advocate or anybody else who wishes to engage with a water authority, so full marks to the government for that.

Full marks also go to the government for increasing consumer rights for those covered by the regional water authorities. Again, as I said, this is good policy that stretches across two governments. I congratulate Mr Walsh, the Minister for Water, on doing this, but, as I said, the bill can be improved by extending to the metropolitan water users what happens with interest charged by the electricity and gas companies. Currently the regional water authorities can take assets for non-payment, but now the Essential Services Commission will be able to set an interest rate. Again, it is good public policy but it does take one right from urban water authorities that could be rectified by the proposed amendment.

The Labor Party does not oppose the bill. It is complimentary of most of the policy of the bill but considers that the bill can be improved by the foreshadowed amendment.

Mr RAMSAY (Western Victoria) — It gives me great pleasure to stand to speak on the Water Amendment (Governance and Other Reforms) Bill 2012, which amends the Water Act 1989. The Baillieu government is committed to keeping Victoria's water utilities in public ownership. I acknowledge Mr Lenders's contribution. He is fully supportive of this bill and in fact said words such as 'sensible', 'supportive' and even 'delighted' and 'good policy'. It is a refreshing change from some of the commentary we have heard during debate on other pieces of legislation that this government has brought to this house.

Mr Lenders — It is a good bill, so it is easy to say that.

Mr RAMSAY — I am pleased that Mr Lenders has said that. I agree that it is a good bill, and on that basis I am very happy to speak to it.

The purpose of the bill, as Mr Lenders has said, is to convert the three Melbourne water retailers — City West Water, South East Water and Yarra Valley Water, which are three special purpose Corporations Act 2001 companies — into statutory bodies and migrate them from the Water Industry Act 1994 to the Water Act 1989, under which all the other water corporations are established. In essence, it is a move from a company law structure to a statutory body structure.

The provision of retail water and sewerage services is currently regulated under two acts, the Water Act 1989 for regional Victoria and the Water Industry Act 1994 for Melbourne. While the two acts provide the powers to both function and operate, that has made it difficult to provide uniform water services across Melbourne and regional areas. The bill simplifies the current arrangements in Victoria by unifying the incorporation, governance and regulatory arrangements that apply to the state's 19 water corporations under the Water Act 1989. The bill establishes three new statutory corporations and provides a whole-of-business transfer from each retailer to the relevant new water corporation. Vested rights, property and assets will travel into the new corporation, along with any debts, liabilities and obligations that exist before conversion.

As Mr Lenders pointed out, the bill humanises the provisions of the act on the recovery of debt by removing the powers of a corporation to cut off a person's drinking water if they have not paid their bill. This is a reflection of the community's view that water is life's essential requirement. I say that with some experience. One of the real strengths of people representing their regions and electorates in this house and the other house is that they bring life experience to the chamber and share their experiences. I suspect that I am one of few in this house who rely on tank water to provide for life's essential needs. I suspect that turning on a tap for water would be the only knowledge many in this house, particularly those on the opposition benches, would have about accessing their water. Those from a rural area certainly know the importance of water — both water availability and water security.

I remember well the many droughts that I and my family have had to endure over the years, as have many others in rural areas. I refer to 1982–83 when we ran out of water and had to cart water. We ran out of water

for our stock and many of them perished. For many years we fought for some security and sustainability of water access, not only for our own properties but the region, so I consider water particularly important when we are talking about not only providing sustainable access to it but also humanising the costs associated with it and the legislation that applies to those who cannot afford to pay for their water or are just cut off, which many of us have had to endure during many droughts in country areas. We measure our water security by how many rungs we have on a tank. I can assure members that when the tanks are empty in droughts that is certainly a time to reflect on the importance of a very important resource.

I make that point on the basis that in debating this bill we are talking about removing debt recovery powers that include the ability of water corporations to cut off the lifeblood of water to households that for a range of reasons have not had the capacity to pay or respond to calls for payment.

The debt recovery powers are being removed from the act. In the case of regional Victoria the bill repeals provisions whereby a continuous debt over three years would have resulted in forced asset sales by a water corporation, and if a landlord owed money to a regional water corporation, then the water corporation could require the tenant to pay rent to the water corporation to satisfy the landlord's debt. To my mind that was totally unjustified and unfair in relation to collection of debt. It was a very draconian punishment.

The government is mindful that some water users do not fulfil their financial obligations, and rather than socialise the debt burden across the whole community, the Water Act will retain two debt management powers, being the ability to charge interest on unpaid moneys and provide that debts accrued to a water corporation are protected by a charge on the land they relate to. The Essential Services Commission, through customer service codes and consultation with the community, must provide a balance of appropriate powers that is sensitive to those facing financial hardship and protect the financial capacity of the water corporations. In the past we have seen a socialisation of cost to all water users which reflects the increase in charges and the push to debt recovery. Under these two new powers we will see more human and fair responses to debt recovery. As I said, the interest applied and debt recovery must be fair and reasonable to both the provider and the user.

The bill introduces new requirements for water corporations' personnel entering residential land, removing the possibility for the sort of thuggery that went on during the installation of the north–south pipeline, both in the community engagement by water authorities and those compulsorily acquiring land to lay pipe for that particular water project. It also provides a balance between Victorians' right to privacy and the water authorities being able to enforce water laws and carry out their statutory functions. This is important, particularly in rural and regional areas where land-holders are very sensitive to their rights to privacy and their rights to deny access to persons coming on their land unless they have a reasonable claim to do so. It gives some protection to the private citizen.

Under this bill regional Victorians will finally enjoy the same rights as Melbourne water users. A review can be sought through the Victorian Civil and Administrative Tribunal of decisions by water corporations regarding connections and discharges of works by the corporation. Uniform laws will now extend across Victoria for people to seek compensation through VCAT for negligent or intended sewage spills from a water corporation's works. This bill is starting the reform process of removing red tape in the water sector and the move to uniform, contiguous districts statewide to help provide greater certainty for planning and to meet the needs of all Victorians' water and sewerage needs, rather than the sort of ad hoc planning that was the hallmark of the previous government's water planning policy.

The bill also removes myriad by-laws that currently regulate trade waste, water supply and sewerage services in the act. That will streamline the making of regulations to cover those services. In essence this bill removes the heavy-handed approach of the powers of the corporations, makes all water authorities public statutory bodies, provides repeal process mechanisms for private citizens and will require water corporations and catchment management authorities to give property owners or tenants seven days notice before entering land.

In closing, providing transparency, accountability and fairness is a hallmark of the Baillieu government, again delivered through this bill. I commend the bill to the house.

Greens amendment circulated by Mr BARBER (Northern Metropolitan) pursuant to standing orders.

Mr BARBER (Northern Metropolitan) — The amendment will ensure that penalty interest cannot be charged on residential consumers of water by existing city-based water authorities, as has been the current

law, and will extend that opportunity to rural water authorities as well.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

GM Holden: government assistance

Hon. M. P. PAKULA (Western Metropolitan) — My question is to the Minister for Employment and Industrial Relations. Yesterday the minister refused to reveal the quantum of the Victorian contribution to the $275 million Holden rescue package. Will the minister now confirm, as the Premier's office did yesterday, that the Victorian contribution to the Holden rescue package is more than $10 million?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank the member for his question. I am disappointed the shadow minister for manufacturing could not ask that question. I responded to the specific question yesterday, and I advise the member to look at the answer I provided yesterday. As a part of that, we have provided more.

Supplementary question

Hon. M. P. PAKULA (Western Metropolitan) — As I indicated in the principal question, the Premier's office told a journalist yesterday that the amount was more than $10 million, but the commonwealth said it is $10 million, Holden said it is $10 million and in a statement tabled in the South Australian Parliament the South Australian government said the amount from Victoria is $10 million. If the minister's government is saying it put in more than $10 million, who got the rest?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — This is the stupidity of members opposite. There was a very clear explanation yesterday.

Mr Viney interjected.

Hon. R. A. DALLA-RIVA — There were three parts, Mr Viney. The first part was about the research and development componentry, which we hold very dear in Victoria. The second part was about the supply chain. If Mr Pakula looked at the document which he refers to, he would see that in South Australia there are contributions from the Victorian government and the federal government — and guess how much the South Australian government contributed? Zip. We understand the importance of the supply chain. The third part, as I explained yesterday, was the engine plant. It is interesting that members opposite do not understand it. What we did was we got the best deal: what was right for Victoria, what was right for families and what was right for Holden employees.

Richmond: urban renewal project

Mrs COOTE (Southern Metropolitan) — My question this afternoon is for the Minister for Planning, and I ask: can the minister inform the house about any new plans for inner city urban renewal that have been approved by the Baillieu government?

Hon. M. J. GUY (Minister for Planning) — I thank my colleague Mrs Coote for a question on another fantastic urban renewal opportunity in Melbourne's inner city that the Baillieu government has brought forward through the amendment process stage. The former GTV 9 site in Richmond is in Northern Metropolitan Region, which is my electorate and that of Mr Ondarchie. This site represents a huge opportunity for urban renewal on the doorstep of our CBD, with 550 new dwellings on a large site. The government will add heritage mechanisms to protect some of the fabulous old buildings on the site, such as the Wertheim piano factory, built in 1909, which is now the iconic GTV 9 Television City building that many Melburnians are aware of.

Like all of us in this chamber, President, you know about some of the fabulous programs that history has associated with that site. I will not go into any great detail, but this includes programs such as *Hey Hey It's Saturday*, which included Red Faces, Plucka Duck and other great segments. *Sale of the Century*, *Nine News* and Graham Kennedy's *In Melbourne Tonight* were also produced there. It is a fabulous site with much history.

Mr Jennings interjected.

Hon. M. J. GUY — I know Mr Jennings is a thespian at heart, so no doubt he has some interest in the site.

The redevelopment at the site is consistent with panel recommendations of a maximum of 8 storeys. We believe this will produce a value-add for Melbourne on the doorstep of our city. Do not forget that this urban renewal is all about jobs, it is about investment and it is ready to go. That is why the Baillieu government has facilitated that amendment to bring forward $200 million worth of development, 400 construction jobs and 30 permanent jobs on the site, not to mention the support, convenience and flow-on retail

employment that will come from the Lend Lease GTV 9 development, a great urban renewal proposal.

I find it interesting that the shadow Minister for Planning is questioning the merits of the project, considering that I have just mentioned it will create 400 construction jobs. I have also mentioned retail jobs and flow-on commercial jobs. I just mentioned the skit Red Faces, which I suspect Mr Tee may now be a contestant on for the second time.

In conclusion, this is a fabulous urban renewal opportunity. It represents hundreds of millions of dollars worth of investment in Melbourne. At this time, in that part of the city, it will serve us well. It represents a great urban renewal opportunity for Melbourne's inner north-eastern suburbs, which are represented by Mr Ondarchie and me. This wonderful question was asked today by Mrs Coote. This government stands by urban renewal. We believe urban renewal is not only good for our city's growth but also good for job growth. That is why we are getting on with the job of facilitating urban renewal throughout metropolitan Melbourne.

Maternal and child health: government support

Ms MIKAKOS (Northern Metropolitan) — My question is for the Minister for Children and Early Childhood Development. Recommendation 7 of *Report of the Protecting Victoria's Vulnerable Children Inquiry* stated that the department should:

> examine the capacity of local governments in low socioeconomic status areas to provide appropriate maternal and child health and enhanced maternal and child health services, consistent with the concentration of vulnerable children and families.

Will the minister guarantee that the KPMG review into the enhanced maternal and child health service program will not lead to either the program being scrapped or the eligibility criteria for the program being narrowed?

Hon. W. A. LOVELL (Minister for Children and Early Childhood Development) — The Baillieu government values the Victorian universal maternal and child health service, a service that was, I believe, established under a former Liberal government and has continued to this day. It is a very valuable program. All decisions about financing for programs will be announced on budget day, but the shadow minister specifically asked about a recommendation from the vulnerable children's report. As I have explained to her many times in question time, the government is putting together — —

Ms Mikakos interjected.

Hon. W. A. LOVELL — Does the member want the answer or does she want to just yell at me? The government is putting together a comprehensive response to the vulnerable children's inquiry. That will be tabled when it is ready, and it will have the responses to all those questions.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — I am still waiting for the minister to accept responsibility for the fact that there are recommendations in that report that directly relate to her portfolio responsibilities. It is a good thing the Premier has now advised me that the minister is a member of the relevant cabinet subcommittee. I draw attention to recommendation 7 in this report, which calls for an increased investment in maternal child health and enhanced maternal child health services. Does the government intend to increase investment in these invaluable and much-needed services?

Hon. W. A. LOVELL (Minister for Children and Early Childhood Development) — I would have thought that the shadow minister would have learnt by now that I am not going to give her any early drops before budget day.

Carbon tax: hospitals

Mr FINN (Western Metropolitan) — My question without notice is directed to the Minister for Health, who is also the Minister for Ageing, and I ask: can the minister inform the house of how food in Victorian hospitals will be impacted by the commonwealth's carbon tax?

Hon. D. M. DAVIS (Minister for Health) — I thank the member for his question and note his longstanding concerns about the impact of the carbon tax on Victorian industry and activity across the Victorian economy. One area that will be impacted by the carbon tax is hospital food. It will become more expensive to produce hospital food. Hospital kitchens are big users of gas and electricity, both of which will cop the carbon tax. This will be a tax on hospital food, an additional tax on the dinners and lunches that are served in public hospitals across the state. Private hospital food will also be impacted by the carbon tax that is going to be introduced by Prime Minister Gillard on 1 July.

The carbon tax will cause increased costs for the public sector, estimated to be just over $300 000 in extra costs by 2013 to $550 000 in extra costs by 2020. There will be a steady increase in the additional costs, over and

above the costs of producing food that apply today. That will be directly as a result of the cost — —

Mr Jennings interjected.

Hon. D. M. DAVIS — Mr Jennings, let me be very clear here — —

Ms Broad — On a point of order, President, the minister has again referred to a very specific set of figures, and I ask him to provide the source of those figures to the house.

Hon. D. M. DAVIS — I am happy to tell the member that the figures come from work that has been done by the department. They will be made available to the house in good time, and I will allow the house to follow this very closely. I know we have quite a deal more to do on this. There are a number of other areas throughout the health system. Air ambulances are being hit — —

Mr Jennings — No-one believes you.

Hon. D. M. DAVIS — I know Mr Jennings is not concerned about the impact of the increased costs associated with the carbon tax on the health system, but I am. The air ambulance service is going to be hit very hard. Cemeteries will be hit hard, and food in hospital kitchens will be hit hard.

Mr Leane — Further to Ms Broad's point of order, President, I am unclear as to whether the minister has agreed to table the document.

The PRESIDENT — Order! The minister has not agreed to table the document, nor was he asked to do so by Ms Broad. Ms Broad sought to find out what the source document was, and the minister has indicated that it is a report prepared by his department. Whether or not that is an adequate description of the report is perhaps a matter we might have a discussion about, but the minister was not asked to table it. He has certainly indicated that it will be tabled in due course.

Hon. D. M. DAVIS — No, I did not say that.

The PRESIDENT — Made available in due course.

Hon. M. P. Pakula — On a point of order, President, earlier this week in the other place the Speaker ruled out a Dorothy Dixer to the Minister for Environment and Climate Change because he was speaking about a report that had not yet been tabled. It was described by the Speaker as a gross discourtesy to the Parliament, and he ruled the question out of order on that basis.

Hon. D. M. DAVIS — On the point of order, President, this is not a report to Parliament; it is modelling that has been done by the department. It will be released publicly in due course. There is more work to do, and there is more to discuss in this chamber. We are just taking it step by step.

Hon. M. P. Pakula interjected.

Hon. D. M. DAVIS — I know it is sensitive and I know it hurts Mr Pakula, but you support the carbon tax on hospitals and on air ambulances — —

The PRESIDENT — Order! It is interesting. I will review what the Speaker's ruling was; I am fascinated. I have some sympathy with what is reported to me as being the Speaker's position in a previous question time in the other place in the sense that I think there is a need to show courtesy to the house in terms of referencing material that is relied on in answers and, wherever possible, to have that information made available to members at the earliest time so they can be both informed and able to contribute to debate or to seek further information in respect of matters covered by those reports.

I understand that this report is not necessarily required to be tabled in Parliament; it is a report that has been sought by the minister. I am not sure whether the authors of the report are consultants or departmental officers, whether or not it has been a cabinet-in-confidence document or whether it has some other status, but I am certainly encouraged that the minister says he will make the report available in due course. Rather than drip-feeding talk about costs associated with the carbon tax for health services, perhaps the global figure might be of greater interest and import to members of the house and indeed the public than a step-by-step process in that sense.

At any rate, I will look at the Speaker's ruling and consider whether or not, if there are further questions of this nature, I should come to a similar view.

Hon. D. M. DAVIS — As I have indicated to the house, the impact of the carbon tax will be felt across a range of areas in our health system. I have to say that the impact on hospital food will be significant. There will be more costs because, as I say, hospital kitchens use large amounts of electricity and large amounts of gas. Hospital food is transported around the countryside. A lot of precooked food is moved from one kitchen to finishing kitchens in our major hospitals and in smaller hospitals as well. I might add that this will impact on nursing home costs as well, as the

additional costs are sheeted home through the carbon tax to those who are trying to operate facilities — —

Mr Jennings — No-one believes you.

Hon. D. M. DAVIS — If Mr Jennings does not believe the carbon tax is going to increase the cost of electricity and gas, he is in Noddyland. If he does not think it is going to put up the cost of food in hospitals and other services, he is in Noddyland. If he does not think it is going to have an impact on air ambulance services right across the spectrum, then I have to say that I think he is out of touch and it is time he got in touch with what is going to happen with this carbon tax and the impact it will have across our health system. The impact is going to be quite severe.

Ordered that answer be considered next day on motion of Ms BROAD (Northern Victoria).

Higher education: TAFE funding

Mr LENDERS (Southern Metropolitan) — My question is to the Minister for Higher Education and Skills, Peter Hall, and I ask: in the last six months has the government been required to forward or advance funding to any Victorian TAFE institute with an operating deficit?

Hon. P. R. HALL (Minister for Higher Education and Skills) — In respect of the question from Mr Lenders, there is no TAFE institute in Victoria that is in a financially difficult position whereby we have had to give it extra money. We talk constantly to TAFE institutes and assist in the timing of payments to enable them to meet their financial obligations.

Supplementary question

Mr LENDERS (Southern Metropolitan) — I thank Mr Hall for his answer. My supplementary question is: can the minister confirm that at least one central Victorian TAFE has experienced severe difficulties, and is it government policy not to support a TAFE with severe financial difficulties?

Hon. P. R. HALL (Minister for Higher Education and Skills) — We are committed to supporting TAFE institutes right across the state. Without naming it, Mr Lenders refers to a particular TAFE in regional Victoria. I can confirm that to assist it to meet its current financial obligations, the timing of some payments has been advanced to ensure that it is able to meet them.

Learn Local: funding

Mrs PETROVICH (Northern Victoria) — My question is to the Minister for Higher Education and Skills, who is also the Minister responsible for the Teaching Profession, Mr Hall. Can the minister advise the house of the latest round of capacity and innovation grants for Learn Local organisations?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Mrs Petrovich for her question. She is referring to some very fine capacity and innovation grant programs managed by the Adult, Community and Further Education Board. There were two rounds of those during the course of 2011, and something of the order of $8 million was distributed among the 320 Learn Local organisations we have throughout the state. Members would be pleased to know that currently round 3 grants are being announced. In round 3 of the grant program a total of $2.3 million will be shared among 61 successful Learn Local organisations that have applied for grants.

Just last week I announced the first of those when I travelled to Broadmeadows and met people at the Banksia Gardens Community Centre. In partnership with two other organisations in that area, West Gate Community Initiatives Group and Homestead Community and Learning Centre, Banksia Gardens Community Centre received a grant of just under $150 000 through this program to work with local businesses in the Broadmeadows area to develop tailor-made training programs fit for purpose for businesses in the local areas those organisations serve. This was a much-welcomed grants program, and I think the people at the Banksia Gardens Community Centre and in those two partner organisations are doing a mighty fine job in providing community support for businesses and people in the Broadmeadows area.

On Monday, when cabinet was in the outer east meeting in Monbulk, I had the opportunity in the afternoon to travel down to Mount Evelyn to meet with Morrisons, one of the largest providers of adult education in the outer east. I was able to announce for Morrisons a grant of $47 290 to assist with the establishment of local social enterprises. This fits neatly with the profile of Morrisons, which provides some very important community services and education to people in the outer east. I am sure members will be happy, as the occasions arise over the next few weeks, to assist and visit their Learn Local organisations and will welcome the program grants, which are, as I said, in this round going to be distributed among 61 Learn Local organisations.

The PRESIDENT — Order! Further on Mr Pakula's point of order, I am advised that the context in which the Speaker made the ruling Mr Pakula referred to is that there was a statutory report that was required to be tabled in the Parliament and that a government backbencher asked a question regarding details of that report before it had been tabled. In that context I would have made a similar ruling to that made by the Speaker, because it would be a discourtesy to other members of the house and inappropriate for that report to be the subject of a question without other members having knowledge of it. I hasten to say now, though, that the report Mr Davis referred to — which he had sought in terms of obtaining information on what costs a carbon tax might result in with respect to various services for which he is responsible — would not fall into the same category. Therefore I would not reach the same conclusion on this point of order.

WorkSafe Victoria: dividends

Mr LENDERS (Southern Metropolitan) — My question without notice is to the Assistant Treasurer, Mr Rich-Phillips. Given the Baillieu government is withdrawing $471.5 million out of the Victorian WorkCover Authority, will the minister make the unequivocal commitment that the funding from WorkCover for Netball Victoria and the Victorian Country Football League will continue?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I thank Mr Lenders for his question and his interest in this issue. The government has indicated that its decision to seek a dividend from the Victorian WorkCover Authority will not have an impact on premiums or on the operations of the authority in terms of the activities it undertakes in delivering rehabilitation and compensation to injured workers or of course its continued good performance in terms of reducing premiums for employers. As to the individual programs which may or may not be funded by the Victorian WorkCover Authority, similarly to programs which may or may not be funded by the Transport Accident Commission, as Mr Lenders would appreciate, that is a matter for the board of the authority.

Supplementary question

Mr LENDERS (Southern Metropolitan) — I accept that Mr Rich-Phillips says it is a matter for the board, but if he goes back to March last year, he will see that his colleague Mr Delahunty, the Minister for Sport and Recreation, took great joy in announcing a commitment from the WorkCover authority going forward to fund Victorian country football. While Mr Rich-Phillips says it is a matter for the board, his ministerial colleague on behalf of the Baillieu government has announced funding going forward. My supplementary question is: given that the $471.5 million is being taken out, and given that this is a decision of a board to which Mr Rich-Phillips can give directions, will he undertake to continue funding Netball Victoria and the Victorian country football association at the levels promised by Mr Delahunty?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I thank Mr Lenders for his supplementary question. I first go to the claim Mr Lenders makes about the government taking $471 million out of WorkCover, as if this is a payment being taken out in the current financial year. As the opposition well knows, and as Mr Lenders well knows, that figure of $470 million is across the forward estimates period. It is a four-year figure; it is not a single-year figure. The government believes this will not have an impact on the operations of the Victorian WorkCover Authority. The decision around individual sponsorships and around individual campaigns is a matter for the VWA board.

Aviation industry: training services

Mrs PEULICH (South Eastern Metropolitan) — My question without notice is directed to the Minister responsible for the Aviation Industry, and I ask: can the minister update the house on recent developments in Victoria's aviation education sector?

Hon. G. K. RICH-PHILLIPS (Minister responsible for the Aviation Industry) — I thank Mrs Peulich for her question and for her interest in this important aspect of education in Victoria. Yesterday I was able to speak in the house about one of the opportunities for pilot training in Victoria in coming years — the AIR 5428 contract for the Australian Defence Force.

Pilot training is not the only area of the aviation industry where Victoria is leading the way in providing training services. One of the great leaders in this area over the last two decades has been Swinburne University, which along with RMIT has introduced a range of innovative programs for aviation education. Swinburne has just celebrated 20 years of providing aviation education in the pilot training area and also across a range of other disciplines related to aviation. These include training programs around engineering, aviation management and aviation planning and development. We now have in Victoria the capacity to offer a full suite of training programs relevant to aviation disciplines, which positions the state well in attracting international education students.

Last week I was delighted to visit Swinburne's campus in Hawthorn to officially open its new aviation simulation laboratory. The introduction and the use of simulation technology in aviation is not new; it is something that has been used extensively for a number of years, and in Victoria we have a number of companies that are providing very good aviation simulation products in a training environment. What is unique about what Swinburne is doing with its new aviation simulation laboratory is that it is using it as a research facility rather than as a training facility.

The purpose of the aviation simulation laboratory is to give postgraduate students at Swinburne an opportunity to undertake research into issues such as human factors, fatigue and the way in which adverse weather affects aviation operations. The facility consists of a new fixed wing flight simulator and a new rotary wing flight simulator, and it will be used by postgraduate students to undertake a lot of innovative research into particularly the human factor areas around aviation operations, which simply has not been possible in the past. This is a further strengthening of our capacity in aviation training and research in this state, which positions Victoria as the leading state for aviation training provision in Australia.

