PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 30 August 2012

(Extract from book 13)

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By authority of the Victorian Government Printer

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

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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.

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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.

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

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

Scrutiny of Acts and Regulations Committee — (*Council*): Mr O'Brien and Mr O'Donohue. (*Assembly*): Mr Brooks, Ms Campbell, Mr Gidley, Mr Nardella and Mr Watt.

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FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

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Crozier, Ms Georgina Mary	Southern Metropolitan	LP	O'Brien, Mr David Roland Joseph	Western Victoria	Nats
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Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Tarlamis, Mr Lee Reginald	South Eastern Metropolitan	ALP
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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, 30 August 2012

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

PETITIONS

Following petitions presented to house:

Planning: permit process

To the Legislative Council of Victoria

The petition of certain citizens of Victoria draws to the attention of the Legislative Council the Baillieu government's plan to rush through 'code assess' legislation which threatens the livability of Melbourne and our suburbs.

In particular, we note:

1. developers that meet the 'code assess' standards will be fast-tracked for multistorey developments and local residents will have no warning, no say and no right to go to VCAT;

2. this legislation does not protect our suburbs from inappropriate development and it does not protect the rights of Victorians to have a say about the shape of their community;

3. this unrestrained development will put more and more pressure on already strained infrastructure like roads, schools, health services and public transport.

The petitioners therefore request that the Legislative Council urge the Baillieu government to withdraw the radical reshaping of the planning act that will remove community consultation from the development approval process and to rethink, to consult with the community and to ensure that any proposal protects and improves rather than destroys our neighbourhoods.

By Mr TEE (Eastern Metropolitan) (2988 signatures) and Mr JENNINGS (South Eastern Metropolitan) (2842 signatures).

Laid on table.

PARLIAMENT HOUSE: CAPITAL WORKS FUNDING

The PRESIDENT — Order! I happily take this opportunity to report to the Parliament that the Treasurer, the Honourable Kim Wells, has advised the Parliament that funds will be made available under depreciation for future capital works at Parliament House. This is a very significant decision by the Treasurer, and I congratulate both him and the government on making the funds available to assure funding for future capital works. This will mean we are able to proceed with the next stage of the brickwork, which was important to us given the skills that were on site, the availability of the crane to do that work and obviously also for consistency in terms of the orders of the stone required for that project.

Progress of the project is now assured, and we are also now in a position to press the button in terms of works on the front steps. Members would be aware that water leaking through the front steps has caused significant problems for the integrity of the building and certainly some inconvenience to members in offices that are under the front steps. That work now also will be able to proceed. I congratulate and thank the Treasurer for making the funds available. As they are linked to a depreciation process on the building, the funds are assured into the future and not just for this year. As I said, I think this is good news for the Parliament.

PAPERS

Laid on tabled by Clerk:

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule No. 87.

Taxi Services Commission — Report, 2011–12.

MEMBERS STATEMENTS

Noble Park Aquatic Centre: award

Mr TARLAMIS (South Eastern Metropolitan) — I rise to congratulate the City of Greater Dandenong and Suters Architects on their wins at the SPLASH! Environmental Awards, recently held on the Gold Coast. The Noble Park Aquatic Centre's Water for All project won two awards: the 2012 project of the year and the 2012 commercial outdoor pool award. The Noble Park Aquatic Centre has also been short-listed in the World Architecture Festival awards sports category, with winners to be announced in Singapore in October.

The Noble Park Aquatic Centre redevelopment, completed earlier this year, was the first major redevelopment of the pool since it was officially opened on 22 December 1962. The redevelopment uses environmentally sustainable design initiatives. It will save over 2 million litres of water a year and use 25 per cent less energy. One of the innovative design initiatives is the use of the existing 50-metre pool shell to store rainwater harvested from the aquatic centre's roof, which will be reused for irrigation of the surrounding reserves and toilets. Greywater recycling from showers and basins will also be utilised for irrigation of the pool precinct landscape. Water-efficient landscaping, water-saving fixtures and fittings, out-of-hours pool covers to help conserve water and energy, and 30 solar panels on the roof to cater for

facility demand and solar hot-water heating will all contribute to the sustainability of the centre.

Along with the aquatic facilities, the centre incorporates community amenities, including three multipurpose rooms, a cafe and kiosk, barbecue facilities, grass game areas and a large outdoor aquatic splash playground with tipping bucket and fountains. There is also access to Ross Reserve for a range of outdoor sporting activities. The centre is a fabulous community asset, and once again I congratulate the City of Greater Dandenong and Suters Architects and wish them well for the World Architecture Festival awards.

National Skills Week

Mrs PEULICH (South Eastern Metropolitan) — I commend the Minister for Higher Education and Skills, Peter Hall, who recently joined representatives from Victorian business and industry associations, universities, secondary school principals and careers teachers at the launch of National Skills Week, which runs from 27 August through to 2 September. National Skills Week is a collaborative approach dedicated to raising the status of practical and vocational learning, enabling all Australians to gain a greater understanding of the opportunities available, their potential and how they can contribute to a successful, modern economy. It is a great opportunity to shine a spotlight on the achievements of practical learners, to highlight the talent and skills of apprentices to the wider public and employers through the Australian Training Awards and to celebrate the vocational qualifications earnt by people of all ages and at all levels.

During the week registered training organisations, trade schools, vocational education in schools, group training organisations and employers will be profiled, with a focus on the vocational landscape, its diversity and the opportunities available to young and old. It is a way of bringing to life positive messages and highlighting the talents, skills and value of apprentices and trainees across Australia to the wider public and employers. The wider benefits sought include motivating more entrants to the workforce with an appreciation of 'Australia at work', raising the skill level within the adult workforce and reskilling to address the challenges of change and productivity. There are National Skills Week activities in every nook and cranny and in every neighbourhood. The website to visit for details of activities in your local area is www.nationalskillsweek.com.au.

VicRoads: job losses

Mr EIDEH (Western Metropolitan) — I do not normally become alarmed when I read the newspapers, but when I read an article in the *Age* of Friday, 10 August, headed 'Baillieu pledge in doubt', I became very worried. It states:

> VicRoads has warned in a secret report that proposed cuts of 450 jobs from the road authority may result in a degraded service to Victorians — contrary to Premier Ted Baillieu's pledge that sacking 4200 public servants would not harm the state's 'front-line' services.

What does this mean? The worst-case scenario is it could cost lives. Is there any way to say no-one's life will ever be in any danger as a result of job cuts to such a critical organisation? Absolute logic would say it is impossible to make such a guarantee. That is why I am scared about these job cuts, added to job cuts among police support personnel and almost certainly ones at the Transport Accident Commission, amongst other crucial bodies. Premier, please do not risk even one Victorian life.

Kokoda campaign: 70th anniversary

Mr RAMSAY (Western Victoria) — I would like to report on two functions I undertook last week. One was to represent the Minister for Veterans' Affairs, Hugh Delahunty, at the National Servicemen's Association Victoria branch memorial service in Geelong, marking 70 years since the campaign on the Kokoda Trail in New Guinea. It was a great honour to sit next to two servicemen from the 39th battalion who served there and also to hear Major General Michael Jeffreys, a former Governor-General, relating the tale of events of 70 years ago. In fact I was so impacted by the service that I have decided to go to Kokoda to see for myself what our servicemen had to put up with.

Crocodile Gold Corporation: Stawell mine

Mr RAMSAY — I also visited the Stawell goldmine, which has over 340 employees and 60 direct contracting employees. I thank Troy Cole, the general manager, for taking me through the goldmine, though not underground. I raise this matter because Stawell is dependent on the success of that goldmine and the ongoing employment of 350 people. Unfortunately gold in that mine is running out and the cost of going deeper underground to mine potential pockets is uneconomical. The owner, Crocodile Gold Corporation, is looking at above-ground processing. I encourage our government to see how it can facilitate the ongoing work of that mine.

Dental health: federal funding

Ms HARTLAND (Western Metropolitan) — Yesterday Victorian Greens Senator Richard Di Natale

announced the outcome of the federal Greens' negotiations with the federal government: a dental health reform package representing an almost $5 billion investment in dental care for millions of Australians. This will deliver $322 million in direct investment in Victoria's public dental infrastructure and services, and our kids will now get access to dental treatment through Medicare. Hopefully this will also be the ticket to getting the Footscray dental clinic at the Western Region Health Centre rebuilt after years of neglect.

Delivering public dental care for all Australians was a central part of the Greens' agreement to support federal Labor to form government. The announcement yesterday shows how power-sharing governments can make a real difference to people's lives when parliamentarians work together constructively. Under this dental health reform package 3.5 million kids will be eligible for Medicare-funded dental care, $1.3 billion will be invested in the public dental health system and $225 million will go into rural and regional dental health services. The Greens have laid the foundation for denticare by bringing more dental health services into Medicare, and this can only be a good thing.

Belmont Community Kindergarten: upgrade

Ms TIERNEY (Western Victoria) — I would like to congratulate the Belmont Community Kindergarten on the official opening recently of its new $400 000 playroom. The community raised the phenomenal amount of $100 000 towards this project, and I place on record my sincere appreciation for its amazing efforts. Kinder is a really important time in a child's development, and it was for that reason that the previous Brumby Labor government invested $300 000 in the Belmont kinder project. I was particularly disappointed to see the Minister for Children and Early Childhood Development, Wendy Lovell, once again misleading the community by attempting to take the credit for a project that this government contributed no money to. The minister knows full well that it was funding from the Labor government and local council together with community money that made this project possible.

The minister states that these projects are very important to the local community. If this is her belief, then why is there no money for kinders in this year's state budget? The minister states in her media release about the Belmont Community Kindergarten that the new building was a great example of why the Victorian coalition government has allocated more than $80 million to kinders in the past 18 months. Once again the minister is misleading the community. She knows that the $80 million she constantly attempts to take the credit for is overwhelmingly federal Labor government money.

The minister provided only $15 million in last year's budget for kindergarten infrastructure and zero dollars this year. One really has to have more front than Myer to travel around the state taking credit for the previous Labor government's projects and stating that the Baillieu government has invested $80 million in kinders, when it is the federal Labor government in Canberra that is providing the vast bulk of the funds.

Vietnam veterans: remembrance ceremonies

Mr ELSBURY (Western Metropolitan) — It is always important to remember the sacrifices made by war veterans, as has been done in our Vietnam War commemorations over the past few weeks. I have been pleased to attend several commemorative events: the Vietnamese Community in Australia — Victoria Chapter dinner, the Keilor East RSL commemoration service, the 50th anniversary exhibition at the Melbourne Town Hall and the Melbourne West Vietnam Veterans Association dawn service in Werribee.

Those who were involved in the fight against the communist forces, which unfortunately was ultimately unsuccessful, played an important part in the defence of our nation. A former member of the South Vietnamese army who spoke at one of the commemorative events reminded us that the civilian population was fleeing to the south, not to the north, and asked: if it were the case that the North Vietnamese were liberating the people of the South Vietnam, why was there a need for any re-education camps?

Feast of St Helena

Mr ELSBURY — I was pleased to join the Maltese community on Sunday to celebrate the feast of St Helena. A very large gathering of people attended the service in St Albans.

Seaworks maritime museum: ministerial visit

Mr ELSBURY — I would also like to thank the Minister for Tourism and Major Events, Louise Asher, for visiting the Seaworks maritime museum in Williamstown. It is a great asset for Melbourne's west, which can only grow given the fantastic potential that that site holds, being by the sea and showing the massive maritime heritage of the region.

Yitjawudik Men's Recovery Centre: garden

Ms DARVENIZA (Northern Victoria) — I want to congratulate the Toolamba drug and alcohol rehabilitation centre on recently launching a community garden designed to help its residents lead healthy lives. Hundreds of seedlings were planted in a new community vegetable garden at the Yitjawudik Men's Recovery Centre in Toolamba. Local Aboriginal elders also assisted the centre with the layout of an indigenous medicinal plants section. The garden will benefit residents' health not only through the fruit and vegetables grown but also through the activity of gardening itself. The program is a joint venture of the Shepparton City Council — which funded the program with a $10 000 grant — Primary Care Connect and Rumbalara.

PS *Melbourne*: centenary

Ms DARVENIZA — On another matter, the iconic Mildura paddle-steamer, PS *Melbourne*, is turning 100. On 9 September iconic paddle-steamers from South Australia, New South Wales and Victoria will cruise the Murray River to celebrate the 100th birthday of the PS *Melbourne*. The largest fleet of heritage paddle-steamers and riverboats ever seen will congregate at Mildura to celebrate this centenary. The 100th birthday of the grand old dame of the river is a particularly significant occasion as she still plays a very important role in attracting tourists to the region for daily cruises driven by her original steam engines. I congratulate the organisers and wish them every success with this wonderful event.

National parks: prospecting

Mr P. DAVIS (Eastern Victoria) — I am pleased to make some comments about a recent and important announcement by the Victorian government. The Victorian Environmental Assessment Council is to investigate circumstances that may be appropriate for greater access to be provided for low-impact prospecting in national parks. It is an important announcement, because one of the problems that exists with the Alpine National Park is that, over time, there has been less community activity in the park. Many other parks are similarly afflicted. It is up to government to consider ways in which parks can be made more accessible.

Low-impact prospecting is an activity which many people enjoy. Many people, not just those who live in the regions, make an expedition of going to rural areas and looking for minerals and relics. The use of some fairly basic technology allows that to happen, but, more importantly, the activity gets people into the parks and enjoying the natural values of those environments.