Budget: announcements

Mr LENDERS (Southern Metropolitan) — It is clearly Mr Rich-Phillips's day, because my question is also to Mr Rich-Phillips in his capacity as Assistant Treasurer. I refer Mr Rich-Phillips to the response by his leader, Mr Davis, to a question from Mr Jennings on Tuesday and the response by his deputy leader, Ms Lovell, to Ms Mikakos today, which said that all budget announcements would be made on budget day and not to expect any earlier. It is an admirable policy, but I ask Mr Rich-Phillips: what procedures will the Treasurer, the secretary of the department and the Auditor-General put in place to stop the Premier or other ministers announcing some of them early?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I thank Mr Lenders for his interesting question. I can tell Mr Lenders that the government does not intend to direct the Auditor-General about anything to do with the budget. That might have been the practice of the previous government with respect to the Auditor-General's consideration of the budget estimates, but it is not this government's approach to the Auditor-General's consideration of the budget papers. As to the content of the budget, we will see that on budget day.

Supplementary question

Mr LENDERS (Southern Metropolitan) — I thank Mr Rich-Phillips for his quick thinking about the Auditor-General, but he did not mention the Treasurer or the Secretary of the Department of Treasury and Finance. I will rephrase the question without mentioning the Auditor-General. Given that his leader and deputy leader have said there will be no pre-budget announcements, what actions will the Treasurer and the secretary of the department take to stop any leaks or other announcements by the Premier or any other minister?

The PRESIDENT — Order! Mr Rich-Phillips obviously answered the previous question, and I will certainly allow him the opportunity to answer this one as well, but I suggest that Mr Lenders is seeking speculation or asking the Assistant Treasurer to advise what the Treasurer is thinking or what the Treasurer is going to do. I am not sure that that is necessarily a question he is competent to answer in one respect. Nevertheless, I will let the minister respond to the question.

Mr Jennings — He did not mean that as a backhander, by the way.

The PRESIDENT — Order! No, he is indeed a competent minister, but this is a question that goes to the Treasurer, I would have thought.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I thank Mr Lenders for his supplementary question, but it raises the question in my mind of Mr Lenders's obsession with leaks. I can only wonder what the process was for his budget when he was preparing budgets in the last few years. If Mr Lenders as Treasurer had to put processes in place to ensure that his Premier did not leak the budget, that is more an issue for the previous government than it is for this government. As I said before, the budget will be released on budget day, and we will then all see the content.

Children: developmental dysplasia

Mr RAMSAY (Western Victoria) — My question is to the Minister for Children and Early Childhood Development, the Honourable Wendy Lovell. I ask: can the minister inform the house of how the Baillieu government is educating new parents on the threat of developmental dysplasia and how it can be prevented?

Hon. W. A. LOVELL (Minister for Children and Early Childhood Development) — I thank the member for his question. Developmental dysplasia of the hip, or

DDH, is the fifth most commonly reported birth defect. It can necessitate surgical correction or, if not corrected, can lead to a limp or arthritis later in life. Recent research has identified a direct link between the tight wrapping of babies and increased incidence of DDH. While the natural instinct is often to tightly wrap a baby in order to settle them, it is important that parents wrap newborns carefully so their legs are not restricted in any way.

In response to the growing recognition of this danger the Victorian government provided the Royal Children's Hospital with $34 000 to develop a new online video, which shows parents safe wrapping techniques. The chief of paediatric surgery and director of orthopaedics at the Royal Children's Hospital, Associate Professor Leo Donnan, led the project, and I congratulate him and his team. The product is a quick, easy way for parents to learn the best ways to wrap babies in a way that does not impact on the baby's natural growth. The video for parents is available on the Royal Children's Hospital website, and I encourage every new parent to watch this short video.

WATER AMENDMENT (GOVERNANCE AND OTHER REFORMS) BILL 2012

Second reading

Debate resumed.

Mr BARBER (Northern Metropolitan) — What we have heard is that the Labor Party is delighted about this bill, and Mr Ramsay on behalf of the Liberal Party, who in past lives would have gone apoplectic on any issue of water, says that this is wonderful and great and that there is nothing to see here. For the most part that is true, except in relation to one aspect, and that is the not-so-trumpeted provision in the legislation that gives city water authorities a chance to charge penalty interest on people who pay their bills late.

This was always the case in relation to country water authorities. By a question on notice I managed to find out information about that a year or so ago. What I found was that country water authorities, both retail and bulk, charge anything between 10 and 12.5 per cent interest on late bills and have brought in some significant amounts associated with that. For Central Highlands Water it was worth $97 000; for East Gippsland Water it brought in nearly $16 000; for Goulburn-Murray Water it was $854 000; for Goulburn Valley Water it was $90 000; for Lower Murray Water it was $350 000, noting though that that included Timbercorp, which went into receivership with various water rights that it was not paying for, so that was more of a bulk water charge; for South Gippsland Water it was $3500; for Wannon Water it was $130 000; and for Westernport Water it was $34 000.

We do not know, because the government has not told us much about it, how much this latest cash grab involving city water authorities might run to. However, I have been able to do some brief calculations using the annual reports of those three urban water authorities, particularly in the notes to the accounts which talk about what is called the ageing analysis and impairment detail of receivables. Receivables, I am assuming, is mostly water bills that are past due.

For Yarra Valley Water that is $24 million worth of receivables that are between 1 and 16 days overdue; $14 million between 17 and 60 days overdue; $1.9 million between 61 and 90 days overdue; $3.8 million between 91 and 180 days overdue; and beyond 180 days overdue there is $5.8 million outstanding. Put that together with the two other water authorities, South East Water and City West Water, and one might estimate that if penalty interest charged at a rate of 1 per cent per month was to be put on all those outstanding receivables, the three authorities could be looking at an extra $850 000 a year out of our pockets, into their balance sheets and quite possibly from there, as dividends, back to this cash-strapped state government that is not at all shy about who it taxes and which taxes it jacks up.

For car registration the government seems to have got away scot-free with only a day's news; public transport fares have been jacked up 8.6 per cent, and the Greens have a bill before this house to address that; and looking at its last half-yearly financial report, it is pretty clear that the government is in even more trouble than it is telling us. I am guessing that the shocker of the state budget in May will be more taxes and more increases — particularly targeting cost of living areas which the government said a lot about in opposition but now is not shy about getting into.

The government thinks it has got off scot-free with the light treatment it got when the Treasurer announced his mini-budget with all those tax grabs in it. This increase is much more hidden, and we have heard this morning both government and opposition speakers saying that they are not worried about it, it is okay and they are not shy about it. But it is of concern, and I acknowledge what the government has said — that all the other aspects of consumer protection that have been available in the past, and some more, have been added in this new legislation to these authorities under a new jurisdiction. Penalty interest is the outstanding issue that

no-one seemed to want to talk about and no-one even knew about until the Greens sussed it out and mentioned it to the *Herald Sun*.

Both sides have said that the consumer protection framework for water users is very good, it is very moderate and it is very caring and sharing. However, there is another way of looking at this, and that is to look at the lost revenue from those in financial distress who are unable to pay their bills. The head of Yarra Valley Water notes that it loses around 0.65 per cent of all revenue to bad credit. It is a tiny proportion, and that is used as an argument to say that there is no big problem here.

In fact there is another way to look at it, and that is that people, no matter what their circumstances, will pay their water bills. You may do without electricity, you may do without food or other forms of day-to-day needs, but you will never stop paying your water bill because once you have lost water to your property you are completely stuffed. With such a clear credit performance, despite the fact that water authorities have to serve every customer in their areas regardless of a person's credit history, there is a tiny rate of default.

There is only one more policy that the government and the authorities can introduce to squeeze more money out of water consumers. It cannot manage the credit any tighter than it has already got it down to, and so that one policy is to start charging penalty interest. The government gives assurances that it is not planning on that, but we all know that will be in the hands of the Essential Services Commission and that this is Parliament's one and only opportunity to do something about it. By the way, when the Greens originally obtained that information on country water users being charged interest the then new Minister for Water, Mr Walsh, had something to say. The *Weekly Times* of 20 April 2011 says:

> Mr Walsh said he was aware of the inconsistency and was examining the issue as part of a major review of the Water Act.
>
> 'We're having a look at that part of the Water Act and it may be one of the things that we will include in changes later in the year' …

Yes, Mr Walsh did do that, but not to take away this unfair cash grab from country people. He has kept it for them and added it for customers of the city water authorities. Perhaps I was naive when I read that statement saying, 'We're having a look at it, and it may be one of the things'. I thought he was going to do that for the betterment of country people in financial distress, but in fact he decided, under the influence of the department and its long-running agenda, to expand the coverage of penalty interest rates.

It could be a significant amount of money, particularly in the context where this government is trying to grab every cent it can and is not too fussy about whom it jacks up taxes and charges on. It could significantly add to the financial distress of those in this situation to face 1 per cent per month interest. That is why country consumers will be pleased to hear — although Mr Ramsay may be disappointed to find that he is going to have to vote against it — about an amendment put forward by the Greens that removes the application of penalty interest on residential customers in both country and city areas. That is our major objection to the bill.

Mr Ramsay interjected.

Mr BARBER — Mr Ramsay interjects somewhat sotto voce that it is better than having the water cut off. I do not believe we should be cutting the water off, and I also do not believe we should be reducing the water to a trickle, as has been the case in some jurisdictions when they try to get somebody to pay. We do not allow penalty interest on electricity and gas bills, as Mr Lenders noted, and I do not believe the government is proposing to change those rules. But in relation to water, which is just as critical, if not more so, than electricity and gas, the government has a different view, which is: 'Let's charge people'. We will seek to have an amendment to the bill voted upon in that regard.

Certainly those who stand up for the vulnerable — including the Consumer Action Law Centre, the Victorian Council of Social Service, the St Vincent de Paul Society, the Brotherhood of St Laurence, the Financial and Consumer Rights Council and the Consumer Utilities Advocacy Centre — have been calling on the government to make this amendment. The press release of these organisations of 23 March was in their words making an 11th-hour bid to protect vulnerable Victorians and urging the Victorian upper house to amend the bill, which will allow metropolitan water businesses to charge interest on overdue accounts. The press release says:

> Spokesperson for the group, Gerard Brody, said most people who fall behind with their utilities bills are experiencing financial stress and that adding interest into the mix would only exacerbate their situation.

This is not simply a Greens proposition. We are not simply making mischief. Those who are experts in this area of policy and those who on a daily basis assist those individuals in the financial distress that I am referring to with personal support and in some cases

small amounts of money are saying that this is a critical issue.

We will have to wait and see, as time rolls out, what sort of punitive interest the three city water authorities — assuming my amendment is unsuccessful — start to charge, what that amounts to and what dividends we see being ripped out of those authorities by the government if, as some suspect, it is actually fattening them up for sale.

Mrs PETROVICH (Northern Victoria) — I am pleased to rise to speak on the Water Amendment (Governance and Other Reforms) Bill 2012. The purpose of the bill is to convert the three Melbourne water retailers, being City West Water, South East Water and Yarra Valley Water, from Corporations Act companies regulated under the Water Industry Act 1994 into statutory corporations regulated under the Water Act 1989. This will confirm those Melbourne water retailers as being under public ownership and place all Victorian water retailers under the same act, which is a great point of clarification. The bill will provide a common operating and governance framework across the Victorian water sector that is aimed at cutting red tape and achieving a much more uniform arrangement.

A practical example in my electorate of Northern Victoria Region is the Mitchell Shire Council, which is serviced by both Yarra Valley Water and Goulburn Valley Water. The bill will bring both of these water authorities under the same act, which will reduce red tape and provide a more streamlined approach to water supply and sewerage services. The bill will allow the Minister for Water to determine water and sewerage district boundaries for water corporations. These reforms will provide greater certainty around responsibility for planning for the community's needs for water supply and sewerage services.

A great example of what happens when future planning does not occur was the drought during the terms of the previous Labor governments. It took until 2006 for Labor to acknowledge that there was a severe water shortage; until then, there was always a great optimism that rain was just around the corner. It then went from one extreme to the other. It went from the extreme of saying, 'We're sure it is going to rain soon', to saying, 'It is never going to rain again'. We then saw reactions such as building the largest desalination plant in the Southern Hemisphere, which is a huge producer of carbon dioxide and is yet to be completed.

Mr Lenders — On a point of order, President, this is a bill dealing with governance of water authorities. Mrs Petrovich is now going into a historical analysis of major projects in water and people's views on droughts. I ask you to do what the Deputy Speaker in the Assembly did and hold members to the content of the bill — a bill that has been debated in a very courteous manner by previous speakers — rather than letting Mrs Petrovich start a political debate on historical matters that are not covered in any way, shape or form by the object of the bill or any clauses within it.

Mrs PETROVICH — Further to the point of order, President, I was actually relating that to planning for the community's water supply needs, and I am talking about where we are going with our planning for future requirements.

Mr Barber — On the point of order, President, yes, we got that part, but it was not material presented by the lead speaker from the government, who was Mr Ramsay, and so really what Mrs Petrovich is seeking to do is carve out her own space. We all know where it is going. It will traverse most of the last four years of water debates in this Parliament, and given your recent ruling, I do not think that would be appropriate.

The PRESIDENT — Order! On the point of order, I am mindful that the contributions from each of the speakers in this debate — and I have had the opportunity of listening to them all — have been tight and have remained true to the provisions of the bill. I am also mindful of the fact that each of the speakers, as they have discussed the various objectives of the bill, have established a fairly narrow and appropriate context for the debate. The bill makes no reference to major water projects or the planning areas Mrs Petrovich has made some initial remarks about, so she now needs to come back to what the bill is about. The parameters set by the other speakers in the debate have been narrow and consistent with what I read as the provisions of the bill. I had a close look at the bill, acknowledging that there might be some members wanting to canvass wider issues.

Mrs PETROVICH — In respect of planning, I think it is very important. We see many expanding communities, particularly in the Hume corridor in the north and around Macedon Ranges, and the planning and infrastructure issues addressed in the bill are relevant. It is sometimes good to learn from past mistakes and acknowledge errors that have been made, and learn from them.

The bill will allow the Minister for Water to determine water and sewerage district boundaries for water corporations. These reforms will provide greater

certainty around responsibility for planning for the community's needs for water supply and sewerage services. I have seen many cases of well built-up areas which have lagged, and up until fairly recently some areas — which have actually been in water catchment areas — have had septic tanks which have failed, and perhaps there has been an issue around sewerage services. At present we have different rules for Melbourne water users and country water users, and the key message of this bill is that it will provide uniformity and equity for all Victorians in this respect.

We all know that many people in rural Victoria — and we heard Mr Ramsay eloquently speak about this — rely on their own water supply, something that many people in metropolitan areas have no understanding of. It is truly sustainable and self-sufficient. The provision of tank water is using water efficiently. Rural Victorians understand they need to be self-reliant, because they rely on the elements.

The bill introduces new requirements for water corporations' personnel entering residential land, which I am relieved to see. I will not dwell on the history, but we have had a chequered history over the last 11 years with seizure of land, which has been of great concern to my community in northern Victoria. That measure will provide a better balance between Victorians' right to privacy and the importance of water businesses being able to enforce water laws, respond to emergencies and carry out their statutory functions.

Under this bill a person's right to seek compensation through the Victorian Civil and Administrative Tribunal if there has been an intentional or negligent spill of sewage from a water company's works will now be extended to apply across all of Victoria, rather than just in metropolitan Melbourne as has previously been the case. Until now regional Victorians have not enjoyed all the same rights as people in metropolitan Melbourne. I represent a country electorate, and I am very pleased that this bill will remedy that situation. I know it will also make my constituency feel much more comfortable. A water corporation's power to require a property owner to connect to its works will be limited to sewerage works and only where it will be of benefit to the environment or public health.

Overall this bill creates a uniform and much fairer set of arrangements for the provision of water supply and sewerage services to customers across Victoria, and it reinforces the government's commitment to keep Victoria's water utilities in public ownership. In relation to the Greens proposed amendment, I advise the house that the government will oppose that amendment. We will probably see some other information come along in that regard.

Sitting suspended 12.58 p.m. until 2.02 p.m.

Mr SCHEFFER (Eastern Victoria) — The provisions contained in this bill are generally supported and have been more than adequately addressed by previous speakers. Mr Lenders indicated the opposition's support for the Greens' amendment, even though he indicated to the house that he had not seen it. He advised us that he was working off an article in the *Herald Sun* and he was presuming that that particular paper had reported the Greens' position correctly. Mr Lenders explained in his contribution that even though he had gone through the bill very carefully — indeed, I would say forensically — there was, in the end, some confusion that had arisen from the departmental briefings he had received in relation to the power of the water authorities to charge interest to residential water consumers who had fallen behind in their bill payments.

Mr Lenders said that when the views of the Greens and the Consumer Action Law Centre on that particular part of the legislation came to his attention he discussed the issue with his colleagues and there was agreement on the Labor side to support the Greens' amendment. So after this very fulsome support for the Greens' amendment, I must say I was surprised that Mr Barber was so dismissive of the opposition's support of the bill and that he did not even acknowledge that Mr Lenders and the opposition gave their unqualified support to the Greens' amendment. Contrary to what Mr Barber might think, the Greens are not the only party that stands up for Victorians who find themselves in financial stress.

But, as I say, the opposition supports this bill, and I will not go through its provisions again. Is Mr Hall in the chamber?

Mr Drum — He will be here.

Mr SCHEFFER — There is only one matter that I ask Mr Hall to comment on when he sums up. Just at the moment when it seems that there is a consensus on water not being privatised, and when there is a bill before us that is moving in that direction, news comes out — this was last week — that the government is considering raising funds through asset sales. One article in the *Age* identifies the sale of City West Water, South East Water and Yarra Valley Water as among the options that are on the table.

The Premier is reported to have said that the government is not shy about selling assets to fund its infrastructure agenda. To give himself some wriggle

room he subsequently described his remarks as a response to journalists and as part of a general commentary on selling off state-owned assets. The Premier said that the story the media was running — that is, on the sale of state-owned assets — was not new and that he would not contemplate specifics or rule any particular sales in or out. So my question to Mr Hall is: what are we to believe? This water amendment bill is not yet through the Legislative Council, and the Premier appears to be giving mixed signals. I would be grateful if Minister Hall would address in his summing up what I think are very contradictory signals and perhaps reassure the house that there will be no reversal of the commitment made in coalition policy and in this legislation.

Just finally, I want to acknowledge the Consumer Action Law Centre, together with a number of other community sector organisations, which through a media release last week expressed concern over leaving water authorities with the power to charge interest on overdue accounts, as that would be to the detriment of low-income Victorians and it would penalise households that are already struggling to pay their bills. The Consumer Action Law Centre said it feared that some water companies might choose to penalise people who cannot pay their bills rather than assist them to find manageable ways to pay those bills. The centre also pointed out — and I think Mr Lenders referred to this as well — that electricity and gas providers are not permitted to charge interest on unpaid bills and so neither should the water authorities.

I think these are serious concerns, and the Greens' amendment, which the opposition is supporting, will go to remedying the problem. I would be very interested to hear in subsequent contributions why the government has indicated — I think Mrs Petrovich indicated this earlier — that it will not be supporting the amendment. Overall, though, this is positive legislation, and I commend it to the house.

Mrs KRONBERG (Eastern Metropolitan) — I am pleased to make my contribution to the debate on this important piece of legislation, the Water Amendment (Governance and Other Reforms) Bill 2012. It is important to bring the tenets of the bill to the attention of the house. The provision of retail water and sewerage services is currently regulated under two acts: the Water Act 1989 for regional Victoria and the Water Industry Act 1994, which covers Melbourne. Through evolutionary processes these two acts have led to the development of two different legislative frameworks for these services, and there are now insupportable discrepancies in the provision of water supply and sewerage services between Melbourne and regional Victoria. The Baillieu government has sought to rectify these discrepancies, and we now see the rationalisation of these discrepancies under one act.

We feel that the customers of our water businesses should not be subject to or penalised by different laws for the provision of water supply and sewerage services on the basis of where they live in Victoria. The bill before us today will amend the Water Act 1989 and the Water Industry Act 1994, and that will impact on the three Melbourne water retailers: City West Water, Yarra Valley Water and South East Water. It will change them from corporations act companies to statutory corporations under the Water Act. The bill will also transfer the regulation of their businesses to that act.

I am proud to say that this bill demonstrates the Victorian Liberal-Nationals coalition government's support for government ownership of water corporations. We set this out in the plan for water that we put to the Victorian people in 2010. Under the Water Act the bill also creates a more uniform and improved set of operating arrangements for water supply and sewerage services across Victoria. We can say with some pride that the new arrangements will usher in a fairer and better situation for regional customers and will of course provide consistency across Victoria.

Looking at the improvements that we will see as a result of the passage of this legislation, we can see that customers in regional Victoria will be given as broad a range of review rights before the Victorian Civil and Administrative Tribunal as Melbourne customers have right now in relation to a water corporation's decisions regarding connections to and discharges of its services and the maintenance of those services. Regional Victorians will also be given the same statutory right as metropolitan customers to claim compensation through VCAT when it comes to situations such as those resulting in damage caused by intentional or negligent flows of sewage from a water corporation's works in and around a customer's property.

The power of all water corporations to require a property owner to connect to a corporation's works will be confined to sewerage works instead of systems falling under the all-embracing term 'any works', which could include irrigation works and drinking water supply works, for which there would be no reason to mandate a connection.

It is terrific to see that this bill modernises the current power of water corporations to enter residential land for certain purposes. That falls within the ambit of the

recognition of a person's right to privacy, and we applaud it. The current power of all water corporations to enter residential land exceeds that of the police. The government is to be applauded for addressing that and reversing it. The governance arrangements for water corporations are also going to be improved vis-a-vis planning for emergencies, the appointment of directors to their boards and the determination of water supply and sewerage districts.

One of the big planks of this legislation and one of the elements that we have seen embraced by members of the opposition, who are not opposing the bill, falls under the category of rationalisation of debt recovery powers. The Water Act currently contains a wide range of debt recovery provisions that water corporations have at their disposal and can draw upon. The Baillieu government believes some of these provisions to be unreasonably harsh.

In the absence of any amendments to the Water Act 1989, the migration of Melbourne Water retailers under the Water Act would give them access to these powers and therefore subject Melbourne customers to unreasonable debt recovery powers. Some of the debt recovery powers reflect outdated methods of dealing with customers. When preparing my contribution to the debate on this bill I have to say I was quite alarmed to hear what some of these outdated methods mean to average consumers and commercial customers.

There is the power to sell land where an owner has not paid their bills for three years. During his contribution Simon Ramsay underscored the fluctuations in fortune and income flow that people on the land experience. There is also people's employment situation and their lack of ability to provide for their families, put food on the table and access services. Sometimes within one's life there can be many peaks and troughs. It is important to have an understanding of the concept of the cyclical nature of people's fortunes, their flow of income and their ability to accommodate the ever-increasing burden of maintaining connections to water or other utilities, such as power. I am glad this very humane thinking has been factored into this legislation.

These outdated methods include being able to sell land owned by someone who has had unpaid bills for three years, and there is the concept of garnishing rent — that is, going into a flow of rent income on a regular basis, dipping in, ripping out money and applying that. That is the rent a tenant would pay to a landlord to cover the landlord's outstanding bills, which is a pretty extreme impost. We have seen that in taxation law in relation to taxation authorities seeking to recover taxation. The issue of supplying potable drinking water to human beings who have families and run businesses involves quite a different set of circumstances. I am pleased to say that in regard to those elements, this bill repeals those debt recovery powers.

Furthermore, the bill removes a water corporation's power to discontinue the supply of drinking water to a customer who has failed to pay any money that is due to a corporation. I think people can quite often find themselves with unpaid bills; they can find themselves having poor communication between themselves and a supplier of water or energy. Sometimes a person might have to go to work or take a sick child to hospital rather than to try to speak directly to the water utility, which can put them in a holding pattern on that utility's phone system for 2 or 3 hours. We all know what a blight on the transaction landscape it is to be held in a queue on the phone trying to speak to somebody who can accept what you have to say about your current circumstances. Sometimes it is difficult for people to head off — try as they might — a process. There are many barriers to that in this day of technology. It is surprising how dehumanising this has become. All you want to do is actually speak directly to somebody who can take note of your circumstances and intervene on your behalf.

Somebody may come home from a hospital stay or after a time of staying with a relative in another part of the state or country or from overseas and open their front door to find they have missed advice, the power has been cut off and they cannot even flush the toilet. These are important issues that bring things into line with 21st century thinking.

It is important to point out and emphasise that — from my point of view — water is a fundamental life force. This bill is a recognition of how we need to be humane. We cannot set out to punish people who, wittingly or unwittingly, have not paid a bill. Fresh drinking water and safe water are so important for public health. We all understand personal discomfort, embarrassing questions that could flow, the sorts of pressures there are on families and businesses and how important water is for public health and to sustain life.

There are two debt recovery provisions that remain. These already apply to regional customers, so debt recovery provisions can be realigned in circumstances when they need to be applied to Melbourne-based customers. When we look at the issue from a holistic perspective we see that these debt recovery provisions — while they are under the umbrella of extending understanding, compassion and humanity to consumers who are unable to pay their bills — need to be put into context, because if a lot of money is taken

up in recovering costs from customers who have unpaid bills and are refusing to pay or for a time are unable to pay their bills and water entities have to move into a recovery mode to recover the unpaid bills, then the action and time to do that is subsidised from money raised by issuing costlier bills to customers who pay their bills during the natural course of using their planned household or commercial budgets.

The ACTING PRESIDENT (**Mr Finn**) — Order! Mrs Kronberg's time has expired.

Mr DRUM (Northern Victoria) — It is an absolute pleasure to have the opportunity to speak on the Water Amendment (Governance and Other Reforms) Bill 2012. I do so with the very positive news that the opposition will support the bill, whilst the Greens will move an amendment. It is refreshing that the government brings to the house bills that bring water regulation and governance into line with current expectations and that also look to alter some of the ways that authorities go about their business.

It has been well documented that the provision of water and sewerage services in Victoria exists under two separate acts, the Water Act 1989 for regional Victoria and the Water Industry Act 1994 for Melbourne. Whilst the same services can be delivered by two separate acts, there will be discrepancies, anomalies and inequities. That is what we have today, and the bill rationalises the services by bringing the authorities under one act. The Minister for Water needs to be congratulated on taking this course of action. He will preside over a more harmonious industry once the three Melbourne water retailers are converted from being companies under the federal Corporations Act 2001 to statutory corporations under the Water Act 1989. That will facilitate a much smoother governance arrangement into the future.

It is interesting that Mr Scheffer is seeking further guarantees from the government that ultimately we will realise the assets we have in our water authorities. I am sure that the Minister for Higher Education and Skills, Minister Hall, will be able to relay to the opposition the key message from the government, which is that this bill is centred on retaining our water authorities and water businesses in government. That is set out in the plan for water that the government has released and is again highlighted in the provisions of this legislation.

Review rights will be available to customers in regional Victoria. The bill provides them with more rights to appeal to the Victorian Civil and Administrative Tribunal, just as Melbourne customers have, on decisions made by a water authority. They may be in relation to connections, the maintenance of their works program or discharge problems. There is a whole range of actions and problems. Sometimes damage can be caused by negligent releases of water, sewage flows and so forth. The bill provides far wider customer rights for water and sewerage customers to go to VCAT.

As most government speakers have said, the bill also modernises the powers of representatives of water authorities to enter residential land. That will hopefully strike a better balance between enabling landowners to maintain their right to privacy and providing water authorities with a right to access to people's land. That will be a lesser right than they have currently. In the past few years there have been some issues about representatives of water authorities entering land.

One of the issues addressed by the bill that has caused a bit of concern is the rationalisation of debt recovery powers. Currently the Water Act contains a wide range of debt recovery provisions. The government considers them to be unreasonably harsh, and the Minister for Water, Minister Walsh, has included the new provisions for that reason. We have outdated debt recovery methods for dealing with customers, such as being able to sell their land and the like. If we are to try to recover on unpaid bills, then steps such as selling the land or taking the rent from a tenant to pay the landlord's bills are considered antiquated and outdated. The bill repeals those powers.

The bill also removes a water corporation's power to discontinue the supply of drinking water. That has been well and truly touched on by previous speakers on the bill. Due regard must be given to the critical nature of water. It is very much common sense to bring the governance of water authorities into line with modern expectations and modern standards.

The bill leaves in place two current debt recovery provisions that have been spoken about. That again strikes the balance that the government is looking for. There are good reasons for leaving those provisions in the Water Act. Being able to reduce the burden on law-abiding paying customers is something that is responsible governance. If the government were to not leave those provisions in place, it would force on those who always pay their bills on time the added pressure of paying for the costs of providing water to those facing financial hardship, without any opportunity for the water authorities to recover those debts or hurry that process along. That would be irresponsible and something that the state cannot afford. We need to look at efficient means by which water businesses can recover small debts that are uneconomic to recover via legal proceedings. Again, people in Victoria would

expect the government in its leadership to go down this path of offering that level of responsibility.

However, the government recognises that many in our community face hardship and struggle to pay their utility bills. Customers facing hardship already have their interests protected by the provisions of the Essential Services Commission's *Customer Service Code — Metropolitan Retail and Regional Water Business*. That requires all water businesses to apply a hardship policy for such customers.

I want to spend the remaining time I have available to go through the hardship policy because Mr Barber and the other Greens would do well to gain an understanding of what exists in the current act and the hardship policy section of the customer service code of the Essential Services Commission. Under 'Hardship policy' the code states:

> A water business must have a hardship policy and apply it to residential customers who are identified either by themselves, the water business, or an independent accredited financial counsellor as having the intention but not the financial capacity to make the required payments in accordance with the water business's payment terms.
>
> Without limiting this general obligation, the hardship policy must —

and then it lists a whole range of obligations that the water business applying the hardship policy must take into consideration.

Internal assessment processes have to be provided to determine the customer's eligibility using objective criteria, and there is a definition for what objective criteria could be: a customer's eligibility for concessions, a customer's status as a tenant, a customer's applications for the utility grant relief scheme, a customer's previous payment history and appropriate self-assessment by the customer.

The hardship policy must provide an internal assessment process which is designed to make an early identification of a customer's hardship. The process must determine the internal responsibilities for the management, development, communication and monitoring of this policy. The hardship policy must also provide for staff training within the water businesses. It must exempt customers in hardship from supply restrictions and exempt them from legal action and additional debt recovery costs while payments are made to the water business according to an agreed flexible payment plan. In the case of regional water businesses, the policy must state any circumstance in which interest payments on outstanding amounts can be waived or suspended. It must, subject to water law, offer a range of other payment options in accordance with the customer's capacity to pay.

Going through those points shows it is a very comprehensive hardship policy, with 13 or 14 subsets of hardship provisions. I am confident it captures the vast majority of hardship areas. It is worth noting that this provision is already in place. The hardship policy is a backstop for many Victorians who are doing it tough at the moment and struggling to pay their accounts, whether it be electricity, gas, water, rates, the rent and other associated living costs. This hardship policy is going to remain very firm in the day-to-day workings of our water businesses as they try to spread their ability to take on board revenue and continue to push their businesses forward.

Paying for those who do not pay should not fall to those who make other sacrifices in their lives in order to pay their bills on time; it should not be left to them. However, we believe those safeguards are in place under the hardship provision. We believe the balance is right, and hopefully people will see these new changes for what they are — that is, a more equitable spread, a more responsible, humanitarian approach to debt recovery and a simplification of our water businesses, ensuring that they remain under government ownership in the future and the governance models are modernised to take these water businesses forward.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank members of the chamber for their support of the legislation. I note there is one area we will be exploring in committee. There may be other areas members wish to explore, and I am happy to pursue those points. One general point made by Mr Scheffer was brought to my attention. He sought a commitment from the government to rule out the privatisation of water authorities. As has been very clearly said, the whole intent of this proposed legislation is to put all water authorities under the Water Act 1989, rather than the Corporations Act 2001, which is an indication of government policy: we have no intention to privatise water authorities.

In terms of those comments, I also want to point out that because of constitutional changes brought in by the Labor government in 2003, if any water authority in the state were to be sold, it would require a three-fifths majority of both houses of Parliament for that to occur. At that time we would have a robust debate, but I can assure members that from the current government's point of view there is no intention at all for privatisation. I hope that is of sufficient comfort to Mr Scheffer. As I said, I am more than happy to pursue

the matter raised on interest issues in committee, rather than make a general comment at this time.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Mr BARBER (Northern Metropolitan) — I would not normally ask the government for a legal opinion — it would be out of order — but Mr Hall just finished his presentation by proffering one. Mr Hall made the claim that the provisions of the constitution set up a particular barrier to any privatisation of water authorities. I am not convinced that the barrier and entrenchment mechanism that has been used in the constitution is unbreakable. Has Mr Hall's government obtained an opinion or formed a view that the provisions, as we read them in the Constitution Act 1975, are unbreakable and only that mechanism can be used to consider a water privatisation?

Hon. P. R. HALL (Minister for Higher Education and Skills) — In response to Mr Barber seeking a legal opinion, I am not in a position to offer one. The opinion I sought was from the advisers here about whether there is any constitutional barrier to the privatisation of water authorities. That advice is as I have conveyed it in this chamber. I am more than happy to seek that advice in a more formal way at a later point of time or if this committee goes for sufficient time I could try and find references for that advice within the Constitution Act 1975. I recall those changes going through in 2003 in this Parliament. There were certain entrenchment provisions, and the advice I have received is that the sale of water authorities would require a three-fifths majority of both houses of Parliament.

Mr BARBER (Northern Metropolitan) — Yes, I am familiar with the provision as it is to be read in the Constitution Act, but I am also aware that there are differing legal opinions as to whether the purported entrenchment of that provision is in fact as the government that introduced it intended it to be. However, it would be quite a rarefied debate if we were to get into the issue of what can exist in a constitution and whether a Parliament can pass a law and then pass another law saying you are not allowed to change the first law and that is the end of it. I was not seeking to have that debate. I was simply picking up on Mr Hall's claim that that was the case, and I took it to be that that was his government's firm view. I take that as the best guarantee I can in fact get that it would not try to break through that particular impediment.

Hon. P. R. HALL (Minister for Higher Education and Skills) — That advice is based on section 97 of the Constitution Act 1975 regarding delivery of water services. However, I can assure Mr Barber that the advice that I have received, as reflected in my own statement here today, conveys the government's understanding of how that particular provision would work.

Mr LENDERS (Southern Metropolitan) — I would ask Mr Hall to take this on notice rather than seek for him to answer it now. I ask him to take it on notice and perhaps get a reply back, like a question on notice. I completely accept his view, and Mr Barber and I are both probably reflecting on the UK Colonial Laws Validity Act 1865 which gave those manner and form provisions to parliaments as to their constitutions, but that is not the issue. Again I am happy for this to be on notice, but the issue then is: rather than privatise, which the government cannot do with these water authorities, would it rule out 30, 50, 60 or 99-year leases on these authorities? Would it also rule that out? I am happy for the minister to take that on notice rather than answer it in committee now, but if he wishes to answer it in committee now, I would be very interested in hearing his response.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I cannot give that answer now because the view of cabinet would have to be expressed in regard to that. It is not for me, and me only, to make a qualified response to that, so I will take that question on notice.

Clause agreed to; clauses 2 to 44 agreed to.

Clause 45

Mr BARBER (Northern Metropolitan) — I move:

Clause 45, after line 34 insert —

'( ) After section 281(3) of the **Water Act 1989 insert** —

"(3A) Interest is not payable under this section in respect of a fee imposed under a tariff in respect of residential premises.".'.

This would set up the requirement, to quote the amendment, at proposed subsection (3A):

Interest is not payable under this section in respect of a fee imposed under a tariff in respect of residential premises.

As I said in the second-reading speech, in our view and based on our advice in the drafting of this amendment

this would create a prohibition on the charging of penalty interest for residential premises, whether they be under city or country water authorities.

Apparently I did a bit of an injustice to the Labor Party during my debate. I did not realise that it had stated it was supporting my amendment. Mr Lenders had some difficulty because he did not have a copy of it in front of him. I would have been happy, by leave, to have circulated the amendment earlier on because the lead speakers from the other parties have some difficulty if I have not formally circulated my amendment. I hope to obtain support for this amendment.

Mr LENDERS (Southern Metropolitan) — As Mr Barber has said, the Labor Party does support this amendment for the reasons that I outlined in my speech on the second-reading motion.

Hon. P. R. HALL (Minister for Higher Education and Skills) — The government is not prepared to support this amendment, and I want to put on record some of the reasons why. First of all, it has been acknowledged during the course of the debate that for customers of urban and rural water authorities the provisions in this particular bill are far less draconian than what could be applied to them in their current situation. I refer to provisions currently relating to debt recovery powers, including being able to sell the land when the owner has unpaid bills. That provision has been removed, and I do not think there would be any argument about that. Also the garnishing of a tenant's rent to pay the landlord's bills has also been removed from the act and therefore would not be a provision inflicted upon any water users in the state. The third one is that the bill also removes the water corporation's power to discontinue the supply of drinking water to a customer who has failed to pay moneys owing on a water bill.

In terms of those three provisions I think we would all agree that they are significant improvements in addressing the needs of customers. They are actions of last resort that the government has now ruled out by amending this act, and that will not apply. However, this does leave in place two ways in which debt can be recovered. One is by imposing an interest rate on the amounts of unpaid moneys owing to water authorities. That is a new provision, I concede, which will now apply to customers of water authorities living in Melbourne. Also there can be a charge applied on the property to which the services were provided in the same way as unpaid rates can become a charge on a property. Those are the two provisions left. Looking at all of those features, the decision the government has arrived at is a balance of all of those matters. I think it is also worthwhile mentioning that moneys owed, and therefore the cost of moneys owed, is borne by all the customers of a particular water authority, and again that should be a consideration in whether or not to support this particular provision.

I reject Mr Barber's comments that this measure is simply being used to fatten up — I think that was the term he used — water authorities for the purpose of attracting bigger public dividends from those authorities. I can assure him that is not the case. There is no intention to use this as a measure to gain greater dividends from the water authorities. I think Mr Barber also claimed that these are mechanisms by which the water authorities could be seen to be money hungry — I think that might have been a term used at one point in his contribution — but again I make the point, and I think Mr Lenders repeated this in his contribution, that any interest rates, if a water authority chose to set them, would be set by the Essential Services Commission. Indeed those provisions apply in section 281(1B) of the Water Act 1989, where the Governor in Council may fix a minimum rate as follows:

> (a) by expressing it as a percentage; or
>
> (b) by tying it to a specific floating institutional rate charged for loans or paid for borrowings by a public or commercial institution.

This means that one option available to the Essential Services Commission is to set interest at the same rate at which borrowing was undertaken by the water authority. I reject the suggestion that it is a revenue raiser, whether to fatten up the water authority, to use Mr Barber's term, or by way of a dividend to government or otherwise.

I also want to make the point, as has been made by other members of the government in their commentary on this provision, that in terms of state-owned authorities, where a person has outstanding charges or fines or indeed taxes of a sort, it is a fact now that interest is attracted on unpaid amounts under those particular provisions. I think Mr Drum mentioned that unpaid local government rates can also attract interest. In all of this there is no obligation for a water authority to charge interest on unpaid rates, and if we look at the answer to Mr Barber's question that he spoke of in his debate, some of the regional water authorities do not charge interest and do not use mechanisms like that to try to recover moneys owing. Those authorities are Barwon Water, Coliban Water, Gippsland Water, North East Water and Western Water.

To the best of my memory, for the in excess of 20 years that I have represented the Gippsland region I do not

think I have ever fielded a complaint from somebody who felt they had been significantly and unfairly dealt with in respect of this measure. In looking at that table, I notice that South Gippsland Water and East Gippsland Water have applied an interest rate. They are in the area that I represent. I am not sure to what extent it has been applied to domestic customers, because those water authorities would cover both residential and commercial areas.

As I said, I can understand the arguments being advanced on this, but for all the reasons I have put to the committee this afternoon, on balance the government will not be supporting the amendment.

Mr BARBER (Northern Metropolitan) — I would like to pick up on one point the minister made and seek some clarification. A number of those country water authorities use the Department of Justice penalty interest rate, which is the top rate — up around 12.5 per cent, as it is set from time to time. Was the minister suggesting that the provisions of the bill would allow the Essential Services Commission to set lower rates? He referred to the bond market or the financial market interest rates being more in tune with the cost of capital incurred by the water entity itself.

Hon. P. R. HALL (Minister for Higher Education and Skills) — Yes, that is what I meant. If Mr Barber looks at clause 281(1B) of the Water Act, he will see that it states:

> The Governor in Council may fix a maximum rate …

It says very clearly that it can be expressed 'as a percentage' or 'by tying it to' — and it goes on. It is available to the Essential Services Commission to set a rate using those criteria but also using the flexibility that the ESC has in relation to customer codes and the like, which I think has been raised by others in the course of this debate.

Committee divided on amendment:

Ayes, 18

Barber, Mr (*Teller*)	Pakula, Mr
Broad, Ms	Pennicuik, Ms
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Scheffer, Mr
Hartland, Ms	Somyurek, Mr (*Teller*)
Jennings, Mr	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lenders, Mr	Tierney, Ms
Mikakos, Ms	Viney, Mr

Noes, 20

Atkinson, Mr	Hall, Mr
Coote, Mrs	Koch, Mr (*Teller*)
Crozier, Ms	Lovell, Ms
Dalla-Riva, Mr	O'Brien, Mr
Davis, Mr D.	O'Donohue, Mr
Davis, Mr P.	Ondarchie, Mr
Drum, Mr	Petrovich, Mrs
Elsbury, Mr (*Teller*)	Peulich, Mrs
Finn, Mr	Ramsay, Mr
Guy, Mr	Rich-Phillips, Mr

Pair

Darveniza, Ms	Kronberg, Mrs

Amendment negatived.

Clause agreed to; clauses 46 to 96 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

DRUGS, POISONS AND CONTROLLED SUBSTANCES AMENDMENT (SUPPLY BY MIDWIVES) BILL 2012

Second reading

Debate resumed from 15 March; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr JENNINGS (South Eastern Metropolitan) — Thank you, Acting President, for inviting me to respond to the Drugs, Poisons and Controlled Substances Amendment (Supply by Midwives) Bill 2012. I am happy to indicate that the opposition will not be opposing the bill, which in effect means we support it, because this is a reasonable proposal brought forward by the government that is consistent with its obligations under the national framework and national scope of practice that have been agreed to by jurisdictions across the states and commonwealth governments. The bill allows for an increase in the scope of practice for midwives to enable them to possess and sell, use or supply certain drugs required for them to provide a quality midwifery practice when supporting Victorian women in their birthing options.

Those birthing options have been enhanced during the course of the last decade, both in terms of the standards and quality of care and the regulation of midwifery and a number of other medical and allied health professional standards and practices and also in terms of the broadening — as in this case — of the scope of practice to enable drug treatment to be provided. Lay

people may not be aware of the fact that — and may be alarmed that — the scope of practice encompasses the ability to possess and sell, use or supply certain drugs. People in our community may not be abreast of what the current practice has been for nurse practitioners, optometrists and podiatrists, who have received similar authorisations under Victorian and national law to provide such a practice. Now midwives are added to that scope of opportunity for medical care across the nation.

The bill is a relatively straightforward and simple piece of state enactment of a national framework and agreement and national regulation of this practice. It enables midwives to in effect be brought under the scope of the Medicare benefits schedule (MBS) and the pharmaceutical benefits scheme (PBS), which are commonwealth programs that fund, support and regulate the distribution of pharmaceutical supplies throughout the Australian health industry. Now, through the scope of this bill, midwives are added to the people who can claim the rebates under the appropriate funding arrangements for those two important commonwealth programs.

The bill is relatively simple. It enables the Nursing and Midwifery Board of Australia to have a regulatory regime for the scope of practice for midwives in Victoria consistent with practice across the Australian jurisdictions. This bill does it in a relatively simple way: by dovetailing provisions of Victorian law and the regulatory environment within that national framework. This piece of legislation specifically designates who is considered to be an eligible midwife to enable them to get access to the MBS and the PBS. There are mirror regulatory requirements for current competency requirements and maintenance of the existing provisions for the qualifications of midwives that will be consistently applied across the country, along with the level of prescribed schedule medicines which midwives will have access to and be able to use under these provisions.

In keeping with the regulatory environment, there is a requirement that midwives have their own professional indemnity insurance to make sure that their patients are covered by the provisions of that insurance. Midwives have a requirement under this Victorian law to make sure that they have a collaborative arrangement with a medical practitioner who, without necessarily directly supervising this practice, will have a quality assurance element as part of their role. Certainty will be added to patient care through that environment.

This piece of work, in terms of being a national framework and having national momentum, was undertaken as far back as February 2009. It was instigated by the commonwealth's maternity services review, which ultimately led to the National Maternity Services Plan 2010, which was regulated and signed off by all Australian health ministers at a conference in 2010. Basically we are two years further down the track, and we are effectively three years down the track from when the funding arrangements were put in place to enable this to occur, because there were provisions for that in the commonwealth budget.

In the 2009 budget $120 million was allocated to enable the MBS and the PBS to cover these provisions. Nearly three years after the budgetary allocation that provided for this scope of practice, the Victorian government has caught up with that momentum and that regulatory change. Victoria is now joining all the other jurisdictions across the country that have adopted this legislative basis.

The reason the Victorian opposition supports this initiative today is that it was in office in Victoria during 2009–10 and was a participant in the national framework that has led to these outcomes, particularly in relation to the national regulatory environment for medical professionals. As far back as 2004 the then Labor government in Victoria was very committed to improving the quality of maternity services across Victoria. It established the Future Directions framework and policy, designed to address equality issues and provide for the safety and equity of Victorian women in receiving the appropriate antenatal care, delivery care and postnatal care. That included a well-considered view about the role of midwives, both then and into the future; finding the right balance between primary maternity health models; and access to medical professionals and expertise when it is needed.

There was an effort to try to match resource allocation and the availability of specialised services with the needs of our communities right across the state and to make sure that we have a complementary set of health professionals who work within the maternity field. We support the establishment of a multidisciplinary approach to maternity care and a team approach that assists women and their babies through the birthing process.

We were very happy with that Future Directions framework and the discipline that was established by the Victorian government to support national approaches, because we see that national standards and national regulatory environments are totally appropriate. Also within that movement and that general direction we did not necessarily take for granted the quality assurance issues and standard of care issues.

As part of our framework we established the Victorian maternity services performance indicators, which were to provide performance comparisons between maternity services across the state. We recognised the need for additional expertise and skills and created the newborn clinical network, which applied across the Victorian health landscape.

There were some specific initiatives that were included — for instance, in the Koori community, Aboriginal people across Victoria have had and will have very high birth rates, and thriving maternal and child health would be a hallmark of government action and the intention of government, one would hope. The Koori maternity program was designed to achieve that outcome. In the spirit of equity and equality throughout the Victorian landscape, the rural maternity initiative was established as part of the Future Directions policy. That was not only about standards, regulatory environment, quality assurance issues and career development for midwives and practitioners, it was also backed up by significant resource allocation.

During the life of the Labor government it funded the new Royal Women's Hospital — a very important issue then, now and in the future — involving the replacement of the women's hospital by the redevelopment to provide quality care to Victorian families. Significant capital investment was provided in the 2008–09 budget — over $30 million — to address growth in maternity services, particularly for outer metropolitan communities, which are serviced by Casey Hospital, Frankston Hospital, Werribee Mercy Hospital, the Northern Hospital and the Monash Medical Centre.

This investment was certainly needed, and it was appropriate as the birth rate in Victoria rose significantly in the second half of the first decade of this century. Just to place it in time in a way that is perhaps a little bit more complicated than it needs to be, it was during the years between 2005 and 2010. The birth rate in Victoria grew significantly at that time, and the budget that was brought down at the time was heralded by the 77 000 births that were a feature of the growth of demand for maternity services and were experienced in Victoria that year.

A measure of the significance of that required investment was the $9.6 million for the maternity health initiative in its own right. I put on record that that level of investment and recognition and that degree of support and level of professional standards are recognised by the Labor Party in Victoria as being the fundamental reasons why it will support the government in its initiative coming forward with this piece of legislation.

We are reassured by the advice that has come to us through the briefing officers. They are obviously otherwise delayed today; nonetheless they were able to provide me and other members of the opposition with appropriate advice about the way in which this bill would be implemented. It includes some of the scrutiny and discretionary issues that the minister will require to ensure quality care and to be able to reflect on the scope of the drugs that are listed on the schedules that are able to be used in this increased practice by midwives in Victoria.

The minister has the opportunity to revise that listing. In the beginning the list will be pretty harmonious with the list of drugs and poisons that are currently available in other jurisdictions. That will be the base case, and then the minister will reflect on the appropriate breadth of those drugs listed within the schedule. That will be one of the responsibilities incumbent on the minister in implementing this piece of legislation in the future.

Given the extensive degree of interlocking regulatory environments, quality assurance issues in terms of national registration, national professional standards, the guarantee that midwives will have their own form of practice insurance and the relationship that is required for midwives to have a collaborative arrangement with medical practitioners, there is an interlocking rigour in quality assurance that underpins this piece of legislation and how it will interact with commonwealth law and, very importantly, commonwealth funding programs such as the MBS and the PBS.

We have great confidence that not only will midwives in Victoria be able to provide an appropriate practice and good-quality care to their patients, but ultimately the women of Victoria will have a wider range of options available to them to tailor, as much as they can, their care plan in relation to preparing for the birth of their child and to be able to plan for that and have confidence that it is appropriately regulated. For those cumulative reasons, the opposition will be supporting this piece of legislation.

Ms HARTLAND (Western Metropolitan) — I thank Mr Jennings for going through the technical details of the bill. As he said, it is a very straightforward bill, and the Greens will be supporting it. Giving midwives the capacity to use and supply certain drugs in the course of their midwifery practice is logical and sensible.

I will make a few comments about maternity services in general, because it is quite clear from the Auditor-General's report that was released in October 2011 that maternity services are underfunded and stretched to the limit, especially in the outer suburbs. I urge members of the government to read that report again because it gives us a lot of detail about the problem.

Western Health has run a very successful home-based midwives service out of Sunshine Hospital which has been very popular because women are able to see midwives at the hospital, they are able to birth at home and the midwives have insurance, so it is a really practical way of dealing with these issues. It would be good to see the government expand these kinds of services. Sunshine Hospital is an example of how stretched maternity services are. In the past five years 219 women have delivered their babies in the emergency room. A recent briefing from Western Health stated that its clear needs were for an intensive care unit, a cardiac unit and at least four more birthing rooms.

I urge the Baillieu government to make health planning and resourcing a priority. While this bill will give midwives the right to prescribe a certain class of drugs, the government clearly needs to take a step further and support both hospitals and midwives with ongoing funding and support.

Ms CROZIER (Southern Metropolitan) — I am pleased to rise to speak on the Drugs, Poisons and Controlled Substances Amendment (Supply by Midwives) Bill 2012, and I do so for a number of reasons. First, this legislation, as already mentioned by Mr Jennings, will bring us into line with other states and territories. Further, as a former midwife I have had firsthand experience in the administration of many routine drugs and medications in midwifery practice. I believe that anything that enhances midwifery practice is not only good for midwives but also good for the women and babies they are caring for. I will return to my experience a little later in my contribution, but first I will comment on a couple of points raised by Mr Jennings and Ms Hartland in their contributions. I am pleased that they are both not opposing the bill.