Irena Sendler

Ms MIKAKOS (Northern Metropolitan) — On 5 July I was honoured to attend a tribute concert for the late Mrs Irena Sendler, one of the Righteous Among the Nations. Irena Sendler was a Polish Catholic social worker who was a member of the Polish Underground during the German occupation of Warsaw during World War II. During one of the darkest period in mankind's history, the Holocaust, Irena risked her own life to save the lives of 2500 Jewish children by smuggling them out of the Warsaw ghetto. For this she was imprisoned and tortured, but she did not betray them.

The concert included a performance of a symphony entitled *Irena's Song — A Ray of Light Through the Darkness*. The symphony was written by renowned Israeli composer Kobi Oshrat, who conducted Orchestra Victoria. To honour Irena Sendler through music, which is just as colour blind and indifferent to race, religion, social status or education as she was, was a fitting tribute to her life and courage. The program also included many speeches, one of which was a moving address by Harry Better, himself rescued as a child by a Polish couple, Joseph and Anna Skowron.

I congratulate Yuval Rotem, the ambassador for Israel in Australia, on working in partnership with the Zionist Federation of Australia, the Polish Community Council of Victoria, the Australian Society of Polish Jews and their Descendants and the Jewish Holocaust Centre to deliver such an inspirational and moving tribute to a remarkable woman.

Children's Protection Society: Lunchtime Rumours Feast

Ms MIKAKOS — On 17 August, with the members for Ivanhoe and Yan Yean in the Assembly, I was pleased to attend the Children's Protection Society's 2012 Lunchtime Rumours Feast, hosted by Ross Stevenson and the 3AW breakfast team. I congratulate everyone involved on a successful fundraiser.

Building industry: industrial action

Mr FINN (Western Metropolitan) — The rule of law is essential for the survival of any civilised society. The scenes we have witnessed in Lonsdale Street in recent times are most certainly threatening that rule of law. The Construction, Mining, Forestry and Energy

Union thugs running amok in our city signals a return to the worst days of the Builders Labourers Federation. Those having doubts about reincarnation need look no further than the current leadership of CFMEU to see modern day Norm Gallaghers plying their trade. The violence directed toward police and police horses on Tuesday was despicable and cannot, indeed must not, be tolerated ever again. It angered and disgusted every right-thinking person in this state and, I suspect, in this nation.

Of almost as much concern as the behaviour of the union thugs is the attitude of the opposition in this place to their tactics. Not once have we heard a word of condemnation of this outrageous behaviour from members of the Australian Labor Party in this place. In fact whenever this matter has been raised this week opposition members have gone out of their way to appear uninterested and detached. They cannot get away with that. Labor cannot pretend the union thugs have nothing to do with them.

The government has made its position very clear. It has loudly condemned the action. Labor members, in their silence, are complicit in the disgraceful actions of their union mates. I call on those opposite to stand up in this house today, disassociate themselves from this behaviour and condemn the thugs in the union movement or be condemned by every Victorian.

CRIMINAL PROCEDURE AND SENTENCING ACTS AMENDMENT (VICTIMS OF CRIME) BILL 2012

Second reading

Debate resumed from 28 August; motion of Hon. P. R. HALL (Minister for Higher Education and Skills).

Mr O'BRIEN (Western Victoria) — It is with great pleasure that I rise to make a contribution in relation to this very important piece of legislation, the Criminal Procedure and Sentencing Acts Amendment (Victims of Crime) Bill 2012. It is an important bill because it again places, front and centre, the important role of probably the most vulnerable people in our criminal justice system — that is, the victims of alleged crimes. It is a further step towards the coalition's election commitment to the people of Victoria that, upon election to government, we would do all within our power to acknowledge victims of crime and to have their voices heard in the appropriate forums, with the appropriate statutory restrictions and limitations and with the balancing that occurs in the justice system, by wherever possible allowing sentencing judges, offenders and indeed the community to hear the impact of a terrible crime — be it a major or marginal crime — on the victim, prior to giving sentence indications.

It is a short bill, and the debates in both this and the other place indicate that the opposition and the Greens will not be opposing it and indeed have no queries in relation to it except perhaps some fairly churlish or cheap points made by the opposition that the bill is somehow not as earth shattering as we had suggested. I will deal with that second point and the impact of the bill, but firstly I will briefly turn to the bill's main provisions.

As set out in the purposes clause, the Criminal Procedure and Sentencing Acts Amendment (Victims of Crime) Bill amends the Criminal Procedure Act 2009 in relation to sentence indications. The amendments provide that a court may refuse to give an indication if it does not have sufficient information about the impact of the offence on the victim. Secondly, the Sentencing Act 1991 will be amended in relation to compensation orders for loss or destruction of or damage to property. The amendments provide that a court must ask whether an application for a compensation order will be made. The bill expands the evidence to which a court may have regard when making a compensation order and enables courts to make orders on their own motions in clear or simple cases.

It is important to have some regard to the background of sentence indications. They have been a practice in the Magistrates Court and have been formalised in legislation such that at an early stage in a directions hearing or a contest mention or at another preliminary stage in the proceedings a magistrate or sentencing judge can ask a defendant's counsel or a defendant in person how they intend to plead. If in that process a plea of guilty is entered, a sentence indication can be offered by the magistrate with a range given, particularly in terms or whether it will be a custodial sentence.

That type of indication can be very useful in weighing the difficult decisions that defendants and defence counsel have to make about whether they will plead guilty or not guilty to a particular offence or even how a plea will be conducted in terms of pleading mitigation or contesting aspects of a charge. However, there has been a view that in certain instances, given the expedition that occurs in this early process, victims of crime do not always have their voices heard and the impact of the crime upon them is not considered in a way that is important to them and to the sentence that is ultimately imposed.

At this point it is probably worthwhile quoting the famous jurist Blackstone who indicated that whenever a crime happens there are two victims: one is the actual victim who is the subject of the crime and the second is society itself when its laws are violated. That is a famous quote and worthy of consideration, particularly when, in the instance of a summary disposal of offence, the interaction is mainly between the court prosecutors and the defendants.

There have been various pilot schemes and trials in the County and Supreme courts. One of the features of those has been discussion about victim impact statements and various amendments, but in response to the suggestions of whether these amendments are necessary, certainly in relation to the impact of crimes, I refer to the report *Sentence Indication — A Report on the Pilot Scheme*. Under the heading 'Impact on victims', paragraph 3.121 states:

> In criminal matters, the OPP's practice in relation to victim impact statements is to wait until a defendant has either pleaded guilty or been convicted of an offence …

Further, it says:

> Therefore, the OPP will wait until the matter has been resolved before any victim impact statements are prepared, in compliance with the legislative provisions. It is also considered undesirable for possible cross-examination of a victim to occur if a victim impact statement is prepared before the defendant is found guilty by the court.

There is an existing duty in the existing legislation that the court can have regard to victim impact statements. Essentially the coalition's amendments say that the court must have regard to the impact on the victim except in the defined circumstances which are outlined in the bill. It is important to remember that these amendments were an election commitment taken to the election by the now Attorney-General, and it is his words that I now refer to. In a letter from the Attorney-General to the *Herald Sun* in support of this bill, published under the headline 'Victims gain voice in justice system', he said:

> The Kennett government first introduced victim impact statements in 1994, but it has only been recently judges have been given clear guidance about how to treat victim impact statements.
>
> Furthermore, when the Labor government introduced new laws that allowed defendants to ask the court for an indication of the type of sentence they would receive if they pleaded guilty, no provision was made for victims to have a say.
>
> The legislation we are introducing tackles that problem. It makes clear a court may refuse to give a sentence indication if the court doesn't have enough information about the effect the crime has had on the victim.
>
> …
>
> The government is also acting to give victims a greater voice outside courts, with the establishment of a Victims of Crime Consultative Committee, bringing together crime victim representatives alongside representatives from Victoria Police, the Office of Public Prosecutions, the judiciary, the adult parole board, the Victims of Crime Assistance Tribunal and victim service agencies.
>
> This will provide a permanent reference group that will help promote discussion and mutual understanding, and provide a forum for crime victims to have a say on legislation, policy and support services for victims.

I recall vividly the first substantive bill I rose to speak on in this house. It related to the coalition's significant reforms on sentencing, which involved major reform to the Sentencing Advisory Committee, adding two places to the number of members of the committee, and that became the Sentencing Further Amendment Act 2011. One of the additional places is for a representative of Victoria Police and the second is for a representative of a victims of crime advocacy group. That is again an indication of the coalition fulfilling its election commitments.

I do not think we said it would be earth shattering, and I am not sure if criminal reform should be earth shattering or categorised in those terms, but rather it should be respectful, appropriate and considered in consultation with bodies like the Sentencing Advisory Council. But those bodies need to hear the voices of victims and the voices of Victoria Police to provide that perspective in their reports. That is what the coalition government has done, and with this bill it will continue to roll out these incremental reforms to help restore truth in sentencing and safety in our communities.

We note again, following Mr Finn's passionate members statement this morning, that the events of this week — I suppose I should say alleged — involve police essentially being potential victims themselves in terms of assaults and other matters. These sorts of matters in relation to victim impact happen far too frequently.

This morning I attended a breakfast organised by the Heart Foundation, and I was shocked to learn that the costume of the foundation's Happy Heart mascot — some members may recall seeing that mascot in Queen's Hall with the Minister for Local Government, if I recall correctly, and many other members — was stolen, together with some skipping ropes and other equipment, in July this year, before the mascot was to appear at a St Kilda versus Collingwood football match. That might seem like a harmless prank, but the Heart Foundation is a charity and I was advised today that the mascot costume and equipment was worth about $6000

and is yet to be replaced. That has meant that school students and others have not been able to enjoy the educative and important health message that is conveyed by the Happy Heart mascot.

That is just an example I heard this morning, but many such crimes occur. Sometimes these crimes are seen as harmless pranks or as victimless, but the important thing to remember in relation to this bill is that even if appropriately sentencing an offender who has committed a thoughtless crime gives solace to only one victim or prevents only one further crime occurring, it is worthwhile. If the bill is said to be earth shattering, then that is earth shattering. That is why it is supported by the coalition members of this place and, by their non-opposition, by other members as well — and ultimately by the Victorian community.

I know Mr Ondarchie is also due to speak on this bill and other members may well have significant contributions they wish to make, but I will make some other comments about the bill's significance. I refer to a media release from the Coalition for Safer Communities dated 14 December 2011. Headed 'Victims of crime given a louder voice', the release states:

> The Victorian coalition government has once again proven its willingness to give victims of crime a louder voice with the appointment of Kornelia Zimmer to the Sentencing Advisory Council, said the Coalition for Safer Communities today.
>
> 'For the first time in over a decade Victorian victims of crime and their families feel they have a government who is not only committed to strengthening laws to punish those who break them but sincerely care about providing victims of crime with a voice', said Mrs Gentle, chairperson of the Coalition for Safer Communities …

The release further quotes Mrs Gentle:

> 'The Coalition for Safer Communities congratulates the Victorian coalition, especially Attorney-General Robert Clark, MP, and the Department of Justice, who are committed to building a safer Victoria as promised at the last state election', concluded Mrs Gentle.

In my speech on Tuesday night on the other sentencing bill that was passed this week I also made note of the coalition government's financial commitments to back up its reforms to the sentencing legislation. We are making not only changes to the law but also substantive commitments to those changes. I will not outline them again now, but I refer members to my contribution to the debate on Tuesday night and to the Attorney-General's various announcements.

The last aspect of the bill I should briefly touch on is the change to compensation orders, which is not only a practical reform but one that gives real comfort to victims. Courts can obviously make compensation orders currently, but this amendment will allow them to make them on their own motion. The bill reforms the requirements under section 86(1) of the Sentencing Act 1991, redrafting it to remove the requirement that an order be made on application. That requirement has been moved to new section 86(1A), which provides that an order may be made on the application of the person seeking the compensation or on the court's own motion.

New section 86(1B) will ensure that a compensation order on the court's own motion may be made only if the victim does not oppose the making of the order and the offender has been given an opportunity to be heard on the order. Obviously this does not disturb the clear-case principle of common law, which confirms that compensation orders should be made by the criminal court only in clear and simple cases and that it is a proper exercise of judicial discretion to refuse to make an order where a complicated, extensive search is necessary to establish the extent of injury or loss.

This is important because it will allow this information to conveniently be brought to court. At the end of the prosecution case the prosecution can ask the court whether a compensation order will be made. It will broaden the definition of documents that can be considered to include material provided by victims, such as evaluations, quotations or receipts. This is particularly valuable in relation to damage of cars and other property as it will enable that information to conveniently be brought to the court and considered in the compensation order with a wide range of sentencing options. People who either are found guilty, plead guilty or are prepared to plead guilty can therefore be made to pay for their crimes, not just with custodial or other community-based orders, if they are appropriate, but also with money.

I look forward to the day when the perpetrator who stole the Happy Heart mascot is brought to justice and either made to think about the consequences of stealing from a charity or perhaps ordered to refund the cost of the $6000 mascot that the Heart Foundation is now having to replace through approaches to government, which means that taxpayer or community funds — or its own hard-won charity funds — will be needed.

With those few words, I commend the bill. I commend the Attorney-General for continuing with it, despite some unhelpful, uncooperative and intrusive opposition to progress the coalition's very clear, considered and timely commitments to law and order and sentencing reforms, and for restoring the important place of victims of crime, who have unfortunately had to go

through traumatic events. We have just had the anniversary of the passage of Brodie's law. I know that many members were moved by the horrific saga that led to that significant piece of legislation being introduced. With this legislation, victims of crime will finally have their voices heard prior to sentences being determined and sentence indications being given.

Mr ONDARCHIE (Northern Metropolitan) — I rise this morning to talk in the debate on the Criminal Procedure and Sentencing Acts Amendment (Victims of Crime) Bill 2012. I thank Mr O'Brien and others for their contributions on this very important bit of legislation. The government is committed to providing victims of crime with a greater say and better enforcement of compensation rights. The opposition has supported this bill and we thank it for that. I note from Mr O'Brien's contribution that some members have said that this is not an earth-shattering bill. As Mr O'Brien says, I am not sure we should apply that term because in its capacity to do some good this is a very important piece of legislation.

As Mr O'Brien has outlined, one purpose of the bill is to amend the Criminal Procedure Act 2009 to provide that a court may refuse to give a sentence indication to a person accused of an offence if the court considers it has insufficient information before it of the impact of the offence on the victim. The legislation permits a court to give a defendant an indication of the type of sentence that will be imposed should the defendant plead guilty — for example, a fine, a community correction order or imprisonment — and if the defendant pleads guilty in the first instance, the sentence cannot be more severe than that indicated.

Under the Sentencing Act 1991 evidence of the impact of an offence on a victim is required in determining a sentence. The bill ensures that this is maintained in sentence indications. The court can still exercise its discretion and refuse to give a sentence indication for any reason. It can also give an indication without a detailed victim impact statement so long as the court considers there is enough information to give a sentence indication in all the circumstances.

This legislation is also designed to amend the Sentencing Act 1991 to encourage and facilitate the making of compensation orders by a criminal court in respect of the loss, destruction of or damage to property as a result of a criminal offence in clear and simple cases by, firstly, permitting additional evidence of the loss or damages to be given to the court in deciding whether to make a compensation order or determining the quantum of that compensation; secondly, requiring the court to ask whether an application for a compensation order will be made; and thirdly, permitting the court to make a compensation order on its own motion. That power is in addition to the power of the Director of Public Prosecutions and police prosecutors to bring an application for an order for compensation for property loss or damage on behalf of the victim.

The bill also deals with complex compensation orders that will be decided in civil proceedings, but where the offender has caused readily quantifiable property loss or damage it is common sense to deal with these compensation matters as ancillary to the criminal trial.

The bill reinforces the expectation that our courts will obtain and consider necessary information about the effect of a crime on the victim prior to giving a sentence indication, unless there is a good reason to do otherwise in whatever the particular case is. It also places responsibility on the police and our prosecutors to provide the court with information after consulting with victims wherever that is possible. Additional information can be included, such as receipts, evaluations or quotes, and that will make it easier for the court to determine an appropriate quantum for a compensation order. As Mr O'Brien touched on, the chair of the Coalition for Safer Communities, Kersten Gentle, said that these government initiatives are fantastic and has given them her support. Further, victims of crime advocate Noel McNamara said the tougher approach to compensation orders was a very good idea.

On 9 June 2005 my wonderful uncle, Eustace Willenberg, at 72 years of age, was for no reason stabbed 31 times in his home in Bittern on the Mornington Peninsula. He was my mother's brother. A drug-affected man broke into my 72-year-old uncle's house while he was watching television and murdered him. My beautiful cousin Simone was in the next room. She heard the noise and came out to discover her father, my uncle, dead in his home. He was doing nothing more than watching the television. The perpetrator, this murderer, has been sentenced, but the mechanism that appropriately allowed for the statement of the victim, my cousin Simone, to be heard and for people to recognise the impact on her was not automatic. It happened, but it should not have taken legislation to make it happen.

A week and a half ago the Victims of Crime Assistance Tribunal formally recognised as a victim of crime, beautiful Brodie Panlock, who tragically took her own life because of bullying, as it did Allem Halkic, who would have turned 21 on Saturday week but who tragically took his life by the West Gate Bridge after

being a victim of cyberbullying. They have been recognised as victims of crime and that is a step forward, but these things do not need to happen.

Victims might not always understand what the court processes are, and they might not ask for a compensation order because they do not know how to and they do not understand the process. These amendments will ensure that the victim is asked if they will be seeking an order. Even when they decline for whatever reason, the court will have the capacity to make a compensation order on its own motion, which is a significant step forward in protecting victims.

Victim impact statements might not always quantify the loss that has been suffered. How could you ever quantify the loss that my cousin Simone has suffered, that the Panlock family has suffered and that the Halkic family has suffered? Their pain goes on, today, tomorrow and every day. How can you quantify that? But this bill provides the capacity for courts to gently, with respect, provide for some compensation.

This bill goes towards recognising victims' rights. It gives an opportunity to solidify the position of victims in this process. In my short time as an executive director of the Royal Women's Hospital, sadly and tragically I got to experience people who had been victims of crime, particularly women who were subjected to a whole lot of unfortunate and awful circumstances, some as a result of domestic violence. This bill gives them a say and a chance to be heard in a formal sense. We should be about respecting these people. I have nothing more to add other than that I commend the bill to the house and thank people for their support.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

BENDIGO REGIONAL SITTING

Program

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

That the Council meet at the town hall in the City of Greater Bendigo at 9.30 a.m. on Thursday, 6 September 2012, and that the standing and sessional orders be suspended to the extent necessary to enable —

(1) the Lord's Prayer to be read by the Very Reverend John Roundhill, Anglican Dean of Bendigo;

(2) the proclamation to be read by the Clerk;

(3) Councillor Alec Sandner, mayor, City of Greater Bendigo, to attend on the floor of the house to address the house;

(4) messages;

(5) formal business;

(6) members statements (up to 15 members);

(7) government business;

(8) at 12 noon questions without notice;

(9) answers to questions on notice;

(10) at 2.30 p.m. government business; and

(11) at 6.00 p.m. adjournment.

This is a very simple motion that orders the day for our regional sitting, and I intend to be quite brief in my contribution now. The regional sittings have become a feature of each Parliament as parliaments go forward. The Legislative Council has now held a number of regional sittings, including at Lakes Entrance, Colac, Benalla and Ballarat. I think that is the list. Bendigo will be a very worthy addition to that list of regional cities where the Legislative Council has sat.

This is an opportunity for communities to engage with the Parliament. It is an opportunity for community members to meet members of Parliament and to observe the practices and procedures of the Parliament. That includes children, particularly primary and secondary schoolchildren, who would otherwise not necessarily have the opportunity to see the Parliament operating. It is also an opportunity for a council to be recognised as a significant level of government and a significant contributor to the community, and I welcome the presence of the mayor of the City of Greater Bendigo.

The other point I will make very briefly is that this is also an opportunity for matters to be raised in the Parliament in an environment where people can observe their issues in a local context being raised by members of Parliament. The aim of these regional sittings is, as close as reasonably practicable, to replicate the normal proceedings of the Parliament in that regional setting. The clerks and the staff have become very good at transporting the Parliament and putting it into those regional settings. It is important that

there is the opportunity to see bills being debated and for the procedures of the Parliament to be made clear. Question time will have a new and different audience. Obviously the government will seek to have bills debated in the normal way, and that will be decided as messages come from the Assembly. We will certainly be discussing with the non-government parties the likely bills for discussion.

I have put on the notice paper today two notices of motion. One seeks to provide for a general debate about Bendigo specifically but also Northern Victoria Region, and that will provide an opportunity for a number of members to say something brief about Bendigo and Northern Victoria Region. Obviously that is of importance to those local members and also to the community there. Equally the government intends to proceed with a motion to make gold the mineral emblem of Victoria. Without rehearsing a speech I might deliver in Bendigo, we think that is fitting. We think that is appropriate given the history. It is a very sensible location, and it sends a good signal about Victoria's history and the need to ensure that we have a mineral emblem that adequately provides a symbol of Victoria's history, and its future too perhaps.

I also make the point that there will be some negotiation with the non-government parties in terms of the time people might have to contribute to motions to enable a number of members from all sides to make contributions. As I have said before, the opportunity is there for engagement with regional communities, which are so much a part of our state and so much of the strength of our state.

Ms BROAD (Northern Victoria) — At the outset, as a member for Northern Victoria Region I say that I am very pleased that the Baillieu-Ryan government has decided to continue to observe the practice established by the Bracks government of having regional sittings of the Parliament, in particular in the case of the proposed sitting in Bendigo, an area which I represent along with other members of this place. This is a wonderful opportunity for the people of Bendigo to observe up close and in person the workings of the Parliament. Bendigo is an important regional city and a hub for many smaller communities. I hope people from communities beyond Bendigo itself also have the opportunity to come and observe the Parliament and its workings and hopefully see some of the issues which are of concern to them being addressed on that day in Bendigo.

I certainly also appreciate the opportunity that the government is affording members in this place to address the importance of gold in the present day, as well as the important history of gold to the state of Victoria, to Bendigo and to many other communities beyond Bendigo. We can see in this chamber the impact which continues on from the heady days of the gold rush.

Having made those opening remarks, I wish to address myself very particularly to part of the motion moved by Mr Davis in his capacity as Leader of the Government in this place. That is the part of the motion which provides for the Lord's Prayer to be read by the Very Reverend John Roundhill, Anglican Dean of Bendigo. At the outset I wish to make clear that the remarks I am going to make are not directed at the Very Reverend John Roundhill. As someone who was brought up as an Anglican and who attended an Anglican school for much of the later years of my schooling I certainly very much respect his position and what he stands for, but that is really not the point of my remarks.

I recognise that despite Parliament committing itself to protect and promote human rights, including freedom of religion — or no religion — the Parliament has numerous procedures under standing orders involving the Lord's Prayer, which is a clearly Christian prayer. These procedures are intended to commit the Parliament as well as individual MPs to Christian religious belief and observance. It is at the very least ironic that a parliament that would not dream of enacting a law that imposes the observance of a Christian prayer on others imposes such an observance on its own members. In the case of the Australian Parliament such a law would be unconstitutional. The High Court has recently demonstrated that it considers the separation of church and state to be a vital issue.

Whatever views members have about these matters, it is entirely another matter to have a member of the clergy preside over the commitment of the Parliament to Christian religious belief and observance, as is proposed by the government's motion. The secular principle of the separation of church and state is well established in most liberal democracies and parliaments with which the Victorian Parliament would wish to compare itself. The Victorian Parliament would not normally compare itself with parliaments presided over by clerics. Human rights, including freedom of religion, are rights that members should not take for granted or surrender lightly. The Victorian Parliament has accorded its members the right to affirm for good reason, and in my view that reason should not be undermined.

If the government insists on this motion in its current form, then it should demonstrate its respect for non-Christians by making provision for non-Christians to

not participate in that part of proceedings between the national anthem being performed by the Bendigo Youth Choir and the Clerk reading the proclamation. Provision should be made in a way that ensures that proceedings are not disrupted and members are not excluded from any other part of the proceedings as a result of upholding the secular principle of the separation of church and state. That is a principle I uphold very strongly, and as a member of this Parliament I believe the right to uphold that principle should not be undermined in the way the motion before the house at this time will do if the government insists on proceeding with the reading of the Lord's Prayer by the Anglican Dean of Bendigo.

Ms PENNICUIK (Southern Metropolitan) — I begin by also saying that I welcome the idea of a regional sitting and am looking forward to attending the regional sitting in Bendigo. I think the regional sittings are a good idea. The last regional sitting, held during the previous Parliament, was conducted over two days, and a suggestion I have mentioned to other members of Parliament is that I think that was better than one day because I believe two sitting days allows more engagement with the community. In terms of the standing orders of the Legislative Council, two days would also allow some general business to be discussed as well as government business, and it would allow more members of the Council to speak than will be possible in the hours we will be in session according to motion 406 moved this morning by Mr Davis.

I too would like to speak about point (1) of the motion, which says that the Lord's Prayer is to be read by the Very Reverend John Roundhill, Anglican Dean of Bendigo, and I would also state that my remarks about that part of the motion are in no way directed at the Very Reverend John Roundhill. Before I make my remarks I would like to say that I listened very carefully to Ms Broad's speech on the motion and I agree with what she had to say, so I will not repeat what Ms Broad has said.

From my point of view, having a member of the clergy address the Council is something I have not experienced before, nor had I envisaged that would ever happen. Under standing orders, the practical way it is done at the moment is that the President reads the prayer. I raised this issue in the last Parliament by way of a members statement. I said at the time that the then Speaker of the House of Representatives, Mr Harry Jenkins, had:

> … called for public debate about whether the Lord's Prayer, which is read daily at the opening of federal Parliament, should be rewritten or replaced. He has said it is the most controversial aspect of parliamentary procedures and that the issue has been raised with him by MPs and members of the public. Mr Jenkins questioned whether the prayer, inserted into the standing orders in 1901, was relevant to the 21st century. I agree with the Speaker that there needs to be debate about this issue, and it applies equally to the Victorian Parliament and to this chamber.
>
> My first concern is that the reading of a prayer is not consistent with the separation of church and state. It has always surprised me that something religious is read out each day in a secular Parliament.

That is also bearing in mind that in this particular chamber there are people of the Anglican faith, of other Christian denominations, of other faiths and of no faith. I think this is an issue that needs to be further debated by the chamber and by the community, and I foreshadow that I will be moving a motion that the Procedure Committee hold an inquiry into the saying of the prayer every morning in this chamber of the Victorian Parliament.

As I said, I will not repeat what Ms Broad said. I think she put forward a very good suggestion as to how to handle the issue, and with those remarks that is all I have to say on this matter for now.

Hon. P. R. HALL (Minister for Higher Education and Skills) — On behalf of my colleagues in The Nationals, we join all the other parties in the chamber in welcoming a regional sitting of the Legislative Council in Bendigo. This will be the fifth regional sitting undertaken by the Legislative Council, and I have had the privilege to participate in each of those sittings. The first took place in Ballarat back in 2001, followed by Benalla, Colac, Lakes Entrance and now Bendigo. Those of us who have participated in all or some will agree that they provide a great opportunity to showcase Parliament in regional centres. Both members of Parliament and people from those local communities have benefited from them. Each of the regional sittings has been very successful, as I am sure most people will agree, and I think that same opportunity exists when we go to Bendigo next week.