I acknowledge the role of former governments that have participated in putting together the national framework. That was an important initiative to undertake. Mr Jennings made mention of some Koori communities with very high birth rates, which was definitely the case in my experience. Also in my experience of working in the area of diabetes in pregnancy, which is a high-risk pregnancy area, as members would know, there is also a greater risk of Koori women developing diabetes and having greater adverse outcomes in relation to their pregnancies and births. Those are two very important issues that will continue to need to be monitored.

In relation to the aspect of funding, which was raised by both Mr Jennings and Ms Hartland, Mr Jennings made the point that there needs to be significant investment made in health, and he called on the government to do so. Ms Hartland also made reference to maternity services in the west and particularly those increased birthing rates over the past five years, which indicate a lack of planning under the previous government to cater for the growth that has occurred out in those regions especially. Now it is up to the Baillieu government to pick up the pieces and assist in that task of delivering appropriate health services.

She also made mention of the health planning and resourcing as a priority. I am pleased to say that in last year's budget the Baillieu government put $13.06 billion into the health budget. The previous budget, in 2010–11, under the former Labor government was $12.341 billion, so there is a significant increase of 5.9 per cent in the health budget — the greatest spend in the state of Victoria in the health budget that has been undertaken. That increase in the health budget compares with an increase of 1.6 per cent in the population, so I see that as a significant investment at the outset and as something that cannot be ignored by the Victorian public.

Certainly the Minister for Health and other members of the government should be acknowledged for their hard work in relation to the health budget because this is a very expensive and demanding area of government and one that needs to be closely monitored, which is exactly what we are undertaking.

But getting back to the bill, as Mr Jennings highlighted this is a relatively straightforward bill. Its purpose is to provide for suitably qualified registered midwives, whose registration has been endorsed by the Nursing and Midwifery Board of Australia, to possess, use, sell and supply a number of drugs used in the course of midwifery practice. In accordance with the Drugs, Poisons and Controlled Substances Act 1981 the midwives will be authorised to use those drugs specified on a list approved by the minister. The bill also empowers the minister to specify at which health services and in which clinical circumstances the drugs may be used.

Clause 5 of the bill inserts into the principal act section 13(1)(bc), which adds registered midwives to

the list of health professionals authorised by section 13 to obtain, to have in his or her possession and to use, sell or supply scheduled substances. The new section provides that a registered midwife, whose registration is endorsed by the Australian nursing and midwifery board, may obtain, have in their possession and use, sell or supply those drugs, as other allied health professionals have been able to do.

This bill will, under a strong regulatory framework, further enhance the authority of midwives to have greater prescribing rights and be able to provide a greater range of services, thereby improving access to maternity care for all Victorian women and their families. It will give greater flexibility to those eligible midwives, greater choice to those women they are caring for during their antenatal and intrapartum periods and the best possible outcomes for the women themselves and their babies in their antenatal, intrapartum and six-week postnatal periods.

This issue, as was highlighted, arose from a federal government election commitment to develop a plan to promote the national coordination of maternity services. I have an extract from *National Maternity Services Plan 2010*, which states that it:

> …recognises the importance of maternity services within the health system and provides a strategic national framework to guide policy and program development across Australia over the next five years.
>
> …
>
> The …plan has been developed within the context of broader changes to Australia's health and hospital systems. On 13 February 2011 all Australian governments signed a heads of agreement on national health reform and committed to signing a full national health reform agreement by 1 July 2011.

As I mentioned, it was a five-year plan. The plan goes on to state:

> Maternity care will be woman-centred, reflecting the needs of each woman within a safe and sustainable quality system. All Australian women will have access to high-quality, evidence-based, culturally competent maternity care in a range of settings close to where they live. Provision of such maternity care will contribute to closing the gap between the health outcomes of Aboriginal and Torres Strait Islander people and non-Indigenous Australians. Appropriately trained and qualified maternity health professionals will be available to provide continuous maternity care to all women.

Victoria, together with other states and territories, has undertaken this action to amend the relevant drugs and poisons legislation that will enable appropriate prescribing rights for midwives to facilitate access to the pharmaceutical benefits scheme, or PBS, to allow subsidies for women. Of course giving PBS authority to midwives is an authority to claim a rebate to certain PBS medications as listed. Authority to prescribe is granted through respective state and territory drugs and poisons legislation. The explanatory memorandum points out that clause 9(1) empowers the Governor in Council to make regulations for or with respect to the prescribing of the scheduled poisons that a registered midwife is authorised to obtain and have in his or her possession and to use, sell or supply.

The explanatory memorandum goes on to say that clause 9(2) amends other regulation-making powers in section 132 relating to the scheduled poisons that a registered midwife is authorised to obtain and have in his or her possession and to use, sell or supply. That is pretty straightforward at the outset. What midwives can prescribe is restricted to a list of scheduled medicines which has been approved by the minister, and they are fairly routine medicines — things like narcotic analgesics; antiemetics; non-steroidal anti-inflammatory agents; penicillins, which are quite routine in midwifery practice; anti-fungal agents, which again are quite routine for the neonate; oxytocic agents of course, in the intrapartum period; vaccines postpartum; and various analgesics.

There is an available list. It is not an exhaustive list, obviously, of medications, but it gives a midwife ability to practise and enhance the care of the woman she is looking after. I say it is not exhaustive because there are many other drugs that are used in maternity care and practices, from my experience working at the Royal Women's Hospital. Mr Jennings made reference to the Royal Women's Hospital and the funding that the former Labor government gave to relocate the hospital. That issue was going on for quite some time. In fact when I was there from 1990 to 2000 it was an ongoing discussion, and I am delighted to see the new Royal Women's Hospital. Even though I had a significant amount of time in the old location, certainly the advancements at the Royal Women's Hospital are state of the art and give great care to Victorian women.

During my time at the Royal Women's Hospital I specialised in the high-risk area of diabetes in pregnancy. I worked with a highly specialised team of health professionals, including obstetricians, endocrinologists, ophthalmologists and dieticians, and we all worked together to enable the best possible outcomes for both the mother and baby during those periods of pre-pregnancy, pregnancy and the postnatal periods.

Often I was monitoring and adjusting insulin levels, working closely with endocrinologists, obstetricians and in some cases country Victorian GPs to enable

those best possible outcomes, but I undertook specific further tertiary education and obtained a further qualification to be able to do so. It was not the standard list of drugs that we are talking about in this instance.

If the act is not amended to provide for endorsed midwives to obtain, possess, use or supply scheduled medicines, Victoria will not be able to participate fully in the National Maternity Services Plan 2010, especially in the provision of more maternity services for rural and remote communities, and I think that is terribly important. Without prescribing authority Victorian midwives would not be able to effectively utilise the Medicare benefits schedule items that would facilitate access to a greater range of collaborative care models, which is equally important.

In conclusion, this legislation has been widely supported by a range of stakeholders. It gives greater flexibility to midwives and women during their pregnancy and their six-week postnatal period. Women will be able to receive a PBS rebate for medicines prescribed as part of a private midwifery practice and otherwise. The bill brings Victoria into line with other Australian states and territories. Importantly, it enables those women who live in rural and remote areas to have greater access to a range of midwifery services, as I have already said. It further enhances health services for Victorian women and their families. Again, I am pleased that the opposition parties are not opposing this bill. I commend the bill to the house.

The ACTING PRESIDENT (**Mr Ramsay**) — Order! Thank you, Ms Crozier. I recognise your considerable experience and knowledge in this area.

Mr ELASMAR (Northern Metropolitan) — I rise to contribute to the debate on the Drugs, Poisons and Controlled Substances Amendment (Supply by Midwives) Bill 2012. By way of background, in 2008 the Labor federal government undertook a review of maternity services with a view to coordinating a national plan for the Australia-wide delivery of multidisciplinary midwifery services. The maternity services review was undertaken by the commonwealth chief nurse and midwifery officer, with a report published in February 2009. The recommendations contained in the report include expanding the role of midwives to deliver greater access to a range of maternity care services within a collaborative care environment. The National Maternity Services Plan 2010 was developed following extensive consultation with stakeholders and was agreed to by Australian state governments.

The bill amends the Drugs, Poisons and Controlled Substances Act 1981 to facilitate appropriate prescribing rights for midwives. It allows midwives access to the pharmaceutical benefits scheme (PBS) for their clients — although personally I prefer to call them patients. Granting PBS authority to midwives at a commonwealth level simply confers an authority to claim the rebate for certain PBS medicines. Their clients will also be able to benefit from the commonwealth rebate schemes for these services. Without this authority, Victoria's midwives would be unable to provide a range of private midwifery services and, most importantly, Victorian mothers-to-be would be out of step with the rest of Australia and severely disadvantaged.

In all cases, under the new legislation midwives must have a collaborative arrangement with a medical practitioner who has been designated for that purpose. This might be an obstetrician, a medical practitioner who provides obstetric services or a medical practitioner employed or engaged by a hospital authority.

In conclusion, the amendments will assist and benefit the clients of an eligible midwife to receive comprehensive medical services and will obviate the need to utilise unnecessarily the services of a medical practitioner or nurse to have medicines prescribed for routine maternity care. My colleague Mr Jennings has already indicated to the house that the opposition is not opposing the bill.

Mrs PETROVICH (Northern Victoria) — I rise to speak on the Drugs, Poisons and Controlled Substances Amendment (Supply by Midwives) Bill 2012, and I have to say that I am very pleased to do so. This bill was developed in response to the commonwealth National Maternity Services Plan. That plan followed a national consultation and agreement by the Australian government and provides a five-year vision for maternity care in Australia. These amendments to the Drugs, Poisons and Controlled Substances Act 1981 provide a mechanism for suitably qualified and authorised midwives to prescribe approved medicines.

Having used the services of qualified midwives on at least two occasions, I can say that their work is invaluable to the community. From a mother's point of view, it is very reassuring to know that this bill improves a range of services in maternity care for Victorian women and their families. It is reassuring to know an experienced midwife is on the job, and it will be very comforting to a birthing mum to have all the ancillary services that will be provided as a result of this bill.

The maternity services plan includes an agreement by the states and territories to use best endeavours to amend the relevant drugs and poisons legislation to enable appropriate prescribing rights for midwives to facilitate access to PBS (pharmaceutical benefits scheme) subsidies for women. Obviously every birth is not the same, and it is important to have that sort of responsive care available during a woman's most vulnerable time. It enables the best possible quality care to be provided to mother and baby.

Since 1 November 2010 suitably qualified and eligible midwives have had limited access to Medicare benefits schedule items and the pharmaceutical benefits scheme for the practice of midwifery. The PBS authority is for medicines prescribed in private midwifery practice and is limited by state and territory prescribing rights. It is for reimbursement only and is not an authorisation to prescribe. The bill amends the act to enable a registered midwife whose registration is endorsed under section 94 of the national law to obtain, possess, use, sell and supply any schedule 2, 3, 4 or 8 poison approved by the minister in the lawful practice of his or her profession as a midwife.

Midwives are qualified to provide pregnancy, birthing and postnatal care to women and infants. In my experience it is of great comfort to a birthing mum or a heavily pregnant mum to know that that care is available and on hand regardless of the circumstances of the birth and whether it is an easy or more complicated one. It is a great comfort to a birthing mum to know that all facilities are available and that any prescribed medicines that are required will be available.

With a scheduled medicine endorsement by the Nursing and Midwifery Board of Australia under section 94 of the national law, endorsed midwives are qualified to prescribe medicines within the scope of midwifery practice in accordance with state and territory legislation. To apply for scheduled medicines endorsement, midwives have to complete specific training as well as meeting the NMBA requirements, and there is a comprehensive regulatory professional practice framework in place to support safe midwifery practice.

This includes competency standards; registration standards, which include recency of practice; professional indemnity insurance; eligible midwife endorsement under section 94 of the national law; continuing professional development and guidance specific to midwife practices, which include homebirths; midwifery prescribing course accreditation; guidelines for the scope of practice decisions; and professional boundaries and ethics guidance.

If the act were not amended to provide for an endorsed midwife to obtain, possess, use, sell or supply scheduled medicines, Victoria would not be able to participate fully in the National Maternity Services Plan 2010, especially in the provision of more maternity services for rural and remote communities. Those communities in northern Victoria that I represent are often home to small rural hospitals that rely heavily on the services provided by highly professional nurses.

Without prescribing authority, Victorian midwives would not be able to effectively utilise the Medicare benefits schedule items that facilitate access to a wider range of collaborative care models. In due course amendments will be made to the Victorian Drugs, Poisons and Controlled Substances Act to authorise and endorse midwives in the same way as other health practitioners with scheduled medicines endorsement are authorised under provisions of the national law. That is a great step forward.

Prescribing by endorsed midwives in Victoria will be limited to the list of scheduled medicines approved by the Minister for Health. The list will include the schedules 2, 3, 4 and 8 medicines required for midwifery practice across pregnancy, labour, birth and postnatal care. The Victorian list will be developed in consultation with professional and clinical experts and will be consistent with contemporary best practice ethical guidelines for prescribing by endorsed midwives.

With access to the Medicare benefits schedule, a pharmaceutical benefits scheme authority will allow eligible endorsed midwives to provide private midwifery services at the rebated rate. This provides a real choice for birthing mums and access to a range of midwifery services. With those few words, I commend the bill to the house.

Mrs COOTE (Southern Metropolitan) — It gives me a great deal of pleasure to be speaking on the Drugs, Poisons and Controlled Substances Amendment (Supply by Midwives) Bill 2012. I would like to commend Ms Crozier and Mrs Petrovich for the contributions they have made, particularly Ms Crozier, who put the government's view very succinctly and outlined the purpose of the bill, the direction in which we want to take it and why it is such an important bill. Ms Crozier has a background in nursing, and she brought a great deal of professional knowledge to her contribution to the debate on the bill.

At the outset, I think it is important to think about the practice of midwifery. Nurses do the most amazing work in this state and across the country. It is pleasing to see a number of younger women and men taking up the profession of nursing, because it is such a noble and vital cause. One of the areas of nursing that would probably be the most joyful would be midwifery. To be watching and involved with new lives and the joy they bring would have to be a very gratifying thing. Here in this place we can spend a whole week — as we have just done — sitting up late at night, talking about bills, debating, adjourning, making members statements, looking at reports and doing a lot of talking. But at the end of a session for midwives, there is a new baby. It is joyful and exciting and something that none of us could ever say compared with anything that we do. It must be one of the most amazing things to be involved with.

It would also be challenging having to deal with a whole lot of people who are in an emotional state or who are perhaps mothers and fathers for the first time. Midwives must deal with a lot of their complex issues, concerns and anxieties — not to mention the relatives, who seem to be so involved in the birth of a child these days. I am sure they are particularly challenging.

What does this bill do? The purpose of this bill is set out in clause 1, and it is:

> … to amend the Drugs, Poisons and Controlled Substances Act 1981 to allow suitably qualified and endorsed midwives to possess, sell, use or supply certain drugs required for midwifery practice.

This is predominantly achieved by two clauses in the bill — Ms Crozier outlined them succinctly — with restrictions and regulations making up the remainder of the bill. Clause 4 defines a registered midwife, and clause 5(1) inserts new section 13(1)(bc), which will add registered midwives to the list of health professionals authorised by section 13 to obtain and have in his or her possession and to use, sell or supply scheduled substances.

I have spoken in this chamber before about how scheduled substances come to be classified as such and how those relationships with the authorities are formed, particularly when we were discussing the synthetic cannabinoids — Kronic in particular — and their relationship with the federal government.

The bill ensures that certain health practitioners are restricted and empowers the Minister for Health to approve the list of scheduled drugs and poisons that midwives can use and prescribe. It will bring Victoria into line with other states and territories. Nursing and midwifery are very flexible professions. You can be young or older, male or female; you can work in Australia or overseas. They are excellent professions if you want to have flexibility in your life and you want to be able to get a proper life balance.

In 2008 the commonwealth began to investigate ways in which the national coordination of maternity services could be facilitated. The result of these investigations was a report first published in February 2009. In 2002 the Council of Australian Governments agreed to a National Maternity Services Plan to implement the recommendations of the report. An agreement reached in the COAG plan was that all states and territories would use their best endeavours to amend relevant drugs and poisons legislation to enable appropriate prescribing rights for midwives to facilitate women's access to subsidies from the pharmaceutical benefits scheme.

This is where Australian federalism requires the cooperation of the states, the territories and the commonwealth. It is now going to be of particular interest to see how COAG unfolds, given that we have so many wonderful Liberal-led states in this country. With Queensland coming on board, we have Liberal governments all down the eastern side of Australia. COAG is going to be a very different place. It is extremely important to understand that many decisions can be made, given that there are so many Liberal states.

We have Queensland, which has an overwhelmingly successful Liberal-Nationals government with Premier Campbell Newman at its helm. We have New South Wales; Barry O'Farrell is the premier in NSW. We have Victoria, with Ted Baillieu and our team in government. We have Western Australia, where Colin Barnett is the Premier. We are in control of the two most populous states and the two largest mining states in the country, and we will have those representatives attending COAG. We have the tiny states of Tasmania and South Australia, and those representatives will be at COAG too. COAG is going to be a very different place.

It will be important to watch what health issues will come on stream in the future, and they will be debated at COAG. I am quite certain that our Premier and the Minister for Health, the Honourable David Davis, will ensure that Victoria's health sector is at the forefront of issues so that Victorians will benefit. This was not the case when Victoria was what it used to be — when it was represented by Labor at COAG and when it was just a poor cousin. We saw Mr Brumby absolutely roll over and accept what the national government said it was going to do to the health system in this state. We will be taking issues to Prime Minister Julia Gillard and

federal ministers to make quite certain that health in Victoria is the very best for Victorians.

This bill deals with midwives and the cooperation of all states. We welcome anything that involves security and a common understanding of this issue. We welcome perfect clarity. Anyone presenting as a midwife in this state or any other state will know with certainty what they will be dealing with.

PBS (pharmaceutical benefits scheme) rebates are financed through the federal budget; therefore the commonwealth legislation sets out who can claim a rebate in relation to PBS medication. Laws passed by respective state governments regulate prescription drugs through the same laws that ban certain illicit drugs of dependence. In the debate in this place on the use of drugs of dependence and synthetic cannabinoids we dealt with this issue at length. In Victoria these drugs are regulated under the Drugs, Poisons and Controlled Substances Act 1981, which will be amended by this bill.

Different classes of drugs are included in different schedules to the act. Narcotics are treated differently to drugs prescribed by health practitioners. This is something very important to understand. The schedules, as I indicated, are usually bound up with schedules located in the federal arena. It is important to make what we are dealing with very clear. Just because the commonwealth says a midwife has the authority to claim a rebate on medication under the PBS, it does not mean that a Victorian midwife can prescribe that same medication. The passing of this bill will mean that Victoria will play its role in cooperating with the other states and territories and the commonwealth by allowing midwives to prescribe pharmaceuticals that relate to their profession.

It is important to put on the record the official definition of midwife. I think we all have a vague idea of what it is, but the bill defines a 'registered midwife' as being:

> … a person registered under the Health Practitioner Regulation National Law —
>
> (a) to practise in the nursing and midwifery profession as a midwife (other than as a nurse or student); and
>
> (b) in the register of midwives kept for that profession …

That is a fairly straightforward definition that ensures that practising midwives will be covered by legislation. We have to remember that when we create bills it is not just so we can speak on those bills. They make a difference to people's lives. There will be people who will challenge these bills and look at the detail of them to make quite certain they are doing the right thing. There will be whole raft of professionals who will look closely at this debate to make certain that is the case. That definition will be a particularly useful one.

For those members who feel they might like to have a profession after politics, they might consider being midwives. If they do, there are two main ways to become a midwife. There is a bachelor of midwifery, which is a three-year undergraduate degree that can be completed by people who do not have a nursing qualification. There is usually a substantial focus on the continuity of care — that is, providing care to women from the beginning to the end of their pregnancy. In relation to clinical learning, students need to spend at least 50 per cent of the overall program on clinical placements in order for the course to be accredited. The second way to become a midwife is to complete a bachelor of nursing degree course and then a graduate diploma or master of midwifery course. These programs are generally 12 to 18 months in length and a nursing degree course generally takes three years.

Members can see that the approach is professional and the courses are very thorough. I recommend them, perhaps not to people in here but to constituents or family members who are considering going into the very noble profession of midwifery. It is important that they understand what they are dealing with.

Midwives undertake a large amount of study, both clinical and through course work. Their knowledge is both theoretical and practical, and that is an important aspect. I have been told many times by nurse educators that when young nurses look at the courses they all expect the work will be like it is in television programs, and they find it very difficult to deal with the reality. It is important for midwives to understand both clinical and practical aspects. When nurses come out of their courses they need to know what they will be dealing with so there will be no surprises, and they will go on to be very good at their jobs.

After undertaking an undergraduate or postgraduate degree course, midwives must be registered with the Nursing and Midwifery Board of Australia. I note it is the Australian board, which provides flexibility. In his second-reading speech the minister noted that there are quite onerous requirements on midwives to be endorsed by the board. These requirements include evidence of current competence to provide pregnancy, labour, birth and postnatal care through a professional practice review. The minister noted also that as registered health professionals, midwives must have professional indemnity insurance and undertake mandatory continuing professional development each year. They must also have in place a collaborative arrangement

with a designated medical practitioner, who is either an obstetrician, a medical practitioner who provides obstetric services or a medical practitioner employed or engaged by a hospital authority.

As I said at the outset, midwifery must be one of the most joyous professions. However, every so often something will go wrong with the birth of a baby. It is really important to understand and to back what the board insists upon — that is, continuous education, recognising that in the changing world in which we live it is important to understand what can go wrong with the birth of a baby. Any parents who are just about to experience the birth of a baby are expecting everything to be all right, but sometimes it is not. When things do not go right it is important that midwives and any other health professionals who are involved know how to give the mother and baby the best care possible. These days we have an increasing number of older mothers who are presenting with more complicated issues. They go into pregnancies understanding a lot more than perhaps their much younger counterparts. However, they are facing much greater challenges. It is important that midwives understand that.

In conclusion, it is important that we recognise the valuable role nurses and midwives play in health service delivery and patient care. The bill does that by providing midwives with the authority to prescribe certain prescription drugs while at the same time ensuring that the public is protected by strict safeguards. It is expected that the bill will provide Victorian women, particularly those in regional Victoria, with greater access to midwife services, and it will enable them to receive a PBS rebate for medicines that are prescribed by a midwife. I have great pleasure in commending the bill to the house.

Mr ONDARCHIE (Northern Metropolitan) — It is an honour to rise today to speak on the Drugs, Poisons and Controlled Substances Amendment (Supply by Midwives) Bill 2012. Again, I have the quinella: two days in a row I have been able to follow Mrs Coote. I have to say to newer members of the chamber, and even those more experienced, that they could learn an interesting lesson if they followed Mrs Coote.

The government has introduced this bill to allow suitably qualified registered midwives whose registration has been endorsed by the Nursing and Midwifery Board of Australia to possess, use, sell and supply a number of drugs used in the course of midwifery practice. In accordance with the Drugs, Poisons and Controlled Substances Act 1981, midwives will be authorised to use those drugs specified on a list approved by the Minister for Health. The bill also empowers the minister to specify at which health services and in which clinical circumstances the drugs may be used.

The bill amends the Drugs, Poisons and Controlled Substances Act 1981 to authorise midwives with a prescribing endorsement to possess, use, sell or supply certain scheduled medicines required for midwifery practice. God bless the midwives, I have to say. I have had personal experience watching them in action. During both my short time as an executive director of the Royal Women's Hospital and as a father I have watched midwives in action.

I think back to 1990, when my son was born and my wife went through a 16-hour labour and then had to be transferred to another hospital for an emergency caesarean procedure. As she was being moved into the room where the caesarean procedure was to take place, they encouraged me as the husband to come in and be part of it all. I did that, but at the time I had failed to put on the proper gown, head wear and all that sort of stuff. So I went out again to get dressed appropriately. In the process of doing that, I knocked over a tray of instruments, I was so nervous. Who saved the day? The midwives. Thank God for the midwives. They very much took control of the situation. They sat down a very, very nervous husband and they calmed his wife.

Midwives are people who are calm, they are people who are reassuring, they are people who are focused and they are people who are considered. And they are there for one of the most important moments in the life of any dad and mum, because they are the calming influence that makes it all come together. Even when there is a moment of complication, the midwives are the people who make it all seem okay. God bless the midwives.

The bill defines midwife as 'a person registered under the Health Practitioner Regulation National Law'. Endorsed midwives are able to possess, use, sell or supply any schedule 2, 3, 4 or 8 medicines approved by the Minister for Health. The bill provides for the minister to approve a list of medicines to be prescribed by midwives. The minister also has the capability to limit circumstances where a midwife can prescribe medicine such as the form in which it is prescribed or in relation to the purpose for which it is prescribed. The Drugs, Poisons and Controlled Substances Regulations 2006 will be amended accordingly to facilitate these changes and include a list of medicines approved by the minister.

By way of background, in 2008 the commonwealth government committed to develop a coordination of

national maternity standards. The maternity services review was completed in February 2009. The review made many recommendations with a view to expanding the role of midwives to deliver wider access to a collaborative multidisciplinary care environment. The 2010 National Maternity Services Plan was developed on a national level.

This bill brings Victoria into line with other states, following an agreement to use our best endeavours to amend the relevant drugs and poisons legislation to enable appropriate prescribing rights for midwives to facilitate access to the pharmaceutical benefits scheme (PBS) subsidies for women.