Comments have been made about somebody other than the President being invited to say the Lord's Prayer to start the day. This is a delicate matter. It is quite proper that views be expressed in this chamber today, but I also want to make it clear that my understanding is that the invitation to say the Lord's Prayer was made by the President himself; it was not something that was insisted upon or instigated by government. It would be an embarrassment to him to retract that offer.

Notwithstanding that, I understand the very strong and sincere views that have been expressed on this matter already by Ms Broad and Ms Pennicuik. They have put

forward some views on this, in a very responsible way, and the Parliament should ultimately consider those views. Given that the President has extended this invitation to somebody to recite the Lord's Prayer at the sitting day in Bendigo, I hope our views do not detract from the day. I am more than happy for the debate on this particular matter to be canvassed at a future point in time.

The Nationals are delighted that the Parliament will be sitting in Bendigo. It is a great city. I am also delighted from a personal perspective that while we are in Bendigo I will be able to visit my mum and dad in Castlemaine. We will all get a benefit from the parliamentary sitting. It is an opportunity for us all to pay tribute to those in the region for the good work they contribute as part of Victorian society.

Hon. M. P. PAKULA (Western Metropolitan) — It gives me pleasure to rise to speak on this motion and to indicate that I will support it. In supporting it I would like to make a few comments about it. I think the idea of the regional sitting is fantastic. I have no doubt that both the Parliament and the Bendigo community will get a lot out of next Thursday. It is a fantastic opportunity for us to convene in another place and for members of that community to see how the Parliament operates. In that respect I will be supporting the motion, but I want to make some comments about the invitation to an Anglican minister to say the prayer.

Let me say at the outset that I am not at all precious about the reciting of the Lord's Prayer. Despite my religion, I went to a Uniting Church school for nine years. As I recall I said the Lord's Prayer every morning. Sometimes it was in the form that the current President likes to recite it and sometimes in the form that former President Smith liked to recite it. Those of us who were here in the last Parliament know they are slightly different from one another.

Let me say as a Jewish member of this place that I am not especially religious, and I have never professed to be especially religious, but plenty of other people are of strong faith, and this Parliament is for all of them. That should be the case whether they are members of the Jewish faith, the Islamic faith, the Hindu faith, the Buddhist faith or any of the denominations of the Christian faith. It is important that every Victorian view this Parliament as being their Parliament. One of the important elements in reassuring the community that this Parliament is everybody's Parliament is that there is no state-sponsored faith. It is a very fundamental foundation stone of our democracy that there is no state-sponsored faith.

I say this in the context of the debates that we have had in this place and in the other place over recent months about the boycott, divestment and sanctions (BDS) campaign, which has almost always been raised by government members, hardly ever by members of the opposition, and it has been raised in a very political context. During those debates we have heard many members of this place express their abhorrence of the BDS campaign, their respect for the Jewish people and their respect of the Jewish faith. In fact yesterday in the other place the member for Caulfield was at it again, trying to whip this matter up for partisan advantage.

Hon. D. M. Davis — On a point of order, President, Mr Pakula may be straying from the substance of what is a fairly narrow motion.

Hon. M. P. PAKULA — On the point of order, President, the matter of whether or not there is a state-sponsored religion and the question of the protestations of respect for other faiths that are consistently made by members of this house are at the heart of my contribution. When we have a motion that asks for the prayer to be recited by a church minister those matters go to the very heart of the motion. I understand why Mr Davis may not want me to make these points, and I can assure him that I do not intend to dwell on them, but these are important points that should be made.

Ms Broad — On the point of order, Acting President, as the lead speaker for the opposition on this motion I raised a wide range of issues in relation to the matters Mr Pakula is now addressing. Given that the government introduced these issues in its motion which I directly addressed as the lead speaker, I put it to you, Acting President, that it is entirely in order for Mr Pakula to now further address the precise matters that have already been raised in debate on this motion.

Hon. D. M. Davis — Further to the point of order, Acting President, in the context of Ms Broad's point of order, whilst it may well be appropriate to refer to some matters, the BDS campaign is a very different matter. It involves threats and targets particular groups, and that is quite a different point.

The ACTING PRESIDENT (**Mr O'Brien**) — Order! I will rule on the issue. It is obviously an important motion and a sensitive debate. I do not uphold Mr Davis's point of order in relation to relevance, because the issues generally being canvassed by Mr Pakula and other members in their contributions appear relevant to at least clause 1 of motion 406, which states:

> (1) the Lord's Prayer to be read by the Very Reverend John Roundhill, Anglican Dean of Bendigo …

But as a number of members have said in their contributions, it is a sensitive debate, and I have received advice that the comments specifically in relation to the member in the other place who was referred to were stretching the limits of relevance in the particular context of the debate. I understand Mr Pakula has strong views about these issues, and I ask him to continue his contribution while being mindful of respect. I hope the debate moves on in the spirit in which it has been conducted.

Hon. P. R. Hall — On a further point of order, Acting President, Mr Pakula's final comment was that, 'The member for Caulfield was at it again yesterday, whipping it up'. He was accusing the member for Caulfield in the Assembly of in some way causing conflict on a religious basis.

Hon. M. P. PAKULA — I did not say that.

Hon. P. R. Hall — Mr Pakula named the member for Caulfield as being 'at it yesterday, whipping it up'. They were the words he used that I heard. I suggest that if that is the case, it is a serious reflection on a member of this Parliament, which would be inappropriate in this debate or in any debate. I raise that as a point of order, and any such accusation and reference to the member for Caulfield in this instance should be withdrawn.

Hon. M. P. PAKULA — On the point of order, Acting President, I do not know whether Mr Hall either seen or heard the contribution of the member for Caulfield yesterday, but in that contribution — —

An honourable member interjected.

Hon. M. P. PAKULA — Can I say — —

The ACTING PRESIDENT (**Mr O'Brien**) — Order! I caution Mr Pakula not to debate the point of order.

Hon. M. P. PAKULA — I am not debating the point of order, but Mr Hall's point of order was that I have reflected on a member. In the contribution I am talking about Mr Southwick, the member for Caulfield in the Assembly, by imputation reflected not just on Ms Broad but also the member for Albert Park in the Assembly, Mr Foley.

Hon. D. M. Davis — Mr Pakula is then reflecting.

Hon. M. P. PAKULA — No, I am not reflecting on any of it; I am accurately reflecting the fact that he impugned other members by association.

The ACTING PRESIDENT (**Mr O'Brien**) — Order! I thank Mr Hall for reminding me specifically of the words involved. When the point of order first arose it was a point of order of relevance raised by Mr Davis. I had discussions with the Clerk about the imputation and the manner in which the imputation allegation was expressed by Mr Hall in relation to the allegation of 'whipping it up'. It is potentially an unparliamentary term, and I cautioned Mr Pakula that that was what I was concerned about, so I am appreciative of a precise reminder of the terms.

As happened in relation to a contribution from Mr Ramsay in the last sitting week, with the interplay and interjections that have occurred since the point of order was raised by Mr Hall, by referring back to matters that occurred in the other place Mr Pakula is effectively confirming the concerns about this debate descending into imputations, which are matters for substantive motion and ought not be the subject of this debate. Whatever is occurring in the other house is a matter for the other house, and if it is a matter for this house, it is a matter for substantive motion. I uphold Mr Hall's point of order to the extent that further debate about imputations made in the other place or about the conduct of the member for Caulfield should not continue in this debate.

Hon. M. P. PAKULA — Thank you, Acting President, and I assure you I will make no further comment about the member for Caulfield or about any other member. I am sure Acting President, you understand — along with all members — why I take umbrage at what I see as attempts to destroy the bipartisanship that has been built up over many years on this issue, why I take some offence at attempts to use the Jewish community as a political football and why I find it unusual that members of the government would be so sensitive about my comments when members of the opposition, both in this place and the other place, have been smeared by imputation on this matter.

Let me finish by saying this: there have been many professions of affection and respect for the Jewish community throughout this debate, both in the Parliament and outside the Parliament, by members of the government and members of the opposition, by other people and certainly by the Premier in many of his public statements. I am sure that the Jewish community is extremely grateful for all the warmth that has been demonstrated towards it by so many people. I think the very real danger that the Parliament creates by bringing an Anglican minister — or a cleric of any faith — into the Parliament to recite the Lord's Prayer is that we send the message intentionally or otherwise

to the Jewish community and many other communities that there is a state-sponsored faith, and it is not theirs.

Hon. D. M. DAVIS (Minister for Health) — I am pleased to continue this debate and respond to a number of points made by various members. Clearly the regional sitting has widespread support in the chamber, and clearly there is enthusiasm for. I note the points made by Ms Broad, Mr Pakula and Ms Pennicuik, including the points made about the prayer and the prayer being read by the Very Reverend John Roundhill, the Anglican Dean of Bendigo.

As was outlined by the Minister for Higher Education and Skills, Mr Hall, the decision about that was made by the President, and I believe it was made in good faith. He made that decision to invite the Very Reverend John Roundhill as a representative of faith communities in and around Bendigo and the region.

Mr Barber — Is that his brief?

Hon. D. M. DAVIS — I think you are being unfair to the President, who made that decision I think in good faith — —

Mr Barber — I am asking you: is that the brief for the minister?

Hon. D. M. DAVIS — Sorry? Is it the brief for what?

Mr Barber — To represent faith-based communities in Bendigo.

Hon. D. M. DAVIS — I think the purpose of inviting the Very Reverend Roundhill was for him to represent faith communities and to do that in a way that is symbolic but very much able to indicate that those of many faiths have the capacity to reflect in and to lay out the values of our community. That is how I understand the President's request to the Very Reverend John Roundhill, the Dean of Bendigo. I take on board the points made by members, and I think we should have a discussion to see if there is a way in which the Very Reverend Roundhill could be involved without rancour or concern among others in the chamber. I believe he is a person of great integrity and standing in the community, and I do not think anyone would think otherwise.

The government needs to order the business program for the regional sitting, and I think everyone understands that. Essentially that is what this motion seeks to do. I am happy to have a discussion with anyone who wishes to raise a point about that program, but I think the President has in good faith asked the Very Reverend John Roundhill to read the prayer. The prayer is a longstanding tradition in this chamber and, I think, a tradition of some merit.

I indicate to the chamber that the government looks forward to the Parliament sitting in Bendigo. As I indicated, there will be a motion that is broad enough to allow a number of members to make short contributions on a wide range of issues. The government will also move a motion seeking to progress the issue of gold becoming the mineral symbol of our state. I note that there will be an opportunity for the community more broadly to engage with the Parliament — to see the progress of bills, observe question time and come closer to the Parliament.

Motion agreed to.

WORKING WITH CHILDREN AMENDMENT BILL 2012

Second reading

Debate resumed from 21 June; motion of Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations).

Ms MIKAKOS (Northern Metropolitan) — At the outset I indicate that I am pleased to be able to speak on this bill today. It is a bill that does not make any significant changes to the Working with Children Act 2005; the changes are more in the nature of relatively minor amendments to the legislation. The Labor opposition does not oppose the bill.

The bill seeks to amend the Working with Children Act 2005 to alter the test that the Secretary to the Department of Justice and the Victorian Civil and Administrative Tribunal (VCAT) must apply when deciding whether to issue an applicant with a working-with-children card. It makes murder a category 1 offence rather than a category 2 offence. In certain circumstances it removes the right to work in child-related work whilst an application is being considered. It provides the secretary with the power to revoke a card following a suspension, and it also clarifies the application of provisions in the act and streamlines its administration.

Before I get into the details of the bill, I think it is important to reflect on how far we have come on this issue in Victoria, and indeed on an international level, and to give some contextual background to the bill. The United Nations Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of human rights relating to

children. Article 19 of the convention states that governments must do all they can to ensure that children are protected from all forms of violence, abuse, neglect and mistreatment by their parents or anyone else who looks after them. It is perhaps one of the most ratified UN conventions in the world, and quite rightly so. It was ratified by Australia in December 1990.

As part of Labor's approach to enhancing the protection of Victoria's children, the previous government introduced a number of initiatives, such as the creation of the child safety commissioner and the targeting of legislation, including the Sex Offenders Registration Act 2004 and the Serious Sex Offenders Monitoring Act 2005. In 2005 the previous Labor government introduced what would be a groundbreaking piece of legislation, the Working with Children Bill 2005, to assist with the protection of children from sexual, physical or emotional harm by those who are entrusted with their care.

The initial draft of that bill sought to establish a statewide screening system that set minimum standards for people who work with children, whether paid or as volunteers. It was widely distributed and received many submissions, all of which were taken into careful consideration. I recall at the time that the coalition was divided on its support for the bill; The Nationals opposed the bill and ultimately voted against it at the second-reading stage. I recall at the time that that was largely to do with what they perceived to be creating an additional burden on volunteers. I point out that the previous government was at pains to ensure that there would not be any additional financial burden on sporting groups, community groups, religious organisations or any other organisation whose members give their time voluntarily to work with children. We value our volunteers, and we put in place a system that ensured that these checks were free for volunteers.

Nonetheless, once the legislation passed through the Parliament it did introduce a working-with-children card, which became the accepted legal requirement for people engaged in child-related work. I believe that system is now very well understood across many professions. It is a system that was put in place to gradually phase in a number of occupational fields that are covered by the legislation, and that process is now complete. For example, in the early childhood sector a number of occupations are covered by this. People working in centre-based long day care, occasional care, family day care, in-home care and outside school hours care are all subject to these checks. In fact all children's services, as defined in the Children's Services Act 1996 and the Education and Care Services National Law Act 2010, and including kindergartens and preschools, are listed as occupational fields requiring employees or volunteers to have a working-with-children check card, as the community would expect.