As I said earlier in my contribution, I admire midwives — I admire those who have undertaken that practice for such a long time. Indeed, we are blessed in this chamber. Our own Ms Crozier was a midwife for some 10 years. She brings to this chamber a raft of experience and tales about the benefits of midwives. As I said, we are blessed to have her here in the chamber.

The national legislation in place allows midwives to claim rebates for certain PBS medicines. State legislation such as this bill provides authority through the drugs and poisons legislation. This amending bill allows midwives to provide a broad range of services and work collaboratively with medical practitioners. Without these changes and the benefits associated with public rebate schemes, women and families would be limited in their access to maternity services. This is a very important bill and one that we as a chamber should get right behind.

The special times in my life include the birth of all three of my children. Each time the midwife was the calm in the storm. The husband was getting all agitated — a useless bloke standing in a delivery room, trying to give advice about the best way to breathe and control pain. The bloke had no idea what he was talking about — no idea whatsoever! Who was the guide, the legend, the person in the room who made it all come together seemingly so smoothly? In fact it was my wife; she made it happen, but the midwife played a very important role in making it all come together. Thank God we were blessed with three beautiful children, one of whom arrived home from England today for Easter. It is a special moment in one's life when a child returns to the nest. Members of this place who know me well will know this has not really worried me much over the last little while he has been away. I have been very calm and happy about the whole thing — that is untrue; it is a pleasure to have him home. Had it not been for the love of God, the skills of the midwife and my wife I would not have been able to enjoy that special moment today.

Appropriate safeguards associated with this bill are in place. The Nursing and Midwifery Board of Australia has a comprehensive regulatory framework for midwives, including its registration process to become an eligible midwife. The national law provides for endorsement for scheduled medicines for midwives. Under this framework an applicant must be a currently registered midwife in Australia, and Mrs Coote went into a great deal of detail explaining the description of a midwife for us. They must demonstrate three years of full-time post-initial registration experience as a midwife and provide evidence of competence to provide pregnancy, labour, birth and postnatal care through a professional practice review. They must also have approved qualifications to prescribe the schedule of maintenance. Midwives are required, as are all health-care professionals, to have professional indemnity insurance with mandatory professional development each year to keep them on song with where they need to be.

Our own Ms Crozier was very skilled over the 10-year period she assisted with births; she must have some special tales to tell. Some beautiful children have been brought into the world with the assistance of Ms Crozier, and I have to say they are very blessed children.

Mrs Coote — What a lovely thing to see the first time you open your eyes!

Mr ONDARCHIE — Indeed, the first thing those babies got to see was Ms Crozier, and I suspect they are the envy of many people in this world.

Midwives accessing the Medicare benefits schedule or the pharmaceutical benefits scheme must have a collaborative arrangement with a designated medical professional. To apply for endorsement to deal with scheduled medicines, midwives must complete specific training and meet Nursing and Midwifery Board of Australia requirements in terms of the comprehensive regulatory and professional practice framework which supports safe midwifery practice. The requirements include competency standards, registration standards, guidance specific to midwife practice relating to homebirth, course accreditation standards for the midwifery prescribing course, guidelines for the scope of practice decision making and professional boundaries and professional ethics guidance.

The list of medicines approved by the Minister for Health is expected to be developed in due course, with

the consultation of clinical experts, other jurisdictions and the Nursing and Midwifery Board of Australia. This will ensure that contemporary evidence-based practice and best practice guidelines are continually maintained when bringing the most important thing into our world: a new child.

Mr Leane — Ms Crozier was a midwife.

Mr ONDARCHIE — As Mr Leane points out, and I remind members in the chamber in case they are not certain, Ms Crozier was a midwife for some 10 years. I suspect Mr Leane was not quite young enough to get the benefit of Ms Crozier's skills, but nonetheless her contribution has been particularly beneficial to this whole discussion.

In a sense this bill before the house is about increasing the scope of midwifery practice in Victoria, and this will result in Victorian women being given more choices as to the type of antenatal, labour and postnatal care they want. This is very important. Having watched three kids being born, and as a useless bloke in the birthing area, I have to say that apart from my hands being squeezed and trying to teach someone who was going through pain how to breathe, it was my fault.

Victoria is experiencing an ongoing baby boom, particularly in my area, the Northern Metropolitan Region. The city of Whittlesea sees 173 new residents arrive every week — not through births alone. The outer suburbs of Melbourne are experiencing a boom. This bill creates an advantage, because it gives us the opportunity to broaden the range of maternity services available to women by extending the services provided by midwives. Hence the government is taking action to accommodate the growing requirements of this baby boom. Watching all the new families arrive in the northern metropolitan area is particularly special to me. Access to maternity services for Victorian women and families will be strengthened through the increased capacity of midwives in this state. This bill facilitates the implementation of the 2010 National Maternity Services Plan and will give effect to the commonwealth's budgetary measures to allow authorised midwives access to the PBS.

This government endorses national schemes at times; at other times it does not. This is an instance where the government has identified the importance of providing a wide range of maternity services to women and families, and as a result this national scheme is wholly supported by this coalition government. We do not support the carbon tax because we know that ultimately the carbon tax will have a negative effect on our health services. It is going to drive up costs for hospitals and put pressure on hospitals to deliver all these services. We support the scheme included in this bill, but we do not support things like a carbon tax, that apparently was never going to be introduced by a government led by the Prime Minister.

This bill will be of great benefit to remote communities, which may not have access to a wide range of maternity resources. Enabling midwives to have prescribing powers will alleviate the limitation on those remote communities for access and adequate services. The Baillieu coalition government is governing for all Victorians, both metropolitan and rural, and, as already demonstrated in our very short time in government, it is fixing the problems. We are dealing with the poor legacy of the Brumby Labor government. This is a wonderful bill. After only 15 months of coalition government, our no. 1 priority has been arresting the slide of the economy and delivering a conservative budget, not to mention dealing with unfunded Labor projects such as the Olivia Newton-John Cancer and Wellness Centre and the ICT situation left for us at the Royal Children's Hospital. The Baillieu coalition government is on top of this.

The federal Labor government came to power in 2007; only in 2009 did it fund the legislative amendments of 2010. We have seen a federal Labor government talk but take little action, yet this coalition government is introducing this change after only 15 months in government. It is interesting that those on the other side of the chamber have spent the better part of this week being critical of this government's performance, but here we are: the coalition government is delivering for Victorians.

The Baillieu-Ryan government understands the needs of women, it is getting behind health services, and it is opening up opportunities for midwives to do the most precious thing they do, which is delivering new babies into the community. God bless them all. I commend the bill to the house.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

DISABILITY AMENDMENT BILL 2012

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Disability Amendment Bill 2012.

In my opinion, the Disability Amendment Bill 2012, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the bill is to amend the Disability Act 2006 (the act) to make a number of technical and administrative amendments and to make one minor amendment to the Human Services (Complex Needs) Act 2009.

Human rights issues

One amendment engages but does not limit rights in the charter act, while a number of other amendments clarify rights and responsibilities with the effect of promoting and strengthening rights in the charter act.

Amendments that engage but do not limit rights in the charter act

Change to the role of the independent person

Under section 143 of the act, an independent person must be appointed to explain a range of matters to a person with a disability related to the use of restraint and seclusion, including the right to review by the Victorian Civil and Administrative Tribunal (VCAT). Section 143 engages the right to a fair hearing in section 24 of the charter act, as it provides a mechanism for a person with a disability to be informed about their right to challenge decisions made in relation to them at VCAT. Section 143 also engages the right to liberty and security of a person in section 21 of the charter act, as it provides for safeguards against arbitrary detention.

Section 143(1)(c) of the act currently requires an independent person to explain any change to a behaviour support plan, regardless of whether the change involves the use of restraint or seclusion. This has proved to be unduly onerous and unnecessary to protect rights, as behaviour support plans may be reviewed up to four times a year, including to reduce the use of restraint or seclusion.

The bill amends the act to require that an independent person only has to be available to explain to a person with a disability the review of the person's behaviour support plan annually or whenever there is a proposed increase in restraint or seclusion. The amendment retains the important role of the independent person in explaining amendments to behaviour support plans that restrict a person's liberty (and in relation to which they may wish to seek a review). Consequently, the amendment does not limit the right to a fair hearing, nor the right to liberty and security of the person.

Amendments that promote rights in the charter act

The bill makes a number of amendments that promote rights in the charter act.

Allowing family members to authorise service providers to manage a resident's money

Section 93(1) of the act requires an administrator to be appointed to authorise a service provider to manage a prescribed amount of a resident's money, where the resident is unable to provide the consent themselves. The bill amends the act to allow family members or others who are responsible for managing the person's money on an informal basis to authorise the service provider to manage the person's money. By recognising the authority of family members and significant others in providing care and assistance to the person with a disability, the amendment promotes the protection of families in section 17 of the charter act.

Compulsory orders

The act specifies that where a person is subject to compulsory treatment and admitted to a residential treatment facility, a treatment plan must be prepared within 28 days. The bill promotes the right to a fair hearing by requiring the authorised program officer who prepares the plan to inform the person of the right to seek a review of the treatment plan by VCAT.

An additional amendment to the act relates to supervised treatment orders which provide for the civil detention of a person with a disability. The amendment promotes the right to a fair hearing as it provides that the person who is the subject of the supervised treatment order is to be notified of the application for a supervised treatment order.

Assessment orders

Section 199(3) of the act permits the senior practitioner to make an assessment order for the purpose of enabling a treatment plan to be prepared for a person. An assessment order allows a person to be detained for up to 28 days for the assessment to occur. The bill provides for a person to seek a review at VCAT of the decision to make an assessment order. This promotes the right to a fair hearing and the right to liberty and security of the person.

Conclusion

I consider that the Disability Amendment Bill 2012, as introduced to the Legislative Council, is compatible with the Charter of Human Rights and Responsibilities Act 2006.

Hon. Wendy Lovell, MP
Minister for Housing

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. P. R. HALL (Minister for Higher Education and Skills).

Hon. P. R. HALL (Minister for Higher Education and Skills) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Baillieu government is committed to protecting the rights of Victorians with a disability and reducing the administrative burden on disability service providers.

The Disability Amendment Bill 2012 will amend the Disability Act 2006, which commenced in 2007. It will also make a minor technical amendment to the Human Services (Complex Needs) Act 2009.

The main purpose of the amendments is to protect and strengthen the rights of people with a disability, while clarifying administrative and operational issues that have arisen since the disability act came into effect. These amendments will not change the policy intent of the legislation.

This bill is another way that the government is ensuring Victoria is best placed for the possible introduction of a national disability insurance scheme.

In particular, the bill addresses concerns that have been raised about the detention of a person for the purposes of an assessment order under section 199 of the act. This section permits the senior practitioner to authorise the detention of a person, without the person being able to seek a review of the decision.

The bill amends the act to enable an application to be made to the Victorian Civil and Administrative Tribunal for a review of the decision. This amendment will increase the accountability and transparency of procedures relating to assessment orders and ensure that the rights of people with a disability are protected.

The bill aligns with the government's election commitment to reduce red tape by addressing key issues identified by disability service providers, while safeguarding the rights of those who use disability services.

The first amendment exempts residential respite services from the requirement to provide a residential statement. This requirement has been identified as onerous by disability service providers.

Removing the requirement to provide a residential statement to people using residential respite services does not disadvantage them. The act requires that all disability service providers give people information about the services to be delivered to them, including costs, complaint procedures and legal rights under the act.

The second amendment means that an independent person will be involved in the annual review of a behaviour support plan or when there is an increase in the use of restraint or seclusion. Currently the independent person is involved in all reviews concerning a behaviour support plan, which may be as frequent as four times a year. This level of frequency had not been anticipated when the act was drafted.

A further amendment to reduce the administrative burden on disability service providers is the removal of the requirement to develop a behaviour support plan where a person is subject to a compulsory treatment order and has a treatment plan. A treatment plan supersedes and duplicates the information contained in a behaviour support plan, making the latter unnecessary.

The introduction of these amendments will reduce the administrative burden placed on disability service providers, while ensuring rights are protected. This will allow resources to be prioritised to service delivery, leading to better outcomes for clients.

The bill will also clarify some unintended consequences of the act. The definition of a 'residential service' has been amended to allow that accommodation and support may be provided by different disability service providers. Accommodation may also be provided by an entity that is not a disability service provider, such as a housing association. The amendment has the effect of ensuring residential rights for people in disability services currently exempted from the Residential Tenancies Act 1987.

The amendments also clarify the jurisdiction of the disability services commissioner. Under the amendments the commissioner can consider complaints about services that are provided by an organisation contracted or directly funded under the disability act by the Secretary to the Department of Human Services.

This will allow the disability services commissioner to consider complaints about organisations that do not fall within the current definition of 'disability service' in the act, such as disability advocacy services and the financial intermediary service. This change will increase the protection that the commissioner is able to provide to people with a disability.

Another unintended consequence of the act concerns the management of a resident's money by a disability service provider. The act attempted to limit the role of a disability service provider in managing a resident's finances. In practice this section has precluded disability service providers from acting on directions given by a resident's family or other significant person about the management of the resident's money. The bill enables a disability service provider to manage a prescribed amount of a resident's money if a person who informally manages the resident's money, such as a family member, gives the provider written consent to do so.

The bill will also amend the Human Services (Complex Needs) Act 2009 to ensure that the powers and functions established by that act are vested in the Secretary to the Department of Human Services, who administers the multiple and complex needs initiative, rather than the Secretary to the Department of Health, as is presently the case.

These amendments will ensure that the rights of people with a disability are protected and strengthened, while delivering on the government's commitments to reduce red tape and improve transparency and accountability.

In the context of ongoing preparations for the possible introduction of a national disability insurance scheme and continuing disability reform in Victoria, this bill is an important step in ensuring our legislative base is as strong as possible.

I commend the bill to the house.

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

Debate adjourned until Thursday, 5 April.

ASSOCIATIONS INCORPORATION REFORM BILL 2011

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Associations Incorporation Reform Bill 2011.

In my opinion, the Associations Incorporation Reform Bill 2011 (the bill), as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purposes of the bill are to:

introduce a new principal act that will repeal and replace the Associations Incorporation Act 1981;

incorporate amendments to the Associations Incorporation Act 1981 contained in the Associations Incorporation Amendment Act 2010 (2010 amendment act) and in part 3 of the Associations Incorporation Amendment Act 2009 (2009 amendment act) and provide for the repeal of those amending acts;

consolidate the provisions of the Associations Incorporation Act 1981 that are most commonly used by volunteer members and office-holders of incorporated associations into the initial parts of the act with technical and administrative provisions consolidated in later, separate parts;

modernise the language and structure of the associations incorporations legislation; and

make technical and consequential amendments.

Application of non-Victorian law

Part 11 of the bill deals with the application of the Corporations Act 2001 (cth) (Corporations Act) to incorporated associations, recognising that effective governance is just as important for incorporated associations as it is for corporations. Clause 144 excludes incorporated associations from the general operation of the Corporations Act and part 3 of the Australian Securities and Investment Commission Act 2001 (cth), except to the extent provided by the rest of part 11. Clause 145 of the bill applies a range of modifications of the Corporations Act so that it will operate in the Victorian context. Among other things, the operation of certain Corporations Act provisions are modified to substitute Victorian courts and public authorities, such as the registrar of incorporated associations created by clause 187 of the bill and the Director of Consumer Affairs Victoria.

The effect of the declaratory provisions in part 11 of the bill are to apply specified provisions of the Corporations Act to incorporated associations as if those provisions were a law of Victoria. Accordingly, s 32 (the interpretive rule) will apply to the Corporations Act provisions as modified, Victorian public authorities are substituted for commonwealth public authorities so s 38 of the charter act will also apply.

Human rights issues

The bill raises a number of human rights issues.

1. Examinations and information-gathering activities

Clause 153 provides that the text of part 5.9 of the Corporations Act applies with modifications to any matters declared under division 2 of part 11 of the bill. Part 5.9 provides for examination of persons about a corporation's affairs; for orders to be made against a person where that person is guilty of fraud, negligence, default, breach of trust or breach of duty in relation to a corporation and the corporation has suffered loss or damage; and for the powers of the courts where various forms of external administration have been ordered. Clause 145 modifies the operation of part 5.9 to provide for the Supreme Court to summon a person for compulsory examination about an incorporated association's examinable affairs.

Section 596A of the Corporations Act (as modified by clause 145) provides that the Supreme Court must summon a relevant person for examination about an incorporated association's examinable affairs if an eligible applicant applies for the summons and the Supreme Court is satisfied that the person to be examined is or was an office-holder of the incorporated association or a provisional liquidator of the association. An 'eligible applicant' means the registrar of incorporated associations, a liquidator or administrator of the incorporated association, or a person authorised by the registrar to make such applications. An incorporated association's 'examinable affairs' is defined in s 9 of the Corporations Act as 'the promotion, formation, management, administration or winding up of the incorporated association; any affairs of the incorporated association; or the business affairs of a connected entity of the incorporated association insofar as they are relevant to the incorporated association.' The registrar and any other eligible applicant may take part in an examination under that section.

Section 596B of the Corporations Act (as modified) provides the Supreme Court with a discretionary power to summon a person for examination about an incorporated association's examinable affairs if an eligible applicant applies for the summons and the Supreme Court is satisfied that the person has taken part or been concerned in examinable affairs of the incorporated association, has been or may have been guilty of misconduct in relation to the incorporated association, or may be able to give information about the examinable affairs of the incorporated association.

Section 597(7) of the Corporations Act provides that a person who is examined must not, without reasonable excuse, refuse or fail to answer a question that the court directs him or her to answer. Section 597(12) provides that a person is not excused from answering a question put to the person at an examination on the ground that the answer might tend to incriminate the person or make the person liable to a penalty.

Section 597(12A) allows a person to claim direct immunity from self-incrimination by providing that any answer which may incriminate a person is not admissible in evidence against the person in a criminal proceeding or a proceeding for the imposition of a penalty. This immunity does not extend to proceedings brought in respect of the falsity of an answer provided by a person during these examinations. Section 597(12A) does not prevent the indirect use of compelled testimony, for instance as a tool for investigating a criminal offence.

Clause 146 of the bill applies certain civil penalty provisions of part 9.4B of the Corporations Act (with modifications) to officers of incorporated associations. As a result, s 1317R of the Corporations Act applies, as modified, to incorporated associations, so that the Director of Consumer Affairs Victoria may require a person to give all reasonable assistance in connection with civil penalty or criminal proceedings under both the bill and the Corporations Act. Section 1317R(3), as modified, provides that the director can only require a person to assist in connection with criminal proceedings if he or she is unlikely to be a defendant in the proceedings, and is an employee, agent or office-holder of the incorporated association or is the business partner of the person who is the subject of the proceedings.

Section 1317Q provides a direct use immunity so that evidence given, or documents produced, by an individual in civil proceedings under part 9.4b cannot be used as evidence against that individual in criminal proceedings based on the same (or substantially the same) conduct that constituted the civil contravention (except for criminal proceedings in respect of falsity of evidence given by that individual). As with s 597(12A), s 1317Q does not prevent the indirect use of compelled testimony.

Additionally, clause 158 of the bill provides for a further power of examination that enables an inspector to apply to the Magistrates Court for an order requiring the person to answer questions or provide information in relation to an alleged contravention of the bill. Clause 161 grants the director or an inspector power to direct a publisher to produce specified information that has either been published or is required to be kept by the publisher under this bill. Clause 182 permits an inspector conducting a search to require the occupier of the premises, or their agent or employee, to provide information, documents or reasonable assistance to the inspector. Clause 176 states that it is an offence to refuse or fail to give information to an inspector or do any other thing required by an inspector under these provisions. Under clause 177, a person can refuse to give information on the basis of self-incrimination. However, clause 177(2) provides that it extends only to testimony not to the production of documents.

Clauses 146 and 153 of the bill, by applying the relevant provisions of the Corporations Act, engage the rights of an individual not to be compelled to testify against himself or herself, or to confess guilt, to a fair trial, and to freedom of expression. Clauses 161, 176, 177 and 182 of the bill also engage these rights to a lesser extent.

Right not to be compelled to testify (s 25(2)(k)) and the right to fair trial (s 24(1))

Part 5.9 of the Corporations Act abrogates the privilege against self-incrimination by compelling testimony, but s 597(12A) provides an immunity against that testimony being used directly in subsequent proceedings. It does not prevent 'derivative' use of the testimony, which is when, as a result of the compelled statement, further evidence is uncovered that incriminates the maker of the statement. Section 597(12A) does not prevent such further evidence being used in a criminal prosecution against the person. In respect of criminal proceedings following civil contraventions, s 1317Q also provides a direct immunity, and does not prevent indirect use of the compelled testimony. Clauses 161, 176, 177 and 182 of the bill expressly preserve the privilege against self-incrimination in relation to compelled testimony, but the privilege is abrogated with respect to documents.

Clauses 146, 153, 161, 176, 177 and 182 of the bill limit the protection against self-incrimination provided by ss 25(2)(k) and 24(1) of the charter act, as a person who is compelled to respond to examination by the court or produce documents to an inspector is not protected against the indirect use of that information in future criminal proceedings. However, I am of the view that the limitation is reasonable under s 7(2) of the charter act for the following reasons.

(a) The nature of the rights being limited

Section 25(2)(k) of the charter act provides that a person who has been charged with a criminal offence has the right not to be compelled to testify against himself or herself or to confess guilt. The Supreme Court held that this right, as protected by the charter act, is at least as broad as the common law privilege against self-incrimination. It applies to protect a charged person against the admission in subsequent criminal proceedings of incriminatory material obtained under compulsion, regardless of whether the information was obtained prior to or subsequent to the charge being laid. The common law privilege includes an immunity against both direct use and derivative use of compelled testimony.

At common law, the High Court of Australia has recognised that the application of the privilege to documentary material is not as broad as the protection against compelled oral testimony. Additionally, other jurisdictions have generally regarded a compelled order to hand over existing documents as not constituting self-incrimination. Accordingly, any protection afforded to documentary material by the privilege is limited in scope and this aspect of the right is not as fundamental as the protection against compulsory demands for verbal answers.

Section 24(1) of the charter act protects the right to a fair hearing in both civil and criminal proceedings. The protection against self-incrimination and compelled testimony is a general incident of the fair hearing right.

(b) The importance of the purpose of the limitations

The reason for limiting the protection against self-incrimination by not providing a derivative use immunity is to enable the regulator to perform its compliance and enforcement functions, given the difficulties of investigating offences against the Corporations Act. The purpose is also to assist liquidators, administrators and inspectors to discharge their duties in regard to an incorporated association. Fraudulent conduct involving the finances of an association may involve a tangled web of activities which can only be unravelled and understood by a prolonged and meticulous journey through complex records. To allow persons who have the necessary knowledge of these transactions to refuse to answer questions, or in the case of part 12 of the bill, to refuse to produce documents, may make it impossible for investigators to understand these transactions. This may undermine the whole investigative process as well as any liquidation or administration proceedings that may also be on foot.

In relation to the compulsion to produce documents, such documents that will be relevant to proceedings under the act will have been produced in compliance with duties and obligations that committee members and office-holders willingly taken on.

Further, although a derivative use immunity to counter the regulator's compulsory information-gathering powers would mean that these rights are not limited, I consider that it is too great a forensic advantage to give to examinees. If examinees could ensure that any information, document or other thing derived directly or indirectly from the information they provided would be rendered inadmissible in any later criminal or penalty-exposing proceedings against them, they would be able to effectively protect themselves from prosecution. This would have a 'thawing' effect on investigations, as the regulator will be reluctant to examine suspected principal offenders early (or at all) in an investigation, given the possibility of these persons becoming prosecution proof by volunteering information during a compulsory examination, and may prevent valuable evidence being placed before the courts. Investigations would be more circuitous, costly and less time efficient to avoid any possibility of immunising the key players from prosecution.

A derivative use immunity would also place an excessive and unreasonable burden on the prosecution to prove that any item of evidence it sought to tender in a criminal trial against an examinee who had claimed derivative use immunity was not obtained either directly or indirectly from that person's examination. This would unduly complicate trials and generate separate hearings to determine just when, and from what sources, particular information was obtained.

(c) The nature and extent of the limitations

While the use of derivative evidence engages one aspect of the rationale for the right, that a person should not be required to assist the state in building a case against him or her, it does so to a lesser extent than the direct use of compelled testimony because the derivative evidence exists independently of the testimony of the accused. Further, it does not engage the most important principles underlying the right, namely reducing the risk of improper interrogation techniques by public authorities, and the unreliability of evidence obtained through such methods.

Furthermore, the abrogation of the privilege against self-incrimination by the Corporations Act provisions is limited to prescribed situations. In relation to s 596B(1)(b)(i) of the Corporations Act, the Supreme Court can only summon a person for mandatory examination about an incorporated association's examinable affairs (the scope of which is limited by the definition in s 9 of the Corporations Act), and can only summon a person who is (or was) a member of the committee or the provisional liquidator of the incorporated association. In relation to s 1317R, the regulator's power to require assistance in investigating contraventions is limited to persons who are unlikely to themselves be defendants, and who have a tangible involvement in the incorporated association's activities. The people who will be subject to these powers have all chosen to participate in regulated activities and have assumed duties and obligations in relation to the incorporated association.