Introduced back in 2005, the Working with Children Act was regularly reviewed by the previous government, and amendments were made to the legislation in 2007 and 2010. Those changes aimed to increase the safety of children by responding to situations arising under the scheme as it was rolled out. It is important that the government continue to review the operation of this act — indeed, of any act — and ensure that the necessary improvements are made if and when the need arises, including as a result of legal action. In his second-reading speech the Attorney-General noted that:

> … as of 30 April this year, over 910 000 Victorians have applied for a working-with-children check and approximately 1024 people have been issued with a negative notice, thereby preventing them from lawfully engaging in child-related work.

I think we can safely say that the scheme has been embraced and supported by the broader Victorian community. The overwhelming majority of people who apply for the cards are successful in obtaining one and there are appropriate checks and balances in place to ensure that people who should not get a working-with-children card are weeded out of the system so that children are protected.

Currently a working-with-children check application is considered a category 1 application if the applicant is subject to the Sex Offenders Registration Act 2004 or Serious Sex Offenders Monitoring Act 2005. The applicant will be automatically refused a working-with-children check card in those circumstances and has no further appeal rights under this category. The other situation considered a category 1 application is where the applicant has been convicted of a sexual offence against a child, including child pornography. In that case the applicant does have a right of appeal to VCAT in the event of an adverse finding. Category 2 applications are those where the applicant has committed offences such as a sexual offence against an adult, a serious violent crime, including murder and intentionally causing serious injury, or a serious drug offence. There is a presumption that a category 2 applicant will be refused a card unless the secretary is satisfied that there is not an unjustifiable risk to the safety of children. The applicant here may appeal an adverse finding to VCAT.

Recently a legal case relating to the issues we are discussing today arose. On 8 February the *Herald Sun* reported that:

> A man who stabbed a love rival to death has used legal aid to overturn a ban on working with children.

In this case the Secretary of the Department of Justice refused the applicant a working-with-children check card, as the community would expect, and on appeal VCAT overturned that decision. Currently there are four further cases before the Supreme Court in which the Department of Justice is appealing VCAT's decision to overturn the original decision to deny a working-with-children check card.

It is important to understand that since its inception the current legislation has always presumed that a person who has been convicted of murder would be denied a working-with-children check card. This bill moves murder from a category 2 offence to a category 1 offence. In practice this will mean that the secretary of the department will have no discretion as to whether to issue a working-with-children check card; it will be automatically denied. However, the applicant will still have appeal rights to have the decision reviewed at VCAT.

The bill makes some further changes that relate to the introduction of a new test by which the secretary and VCAT will assess the suitability of an applicant. The current test applied is whether the applicant 'poses an unjustifiable risk to the safety of children, having regard to a number of factors'.

The bill adds that the secretary must be satisfied that:

> … a reasonable person would allow his or her child to have direct contact with the applicant that was not directly supervised by another ….

and that

> … the applicant's engagement in any type of child-related work would not pose an unjustifiable risk to the safety of children.

It is appropriate that the change is being made to introduce a test of reasonableness under the circumstances. Any measure to further strengthen the protection of children is supported by the Labor opposition. These changes have arisen as a result of interpretation by VCAT in assessing the suitability of an applicant and also because VCAT may not have given weight to the fact that the cards are portable and once obtained permit the cardholder to engage in any type of child-related work, even though in its decision VCAT may have decided to grant a card after consideration of the specific purpose for which the applicant applied for the card at that time.

Other changes made by the bill relate to the revocation of a working-with-children check card. Under the current legislation the secretary is able to suspend a working-with-children check card for up to six months where the secretary becomes aware that the cardholder has been charged with, convicted or found guilty of a serious offence. The bill provides that the secretary may also revoke the card if the person fails to provide them with any requested information. We hope the department will move in a timely way to ensure that such applications are considered without too much delay. A number of employers and volunteer organisations currently wait for the assessment to be completed before allowing an applicant to commence their work.

There is a further change. The bill also removes the automatic right to work on an application receipt where the person has a charge, conviction or finding of guilt in relation to a category 2 offence. The onus in this case is on the applicant. People will be charged with an offence if they commence work before being issued with a working-with-children check, if they knew or ought to have known that they had a category 2 offence that needed to be assessed. Currently an employee or volunteer is permitted to engage in child-related work by providing evidence that they have applied for a working-with-children check by producing a receipt as evidence, for example. This measure was introduced to ensure that an applicant's job prospects were not unnecessarily held up while a department processes the application. As I said, we would hope the department would ensure that there are adequate resources to continue to process applications in a timely and effective manner. I am concerned that the government's proposal to cut 4200 public servants could have an adverse impact on the timeliness of the applications being processed by the department.

There are a number of other minor administrative changes in the bill. A person on a supervision or detention order under the Serious Sex Offenders (Detention and Supervision) Act 2009 is unable to apply to the Victorian Civil and Administrative Tribunal for review of a decision to remove their ability to engage in child-related work. The bill also clarifies that a person alleged to be on a supervision or detention order can apply to VCAT to review their application on the basis of mistaken identity.

The bill aims to capture earlier versions of the Victorian offences of causing injury intentionally or recklessly, and obscene exposure. The bill also streamlines a number of processes for a person to move from the position of volunteer to employee without having to undergo another working-with-children assessment.

The Labor opposition has been provided with proposed house amendments that the Minister for Employment and Industrial Relations, Mr Dalla-Riva, is proposing to move in the committee stage. The opposition has received no explanation as to what these amendments seek to do, despite the shadow Attorney-General requesting it. Therefore we are waiting to move into the committee stage to obtain an explanation from the minister as to what these house amendments relate to before we indicate our position on them.

The working-with-children legislation is important, and I am very proud that the previous government put it in place. It is about protecting Victoria's children and ensuring that appropriate measures are in place to safeguard the wellbeing of Victoria's children, whenever and wherever they are being cared for by an adult. It is important that the government continues to have an ongoing monitoring role in the administration and effectiveness of the legislation. It should be making changes where they are warranted, when court cases and other matters arise that have raised concerns about the interpretation of the legislation by the courts and tribunals.

The Attorney-General has claimed that he is concerned about legal tests. I can assure him that we are also concerned about how these tests might be interpreted. It is appropriate that these pieces of legislation have ongoing monitoring to ensure that the courts have not interpreted legislation other than in a way that the previous government had intended. With those words the Labor opposition does not oppose the bill, but we await Minister Dalla-Riva's explanation in relation to the house amendments.

Ms PENNICUIK (Southern Metropolitan) — The objective of the Working with Children Act 2005, which this bill amends in a number of ways, is to help protect children from physical or sexual harm by requiring that people who work in occupations with children, or as volunteers working with children, have their suitability to do so vetted and checked by the Department of Justice. It also allows for those people to have those decisions by the Secretary of the Department of Justice reviewed in the Victorian Civil and Administrative Tribunal (VCAT).

The government has introduced this bill because it is concerned with some of the tests that are applied when deciding whether or not to issue a working-with-children check. The bill widens the criteria which the secretary of the department and VCAT apply when considering category 1 applications or reviews of a decision by the secretary to refuse a working-with-children clearance.

The bill aims to strengthen these tests as well as widen the scope of offences to be considered for working-with-children checks, and changes the category of some of those offences. Clause 4 amends the act such that when considering a category 2 application the Secretary of the Department of Justice, in satisfying himself or herself that giving an assessment notice would not pose an unjustifiable risk to the children, in addition must be satisfied that:

(a) a reasonable person would allow his or her child to have direct contact with the applicant that was not directly supervised by another person while the applicant was engaged in any type of child-related work; and

(b) the applicant's engagement in any type of child-related work would not pose an unjustifiable risk to the safety of children.

With regard to category 3 applications, clause 5 and its subclauses include additional circumstances in which an application for an assessment notice would be a category 3 application. It captures persons found guilty of or with convictions for certain repealed Victorian offences that are now analogous to causing injury intentionally or recklessly under the Crimes Act 1958; the offence of inflicting bodily injury under the Crimes Act 1985; and wilful and obscene exposure in a public place under the Vagrancy Act 1966.

It also provides that if the applicant for an assessment notice has been convicted or found guilty of an offence committed in a jurisdiction other than Victoria which, if committed in Victoria would have constituted an offence under section 17(1) of the Summary Offences Act 1966 or section 7(1) of the Vagrancy Act 1966, that application will now be a category 3 application.

Clause 5(3) strengthens the test that the Secretary of the Department of Justice must apply in respect of a category 3 application, which is similar to the widening of the test under category 2 — the reasonable person test, or the test of there being an unjustifiable risk to the safety of children. The secretary must determine that it is appropriate to refuse to give an assessment notice unless he or she is satisfied of those matters.

The bill also introduces a process to be followed by the secretary where he or she has made a request for information to a person who holds an assessment notice and that person fails to provide the requested information. Currently the secretary is able to suspend a person's assessment notice; however, the suspension cannot be for a period exceeding six months, at which time the assessment notice becomes current.

Clause 9(2) allows the secretary to revoke the person's assessment notice if, following the suspension period,

the secretary has not received the required information. The secretary must, as soon as possible after revocation, notify the person that his or her assessment notice has been revoked. Additionally the secretary must notify any person who is engaging or is proposing to engage the person whose assessment notice has been revoked or any listed agency if the employer is known to the secretary.

The bill also strengthens the test the secretary must apply under section 23 of the Working with Children Act 2005 when considering whether to revoke an assessment notice if the secretary becomes aware that the holder of the assessment has been charged with, convicted or found guilty of an offence other than a relevant offence. In considering whether it is appropriate to revoke an assessment notice the secretary must have regard to whether, because of that charge, conviction or finding of guilt, the holding of the notice by the person poses an unjustifiable risk to the safety of children. In considering whether that holding of the notice by the person poses an unjustifiable risk to the safety of children, the secretary must have regard to the criteria set out in section 13 of the Working with Children Act 2005. This assessment is now subject to the secretary being satisfied, again, with the reasonable person test or the unjustifiable risk test.

The bill also clarifies the jurisdiction of VCAT. A person who has been refused an assessment notice under a category 1 application, which covers the most serious offences, and who is subject to a supervision order or a detention order under the Serious Sex Offenders (Detention and Supervision) Act 2009 cannot apply to VCAT for an assessment notice. Clause 12(2) strengthens the test that VCAT must apply when determining whether giving an assessment notice to a person who has been refused an assessment notice on a category 1 application would not pose an unjustifiable risk to the safety of children.

In addition to considering the existing criteria under section 26 of the act, VCAT must also now be satisfied by the reasonable parent test, as explained earlier, the unjustifiable risk test, as mentioned earlier, and the public interest test amended under clause 12(3). If VCAT is satisfied that giving an assessment notice would not pose an unjustifiable risk to the safety of children, VCAT may direct the secretary of the department to give the applicant an assessment notice if VCAT is also satisfied in all circumstances that it is in the public interest to do so.

The bill clarifies that VCAT must first be satisfied that giving an assessment notice would not pose an unjustifiable risk to the safety of children before it considers whether it is in the public interest to direct that an assessment notice be given. That is an important distinction. If VCAT comes to the view that it is not in the interests of the safety of children and does not proceed further to consider the review but makes the determination that it is not in the interests of the safety of children, there is no need to go any further.

A person who has been given a negative notice on a category 1 application because that person is alleged to be a person who is the subject of a supervision order may apply to VCAT for an assessment notice on the grounds that he or she is not such a person. That is an issue that I raised earlier when the previous government introduced the amendments to the Working with Children Act during the last Parliament. While we strongly support the objectives of the act, it is important that people who pose no threat to children, who may be excellent people by way of their qualifications, and experience and temperament et cetera to work with children, do not get adverse assessments by the department or are prevented by VCAT from working with children. That is important because there have been cases where people who have been refused working-with-children clearances in fact pose no risk to children.

The bill also strengthens the offences of engaging in child-related work without an assessment notice or engaging a person to work with children without an assessment notice. Those are sensible amendments.

Those are the main provisions of the bill, and the changes to VCAT to strengthen the tests that VCAT must look at are sensible amendments to the regime. Ms Mikakos mentioned some cases that were raised in July and June with regard to decisions where, on balance, it would appear that the Department of Justice had made the right decisions but which were then overturned by VCAT. On reading those particular cases it is difficult to understand how they were overturned by VCAT.

The Scrutiny of Acts and Regulations Committee raised the issue of the presumption of innocence in relation to clause 10, which inserts new section 21B(1), which provides that when a person with an assessment notice is charged with a category 1 or category 2 offence the secretary must suspend the assessment notice pending reassessment. SARC wrote to the Attorney-General about that aspect. His response was that the intent is to give the secretary a discretion whether or not to reinstate the assessment notice in circumstances where prior to the completion of a reassessment triggered by the person being charged with a category 1 or category 2 offence those charges are withdrawn or

dismissed or the person is acquitted of the offence. There is some discretion for the secretary, given that the charges may be withdrawn or dismissed or that the person may be acquitted in circumstances that, while precluding a successful prosecution or finding of guilt, nevertheless demonstrate or raise real concerns as to whether the person poses an unjustifiable risk to children.

In dealing with previous amendments to the legislation I made the point that the Working with Children Act 2005 provisions and the way it works through the Department of Justice and VCAT is only part of the answer to having working-with-children checks. There are people who are a danger to children who will not be caught by working-with-children checks because they do not have a history recorded within the justice or correction systems. They may not be picked up by working-with-children checks. We could assume that people with category 1 or category 2 offences would probably be most unlikely to apply for working-with-children checks, understanding that they would be unlikely to be granted a clearance. However, of course some do, and that is why we need the legislation in place to deal with those instances. I reiterate that a person without a history in terms of a conviction through the justice system or incarceration will not be picked up through the working-with-children check.

Those occupations, schools and other areas where people who work with children or care for children need to be vigilant about the behaviour of adults towards children that may pose a risk to those children. For example, the care of children at home could involve the behaviour of older children towards younger children, which of course would not be picked up by a working-with-children check. Those sorts of issues are ones that we need to be ever vigilant about.

I echo the remarks of Ms Mikakos about the cuts to staff in the public sector and the government saying they are not cuts to front-line staff. Perhaps the people who process the working-with-children checks in the Department of Justice might not be considered front-line staff in that they are not necessarily the people who go out into the community, but they are certainly dealing with an important issue. I agree that their role in the Department of Justice is important, and we would not want to see resources being withdrawn from them. This is notwithstanding the fact that we do not support the withdrawal of services across the public sector, because we have a growing population and a need for the work that is done by our hardworking public servants across all departments of government.

The house amendments which will be moved by the minister in the committee stage were given to me by the Government Whip on Tuesday. I read the amendments, but I need some explanation as to why the government feels they should be made. I will reserve my view on them until I hear that explanation from the minister. With those comments, the Greens support the bill.

Mr ONDARCHIE (Northern Metropolitan) — It is a pleasure yet a responsibility to speak on the Working with Children Amendment Bill 2012. I should start by saying that I just do not get it. Is it just politics when opposition members say, 'We will not oppose the bill'? Could they not just say, 'We support the bill'? I take note of the fact that Ms Pennicuik did say, 'I support the bill', but Ms Mikakos said, 'We will not oppose'. We are talking about kids here; we are talking about supporting children — one of the most important things we can do — —

Ms Mikakos interjected.

Mr ONDARCHIE — Is it just politics that you say, 'We will not oppose'? For all your filibustering about children in this place, couldn't you just say, 'We support the bill'?

Opposition members could say something significant in the house by saying they support the bill, but they will not. Are we there, or are we not there? It is almost feigned sincerity. Every now and again you wonder if they are being disingenuous when they say, 'We will not oppose'. I would much rather they said, 'We stand up for kids, and we support the bill'. Nonetheless, that is the choice they make, and they are accountable to people other than me about that.

The test to be applied will now give priority to the interests and welfare of children and their families. Is that not our reason for being in this place? Is it not to support Victorian children and Victorian families — your children, your grandchildren, my children, my grandchildren? In reflecting on that, I think about my grandchildren, Gypsy and Chloe. Is it not our job to protect our kids? This will also include situations where the Victorian Civil and Administrative Tribunal (VCAT) is reviewing decisions made by the Secretary of the Department of Justice to refuse to issue a working-with-children checks to applicants deemed as posing an unacceptable risk to children.

Ms Mikakos talked about the law that was introduced by the previous government, and the law as it stands probably goes too far in protecting the rights of applicants when the policy objective is to protect the interests of children. This legislation reverses this by

placing a greater focus on the welfare of children and their families and sharpening up the whole working-with-children check process. I have a working-with-children check card because of the work I do with children in the community, and I encourage members to think about getting one.

The main purpose of the bill, as others have alluded to today, is to amend the Working with Children Act 2005 to strengthen the test that must be satisfied before an assessment notice can be given by the Secretary of the Department of Justice or by VCAT. At present the secretary decides which category an application falls under. Category 1 offences include the most serious sexual offences by an adult against a child and child pornography offences. For such offences the secretary must refuse to issue a working-with-children check and instead issue the applicant a negative notice. VCAT must apply an 'unjustifiable risk to the safety of children' test and a public interest test.

Category 2 offences include the most serious sexual, violent or drug-related offences. This involves a statutory test to be applied by the secretary and, on review, by VCAT. The secretary applies the unjustifiable risk test. VCAT also applies this test as well as what we have talked about — the public interest test.

Category 3 offences are known as less serious offences — I am not sure whether there is anything less serious when it comes to children, but anyway — and involves statutory tests to be applied by the secretary and, on review, by VCAT. The secretary must issue a working-with-children check unless satisfied that it is appropriate to refuse to do so, and on review VCAT applies the same test as well as the public interest test.

The secretary of the department can also refuse to issue a working-with-children check in exceptional circumstances where there is a significant link between the offence and the risk to the safety of children. In such cases the secretary and VCAT apply the unjustifiable risk test.

Once a check is obtained, Victoria Police monitors persons weekly. Once a person is charged with, convicted or found guilty of a relevant offence the Secretary of the Department of Justice must reassess that person's eligibility and can revoke the check if it is deemed that the person is unsuitable to engage in child-related work.

The bill strengthens the 'unjustifiable risk' test so that the secretary or the Victorian Civil and Administrative Tribunal must refuse the check unless it is satisfied that a reasonable person would allow their child to have direct contact with the applicant in an unsupervised capacity where they are engaged in child-related work. Once this is satisfied the secretary of the department and VCAT must also be satisfied the applicant does not pose an unjustifiable risk to the safety of children. The bill also strengthens the ability of the secretary to not issue the check if they believe it is appropriate to refuse to do so in the same way as the unjustifiable risk test has been strengthened. The bill makes an amendment to clarify that the public interest is a secondary test only to be applied by VCAT after it considers the applicant to not pose an unjustifiable risk or ascertains it is not appropriate to refuse the check.

Murder becomes a category 1 offence. I have already talked about that today and I choose not to talk about it any further. However, it will now count as a category 1 offence under this legislation. It is hard to believe, but currently murder is a category 2 offence. Now that it is classified as a category 1 offence the secretary must automatically issue a negative notice and the applicant may apply to VCAT for a check.

The bill will increase the range of offences to be considered in regard to a person's eligibility when they apply for an assessment notice. Earlier versions of offences in Victoria of causing injury recklessly, the Crimes Act 1958, and obscene exposure, the Summary Offences Act 1966, will be captured in this bill in terms of the offences considered by the secretary in assessing an applicant's suitability for a working-with-children check.

The bill will increase the range of circumstances in which the Secretary of the Department of Justice may suspend an assessment notice or revoke a suspended assessment notice. Currently if requested information is not provided, a check can be suspended for six months. However, once the six months expires, the check becomes valid, even if the information has still not been provided. That is ludicrous. 'We suspend you for six months while we wait for you to provide information. If you do not provide that information, we let you have it again'. That is just ludicrous. This legislation will fix that circumstance.

The secretary can revoke a working-with-children check if the holder fails to provide the secretary with requested information. The revocation is applicable following a suspension period where information is not provided. The applicant will then have to reapply for a check following the normal processes. This is how it should have worked in the first place.

The bill clarifies provisions relating to applications to VCAT by persons subject to supervision or detention orders under the Serious Sex Offenders (Detention and Supervision) Act 2009. Persons subject to a supervision or detention order under the act will form a part of the category of people unable to apply to VCAT for a review of the secretary's decision except where mistaken identity is relevant. This aligns with the treatment of registered sex offenders under the act.

The bill will prevent a person working with children while his or her application for an assessment notice or reassessment is being determined if the application is a category 1 or category 2 application. People with a serious criminal history who are charged will be prevented from working with children. It will be an offence for an applicant with a charge, conviction or finding of guilt relating to a category 1 or category 2 application to work with children while applications or reassessments are on foot. This is an important bit of legislation. Working with and protecting children is one of the most important things we can do. We as a Parliament have visitors here every day, particularly school children. They should be able to go about their lives in Victoria knowing that we are looking out for them. It is important that we look after the children of Victoria.

The secretary can immediately suspend a person's working-with-children check while the reassessment of the person's suitability is considered pending charges, convictions or findings of guilt of a category 1 or category 2 offence. The suspended check can be reinstated once charges are withdrawn or dismissed.

This bill will also streamline the process of volunteers who wish to have an employee working-with-children check. The secretary of the department can consider an application for a volunteer wishing to move to an employee working-with-children check without having regard to offences or conduct which have already been considered in the issuing of the volunteer check. This is a renewal process, and it makes a lot of sense.

The bill also amends the Victorian Civil and Administrative Tribunal Act 1998 to strengthen the tests that must be satisfied before an assessment notice may be given under the Working with Children Act 2005. By supporting this bill we are protecting our kids. Opposition members should not say, 'We do not oppose this bill'. They should say, 'We support this bill'. That is the right terminology to use in order to protect Victoria's children.

This bill makes consequential amendments to the Transport (Compliance and Miscellaneous) Act 1983 regarding the secretary's ability to suspend working-with-children checks to be reflected in the accredited driver exception provisions under the act.

The objective of the Working with Children Act 2005 is to protect children from physical or sexual harm by requiring that people who work with or care for children have their suitability to do so checked by a government body.

There are 20 occupational fields that require working-with-children checks. Since the act's inception in 2006 over 910 000 applications for checks have been made, with 1024 negative notices preventing those unsuitable applicants from lawfully engaging in child-related work. We are sharpening the process and protecting children.

The government has become concerned with the tests that are applied when deciding whether or not to issue a working-with-children check. This concern is related to tests that the Secretary of the Department of Justice and VCAT are required to apply when considering category 1 applications or reviews of decisions by the secretary.

The focus needs to be on protecting the interests of children and their families. It is as simple as that. However, the tests currently before the law are too focused on the interests of the individual applicant. We have it around the wrong way. We are supporting the applicant when our focus needs to be on supporting children and their families. That is the intention of this legislation. We will make sure that children who live in Victoria will be protected under the Working with Children Act Amendment Bill 2012. We will look after them.

Applicants who have no criminal history will not be affected by the changes and will still be able to automatically be issued with a check. The revocation of checks in circumstances where information is not provided ensures that the secretary is provided with the necessary information when they assess the application. The streamlining of the process for volunteers switching to employee checks ensures timely processing of applications. It will happen more quickly. We will make sure we have a system in place.

Often we see child predators on the news when they are charged, and they appear to be upstanding citizens. These strengthened tests will mean that we can weed out these individuals to a greater extent. We can find them, we can nail them and we can make sure that they are not working with children. The law as it stands probably goes too far in protecting the rights of

applicants, and the policy objectives that are coming through today are about protecting children and their families. Between April 2006 and March 2012 905 500 assessment notices were issued, and 1300 interim negative notices, 1000 negative notices and 69 assessment notices were issued after VCAT review. That means that 69 negative notices were overturned by VCAT.

I have spent a lot of time working with kids in my capacity as a cricket coach; coaching kids in the Milo Have-A-Go program at the MCG, where they have a wonderful time; coaching football; coaching things like Auskick; in my work with the International Cricket Council; in my time as a school council president, as a kinder president and as a leader in what was then called the Church of England Boys Society, or CEBS as many people would remember it; and in the stuff I do with our church and in my own family. We have three children born to us and two who have come into our family who are just such a blessing. Whilst they are not of our blood, we love them as part of our family. Our job as human beings is to protect children.

Ms Mikakos referred to the Convention on the Rights of the Child, which was adopted on 20 November 1989, 30 years after the Declaration of the Rights of the Child was made in 1959. Let me just read from clause 2 of the Declaration of the Rights of the Child from the United Nations General Assembly resolution of 10 December 1959. Clause 2 says this:

> The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.

That is what we are doing here today: strengthening the working-with-children check so we can protect the interests of the child. That is our reason for being here.

Foundationally we always used to say, 'Kids should be seen and not heard'. That is what they used to say when I was younger. I am older than many of the members in this chamber, but when I was younger people said kids should be seen and not heard. Rather, it is about respecting the rights of the child to make sure that they get the best opportunities to optimise their lives. I have spent my life helping kids and trying to help kids — kids who are a little bit wayward, kids who have troubles; I have spent my life helping them. If we let people into the system who should not be there, it makes our job so much harder.

As members of Parliament, we need to get this right. In 2007 the now Attorney-General, Robert Clark, said the working-with-children laws were flawed. We are now tipping the balance back in favour of protecting the child. That is what we should be doing. That is our role. We talk about a lot of things in this house, but what we need to be talking about today is protecting the rights of the child. For that very reason, I proudly stand here today protecting children. I commend this bill and the support it has received in this house.

Ms DARVENIZA (Northern Victoria) — I am very pleased to rise to make a contribution — I hope I can get it done before we go to question time — on the Working with Children Amendment Bill 2012. The opposition is not opposing the bill. We are awaiting the committee stage when the minister will give some information about the government's amendments before we determine our position on them.

First of all I will take up some of the comments made by Mr Ondarchie. I know that Mr Ondarchie is pretty new to this place, but I would like to remind him that his coalition partners, The Nationals, actually opposed the original Working with Children Bill 2005 and voted against the second reading. The Liberals attempted to stall the legislation and in fact advocated a streamlined system in which all people who worked or volunteered with vulnerable people, including the elderly and people with a disability, would be brought under one scheme. However, now that they are in government, we have heard no further consideration at all from them of expanding the system in this way. It is all very well for Mr Ondarchie to criticise the opposition, but I think he should make himself aware prior to getting to his feet of what was the position of his coalition partner and his party in relation to this bill.

This bill builds on Labor's very proud record of making children a priority and recognising that government has a responsibility to introduce measures designed to keep our children safe from harm. The working-with-children check was introduced in addition to other Labor policies designed to protect children. Some examples of those include the introduction of the child safety commissioner to advise government on issues impacting on the lives of children; the creation of the Best Start program to strengthen the local capacity of parents, families, communities and early years services to better provide for the needs of young children; and adopting the Every Child Every Chance policy, a child-centred approach to driving government policy and to putting services in place for both children and families. When we were in government we were very much about putting in place not only legislation but also

policies, practices, initiatives and programs that led to the protection of children.