While the Supreme Court also has a discretionary power under s 596B(1)(b)(ii) of the Corporations Act to summon a broader class of people for examination, including any person able to give information about the examinable affairs of the incorporated association, I am of the view that the abrogation of the privilege against self-incrimination will still only occur in narrow and appropriate circumstances. In regards to the examination of persons who are not office-holders of an incorporated association in accordance with s 596B(1)(b)(ii), it is highly unlikely that this class of persons would be at risk of incriminating themselves with the information that they provide to a court and eligible applicant through the operation of these provisions, given that such persons would not be subject to the duties and associated penalties in this bill. Further, a person who applies to the court for a summons to examine a person under s 596B must lodge an affidavit in support of his or her application as required by s 596C. This underpins the requirement in s 596B that the court 'must be satisfied' that the summonsed person may be able to give information about the examinable affairs of the association before a summons will be issued.

The Scrutiny of Acts and Regulations Committee has previously expressed a concern, particularly in regards to examined persons who may not realise the extent of their rights under the Corporations Act, that the limited direct use immunity provided only applies if the examined person expressly claims the privilege against self-incrimination before answering the question. I have considered this issue and I am satisfied that under s 6(2)(b) of the charter act, the court must act in accordance with ss 24 and 25 of the charter act, and can issue a caution regarding self-incrimination to a person being examined to prevent a breach of a person's rights from occurring inadvertently.

In relation to the compulsion to produce documents under the powers of entry and inspection in the bill, the abrogation of the privilege extends only to the production of documents, which is the handing over of an existing document and not the creation of that document. Any writing present in a document will have pre-existed the order to hand over the document, meaning that any self-incriminating evidence derived from the writing is not compelled. Furthermore, the handing over of pre-existing documents to investigators on request or as compelled by a court in most circumstances is analogous to

the seizing of documents or evidence through the execution of a lawful warrant. The execution of a lawful warrant does not engage the right to protection against self-incrimination.

(d) The relationship between the limitation and its purpose

There is a close relationship between the limits and their purpose. The experience of enforcing these laws has shown that granting immunities in a regulated commercial context to the type of individuals most likely to be examined and exposed to criminal and civil penalties leads to protracted investigations, with the result that those responsible for wrongdoing and misconduct can ultimately escape liability. The absence of a derivative use immunity in relation to the application of Corporations Act provisions will allow the regulator to effectively investigate and unravel the complex affairs of an incorporated association without jeopardising the success of any criminal or civil penalty proceedings which may be brought after all relevant information has come to light.

In relation to the limited abrogation effected by clause 177, it is necessary for regulators to have access to relevant documents to ensure the effective administration of the regulatory scheme. Persons who will be subject to this power will be aware of their obligations to keep and provide such documents which relate to compliance (or non-compliance) with the regulatory scheme and cannot reasonably expect to be immunised from their production.

(e) Less restrictive means reasonably available to achieve the purpose

The availability of a derivative use immunity in relation to the Corporations Act provisions would not allow the legislative scheme to achieve its purpose because it would make investigations and prosecutions more complex and less effective. Having considered the right against self-incrimination in other common law jurisdictions and under human rights instruments, as well as commonwealth government reports on use immunity provisions in corporations law, I am of the view that direct use immunity for oral testimony is sufficient protection for individuals who have voluntarily taken on positions of responsibility and privilege in a regulated industry. I express the same view in respect of clauses 161, 176, 177 and 182 which only limits the protection against self-incrimination in relation to pre-existing documents.

Accordingly, there are no less restrictive means reasonably available to achieve the purpose of these limitations.

Freedom of expression (s 15)

The compulsion to answer questions and assist with an investigation engages the right to freedom of expression under the charter act. Section 15 provides that every person has the right to freedom of expression, which includes the freedom to impart information and ideas of all kinds. It also encompasses the right not to impart information.

When members of an incorporated association take on positions of responsibility within that organisation, they participate in a regulated activity with associated duties and obligations. They possess knowledge about the incorporated association's affairs because of their positions. Although they may not wish to offer information in respect of the incorporated association's affairs or the performance of officers, due to concerns about their future prospects or employment, loyalty to the association, or concurrent confidentiality and contractual obligations, their cooperation is essential to ensuring the effectiveness of the regulatory scheme. The assistance of those responsible for, and familiar with, the processes and operations of an incorporated association is necessary to enable investigations into regulatory compliance.

The examination and information-gathering provisions of the Corporations Act and part 12 of the bill have been designed to protect those who deal with or have interests in the incorporated association. Therefore, to the extent that freedom of expression is engaged, these provisions are lawful exceptions that fall within s 15(3) of the charter act, as they are reasonably necessary to respect the rights of other persons, or for the protection of public order.

2. Reverse onus in offence provisions

Part 5.7B of the Corporations Act (as modified by clause 152) applies to incorporated associations in relation to insolvency. Part 5.7B contains two relevant offences (ss 588G and 592(1)) which place the legal onus of proof on a defendant with respect to available defences.

Section 588G(2) imposes a duty on members of the committee of an incorporated association not to allow the association to trade while insolvent. Section 588H of the Corporations Act is a defence to s 588G(2). It requires a defendant to prove on the balance of probabilities, that, before incurring a further debt, he or she had good reasons to believe that the association was solvent and would remain solvent even if the further debt was incurred, or that he or she reasonably relied on another person for information and advice about the association's solvency.

Section 592(1) of the Corporations Act provides for a criminal offence of insolvent trading where the debt was incurred prior to 23 June 1993. This offence is derived from the former insolvent trading provisions of the companies code. Section 592(2) provides a defence to s 592(1) and similarly places a legal onus on the defendant to prove the defence that he or she did not consent to the debt being incurred, or had reasonable grounds to believe that the incorporations association was solvent and would remain solvent if the further debt was incurred.

Additionally, a number of regulatory offences within the Corporations Act impose an evidential onus on a defendant to adduce or point to evidence that goes to an exception, excuse or defence. The criminal offences in the applied corporations legislation ss 471A, 590, 597 and 597A, read in conjunction with s 72 of the Criminal Procedure Act 2009 (Vic), impose such a burden. In addition, clauses 176 and 179 provide for offences relating to failing to comply with, hindering or obstructing an inspector without reasonable excuse.

These provisions engage the charter act's right to be presumed innocent until proved guilty according to law.

Right to presumption of innocence (s 25(1))

Section 25(1) of the charter act provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. A provision which imposes the burden of proving their innocence on an accused can limit this right.

Evidential burdens of proof

In my view, the above provisions that utilise an evidential onus in relation to a 'reasonable excuse' defence do not transfer the burden of proof, because once the defendant has adduced or pointed to some evidence, the burden is on the prosecution to prove beyond reasonable doubt the absence of the exception raised. Furthermore, the burdens do not relate to essential elements of the offences and are only imposed on the defendant to raise facts that support the existence of an excuse, that relate directly to matters within the knowledge of the defendant.

Accordingly, in my view section 25(1) is not engaged by these provisions.

Section 588H of the Corporations Act

Section 588H is a defence to the civil penalty provision in section 588G(2) rather than to a criminal offence.

In some circumstances, a civil penalty may be of such magnitude that a court may consider that it involves true penal consequences, therefore engaging the right to be presumed innocent. In the present case, however, I do not consider that the penalty for breaching section 588G(2) can be classed as 'true penal consequences'. If a person is found liable for breaching a civil penalty under the applied legislation, they may be subject to a declaration of contravention under section 1317E, a pecuniary penalty order under section 1317G (which has been modified by clause 146(2)(c) to be a maximum penalty of up to $20 000) or a compensation order under sections 1317H or 1317HA. As the pecuniary penalty is a civil debt in the form of an order made in civil proceedings against the person, a person will not be imprisoned for a failure to discharge the debt. Accordingly, in my view section 25(1) is not engaged by this provision.

Section 592(2) of the Corporations Act

Section 592 creates a criminal offence of allowing an incorporated association to trade insolvent prior to 23 June 1993. It is unlikely that this provision will be used with any frequency, if at all, as it only applies to debts incurred before that date. Nevertheless, I accept that by placing a burden of proof on a defendant in relation to a criminal offence, this provision limits the right to be presumed innocent in s 25(1) of the charter act. However, I consider that the limit upon the right is reasonable and justifiable in a free and democratic society for the purposes of s 7(2) of the charter act having regard to the following factors.

(a) The nature of the right being limited

The right to be presumed innocent is an important right that has long been recognised under the common law, well before the enactment of the charter act. However, the courts have held that it may be subject to limits, particularly where, as here, the offence is of a regulatory nature and a defence is enacted to enable a defendant to escape liability.

(b) The importance of the purpose of the limitation

The provision applies only to insolvent trading by an incorporated association prior to 23 June 1993. Where the prosecution has established that insolvent trading occurred, and that a committee member or office-holder was responsible, the defendant is obliged to prove the defence. The purpose of imposing the burden is to ensure the effectiveness of enforcement and compliance with the bill by enabling the offences to be effectively prosecuted and to thus operate as an effective deterrent. The importance of this purpose lies in the fact that it would be difficult and onerous for the Crown to investigate and prove beyond reasonable doubt that the member or office-holder did not have a reasonable excuse.

The purpose and effect of the defence in this provision is to provide a defendant with an opportunity, in appropriate circumstances, to escape culpability for insolvent trading by the incorporated association under the defendant's watch.

(c) The nature and extent of the limitation

The limit is imposed only in respect of the defence. The prosecution would first have to establish the elements of the offence. Section 592 applies only to members of the committee or office-holders of an incorporated association that traded while insolvent prior to 23 June 1993.

(d) The relationship between the limitation and its purpose

The imposition of a burden of proof on the defendant is directly related to the purpose of enabling the relevant offence to operate as an effective deterrent while also providing a suitable defence in circumstances where the contravention was not deliberate. Unless the defendant can satisfy the court that the debt was incurred without the defendant's consent, or that the defendant did not have reasonable cause to expect that the incorporated association cannot pay its debts or will not be able to pay its debts when they become due, he or she will be convicted.

(e) Less restrictive means reasonably available to achieve the purpose

Although an evidential onus would be less restrictive than a legal onus, it would not be as effective because it could be too easily discharged by a defendant, leaving the prosecution in the difficult position of having to prove whether the defendant consented to the incurrence of the debt or whether the defendant had reasonable cause to expect that the incorporated association would not be able to pay its debt. The inclusion of a defence with a burden on the accused to prove the matters on the balance of probabilities achieves an appropriate balance of all interests, bearing in mind, in particular, that defendants will be office-holders and can reasonably be expected to possess the knowledge to enable them to discharge the burden.

Accordingly, in my view s 592(2) of the applied legislation is compatible with the charter act.

3. Powers of entry and inspection in relation to contraventions of the act

Part 12 of the bill sets out the powers of inspectors appointed by the director of Consumer Affairs Victoria to monitor compliance and investigate potential contraventions of the bill.

These powers engage the right to privacy (s 13) and the right to property (s 20) in the charter act.

Right to privacy (s 13)

Section 13(a) of the charter act provides that a person has the right not to have his or her privacy, family, home or

correspondence unlawfully or arbitrarily interfered with. An interference with privacy will not be unlawful provided it is permitted by law, is certain, and is appropriately circumscribed. An interference will not be arbitrary provided that the restrictions on privacy are reasonable in the particular circumstances and are in accordance with the provisions, aims and objectives of the charter act.

The bill provides for a range of search and seizure powers allowing inspectors to enter and inspect premises in certain circumstances. Many of these powers require the consent of the occupier or are exercisable pursuant to a warrant obtained in the belief that there are reasonable grounds that a contravention has occurred. In these circumstances, I am of the opinion that any interference of privacy occasioned through the operation of these provisions will be lawful and not arbitrary.

The bill also provides for search and seizure powers that are not subject to consent or warrant. In my view, for the following reasons, these powers are not arbitrary as they arise in controlled and prescribed circumstances for the clear purpose of monitoring, investigating and enforcing compliance with the bill.

Clause 166 states that, for the purpose of monitoring compliance with the bill, an inspector may enter and search a premises without consent or warrant. This applies to premises on which the inspector believes on reasonable grounds that the affairs of an incorporated association are being conducted or a person is keeping a record or document that is required to be kept by this bill or is relevant to demonstrating compliance.

In my view, while the exercise of the search power by an inspector under clause 166 may interfere with the privacy of an individual in some cases, any such interference will not be arbitrary. The purpose of the entry and inspection powers is to ensure compliance with the regulatory scheme, which is designed to safeguard the interests of the association and its members as well as creditors, consumers and the community at large. The search and seizure powers under clause 166 are strictly defined and contain a range of safeguards. Pursuant to clause 66(3), an inspector must not exercise this power in any part of the premises that is used for a residential purpose, and may not enter and search premises except between the hours of 9.00 a.m. to 5.00 p.m., or when the premises are open for business.

If an inspector searches premises under clause 166 without the owner or occupier being present, they must leave a notice containing the details of the search, and the procedure for contacting the registrar for further details. Furthermore, an inspector cannot disclose any information acquired in carrying out a search except to the extent necessary, and any person may complain to the registrar about the exercise of a search under clause 166. All exercises of the power of entry under this part must be reported to the registrar pursuant to clause 181, who must keep a register containing the particulars of all matters reported pursuant to clause 183.

Consequently, I consider that these entry provisions are compatible with section 13 of the charter act.

Right to property (s 20)

Section 20 of the charter act provides that a person must not be deprived of his or her property other than in accordance with law. The bill provides for a variety of circumstances where property can be seized by inspectors. I am satisfied that the provisions in part 12 of the bill do not limit s 20 as the deprivation of property will occur in confined and controlled circumstances for the purpose of monitoring, investigating and enforcing compliance with the act. For example, an inspector exercising a search under clause 166 cannot search, and therefore cannot seize, any thing from a part of the premises that is used for a residential purpose. Furthermore, inspectors who seize an item under clause 166 must take reasonable steps to return it if the reason for its seizure no longer exists (clause 174), and must provide persons from whom documents were seized with certified copies of those documents within 21 days of seizure (clause 173).

Conclusion

I consider that the bill is compatible with the charter act because, to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Hon. Matthew Guy, MLC
Minister for Planning

Second reading

Hon. P. R. HALL (Minister for Higher Education and Skills) — I will make some comments because there were house amendments made to this particular bill in the Assembly. Those amendments respond to a range of matters raised by the Law Institute of Victoria and the Victorian Bar in a submission provided to Consumer Affairs Victoria on 16 January 2012; however, they do not address every point made in that submission. During consideration of the proposed amendments, parliamentary counsel and Consumer Affairs Victoria identified a small number of further possible amendments to correct typographical errors and omissions and to clarify the operation of a number of provisions of the bill. PilchConnect also proposed an additional amendment to clarify the application of provisions in the bill related to model rules.

The amendments clarify the application and operation of a range of provisions in the bill and in a number of instances ensure consistency of redrafted provisions with the operation of equivalent provisions in the Associations Incorporation Act 1981. The amendments will also insert a number of explanatory notes to assist lay readers of the legislation.

I move:

That the second-reading speech be incorporated into *Hansard*.

Motion agreed to.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Associations Incorporation Act 1981 received royal assent in January 1982 and commenced operation in 1983. The act was established to provide a simple and inexpensive means by which unincorporated non-profit associations could obtain corporate status. The act regulates the creation, operation and dissolution of incorporated associations and is the most popular vehicle for the incorporation of community and not-for-profit groups in Victoria. At 30 September 2011, there were 37 408 incorporated associations on the register of incorporated associations.

Incorporated associations play a central role in enriching Victorian communities through their social, cultural, environmental and economic contributions and in providing support to the most vulnerable in our society.

Subsequent to passage of the original act, it has been amended by more than 30 separate pieces of legislation. In recent years substantial amendments to the act were made by the Associations Incorporation Amendment Act 2009, which contains a number of amendments to enhance the rights of members of incorporated associations. The majority of those amendments have commenced operation. However, one significant change, the merging of the roles of public officer and secretary provided in part 3 of that act, has yet to commence operation.

The Associations Incorporation Amendment Act 2010 contains further extensive amendments to the act, including a revised annual reporting framework with a new three-tiered reporting structure. These amendments have not yet come into operation.

Notwithstanding that the act has been subject to substantial amendment, it has not, prior to this bill, been subject to a thorough consolidation, including standardisation of expression and style in accordance with contemporary best practice usage.

Not-for-profit sector stakeholders have submitted that the structure and sequence of provisions of the act have become disjointed and difficult to follow for members of incorporated associations, who are commonly volunteers with no legal qualifications or training.

The bill will establish a new principal act that will replace the Associations Incorporation Act 1981. In addition to rewriting and restructuring the provisions of the act, the bill will also incorporate the amendments to the act contained in the 2010 amendment act and in part 3 of the 2009 amendment act.

The bill will also introduce a number of new features, including revised annual reporting provisions for incorporated associations and a requirement for an incorporated association to keep and maintain a register of members.

I will now broadly outline the contents of the bill.

Part 1 sets out purposes and definitions, and part 2 specifies how an association can incorporate under the bill.

The 2010 amendment act includes a provision that removes the current requirement for a separate statement of purposes to accompany an application for incorporation. This has been incorporated into the current bill. The purposes of an incorporated association will be a matter to be expressed in its rules. This will simplify the process for incorporation and eliminate the need for an association to file a separate form of statement of purposes with a copy of their proposed rules of association.

A transitional provision ensures the continuing validity of rules and purposes for existing associations that currently have a statement of purposes separate from their rules of association.

Parts 3 and 4 address requirements for the name and registered address of an incorporated association and outline the legal capacity and powers of an incorporated association as a body corporate.

A significant provision in part 4 is the general prohibition on an incorporated association securing pecuniary profit for any of its members. This provision recognises and confirms one of the essential characteristics of this entity. While an incorporated association may engage in enterprise and make a profit from that enterprise, any profit is to be directed towards the purposes of the association, not to the private enrichment of its members. Other forms of incorporated entity, such as companies, are more appropriately designed for personal profit-making enterprise.

The bill provides a simple process for execution of contracts or other documents by an incorporated association whether or not the association has a common seal. However, the simplified process will be subject to any more restrictive arrangement specifically required by the rules of an incorporated association.

Consistent with provisions of the 2010 amendment act, restrictions upon trading by an incorporated association have been omitted from the bill.

This enables an incorporated association to engage in trade or trading activities in pursuance of and in support of its purposes. However, as I noted earlier, the bill continues to prohibit an incorporated association from securing pecuniary profit for its members.

Part 5 sets out the obligations of an incorporated association in relation to its rules and membership, including maintaining a register of members. Part 5 also provides for the conduct of general meetings, including the procedure for passing special resolutions, and provides for court orders to enforce rules or the rights of members.

The bill provides for general meetings and committee meetings to be held in two or more venues using any technology that allows participating members to clearly and simultaneously communicate with each other. This will enable members to participate in a meeting even though they may be physically remote from each other. These measures bring regulation into line with modern technology, modern organisational practice and promotes greater participation in the affairs of incorporated associations by their members.

Division 3 of part 5 inserts new provisions regarding a register of members. Currently the schedule to the act, which lists the matters that must be addressed in the rules of an incorporated association, includes a register of members. This

requirement is now specifically addressed in the act by division 3.

An up-to-date register of members is central to the effective management of an incorporated association. It enables members to be kept informed of association business and meetings and is a primary resource to determine eligibility to vote.

The bill provides that the register of members is to contain the name and address, class of membership (where applicable) and the date on which a person became a member of the association. Information on the register of members will not be generally available to the public, but must be available for inspection by members of the association at the registered office of the association.

To prevent information about members being used for an improper purpose, the bill provides that a person must not use or disclose information about a person from the register, unless it is for a purpose clearly related to participation in the affairs of the incorporated association, or a purpose approved by the association or the committee of the association. Breach of this provision is an offence punishable by a fine of 20 penalty units, currently equivalent to $2442.80.

There may be circumstances where a member of an incorporated association has a legitimate reason for not wishing their personal information on the register to be generally available to other members. For example, a person may have a family violence intervention order in their favour and wish to keep their address confidential or an association may be formed to support victims of crime, and members may not want their contact details to be available to all other members. The bill addresses this concern by enabling members to request that the secretary of an incorporated association restrict access to some or all of their personal information on the register where such special circumstances exist.

Where a child is a member of an incorporated association, a parent or guardian of the child member can request that the secretary restrict access to some or all of that child's or ward's personal information on the register of members.

Age will be a relevant circumstance to be considered together with other factors, such as the nature of the activities conducted by the organisation, or any danger to the property or person of members.

If the secretary is satisfied that there are special circumstances that justify doing so, the bill provides that they must agree to the request to restrict access. To ensure flexibility, the expression 'special circumstances' is not defined. Where a request to restrict access has been refused by the secretary, the bill provides for a right of review of the decision by the Victorian Civil and Administrative Tribunal.

Part 6 deals with the administration and management of incorporated associations, including the appointment of a secretary and committee, the holding of committee meetings and the duties of office-holders.

A number of important changes first introduced by the 2010 amendment act appear in this part. These include a duty of care and diligence and a duty of good faith and proper purpose for office-holders of an incorporated association. These duties reflect the fiduciary obligations of committee members at common law and are modelled upon equivalent provisions in the Corporations Act 2001.

The bill also provides for application of the business judgement rule in determining whether an office-holder has fulfilled their duty and provides for an office-holder to place reasonable reliance on information and advice from appropriate officers, advisers or experts.

Part 6 also provides for the return of documents of an incorporated association to it by a former member or office-holder of an incorporated association. Documents must be returned within 28 days of the person ceasing to hold office or ceasing to be a member. Failure to do so will be an offence. The bill also enables an incorporated association to apply to the Magistrates Court for an order directing a person to return documents where they have not voluntarily complied.

Part 7 reproduces the three-tiered reporting structure introduced by the 2010 amendment act and restructures and consolidates the financial reporting provisions.

The revisions in reporting requirements are expected to reduce the regulatory burden across a range of incorporated associations while ensuring that appropriate levels of financial transparency and governance are maintained.

Part 8 provides for circumstances in which an incorporated association seeks to transfer its registration to another corporate form such as a company or a cooperative. Part 9 provides for matters regarding the statutory management of incorporated associations. Part 10 sets out the processes for the winding up of an incorporated association. The provisions in these parts are substantially unchanged.

Part 11 provides for the interaction between associations incorporation legislation and corporations legislation. Except where explicitly applied by the bill, an incorporated association is declared to be an excluded matter for the purpose of section 5F of the Corporations Act 2001 in relation to the whole of the corporations legislation. This part reproduces the revised and consolidated application provisions that were introduced by section 41 of the 2010 amendment act.

Parts 12 and 13 provide for the administrative and operational implementation of the bill, including the office, function, capacity and responsibilities of the registrar of incorporated associations. Consistent with current section 38, the bill provides that the registrar is a body corporate with perpetual succession.

Part 14 provides for offences and proceedings under associations incorporation legislation. Division 1 outlines the general enforcement provisions including the limitation period for commencing proceedings, makes provision for continuing offences and the power to serve infringement notices. These provisions are substantially unchanged.

Part 15 outlines general matters including deemed notice of facts or matters noted in the register of incorporated associations, assumptions that may be made by a person dealing with an incorporated association, matters that may be certified by the registrar, and provides for the manner of service of documents on an incorporated association.

The process set out in section 9 of the Associations Incorporation Act for recordings to be made in the register of

titles in respect of land vested in an incorporated association has been omitted from the bill as adequate provision already exists under the Transfer of Land Act 1958.

This part also provides qualified privilege for auditors, statutory managers, administrators of incorporated associations, and for independent accountants who conduct a review of the accounts of an incorporated association. Qualified privilege attaches to audit reports or other documents prepared for the purposes of the bill or required by the bill to be lodged with the registrar.

The remainder of the bill deals with repeals, savings and transitional and consequential amendments. Savings and transitional provisions included in the bill will ensure that upon commencement of the proposed act:

existing incorporated associations will be deemed to be incorporated under the new act;

a public officer of an incorporated association will be deemed to be the secretary of the association under the act;

where an existing incorporated association has a separate statement of purposes, that statement of purposes will be deemed to form part of the rules of that association.

The bill completes a significant process of reform of the regulation of incorporated associations in Victoria and will provide significant benefit to the not-for-profit sector by reducing the regulatory burden on incorporated associations while improving the accessibility and functionality of this legislation.

I commend the bill to the house.

Debate adjourned for Hon. M. P. PAKULA (Western Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 5 April.

ACCIDENT COMPENSATION AMENDMENT (REPAYMENTS AND DIVIDENDS) BILL 2012

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

For Hon. G. K. RICH-PHILLIPS (Assistant Treasurer), Hon. P. R. Hall tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Accident Compensation Amendment (Repayments and Dividends) Bill 2012.

In my opinion, the Accident Compensation Amendment (Repayments and Dividends) Bill 2012, as introduced to the Legislative Council, does not raise any human rights issues and is therefore compatible with the human rights protected by the charter act.

Hon. Gordon Rich-Phillips, MLC
Assistant Treasurer

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. P. R. HALL (Minister for Higher Education and Skills).

Hon. P. R. HALL (Minister for Higher Education and Skills) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill amends the Accident Compensation Amendment Act 1985 to enable the Victorian WorkCover Authority (VWA) to pay dividends or repay capital to the state of Victoria.

The bill implements the government's decision to apply the standard government business enterprise dividend policy to VWA, thus bringing VWA into line with most other GBEs, including the Transport Accident Commission.

The bill allows the Treasurer to determine dividends and repayments of capital, after consulting with VWA and the responsible minister, and having regard to VWA's financial position.

Victorian taxpayers effectively underwrite VWA's accident compensation insurance scheme so that liabilities, including benefit entitlements, will always be paid in full as they become due.

This means that Victorian taxpayers bear the risk that they might have to ensure these payments are made if VWA's own resources became insufficient.

It is therefore appropriate that the broader Victorian community benefits from VWA's financial performance through a dividend payment.