Very briefly, the bill seeks to amend the Working with Children Act 2005 to alter the test that the Secretary of the Department of Justice and the Victorian Civil and Administrative Tribunal must apply in deciding whether to issue an applicant with a working-with-children check, to make murder a category 1 offence, to remove the right to work in child-related areas in certain circumstances while an application is being considered and to provide the secretary with the power to revoke a card following a suspension.

We introduced the working-with-children legislation in 2005 — that is, the then Labor government introduced it — to assist in protecting children from sexual and physical harm by ensuring that people who work with or care for children are suitable to do so, having been checked by a government body. The working-with-children check has different requirements from the national police check in that those who have passed the working-with-children check will be monitored for future relevant offences. Labor very much values volunteers and therefore ensured that checks for volunteers were free.

The bill also contains amendments to the principal act to make murder a category 1 offence. Currently an application falls into category 1 if the applicant is subject to the sex offenders register or the Serious Sex Offenders Monitoring Act 2005 and they have no appeal rights or if they have been convicted of a sexual offence against a child, including child pornography. Category 2 applications are those where the applicant has committed an offence such as a sexual offence against an adult, a serious violent crime, including murder or intentionally causing serious harm, or a serious drug offence. This amendment will strengthen the test by moving murder to category 1, and that is in response to cases where the Victorian Civil and Administrative Tribunal has overturned the secretary's decision not to issue a card in certain applications. This was an important issue when we introduced the initial legislation, and it still is now.

The bill makes relatively modest changes to the operation of the initial legislation, as was the case when the act was amended in 2007 and 2010. The amendments already made, and those this bill will make, are a necessary consequence of the act and the lessons we have learnt from practical situations that have arisen since the scheme commenced. That was in 2006, and it was to be phased in over a five-year period.

In conclusion I would like to say that we are not opposing the bill. We await the minister's explanation of the government's amendment when we get to the committee stage. It is important that we have an opportunity to hear from the minister the explanations for that amendment, and we encourage the government to continue to review the operations of the act. This act only exists due to Labor acknowledging when it was in government that government has a responsibility to do whatever it can to protect children.

To take up some comments that have been made by previous speakers, it is very clear that we on the opposition benches, both when we were in government and now, have always believed that to protect our children and families, particularly our most vulnerable children, from predators who are out there to do harm to them or exploit them, we must have the right legislative framework and laws in place. When we were in government we ensured that there were policies that delivered programs that supported both children and families.

As has been said by the shadow minister, we do not oppose this bill; it builds on the actions we took to strengthen the act when we were in government. It identifies areas that need change, and they have been identified due to the act having been put into practice by those people on the ground who deal with the issues on a daily basis and have to make it work. For that reason we certainly will not be opposing this legislation.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Victorian Manufacturing Council: appointments

Mr SOMYUREK (South Eastern Metropolitan) — My question is directed to the Minister for Manufacturing, Exports and Trade, Mr Dalla-Riva. Since the minister announced the Victorian Manufacturing Council on 19 December 2011, has it convened to give the minister the critical strategic advice he promised in making decisions concerning the manufacturing sector?

Hon. R. A. DALLA-RIVA (Minister for Manufacturing, Exports and Trade) — I thank the member for his question because it is an important issue and one we raised in opposition. During the process of putting together the manufacturing strategy we looked at the issue of appointing the appropriate people across a variety of sectors. It would be fair to say that the

manufacturing sector is a diverse sector, and I have certainly taken on board concerns across the industry, as Mr Somyurek would know.

We have placed advertisements for members of the Victorian Manufacturing Council. We have gone through that process, and that process is now at the probity stage. Once the probity stage is completed the appointments will be made. I am thankful for the question because it is an important part of ensuring that we have industry engagement in the strategy.

Supplementary question

Mr SOMYUREK (South Eastern Metropolitan) — I agree with the minister; it is a very important body. Does this mean that over the past eight months the minister's government has been making decisions concerning the Victorian manufacturing sector without key strategic advice, or does it simply mean that the minister has not been making any decisions at all?

Hon. R. A. DALLA-RIVA (Minister for Manufacturing, Exports and Trade) — I thank Mr Somyurek; again, it is an important question that he raises. We have of course been making strategic decisions over the last 12 to 18 months. We went through the Victorian Competition and Efficiency Commission inquiry, we went through the whole process of engaging with industry and we released our manufacturing strategy last year. That was coupled with the budget announcement of $58 million over four years.

As Mr Somyurek would be aware — and I understand his concerns — we have already started to make announcements about the Investing in Manufacturing Technology grants. That information has already been out. We are now about to embark upon the remainder of the programs, and certainly the Victorian Manufacturing Council is an important part of that. However, I do not accept the assumption that we are making strategic decisions without the council; in fact I am looking forward to getting the council on board.

Building industry: union action

Mr RAMSAY (Western Victoria) — My question is for the Minister for Employment and Industrial Relations, the Honourable Richard Dalla-Riva. I am pleased to ask this question, given the activities of the union in Melbourne this week. Can the minister outline to the house what action the Baillieu government has taken to — —

Hon. M. P. Pakula — Coming from the man who used this Parliament to pursue his own commercial interests!

Mrs Peulich — On a point of order, President, I believe Mr Pakula was reflecting on a member and should apologise and withdraw.

The PRESIDENT — Order! I concur with the point of order raised by Mrs Peulich; in fact I would have raised it with Mr Pakula without a point of order being raised. I do not think that is an appropriate comment by way of interjection or by any other method other than a substantive motion, because it reflects on the member and it was a fairly serious matter Mr Pakula referred to in terms of the words used. I ask Mr Pakula to withdraw the interjection.

Hon. M. P. Pakula — I withdraw.

The PRESIDENT — Order! Mr Ramsay, from the top, please.

Mr RAMSAY — Thank you, President. I expect nothing less from Mr Pakula.

The PRESIDENT — Order! I advise Mr Ramsay that I have dealt with the matter, and I do not need editorial comment because it only provokes further comment. Mr Ramsay's remark was unnecessary. When I said, 'From the top', I meant the question.

Mr RAMSAY — My question is to the Minister for Employment and Industrial Relations, the Honourable Richard Dalla-Riva, and I ask: can the minister outline to the house what action the Baillieu government is taking to require construction union officials to obey the rule of law?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank the member for his question. As we have seen in our city over the past week, construction industry union officials have blatantly defied the law of the land. CFMEU (Construction, Forestry, Mining and Energy Union) officials have been challenging the authority of the Supreme Court of Victoria, as was outlined in the question. By persisting in the illegal blockade at the Emporium site in Lonsdale Street, essentially they have denied Victorians the right to go peacefully to work and go about their business. What is most telling is that in doing so they are defying the injunction issued on 22 August by no less than the Chief Justice of Victoria, the Honourable Marilyn Warren. This demonstrates a contempt for the rule of law, and it must stop.

This is not a dispute about pay or entitlements. Today from the *Herald Sun* we have learnt that construction industry workers earn very good money by community standards, but it seems it is never enough for some. Symptomatic of the mindset of this current confrontation is the case of the CFMEU official at the apartment development who demanded $130 000 a year to put on a kettle and sweep the kitchen.

Mr Ondarchie — That's outrageous!

Hon. R. A. DALLA-RIVA — It is an outrageous abuse of union power. Here in Victoria we are dealing with union officials who believe they are above Victorian law and who are seeking to extend their power and privileges at building sites across the city. They have shown what brute force they are using to get their way.

Honourable members interjecting.

Hon. R. A. DALLA-RIVA — I hear the interjections of members opposite who say, 'What are you doing about it?'. I can tell them what Labor is not doing. Labor is not doing anything. Labor members are absolutely remaining silent. We are seeing thuggery and intimidation. We are seeing a reality that finally appears to have been recognised by the federal minister. The blockade at the Emporium site is an indictment of the current state of the Gillard government's workplace laws. The federal law bestows significant privileges on registered organisations such as unions, including tax-free status for some sources of income. Given these privileges, how can the federal law allow union officials to continue to behave like delinquents and defy the orders of the courts of the land, including those of the Victorian Supreme Court? That is why last night on behalf of the state government the Premier wrote to the Prime Minister seeking an urgent reappraisal of federal law on this question. That is why we are calling on the Gillard government to amend the laws to ensure that defiance of state Supreme courts is no longer tolerated.

As the Premier has outlined, if union officials continue to behave illegally, then federal law should place their union at risk of deregistration. If they refuse to abide by the rule of Victorian law, they should forfeit the privileges their union enjoys under law as a registered organisation. We urge the Gillard government to take up this proposal, because the longer rogue unions persist in this appalling behaviour, the greater the threat there is to jobs and investment in the Victorian construction industry.

It is all very well for the federal minister to say he expects the CFMEU to respect the order of the Supreme Court. The law should say explicitly that it must obey the ruling of the courts — no ifs, no buts and no maybes. Unless the Gillard government and of course the state opposition are prepared to put forward their position, we are going to see a continuation of the bullyboys at the CFMEU, who will continue to operate as though they are above the law. This is not good enough for Victorian industry. It is not good enough for the Victorian people, and at the end of the day we will have Victoria's reputation paying a heavy price.

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

Teachers: short-term contracts

Mr LENDERS (Southern Metropolitan) — My question without notice is addressed to the Minister responsible for the Teaching Profession, Mr Hall, and I ask: given current claims that an inappropriate number of teachers are on short-term contracts, does the minister stand by his comments at the Public Accounts and Estimates Committee last year that the percentage of teachers on short-term contracts is 'probably an appropriate balance'?

Hon. P. R. HALL (Minister responsible for the Teaching Profession) — This issue about the number of teachers on fixed contracts is one that has been asked of me for some time now. I think it was first asked of me by Mr Elasmar. When he first asked me about this matter I gave an undertaking to look into it and find out exactly how many teachers were on short-term contracts and the reasons they were on short-term contracts. If you look at the people who are on leave, and that is predominantly the reason people are put on short-term contracts — that is, to cover leave for all sorts of reasons, whether that be long-service leave, maternity leave or other leave — and you try to match that with the number of people on short-term contracts, you can see why such numbers are on contracts. Indeed more teachers in the Victorian teaching service take leave in any one year than the number of people on short-term contracts.

I stand by the statement I made to the Public Accounts and Estimates Committee that it is probably about right and in balance; nevertheless, I remain committed to working with the profession to see if there are ways we can give greater security to those who are employed on contracts from year to year. That is a matter which has been raised in some of the discussions in enterprise bargaining agreement negotiations, and it is a matter on which I am still working to see if we can in one way or

another provide more people in the teaching profession with some further security.

Supplementary question

Mr LENDERS (Southern Metropolitan) — I thank the minister for his answer.

Mr Drum — Great answer.

Mr LENDERS — I thanked the minister for his answer, Mr Drum.

I note that one-fifth of teachers are currently on short-term contracts, including more than half of first-year teachers who are on short-term contracts for more than two years. My supplementary question to the minister is: given his willingness to monitor this and check on its inappropriate nature, how will he do that when the sustainable government initiative has got rid of the staff in his department who did the monitoring?

Hon. P. R. HALL (Minister responsible for the Teaching Profession) — The Department of Education and Early Childhood Development has many staff, and I am quite confident that the staff that we have are more than capable of monitoring and keeping account of the number of teachers on short-term contracts. Mr Lenders can be assured that I have absolute confidence in the ability, diligence and competence of those within the department who undertake that task very admirably.

Dental health: federal funding

Mr ELSBURY (Western Metropolitan) — My question is for the Minister for Health and Minister for Ageing, the Honourable David Davis. Will the minister outline for the house the impact on Victoria and Victorians of the commonwealth government's recently announced dental changes, described by the Prime Minister as 'a large saving'?

Hon. D. M. DAVIS (Minister for Health) — I, like many people, have read with concern the announcements made by the Prime Minister and the federal health minister yesterday. I have looked at this quite closely, and while I freely indicate that there is some confusion in what the Prime Minister and the federal health minister said yesterday, there does seem to be a coalescing around the fact that there is a cut or a saving.

Let me be quite clear as to the impact of this on Victoria. The preliminary work I have had done on this shows very clearly that when the chronic dental disease scheme is removed at the end of this year there will be a significant impact on Victoria. The first-year impact, including in the calculations the modest proposed national partnership agreement, will be $99.7 million in this financial year. In the following financial year it will be a $129.8 million cut to dental services in Victoria. This is a travesty; this is a very serious impact.

Mr Lenders interjected.

Hon. D. M. DAVIS — Says me. It is very clear that when you cut the programs in the way the savings — —

Mr Lenders interjected.

Hon. D. M. DAVIS — Absolutely. The departmental estimates of these figures say this. Let me indicate that the six-year program the Greens have signed up to will see Victoria $144.9 million worse off over the six years. In the middle years of the program it will be a positive — if it is ever implemented by this federal government, which has not identified a funding source for the later years. What is clear is that in this financial year and next financial year there will be significant cuts to dental services in Victoria. Teeth will be pulled, as it were, out of Victorians but at a lesser rate.

The chronic dental disease scheme is worth almost $200 million a year to Victoria currently, and the commonwealth government has indicated that the scheme will be wound back at the end of this year. That money will not be adequately replaced by the money that has been promised through the modest national partnership agreement, which will see $17 million come through.

Mr Jennings — How can that be?

Hon. D. M. DAVIS — How can that be? The commonwealth is taking away a lot of money from Victoria.

Mr Jennings — And giving back a bigger bucket.

Hon. D. M. DAVIS — And giving back a tiny little one. It is giving back a very small program, nowhere near as large as the one it is removing.