As with TAC, VWA is well managed and financially sound. VWA delivers excellent benefits to injured workers while maintaining the lowest average premium rate of any workers compensation scheme in Australia, at 1.338 per cent, and maintaining a strong financial position.

Payment of dividends from VWA's profit on insurance operations will not put upwards pressure on the average premium. Premiums are set each year on the basis of projecting the claims and other costs VWA is expected to incur in the year ahead, not by looking back at the financial outcomes of past years.

Also, dividend payments will have no impact on benefit entitlements, because benefits under the accident compensation scheme are enshrined in legislation.

VWA has the financial capacity to make dividend payments. These dividend payments will provide part of the resources for much-needed investment in economic and social infrastructure. This reform is part of the Victorian coalition government's commitment to deliver a strong economy and improve the quality of community services in health, education, transport and community safety.

I commend the bill to the house.

Debate adjourned on motion of Mr LENDERS (Southern Metropolitan).

Debate adjourned until Thursday, 5 April.

VICTORIAN INSPECTORATE AMENDMENT BILL 2012

Introduction and first reading

Received from Assembly.

Read first time for Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) on motion of Hon. P. R. Hall; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations, Hon. P. R. Hall tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the charter act), I make this statement of compatibility with respect to the Victorian Inspectorate Amendment Bill 2012 (the bill).

In my opinion, the bill, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act.

I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the bill is to amend the Victorian Inspectorate Act 2011 (the VI act) to provide the Victorian Inspectorate (VI) with duties, functions and powers in relation to the oversight of the Independent Broad-based Anti-corruption Commission (IBAC) and the monitoring of compliance of public interest monitors (PIMs) with certain statutory obligations.

Given the nature of IBAC's anticorruption role and the significant powers required to perform that role effectively, such as the powers of entry, search and seizure, IBAC itself must be subject to scrutiny by a body capable of robust and effective oversight.

Along with a joint house committee of Parliament, the IBAC Committee, the VI was established by the VI act to provide that oversight. The objects of the VI act are to enhance IBAC's compliance with its establishing legislation and other laws, and to assist in improving the capacity of IBAC and its personnel in the performance and the exercise of their functions, duties and powers.

The bill provides additional functions, duties and powers for the VI, including the power to hold an inquiry, which may include conducting an examination. These functions, duties and powers afford an appropriate level of oversight for IBAC's proposed complaint handling and investigative functions. The bill also provides the VI with the right framework for effective oversight of IBAC into the future, for example when the IBAC is vested with telecommunication interception powers under commonwealth laws.

The bill also extends the role of the VI as the most appropriate body to monitor another important element of the Victorian integrity framework, the public interest monitor (PIM) regime.

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

Right to privacy and reputation (section 13 of the charter act)

Section 13(a) of the charter act provides that individuals have a right not to have their privacy unlawfully or arbitrarily interfered with. The right to privacy is concerned with freeing a person's 'private sphere' from government intervention or excessive unsolicited intervention by other individuals. An interference with privacy will not be unlawful provided it is permitted by law, is certain, and is appropriately circumscribed. An interference will not be arbitrary provided that the restrictions on privacy are reasonable in the particular circumstances and are in accordance with the provisions, aims and objectives of the charter act.

Section 13(b) provides that individuals have the right not to have their reputation unlawfully attacked. The expression 'unlawfully attacked' is not defined in the charter, but may include a public attack involving untrue statements that are intended to harm the reputation of a person.

However, the right is not absolute and can be subject to reasonable limitations under section 7(2) of the charter act.

The bill engages the right to privacy and freedom from reputational attack in three ways — in its provisions relating to:

powers of entry and inspection (clause 14 (33N));

the power to issue witness summons (clause 14 (33E)); and

the VI's making of reports and recommendations (clauses 14, 15, 17 and 18).

Entry inspection and seizure powers

The right to privacy and reputation is engaged where a public authority is conferred powers of entry, inspection and seizure in relation to private property.

The bill will insert clause 33N which provides the VI, when conducting an inquiry, with the power to enter the premises of the IBAC and access and seize documents and information. These powers are crucial to the investigative powers of the VI, enabling the VI to carry out its function in relation to ensuring that the IBAC is conducting its affairs in a lawful and appropriate manner.

The powers of the VI to inspect and seize documents and information of the IBAC will engage the right to privacy if personal information is inspected by the VI under these processes. It is not the intent of the powers to enable the VI to access personal information outside the scope of the investigation, but such information may be disclosed as a consequence of the exercise of these powers. IBAC is a public authority and the degree to which IBAC premises, and the things kept there, can be said to raise an expectation of personal privacy is minimal.

The VI's power to enter premises, inspect and seize documents and other things does not pose a significant threat to privacy. The ability to exercise this power is subject to the VI reasonably believing there are documents or other things that are relevant to an inquiry which are on IBAC premises. Before exercising the power to enter IBAC premises and inspect documents the VI must reasonably consider that the IBAC has wilfully failed to comply with its obligation under section 33 of the VI act to assist the VI to perform its functions.

The bill also vests the VI with new powers to audit PIMs. PIMs will serve an important role in Victoria's integrity framework, representing the public interest when law enforcement and investigative authorities propose to exercise extraordinary powers (such as telecommunications interception). The VI will be required to inspect PIMs' records relating to:

> the obligations of PIMs to return documents as soon as possible after an application is heard; and
>
> the prescribed requirements for transmission, disposal and storage of documents or information that a PIM receives in performing his or her functions (referred to as the prescribed obligations in the bill).

The VI will be required to inspect PIMs' records which are relevant to the prescribed obligations (relevant records) at least once a year. The VI will be entitled to enter premises occupied by a PIM at any reasonable time with advance written notice and access and copy all relevant records. Within three months of conducting an inspection, the VI must report to the minister on the results of the inspection.

The power to inspect a PIM's records is to enable the VI to ensure that PIMs are meeting their statutory obligations. PIMs serve an important function in representing the public interest and their handling of sensitive records and information should be held to an appropriately high standard of accountability.

While PIM premises may house a range of personal and confidential documents, the VI's power to enter and inspect is subject to a number of controls. The VI may access and copy all relevant records, but not documents or things unrelated to a person's role as a PIM on those premises. The time of entry to a PIM's premises must be reasonable, and advance notice must be given.

The bill contains a number of provisions to safeguard the confidentiality of information, documents or other things obtained by a VI officer in the performance of their duties and functions, including as a consequence of the exercise of the entry and inspection powers. Clause 28A provides that a VI officer must not disclose any information acquired in the performance of their duties and functions or the exercise of powers except for the purposes of:

> the performance of duties, functions or exercise of powers under the VI act; or
>
> a prosecution or disciplinary action or process following a VI investigation; or
>
> as otherwise authorised or required under the VI act. This will include disclosures for the purpose of making recommendations to IBAC in relation to further action that the VI considers should be taken, making recommendations to a specified list of bodies for further investigatory or enforcement action and, in the case of information acquired through PIM audits, disclosures to the minister.

I consider that any interference with privacy occasioned by the VI's entry, inspection and seizure powers will be lawful, will not be arbitrary, and are appropriately circumscribed with the protections outlined above.

The power to issue a witness summons

The right to privacy is engaged where a public authority is conferred a power to compel a person to provide personal information or provide documents or things.

Clause 33E provides the VI, when conducting an inquiry, with the power to issue a witness summons to a person requiring that person to attend and give evidence at an examination and/or produce documents or other things. The powers of the VI to issue a summons will engage the right to privacy if a person is compelled, as a result of that summons, to provide personal information.

The ability to compel the giving of evidence and production of documents or other things is a proportionate and appropriate power for the role of the VI, and is comparable to other Victorian oversight bodies. Without such powers, the VI would not be properly equipped to achieve its objectives or undertake proper investigations. These powers will become even more crucial to the effectiveness of the VI if the IBAC is provided with further proposed investigation powers, such as telecommunication interception powers (subject to commonwealth approval).

The power to issue a witness summons is accompanied by duties designed to ensure the VI appropriately informs a witness of his or her rights. The summons must inform a witness of the nature of the matters about which the person is to be questioned (except to the extent the VI considers on reasonable grounds that this would be likely to prejudice the conduct of the inquiry), that the witness is entitled to seek legal advice, and that they may be able to assert privileges.

There are also safeguards to maintain the confidentiality of information, documents or other things obtained by way of witness summons. Examinations will be conducted in private and the safeguards that apply to maintain the confidentiality of information, documents or other things obtained as a

consequence of entry and inspection powers will also apply to information obtained by way of witness summons.

I consider that any interference with privacy occasioned by the VI's power to issue a summons will be lawful, will not be arbitrary, and is appropriately circumscribed with the protections outlined above.

VI's making of reports and recommendations

The right to privacy and reputation is also engaged where a public authority makes a public report that identifies a person in a way that has the potential to damage the person's personal or professional reputation.

Clauses 36 and 38 of the VI act provide for the VI to make annual and special reports to Parliament. That act features a requirement that, if the VI intends to include an adverse finding about IBAC or IBAC personnel in a report, the VI must give IBAC or the relevant personnel a reasonable opportunity to respond to the adverse material, and fairly set out each element of that response in the report.

Further, under the bill, the VI must not include in a report any information that would identify a person who is not the subject of any adverse comment or opinion, unless the VI is satisfied it is necessary or desirable in the public interest to do so; and will not cause unreasonable damage to the person's reputation, safety or wellbeing. Where the VI intends to name a person without making any adverse finding, the VI must first provide the person with the relevant material in relation to which it intends to name that person. The VI must also state in the report that the person is not the subject of any adverse comment or opinion.

An individual's reputation may be put at risk where the VI chooses to give advice under proposed new section 36A to a complainant about the results of an investigation. However, there are important controls on this power. The VI must not provide any information to the complainant if the VI considers that it would:

not be in the public interest or the interests of justice; or

put a person's safety at risk; or

cause unreasonable damage to a person's reputation; or

prejudice an investigation by the VI, IBAC or the police force; or

be likely to risk the disclosure of any secret investigative method used by VI, IBAC or the police force; or

otherwise contravene any applicable statutory secrecy or privacy laws.

The VI's report to the minister on a PIM's compliance with the prescribed obligations does not pose a significant threat to privacy: the report may inform the minister of regulatory breaches discovered, but not any information that could disclose the identity of a person involved in an investigation or that indicates the status of an investigation being conducted by a law enforcement agency to which the PIM has had access.

The limitations on the right are direct, proportionate and balanced with both the need to ensure public trust and confidence in the IBAC, PIM and VI itself, and also the need to ensure the independence and integrity of those roles.

I consider that any interference with privacy occasioned by the VI's power to make reports and/or recommendations is not unlawful or arbitrary and is appropriately circumscribed with the protections outlined above.

Freedom of expression (section 15 of the charter act)

Section 15 of the charter act holds that every person has the right to freedom of expression. This includes the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside Victoria, and regardless of the medium of expression. However, section 15 also notes that special duties and responsibilities attach to this right, and that lawful restrictions may be necessary to respect personal rights and reputations, and to protect public safety, order, health or morality.

A number of clauses of the bill limit the freedom of expression, by imposing confidentiality obligations on certain persons, and by providing for penalties where those obligations are breached.

The bill inserts a new division 2 and 3 in part 2 of the VI act, to deal with confidentiality. The bill restrains VI officers from disclosing information acquired through their work. Exceptions to this obligation include:

(a) disclosures made for the performance of functions or exercise of powers under the VI act;

(b) disclosures made for the purposes of a prosecution or disciplinary action following a VI investigation; and

(c) information sharing relating to recommendations for further investigatory or enforcement action.

The bill also imposes restrictions on people other than VI officers. Under the bill, persons who receive draft VI reports prior to publication are also subject to confidentiality obligations, except in limited circumstances (such as where disclosures are made in order to seek legal advice).

The bill provides a process by which the VI can issue a confidentiality notice to prevent any person (such as a witness) from disclosing restricted matters that would likely prejudice an investigation, the safety or reputation of a person, or the fair trial of a person. A confidentiality notice is designed only to prevent a person from disclosing information to the extent necessary to avoid a prejudicial outcome. The bill ensures this by providing that the VI must cancel the confidentiality notice when the circumstances justifying the issue of the notice no longer apply, when the scope of the notice needs to be varied (in these circumstances the cancelled confidentiality notice may be replaced with a new confidentiality notice) or when a change in circumstances means that the restriction on disclosure of information is no longer the minimum necessary to ensure that the outcome the notice is intended to prevent does not eventuate. The person subject to the confidentiality notice will be clearly advised of any cancellation or variation, as the VI is required under the bill to serve a notice in writing in the same manner as a witness summons.

All of these limitations on the right to free expression are direct, proportionate and balanced with the need to safeguard the confidentiality and integrity of VI operations (which may

also involve the operations of IBAC, Victoria Police and other law enforcement agencies). The confidentiality provisions also serve the public interest in ensuring that investigations on foot are not affected, that trials are not prejudiced, and that personal safety or reputation are not compromised.

In light of the fact that the confidentiality provisions effectively operate to preserve rights protected by the charter, the limitations are reasonable and demonstrably justifiable.

I consider there are no less restrictive means reasonably available to achieve the intended purposes.

I consider that any interference with freedom of expression occasioned by the VI's investigation and inquiry powers will be lawful, will not be arbitrary, and is appropriately circumscribed with the protections outlined above.

For the reasons stated, I do not consider that the confidentiality provisions contained in divisions 2 and 3 of part 2 of the bill provide for the unlawful or arbitrary interference with freedom of expression and there is therefore no limitation on the right to freedom of expression under section 15 of the charter act.

Right to a fair hearing (section 24 of the charter act)

Section 24 of the charter act holds 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. It also holds that all judgements or decisions made by a court or tribunal in a criminal or civil proceeding must be made public, unless exceptions apply including that a law other than the charter act otherwise permits.

Section 24 deals with the right to a fair hearing, incorporating principles of procedural fairness. Procedural fairness concerns the extent to which the procedures of a hearing protect the rights of the parties, such as the right of a party to be provided a reasonable opportunity to present his or her case under conditions that do not place that party at a substantial disadvantage vis-a-vis his or her opponent.

The bill provides the VI with the ability to conduct inquiries for the purposes of its investigations powers (clause 12). As was stated in the statement of compatibility that accompanied the VI bill 2011, it is my opinion that, for the purposes of the charter act, the VI is not a 'tribunal', and its investigation functions, including the inquiry powers proposed in this bill, do not constitute 'civil proceedings'. That is because some key features that are inherent to those concepts are not present — namely, that the VI is not capable of making any binding determination as to the parties' rights or liabilities; and that there are not two 'parties' involved in a contest over rights and liabilities.

Nonetheless I note the aspects of this bill which apply procedural fairness principles to the inquiry powers, and the resulting reporting functions, of the VI:

> in an examination and in relation to a witness summons, a person is able to seek advice from and be represented by an Australian legal practitioner;
>
> the VI must provide a witness with information about the nature and scope of the investigation to which the inquiry relates, and also about the privileges and rights that the witness has (for example, the right to an interpreter);
>
> in most circumstances, unless it would prejudice the investigation, a witness must be provided with at least seven days from the date of service of a summons before compliance is required, to enable the person to seek advice and consider the summons;
>
> where the VI intends to include in a report an adverse finding about a person the VI must first provide the person with a reasonable opportunity to respond to the adverse material and fairly set out each element of the response in its report.

Although I consider that the VI is not a tribunal and the procedures do not constitute 'civil proceedings' for the purposes of section 24, as discussed above, I note that conducting the inquiry in private provides important protection for individuals in any event. It will protect those subject to the procedure from reputational damage from untested allegations, or from the risk of future prejudice if the subject matter of the investigation does later form the basis of a civil, disciplinary or criminal proceeding. The VI will be able to publish its conclusions in a public report which will provide the opportunity for public scrutiny if it is appropriate in the circumstances. The provisions are an appropriate balance between the right to a fair hearing and other relevant rights such as the right to privacy and reputation (discussed above).

Right to liberty and security of person (section 21 of the charter)

Section 21(2) of the charter provides that a person must not be subjected to arbitrary arrest or detention.

This right is engaged by clause 33W which provides that the commissioner may issue a written certificate charging a person with contempt and issue an arrest warrant in relation to the contempt.

The ability to charge a person with contempt and issue an arrest warrant is an important means by which the VI can enforce compliance with a witness summons. A person will be guilty of contempt of the VI if the person, without reasonable excuse:

> fails to attend the VI in accordance with the witness summons; or
>
> fails to attend from day to day in accordance with the witness summons, unless excused by the VI or released from further attendance by the VI; or
>
> whilst attending the VI in accordance with a witness summons refuses or fails to answer a question that he or she is required to answer, refuses or fails to produce a document that he or she was required to produce by the witness summons or refuses or fails to take an oath or make an affirmation when required to do so.

A person shall also be guilty of contempt by engaging in threatening or obstructive behaviour before the VI.

In my opinion the right not to be subjected to arbitrary arrest or detention is not limited by clause 33W. The issuing of an arrest warrant will not be arbitrary — it can only be issued in relation to a contempt and a person can only be guilty of contempt in the limited circumstances set out above. An

additional protection provided by clause 33W is that the person arrested must be brought before the Supreme Court without delay. If it is not practicable for the person to be brought immediately before the Supreme Court the person will have the right to apply to a bail justice to be released from custody.

Rights in criminal proceedings (section 25 of the charter)

Section 25(2)(k) of the charter provides that a person charged with a criminal offence is entitled without discrimination not to be compelled to testify against himself or herself or to confess guilt.

The bill inserts clause 33T which provides that a person is not excused from answering a question, giving information, or producing a document or other thing in accordance with a witness summons on the ground that the answer to the question, the information, or the production of the document or other thing, might tend to incriminate the person or make the person liable to a penalty. The purpose of the provision is to assist the VI in its function as a truth-seeking body that is able to undertake full and proper investigations.

It is not intended that the VI will compel a person to answer a question in relation to a matter where the person has been charged with a criminal offence in relation to the same matter. Where the VI is satisfied that the conduct of any IBAC personnel requires further investigatory or enforcement action it is able to recommend such action to the appropriate agency including the Chief Commissioner of Police. If a person has been charged in relation to a matter that the VI was investigating, it is likely to occur only after the VI has concluded its investigation, and further action is being undertaken by another agency. Accordingly it is not considered that the bill will engage the rights in criminal proceedings. In any event, clause 33T is limited by the operation of subclause 33T(2) which provides that any answer, information, document or thing is not admissible in evidence against the person before any court or person acting judicially, except in limited circumstances:

proceedings for perjury or giving false information;

an offence against the VI act;

an offence against the Independent Broad-based Anti-corruption Commission Act 2011; or

a disciplinary process or action.

Further protection for persons the subject of criminal proceedings is provided by clauses 36(3) and 38(3) of the VI act. These provisions state that if the VI is aware of a criminal investigation or criminal proceedings in relation to a matter or person to be included in a special report or annual report the VI must not include in that report any information which would prejudice the criminal investigation or criminal proceedings.

Conclusion

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

Richard Dalla-Riva, MLC
Minister for Employment and Industrial Relations
Minister for Manufacturing, Exports and Trade

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. P. R. HALL (Minister for Higher Education and Skills.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Last year this Parliament passed three historic pieces of legislation to give effect to the coalition government's election commitment to create a new integrity framework for Victoria.

The Independent Broad-based Anti-corruption Commission Act 2011 (IBAC act) created Victoria's first-ever anticorruption body with oversight of the entire public sector. The Victorian Inspectorate Act 2011 (VI act) established an inspectorate to ensure that the IBAC will itself be subject to robust oversight. The Public Interest Monitor Act 2011 (PIM act) established the public interest monitors (PIM) to provide important checks and balances on the use of covert investigation and coercive powers in Victoria.

I am pleased to inform the house that just last night, the Parliament passed further legislation arming the Independent Broad-based Anti-corruption Commission (IBAC) with the investigative functions and powers it needs to undertake investigations of serious corrupt conduct and police personnel conduct.

This bill amends the VI act to give the Victorian Inspectorate powers, duties and functions to ensure that IBAC's use of its powers is both appropriate and proportionate. This complements the oversight role of the joint house committee of Parliament established under the IBAC legislation.

This bill will also give the Victorian Inspectorate the power to audit public interest monitors' compliance with certain statutory obligations.

When IBAC is fully operational it will have broad-reaching powers to investigate serious corrupt conduct, including significant covert investigation and coercive powers, such as the power to intercept telecommunications under warrant. A key role of the Victorian Inspectorate is to oversee the use of those powers.

It is critical that the Victorian community has full confidence that applications for, and the use of, covert investigation and coercive powers are subject to optimal safeguards and oversight.

This bill is designed to ensure that the Victorian Inspectorate will be able to do just that.

The key aspects of the Victorian Inspectorate Amendment Bill 2012 are as follows:

Inquiry powers

This bill provides new inquiry powers to add to the Victorian Inspectorate's powers to question IBAC personnel and access IBAC documents, ensuring that the Victorian Inspectorate has a comprehensive range of powers to investigate IBAC and IBAC personnel. In addition to the existing investigative powers of the Victorian Inspectorate, this bill contains provisions enabling the Victorian Inspectorate to conduct an inquiry for the purposes of an investigation.

An inquiry, including any examination, will be conducted in private.

The Victorian Inspectorate will be able to summons witnesses to give evidence under oath and produce documents or things. Those summonsed must attend the examination until excused, and will not, without reasonable excuse, be entitled to refuse to answer questions or produce documents or things required of them.

These powers will be subject to a range of appropriate safeguards, including:

witnesses must be informed of their rights and obligations in advance of being examined or providing documents or things;

witnesses will be entitled to legal representation; and

provisions protecting witnesses who have language difficulties or a mental impairment or are aged 16 to 18.

Confidentiality provisions

The bill includes provisions to safeguard the confidentiality of Victorian Inspectorate operations, and provides for offences for breach of the confidentiality obligations imposed.

Victorian Inspectorate Officers will only be able to divulge information for the purposes of:

the performance of duties or functions or exercise of powers under the VI act;

a prosecution or disciplinary action or process following a Victorian Inspectorate investigation;

making recommendations to IBAC in relation to further action that the Victorian Inspectorate considers should be taken; and

making recommendations to a specified list of bodies for further investigatory or enforcement action.

Current and former Victorian Inspectorate officers will be exempt from any legal requirement to produce information, documents or things in a court, tribunal or another authority having power to require the production of documents or the answering of questions. The exception to this exemption is that a Victorian Inspectorate officer may produce information, documents or things for the purposes of a prosecution or disciplinary process or action or other proceeding instituted as a result of an investigation conducted by the Victorian Inspectorate.

The bill provides for a process by which the Victorian Inspectorate can issue a confidentiality notice to prevent a person (such as a witness) from disclosing specified restricted matters that would likely prejudice an investigation, the safety or reputation of a person, or the fair trial of a person.

Persons who receive draft Victorian Inspectorate reports prior to publication will also be subject to confidentiality obligations, except in limited circumstances (such as where disclosures are made in order to seek legal advice).

Privileges

The privilege against self-incrimination is specifically abrogated for all those summonsed or examined by the Victorian Inspectorate. This reflects the inspectorate's primary role as an investigatory body rather than a prosecutorial body. A 'use immunity' will apply, preventing self-incriminating evidence acquired through coercive Victorian Inspectorate questioning being used against a person in civil or criminal proceedings (except for an offence under the VI act or the IBAC act, perjury or a disciplinary process or action if the person is a public sector employee or a member of police personnel).

Other privileges and statutory obligations to maintain secrecy are overridden for current and former IBAC officers and police personnel, except where claimed in their personal, not official, capacity. For other persons, privileges may be asserted and requirements to maintain secrecy are preserved.

The VI act already requires IBAC and IBAC officers to assist the Victorian Inspectorate in its investigations. Under the current bill, where the Victorian Inspectorate considers that the IBAC or its personnel have wilfully failed to provide such assistance, the Victorian Inspectorate will also have the power to enter and inspect IBAC premises and make copies or take possession of documents or things relevant to an inquiry.

Reports and recommendations

This bill contains appropriate procedural fairness protections for those who may be named or have adverse comments made about them in a Victorian Inspectorate report.

The Victorian Inspectorate must not include in a report any information that would identify any person who is not the subject of any adverse comment or opinion unless the Victorian Inspectorate:

has provided that person with the relevant material in relation to which the Victorian Inspectorate intends to name that person;

is satisfied that it is necessary or desirable in the public interest to do so; and

is satisfied that it will not cause unreasonable damage to the person's reputation, safety or wellbeing.

The Victorian Inspectorate must also state in the report that the person is not the subject of any adverse comment or opinion.

If the Victorian Inspectorate intends to include an adverse finding about a person in a report, the Victorian Inspectorate must give that person a reasonable opportunity to respond to the adverse material, and fairly set out each element of that response in the report.

If the Victorian Inspectorate intends to include adverse findings about a public body in a report, the Victorian

Inspector must give the relevant principal officer of that body an opportunity to respond to the adverse material and fairly set out each element of the response in its report.

Additional function to oversee PIMs

In addition to its existing functions to oversee IBAC, the Victorian Inspectorate will be granted a new function to monitor compliance by PIMs with specified obligations relating to document handling, namely:

> the obligations of PIMs to return documents as soon as possible after an application is heard; and
>
> the prescribed requirements for transmission, disposal and storage of documents or information that a PIM receives in performing his or her functions.

In order to monitor these obligations this bill provides the Victorian Inspectorate with necessary powers to inspect and audit relevant records kept under the PIM legislation and to report to the minister and Parliament on these matters. The Victorian Inspectorate will be required to inspect the records of each PIM at least once a year. To effect this, the Victorian Inspectorate will have the power to enter premises occupied by a PIM at any reasonable time with advance notice and access and copy all relevant records of the PIM. The Victorian Inspectorate may also require a PIM to provide the Victorian Inspectorate with any necessary and relevant information or documents in its possession or to which it has access.

The Victorian Inspectorate must report to the minister on the results of an inspection within three months. The report may note any breaches of the prescribed obligations. It must not include information that could disclose the identity of a person involved in an investigation or that indicates the status of an investigation relating to an application made by a law enforcement agency within the meaning of the PIM act.

Conclusion

The government has long been on the record about the importance of ensuring that bodies with significant powers, such as the IBAC, are subject to appropriate scrutiny. This bill provides the Victorian Inspectorate with duties, functions and powers appropriate and necessary to ensure that the IBAC will itself be subject to robust oversight.

The bill gives the Victorian Inspectorate the broad ability to inquire into all aspects of IBAC's performance of its functions, duties and exercise of its powers. Such an investigation can occur regardless of whether an IBAC investigation is on foot. The Victorian Inspectorate is empowered to take a broad range of actions and make a broad range of findings, including relating to IBAC's process in arriving at a finding or recommendation. The Victorian Inspectorate could then recommend that IBAC re-investigate or reconsider a matter or finding.

With this bill, the coalition government has delivered the Victorian Inspectorate with the duties, functions and powers to enable the oversight of the IBAC and monitoring of compliance of PIMs, building on the foundations set in the Victorian Inspectorate Act 2011.

I commend this bill to the house.

Debate adjourned for Hon. M. P. PAKULA (Western Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 5 April.

ADJOURNMENT

Hon. P. R. HALL (Minister for Higher Education and Skills) — I move:

That the house do now adjourn.

Toolangi Forest Education Centre: funding

Mr LENDERS (Southern Metropolitan) — The matter I raise tonight on the adjournment is really directed to three ministers, so I will seek the attention of the Premier for this one. It is regarding the Toolangi Forest Education Centre and the decision to cease funding the centre as of 30 June.

As we know, Toolangi is a community that was severely affected by the fires back in 2009. The forest education centre records much of what happened in the 1939 fires. It is a centre that has been open for many years, and students from many schools in Victoria go there. If people check its website, they will find it goes from prep to tertiary, and students go through the centre to get an interactive look at how forests work. It is funded by the Department of Sustainability and Environment. As I understand it, the programs are run by the Department of Education and Early Childhood Development. Obviously being in a bushfire community that is undergoing recovery, this is an area that is also relevant to the Minister for Bushfire Response. However, my request is that this go to the Premier.

Eight thousand students a year go through the centre, and about one-quarter of them are seeking information and advice on bushfires when they go into the program. I completely understand the issues the Department of Sustainability and Environment may have with trying to fund programs, but the action I seek tonight from the Premier is that he get his three ministers together — or however he wishes to do it — and review how the closing of this centre on 30 June fits in with the government's broader program of bushfire recovery and the need to provide information to those communities. It is a simple request — that is, that the government look at it as a priority — and hopefully I will get back from the Premier a clear direction that this important centre will remain open so that students can understand forests better and support the region more strongly while also learning about fires and the dangers of bushfires.

Port Phillip Bay: shipping safety

Ms PENNICUIK (Southern Metropolitan) — My adjournment matter is for the Minister for Ports, Dr Napthine, and it is in regard to the incident that occurred at 1.20 a.m. on Saturday, 24 March, when a 27-metre fishing trawler ran aground at the tip of Point Nepean near Corsair Rock. The trawler was reported to be carrying 30 000 litres of diesel, 300 litres of hydraulic fluid and 500 litres of commercial lubricant. It ran aground in 10 to 15 metres of water in the area known as the Rip, which is one of the world's most treacherous stretches of water.

It has been reported that the captain, who was very experienced, returned a blood alcohol reading above the legal limit, although at the time the police said:

> There was a maximum of 6-metre swells, so weather conditions obviously played a part and alcohol also played a part …
>
> We can't establish which was the major part at this stage, between alcohol and weather conditions —

that the vessel was experiencing.

Maritime authorities also confirmed that a cargo ship ran into strife nearby on the day before, which was the Friday afternoon. We know that diesel has spread around the south of the bay, and the minister has been reported as saying that it will evaporate. However, I have heard from dive experts a report that snorkellers in and around Pope's Eye have come out of the water covered in hydrocarbon, which has left a sheen on the deck. Over the weekend divers complained that they were diving in diesel.

All this has occurred in an environment of changed conditions in the south of the bay. This has happened since the channel-deepening project, which I have spoken about many times in the house, particularly with regard to the changed direction and strength of the currents and the increased swell that is coming in, resulting in the erosion of Portsea beach. I have seen some photographs which were taken at Portsea over the same weekend showing the Portsea pier completely submerged by swell and people too afraid to go out on it.

My request to the minister is that he ensures that the inquiry that is conducted into the events surrounding the grounding of the fishing trawler also looks at the events and circumstances around that day and the previous day, including the problem with a container ship on 23 March, with a view to ensuring that such an incident does not occur involving a larger ship, such as one carrying crude oil, which would be an absolute catastrophe for Port Phillip Bay.

Farming: safety initiatives

Mr O'BRIEN (Western Victoria) — My adjournment matter is for the Assistant Treasurer, who is also the minister responsible for WorkCover, Gordon Rich-Phillips. I ask the minister to meet with a constituent from Western Victoria Region, Chris Culvenor, from Clunes, to discuss some of his innovative ideas for safety messages in the area of farm safety.

Farming practice has traditionally been less structured than practices in other workplaces due to a combination of the family-based farm business model and the variety of tasks which may have to be completed over the course of a working day. Over time this may result in habits becoming ingrained that do not reflect best safety practice. Although practices such as riding on the back of a tractor or in the bucket of a front-end loader may be rare today, a lack of training or systems can leave employees not knowing the right thing to do safely or not doing what they know is the right thing to do, sometimes with tragic results. There are a number of other risk factors, such as the possible presence of children on a farm site, a high use of complex machinery with moving parts and, sometimes, the solitary nature of farm work.

The minister will be aware of the danger of serious injury or death involved in working on rural properties. In Australia there are about 85 farm injury deaths per year. This is 85 deaths too many, as all individual cases cause great suffering for family, friends and rural communities. I am again reminded of a recent tragedy in close proximity to Dunkeld, and my best wishes and I am sure the best wishes of all our families go out to that community, which has suffered a fair degree of tragedy in recent years. More prevalent is the incidence of serious injury; per 1000 farms, between 200 and 600 injuries need hospital treatment each year. This ranks farming third in terms of dangerous occupations, behind only the mining and transport industries.

The costs are considerable. As well as the immediate pain and suffering to the individual, there are payments for medical treatment and rehabilitation as well as increased premiums for related insurance. I have been in contact with Mr Culvenor, who is a constituent from Clunes and who is passionate about these issues of farm safety — or life safety, as he calls it. I believe he has some innovative ideas for safety campaigns around this area. Having discussed his ideas at length, I believe they have much to recommend them. My constituent

would appreciate a meeting with the minister and the department to discuss these ideas further.

Any initiative which seeks to protect farmers, their families and their employees from serious injury in the workplace should be applauded, and I applaud the efforts of Mr Culvenor in raising these very important matters with me and the minister with no thought of profit or personal gain but merely with a genuine desire to improve the lives of his fellow Victorians. I commend his actions to the house.

Sea View House, Portland: future

Ms TIERNEY (Western Victoria) — My adjournment matter this evening is directed to the Minister for Health, David Davis. It relates to Sea View House in Portland. As the minister would be aware, issues around the future of Sea View House have been the basis for community concern for at least the last 15 months or so. I have read the Paxton Partners and Ferrier Hodgson reports and the correspondence my office has received from residents, ex-residents and other community members. There has been a continual stream of letters to the editor on this issue in the *Portland Observer*, and that continues to be the case. As recently as 3 and 7 March more letters appeared in the paper. There were letters from M. Menzel and from Nicole Chapple from Portland, and Daryl Petch has written opinion pieces and several letters as well as letters to the minister and local member.

The degree to which this issue continues to be a concern, therefore, to a number of people in the region should not be underestimated. I also understand that community members have also attempted to make appointments with the local member for South-West Coast in the Assembly, Denis Napthine, and that those requests have not been acceded to.

Tonight I am seeking a written update from the minister on Sea View House about the issues raised in the correspondence, including the letters to the editor, and as to whether he has provided formal clearance for the closure of Sea View House and, if so, what the basis for that was. I also seek an update in the written advice on the nature of the one-on-one management for each and every resident who has been or will be impacted on by this decision, where the residents have been relocated to and any other arrangements that have been put in place, as well as the formula that will be used to distribute the up-front fee paid by residents as they entered Sea View House or confirmation that the up-front fee will not be paid out and will remain in the hospital's consolidated revenue.

Sunbury: closed-circuit television cameras

Mrs PETROVICH (Northern Victoria) — My adjournment matter is for the Minister for Crime Prevention, Andrew McIntosh, and it relates to the matter of CCTV (closed-circuit television) cameras and the safety of the Sunbury community. The cameras were an election commitment for which the community, police and traders association were and continue to be most grateful. We listened to the concerns of the community about their safety and provided the best result. This result has been granted to Sunbury; no application is necessary. In fact there were absolutely no negatives in this policy at all until recent reports included a gross overstatement of the maintenance and management costs of the CCTV cameras. It appears the Hume City Council has questioned whether the facility can be provided with the amount the government has granted.

I express concern that this was raised at the council level at a time when it was known to be incorrect. I have written confirmation that CCTV cameras can be supplied within the funding provided. Hume mayor, Ros Spence, formally acknowledged her desire for installation of the cameras to proceed in Sunbury when I met her on 17 March.

I would also like to raise the matter of an incorrect assessment of the costs of maintenance and management to the effect of their being too high, and I note that Cr Ann Potter may have knowingly misled her community around the maintenance cost. Other councils are happily covering the costs to reduce crime within their region and have demonstrated that they place protection of their community above petty party politics. One wonders just what part of community safety Hume City Council does not understand and what price it puts on the community's protection. These cameras have been proven to be absolutely invaluable in crime prevention.

We made an election commitment to deliver CCTV cameras to provide increased protection to the Sunbury community, and that is what we intend to do. If the project falls over due to the shire's inability to manage the cost of maintenance and management, it will be on the shire's head. For the record, and hopefully to put this matter to rest, I ask the minister to reaffirm our commitment to the provision of CCTV cameras and the allocation of the funds for this purpose.

GM Holden: government assistance

Mr SOMYUREK (South Eastern Metropolitan) — I raise a matter for the attention of the Minister for

Manufacturing, Exports and Trade concerning the Victorian government's contribution to the Holden assistance package announced last week. In question time yesterday the minister had yet another opportunity to display the transparency and accountability he and his colleagues promised to exhibit if elected to government. The minister steadfastly refused to do so, despite the fact that his counterparts, both federal and interstate, are willing to declare their taxpayers investments. This raises the question of what this government has to hide, and it also shows how hypocritical this government is when it says one thing about accountability and transparency in opposition but acts in a way that makes accountability impossible in government. This is the minister who signed off on an election commitment in the 2010 industry policy:

> … to ensure these grants are actually what industry requires from government, and to evaluate whether the dollar allocation is fair.

That is on page 20. It is very hard to evaluate the fairness of a grant when the government will not actually name a figure.

Apart from the questions around the amount of money involved, there are also unanswered questions relating to transparency and accountability, and the Victorian public deserves the answers to those questions. As a consequence, I ask the minister to inform the house about the following. What requirements were put by the Victorian government on Holden in obtaining the assistance? Has the Victorian government received a guarantee from Holden that it will remain in Victoria for the next 10 years? Will Victoria's contribution ensure that Holden will not sack any of its current Victorian workforce? And will the value of the Victorian government's assistance to Holden be published, and if so, where?

Police: Ballarat

Mr RAMSAY (Western Victoria) — My question tonight is directed to the Minister for Police and Emergency Services, the Honourable Peter Ryan. As a member for Western Victoria Region I spend considerable time in Ballarat, where I have an office. I park my car in a nearby car park and walk to work. In that walk I always encounter a gathering of youths outside the Central Square shopping centre. While I walk without hesitation, I have observed others do so with great reluctance. I have observed people avoiding the area altogether and simply walking away. If I were a trader paying significant rent at the centre, I would be concerned, and I understand the level of angst being felt by those traders.

The gathering of youths is often very vocal. The language used is often very offensive and the behaviour often very aggressive and intrusive. The litter left behind at the end of a day is normally a sight for sore eyes. I am aware of an older lady who has been pushed over and of an attempted armed hold-up at one of the stores by a 15 or 16-year-old earlier this year.

I have been approached by traders at the shopping centre and asked to do something. I know the nearby Ballarat City Council office also finds this an unpleasant problem, and the issue has been raised with councillors. Ballarat police have also been made aware of the problem. It has been with great relief that I have recently noted an increase in police presence outside the shopping centre. I have been advised that that has made a difference to the behaviours on display. This issue is by no means final; there is much more to do. An ongoing vigilant approach will undoubtedly consolidate the efforts to date.

I am aware this issue is not relevant to Ballarat alone or to this location alone; however, it does raise the question about the impact of a visible police presence on our streets and public spaces. Last month I addressed the opening of the Leadership Ballarat and Western Region program. This program operates due to an $800 000 election commitment by the coalition which was announced by the Minister for Police and Emergency Services himself, Peter Ryan. It is money well spent; it is fostering, supporting and developing our next regional leaders. During a question-and-answer session many of the questions posed by this group related to youth problems and antisocial behaviour in public spaces and how this issue can be best addressed in public planning, including the role of police. Part of the work the Drugs and Crime Prevention Committee is doing is looking at some of these issues.

In January Mr Ryan visited Ballarat, announcing another 275 extra front-line police in Victoria by June this year. By the end of June Ballarat will have received about 50 more police since the Baillieu government came to power. I understand that 109 police will be allocated to Ballarat by the end of the government's first term in office. My question to the minister is: how many of these police can Ballarat residents expect to be placed as front-line police, walking the streets and providing the visible presence that is very much needed? The Central Square example is but one example of that need.

Building Commission: consumer protection

Mr TEE (Eastern Metropolitan) — I raise a matter for the Minister for Planning this evening relating to Lana and Boris Zaitsen, who have been building a house. It has been going on for a number of years now, and they are in dispute with the builder. This dispute has become quite protracted and very costly and has reached a stalemate.

I spoke to Ms Zaitsen, who was quite distraught. She is unwell. She is looking for a way forward. She has had a number of dealings with the Building Commission, with the Minister for Planning's office and, as is increasingly the case with these matters, with the Premier's office — with Mr David Vorchheimer. There has been a genuine effort through those meetings and discussions to try to find a way forward, but what is happening now is that the partly finished house is deteriorating. It has been exposed to the weather and to the elements, and things are going backwards rapidly.

The builder has been taken to the Building Practitioners Board, and there are proceedings under way there; but, as I said, there is now a stalemate. The Zaitsens got a letter from the Building Commission in which it said it agreed to oversee the repairs and building of their home, but again those efforts have come to nothing.

I ask that the minister re-engage. Ms Zaitsen says she has been unable to get a meeting with the minister. She has met with his office. She is in a very desperate way. Her health has been affected. The couple's finances have been affected to the extent that they believe they will be unable to make their repayments and might incur serious debt. The scenario is quite bleak for them in terms of their finances.

These are very difficult and complex issues — I understand that — but I would ask the minister to engage with the Zaitsens, meet with them and make the effort to work with the Building Commission to try to find a way forward for this couple, who really want the dream home they had planned to have.

City of Kingston: waste management

Mrs PEULICH (South Eastern Metropolitan) — I have raised the issue of the management of tips and landfill across the south-east on numerous occasions in this house since being elected in 2006. Yesterday we had a long debate on an attempt to revoke amendment C125, and I spoke about some of the initiatives I have pushed for in order to improve the management of some legacy issues involving these types of facilities that are often built before urban development encroaches. They are problematic.

Today I would like to speak on and raise a matter for the attention of the Minister for Environment and Climate Change. It is in relation to the Kingston area, which has many tips and landfill areas. I have pushed for and we have seen some progress, with a number of stakeholders working together — the Kingston City Council and the Environment Protection Authority (EPA), along with some of the other stakeholders in the community — after 10 years of neglect in enforcing permit conditions, denying permits or extensions of permits where they are not warranted because of poor operations and informing the community about where to make complaints and how to have them addressed.

There are a lot of things that can be done. There are three things that are currently being done. The first is that the Kingston green wedge is being reviewed to see how these operations can be wound up and replaced by magnificent concepts such as chains of parks. The second relates to how to actually enforce various permit conditions. The third is that I have previously called on the minister to set up a reference group of genuine community members to oversee some of the problems.

I have previously raised a flyer being distributed by the EPA promoting a president of a TOAG — toxic odour action group — who was a card-carrying member of the Labor Party pretending to be a Kingston resident, profiling himself for a narrow agenda. Last night on the news we saw Damian Coad, who is a sales consultant with T. G. Newton and Company Sales Pty Ltd — a real estate company in Oakleigh — and who is a secretary of the toxic odour action group. He is also resident of a faraway suburb — certainly not a resident of Kingston, nor does he own a business in Kingston — but he was tagged as a Kingston resident. This is using ambush tactics which are more intent on derailing processes that are intended to resolve these issues than on anything else. There is a very narrow agenda, and that can derail a lot of good work that has involved the Labor and Liberal parties working together to resolve some of these legacy issues.

I am calling on the minister to enter into urgent negotiations and discussions with the EPA to see how it can expedite the establishment of a genuine reference group and, more importantly, how to expose these narrow interests and ambush campaigners for what they are, because they are certainly not locals. They are not representing the local community, but they are attempting to derail the processes that are in place, and I have no grounds for understanding why.

Youth: body image

Ms MIKAKOS (Northern Metropolitan) — My matter this evening is for the Minister for Youth Affairs. I wish to express concern that the Baillieu government is not doing enough to promote greater self-esteem and a healthy body image amongst young people. Negative body image can impact on their confidence and wellbeing and lead to serious mental health problems, self-harm and eating disorders.

According to Mission Australia's national survey of young Australians aged 11 to 24 conducted last year, body image ranked as one of the top three issues of concern nationally and in Victoria. In 2011, 33.2 per cent of young Victorians considered body image as their top personal concern. This issue has been increasing as an issue of concern over the last five years of this survey. It was the second most concerning issue for young people aged 20 to 24 years, and it was the issue of most concern to Victorian females.

According to a *Girlfriend* magazine survey of 1000 teenage girls reported in the *Herald Sun* of 21 March:

> More than half of girls believe losing weight would make them feel better about their appearance.

Some young people are resorting to dieting and developing eating disorders. According to the *Girlfriend* magazine survey, 50 per cent skipped meals, 45 per cent had been on a diet, 35 per cent had cut out a food group and 19 per cent — that is one in five — admitted to vomiting after eating. Almost half of girls aged 13 to 20 years knew someone who had been diagnosed with an eating disorder, and 80 per cent said that they had heard their mothers talk about their bodies in a negative way.

In 2005 the Bracks and Brumby governments initiated a parliamentary inquiry into the effects of negative body image on young people. Young people reported how important this issue was to them. The Labor government responded by committing $2.1 million over four years to implement solutions through the Teenagers Go for Your Life positive body image strategy. This was a comprehensive strategy that was the first of its kind in Australia and was developed to implement the recommendations arising from the inquiry. The initiatives included community awareness in regional and metropolitan Victoria, media and industry awareness partnerships, a voluntary code of conduct on body image for the advertising industry and a grants program. I understand the federal government has also initiated a range of similar programs.

There has been no new funding allocated by the Baillieu government to tackle body image issues. I am concerned that the positive body image strategy has not been supported with continued funding by this government. There is no single solution to this issue; it is a complex issue. However, I am concerned at the silence from the Minister for Youth Affairs on this important issue. I call on the minister to allocate funding in this year's state budget to support programs that promote a positive body image among our youth.

Werribee employment precinct: development

Mr ELSBURY (Western Metropolitan) — My adjournment matter this evening is for the attention of the Minister for Technology, the Honourable Gordon Rich-Phillips, and it involves the Werribee employment precinct. The Werribee employment precinct is a project which is currently being developed by the Growth Areas Authority and proposes to bring some 36 000 jobs into the western suburbs of Melbourne. It is ideally located for information and communications technology organisations because there is the Werribee Mercy Hospital, a new private health clinic just about to open in May, Victoria University, the University of Notre Dame Australia school of medicine, the University of Melbourne veterinary science school and Suzanne Cory High School. The Werribee police station is situated on the same block, and the Department of Primary Industries has got offices in the area, as does CSIRO, with scientific equipment in place for developing various products and exploring different ideas in scientific fields.

It also has close proximity to Avalon Airport and various industrial operations in Altona, Altona North, Laverton North, Truganina and Derrimut, and it sits between the Princes Highway, or Geelong Road, and the Geelong rail line. It has good connectivity, and it is in a very good place in Melbourne's west to be able to service a great deal of what is going on in that area. There is also the opportunity, if we can bring more white-collar jobs into the western suburbs of Melbourne, for people from the areas of Point Cook, Wyndham Vale, Werribee, Tarneit, Truganina and further afield to be able to travel much shorter distances to get to their workplace to undertake work in the information and communications technology sector.

The action I seek from the minister, in his day-to-day work promoting Victoria as a place for information and communications technology organisations to establish themselves, is that he keep in mind this fantastic greenfields project in the Werribee employment precinct and give it the attention it deserves, with the great potential that this project presents not only for the

western suburbs but certainly for Victoria. It should not be ignored, and I hope that the minister keeps the west in mind when he is seeking to encourage new businesses into Victoria.

Blackburn–Eley roads, Burwood East: pedestrian safety

Mr LEANE (Eastern Metropolitan) — My adjournment matter is for the attention of the Minister for Roads. Recently a safety concern was brought to my attention by a constituent. It concerns the intersection of Blackburn and Eley roads in Burwood East. It is a T-intersection, and not far down from the intersection on Eley Road the Blackburn English Language School is located. Especially during peak hour in the mornings, students, some of them quite young, have to cross from the north side of Eley Road to get to school. The concern is that cars travelling north on Blackburn Road and turning left into Eley Road do not have the opportunity to see the students, because of the road situation, until they have completed their turn. It puts some young students crossing the road at that point in peril.

My constituent believes the situation is an accident waiting to happen. The constituent has suggested that the action I seek from the minister should be that perhaps there could be some fencing erected on either side of Eley Road for at least a short distance to prevent students from crossing at that point and force them to cross further down Eley Road. Vehicles turning left will then have more distance and time to see students crossing. That will at least give motorists the time to brake if necessary.

Responses

Hon. P. R. HALL (Minister for Higher Education and Skills) — Tonight we had 12 adjournment items. The first one was from Mr Lenders, heading up the batting on the adjournment as usual. He raised a matter for the attention of the Premier regarding the Toolangi Forest Education Centre. He requested that the Premier call together three ministers with an interest in this particular subject and review what he claimed was an announced closure on 30 June. I will convey that to the Premier.

Ms Pennicuik raised a matter for Minister Napthine regarding the recent sinking of a trawler in Port Phillip Bay. I will refer that matter to the Minister for Ports.

Mr O'Brien raised a matter for Minister Rich-Phillips. He requested that the minister meet with one of his constituents, Mr Culvenor, regarding some farm safety ideas that Mr Culvenor has. I will convey that request to the minister.

Ms Tierney raised a matter for the Minister for Health. She sought answers to a number of questions regarding the future of Sea View House in Portland. I will convey that request to the Minister for Health.

Mrs Petrovich raised a matter for the Minister for Crime Prevention regarding the closed-circuit television project in Sunbury. She sought that the government's commitment to the rollout of the CCTV network in Sunbury be reconfirmed. I will convey that request.

Mr Somyurek raised a matter for the Minister for Manufacturing, Exports and Trade. He raised a number of questions concerning grants made to Holden in recent times. I will pass on that request to the minister.

Mr Ramsay raised a matter for the Minister for Police and Emergency Services regarding public behaviour in Ballarat; in particular he sought some advice about how many additional police are going to be appointed to the Ballarat city region. I will convey that to the minister.

Mr Tee raised a matter for the Minister for Planning regarding an ongoing domestic building permit dispute. He asked the minister to reacquaint himself — or 're-engage' was I think the word used by Mr Tee — with that particular matter to see if he can provide some assistance. That will be conveyed to the minister.

Mrs Peulich raised a matter for the Minister for Environment and Climate Change regarding issues surrounding disused tip sites and the role of the Environment Protection Authority reference group in respect of those sites in the Kingston municipality. I will convey that request.

Ms Mikakos raised a matter for the Minister for Youth Affairs concerning body image among young people and the importance of that particular topic. I will convey her comments and requests to the Minister for Youth Affairs.

Mr Elsbury requested that Minister Rich-Phillips promote, wherever possible, the Werribee employment precinct. It sounds like a great precinct, and I am sure Minister Rich-Phillips will do that. I will convey that request to him.

Finally, Mr Leane raised a matter concerning the intersection of Blackburn Road and Eley Road in his electorate. Did I recently visit the centre there with you, President?

The PRESIDENT — You did.

Hon. P. R. HALL — I thought the name was familiar. They have a very fine facility in that community centre. On the matter of the Blackburn Road intersection, I will make sure that the Minister for Roads receives the request to look at whether that intersection can be made safer.

The PRESIDENT — Order! The house stands adjourned. Happy Easter, everyone.

House adjourned 4.58 p.m. until Tuesday, 17 April.