Mr Jennings — A small program? A $4 billion dollar program is a small program?

Hon. D. M. DAVIS — It is compared to a $200 million program, Mr Jennings; even my arithmetic can achieve that, and I would hope yours could too.

The impact of this on vulnerable dental patients will be significant. The impact on our public dental clinics will

also be significant because people will not be able to get treatment in the private sector. They will be forced to come back into public services, which will face a challenge in managing the larger numbers of patients that are likely to come to those services as the other scheme is removed by the Prime Minister, Julia Gillard, and Tanya Plibersek, the federal Minister for Health.

This is a very serious matter. It is a matter that will impact very severely on some of the most vulnerable people in our community, and dental services will be made much the poorer by the decision of the commonwealth government to make a massive saving by winding back the chronic dental disease scheme. As I said, the impact on Victoria in the first year is almost $100 million, and in the second year, 2013–14, the impact is $129.8 million. The program is a net negative for Victoria over the six years that are proposed. I make the point that the commonwealth government has now indicated that this is a straight saving.

Ordered that answer be considered next day on motion of Ms HARTLAND (Western Metropolitan).

Teachers: enterprise bargaining

Mr LENDERS (Southern Metropolitan) — My question is to the Minister responsible for the Teaching Profession, Mr Hall. On what date did the most recent meeting to negotiate the terms of the teacher's enterprise bargaining agreement occur?

Hon. P. R. HALL (Minister responsible for the Teaching Profession) — The exact date I cannot recall. As has been the practice for all governments, there is a negotiating team. The minister is not directly involved, nor should the minister be in those particular negotiations. I will get back to Mr Lenders on the exact date. But I would like to point out, in respect of the government's view of all this, that the government has constantly said to the Australian Education Union that the door is always open. It was the Australian Education Union that departed from the negotiating table and ceased those good faith negotiations that were well under way. Our door is always open, and the AEU is welcome to come back at any time — today, tomorrow or at any time.

Supplementary question

Mr LENDERS (Southern Metropolitan) — I thank the minister for his answer. To help the minister — I am always here to help — I remind him that on 7 June at a doorstop interview the Premier, Mr Baillieu, said he was happy to sit down and negotiate with teachers regarding their enterprise bargaining agreement, and also that the government has made no approach to restart the negotiations since the start of term two. Is the government's inability to negotiate contributing to the fact that hundreds of schools are closing and thousands of teachers will be on strike next Wednesday?

Hon. P. R. HALL (Minister responsible for the Teaching Profession) — It is disappointing that the Australian Education Union has called for a major strike next week. A strike merely interrupts and disrupts the education of students in Victorian state schools. As I have said and as the government has publicly said, we would welcome the Australian Education Union back to the negotiating table. The invitation to do so has been made public and indeed remains. As I said, we are happy to meet at any time.

Technology: data access

Mr O'BRIEN (Western Victoria) — My question is to the Assistant Treasurer and Minister for Technology, the Honourable Gordon Rich-Phillips, and I ask: what is the government doing to increase access to Victorian government-generated and owned — —

Honourable members interjecting.

The PRESIDENT — Order! I do not call people when there is general chatter because I think it reflects poorly on the chamber. When a member is called to ask a question I expect that member to be able to ask that question without interjections and hubbub. People obviously want to hear what the question is, and I would have thought in most cases they would also be very keen to hear the answer. Some of the chatter today and the interjections across the chamber, particularly when I called Mr O'Brien, have not been helpful. They do not allow a minister to hear the question, and they reflect badly on the chamber. I remind members that the proceedings are telecast, so it is no skin off my nose if I have to wait for them to show courtesy to me, as the Chair, and to the next person I am going to call. I urge members to think about that chatter between questions. I do not want to have to tolerate interjections when I call a member to pose a question.

Mr O'BRIEN — My question is to the Assistant Treasurer and Minister for Technology, the Honourable Gordon Rich-Phillips, and I ask: what is the government doing to increase access to Victorian government-generated and owned data?

Hon. G. K. RICH-PHILLIPS (Minister for Technology) — I thank Mr O'Brien for his question and his interest in what is a very important matter for

Victoria. As members of this chamber know, the Parliament of Victoria was very much built on the back of the gold rush in Victoria. One of the challenges in the 21st century is to identify what the new gold is for Victoria and what the new opportunities for our economy are in this century. One of the key indications is that innovation and data are going to be the new gold for the 21st century. Governments around the world, the Victorian government included, collect vast amounts of data in various forms. Across departments and across agencies we see vast amounts of data collected by government.

One of the challenges is to ensure that data is used to its greatest advantage and that we get datasets into the public domain where they can be used to their greatest advantage. We see data and access to data as one of the key drivers of innovation in Victoria. One of the great examples of this is Apple with its iPhone and iPad. It is well known that the Apple iPhone and Apple iPad now have hundreds of thousands of applications available. Those applications were not developed by Apple but were developed by the broader community because Apple made its data available to third parties. We have seen the benefit of that. If Apple had retained that data for itself, we would not have hundreds of thousands of applications; we might have dozens. The iPhone and the iPad are very clear demonstrators of what can be achieved when data is put in the public domain.

A couple of years ago we saw the Australian Bureau of Statistics make all its data freely available for public access. As a consequence of the ABS making its data available the return on investment from the ABS expenditure on data creation is estimated at around 500 per cent, so we have already seen strong examples of where free access to government data has very significant returns.

I am therefore pleased to advise the house that last night at the Victorian Spatial Excellence Awards I announced the new DataVic Access policy. The DataVic Access policy will make vast amounts of Victorian government datasets available for the first time in a consistent, machine-readable format across a range of government departments. Of course there will be some constraints around individual privacy and legislative constraints on what data can be released, but the default position is to release datasets through the data.vic.gov.au website, and make those datasets available to the market for development into applications. While government collects vast amounts of data, government is not going to be the innovator in the use of data; the community will be the innovator, and we will see the benefits from that data being made available.

In the last two weeks we have already seen a doubling of the datasets available through that portal. Over the course of 2013, as this policy is implemented across all government departments, we expect to see a vast array of new datasets being made available in the public domain so that those innovative Victorian companies and those innovative Victorian individuals, who have seen the potential of data and have seen the potential of innovation, can develop new applications and new opportunities for the Victorian community to drive innovation and to drive better economic outcomes. This is a great announcement for Victoria, and it is a great announcement for the technology sector. We look forward to seeing some very significant economic benefits for Victoria.

Planning: residential zones

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Planning. I refer the minister to the three proposed new residential zones. The particular zone that will apply to each suburb will have a significant impact on the type of development allowed in that area, and many in the community are concerned about who will determine which zone will apply in their street. Can the minister assure the community that local councils will have the final say about which zone applies to each area covered by the council?

Hon. M. J. GUY (Minister for Planning) — Like Mr Dalla-Riva, I appreciate Mr Tee's question. Indeed I would like to inform the house of the three new residential planning zones proposal which has been put forward by the Baillieu government. Those three zones, as members might be aware, are a residential growth zone, a general residential zone and a neighbourhood residential zone. The neighbourhood residential zone is a very clear policy position of the Baillieu government — of the Liberal and National parties — which went to the last election saying very clearly that it would, once and for all, establish a very clear zone that would provide protection to neighbourhood residential areas.

Importantly, what I am going to do is to allow councils to prepare a planning scheme amendment process to be provided back to me directly via the planning scheme amendment mechanism but allow them to fast-track it so they can get their new residential zones in place within 12 months. That is very important. That will allow councils to provide direct feedback to me about what zones they want in their residential areas, noting that we have given them a suite of zones, as Mr Tee referred to — a growth zone, a general zone and a neighbourhood residential zone — that will, once and for all, provide clarity and certainty in the planning system in Victoria. Once and for all we will allow

councils to provide directly to their communities the protection of neighbourhood areas that they have so longed for.

This is important, because it is in contrast to what was there in the past, and it contrasts with what would happen under the grey, visionless premiership of Daniel Andrews, the member for Mulgrave and Leader of the Opposition in the Assembly, should that man ever become Premier of Victoria. We would see a return to Melbourne 2030. We would see the scrapping of the Fishermans Bend urban renewal. We would see the return — here we go, and a box of tissues for Mr Lenders!

Mr Lenders — On a point of order, President, the question was about government administration. Delighted as I would be to see an Andrews government, the minister answers for a Baillieu government, and he is now debating a potential future government instead of answering a question on the Baillieu administration. I ask you to bring him back to government administration.

Hon. D. M. Davis — On the point of order, President, what the minister was doing was contrasting an alternate approach that has been adopted quite recently and making it clear, as sensitive as people over there might be, that it was a flawed approach and that this is a new approach that stands in stark contrast.

The PRESIDENT — Order! I thank Mr Lenders for the point of order and Mr Davis for his contribution on the point of order. I indicate that from my point of view Mr Guy was on relatively safe ground in reflecting on previous government administration and a policy, which might have applied in the past but which he has now changed. His explanation has been on the changes that he has implemented, and I think it is quite fair to contrast those. However, I accept the point of order in respect of debating the point, particularly as regards speculation on what a future government might do. I am not aware of any policies that have been released by — —

Mr O'Donohue interjected.

Questions interrupted.

SUSPENSION OF MEMBER

Mr O'Donohue

The PRESIDENT — Order! Thank you, Mr O'Donohue — the door. Thirty minutes.

Mr O'Donohue withdrew from chamber.

QUESTIONS WITHOUT NOTICE

Planning: residential zones

Questions resumed.

The PRESIDENT — Order! I am not aware of any policies that have been released by the Labor Party that would indicate a change of direction or a move back to former policies, and therefore Mr Guy remarks, which he was starting to make when the point of order was taken, were, in my view, speculation and he was debating. I call on Mr Guy to come back to the substantive question and ignore that part of it.

Hon. M. J. GUY (Minister for Planning) — In relation to how the opposition voted in this very chamber yesterday, that is not speculation in relation to its opposition to Fishermans Bend, and nor, should I say, in some of the newspaper articles I have in front of me is it speculation about the opposition's criticism of the government's zone reform package. What we clearly have is an opposition which does not like the creation of a new neighbourhood residential zone.

But I want to turn, if I can, to an article that appeared in the *Australian Financial Review* on, I believe, Tuesday this week. In that article the federal government — while it is not about residential zones, it is about zone reform in general, and I think it is important in this context to remind the house that the federal government has blamed the states — —

Mr Lenders — On a point of order, President, the minister is relying on an article that appeared in the *Australian Financial Review*, which is totally legitimate for the purpose for which he is using it, but he said he thinks it appeared this week. The convention is that when a member is quoting from an article they should, at a minimum, stipulate that it is from a website or give a date and a page reference. If the minister is going to refer to that article, I ask that you rule that he refer to the date and page rather than to an article that he believes was published last week.

The PRESIDENT — Order! As a courtesy to the house, when members use references from other places, particularly newspaper reports or such like, it is important for them to indicate the source of that article and wherever possible provide a date for that publication or the publishing of the information. I think Mr Guy is in a position to do that, so I ask him, as a courtesy to the house, to indicate the date of that publication.

Hon. M. J. GUY — Gee, we have seen the glass jaw of Mr Lenders out this week, have we not?

The PRESIDENT — Order! When I have made a ruling I do not take kindly to the next person standing on their feet then editorialising or taking it up in some way, effectively diminishing a ruling I have made by referring to it in a way that I do not think is constructive. Let us move on with the answer to the question, because the minister has a substantive answer which the house is very keen to hear, rather than having a commentary on my ruling.

Hon. M. J. GUY (Minister for Planning) — Thank you, President. I was certainly not making a commentary on your ruling; I was continuing my answer, for which I have 1 minute and 16 seconds to go. As I said, Tuesday, 28 August, is the date that I have. I did pass reference to Mr Lenders getting to his feet to object on a petty point of order like that, but what I was saying, before I was rudely interrupted by the opposition, was that the federal government in relation to zones has said that businesses are hampered by inflexible and poorly designed planning and zoning regulations.

The federal government itself is calling for planning zoning regulation. That is what this government has done in advance of David Bradbury, the federal Assistant Treasurer and Minister Assisting for Deregulation, asking for zone reform, which this government did months ago and to which the Labor Party in Victoria is now opposed. The councils are in favour of it, the state opposition opposes it and the federal government is in favour of it. The Labor Party is at sea with three different captains and four different rudders; it does not know where it is going. But we are getting on with the job of reforming zones, and that is the right thing to do.

Supplementary question

Mr TEE (Eastern Metropolitan) — I thank the minister. I note that in his answer the minister said the role of councils would be limited to providing him with feedback. Can the minister confirm that he will be the final arbiter, that he will determine which zones apply in each area and therefore that he will determine the level of development that will occur in our streets and suburbs?

Hon. M. J. GUY (Minister for Planning) — I do not think Mr Tee understands the Planning and Environment Act 1987 in terms of how a rezoning would actually occur. Even if there were a great desire to make a council the absolute final arbiter, the Planning and Environment Act dictates that a planning scheme amendment needs to come back to this house, as Mr Tee might be aware, because he moved a revocation motion yesterday in relation to a planning scheme amendment. Mr Tee has to understand that the process that exists, unless he is asking me to legislatively change it, is a process that has been in place for about 25 to 30 years. I have said that what the councils submit to me will be the priority in terms of what will be put forward — —

Mr Tee — Priority!

Hon. M. J. GUY — As opposed to those opposite, who removed council planning powers in development assessment committees at Waterfront Place, in Footscray and all around the state, we are giving those powers back to them. Those opposite took those powers away from them.

Planning: western suburbs

Mr FINN (Western Metropolitan) — My question without notice is directed to the Minister for Planning. Can the minister inform the house of what action the Baillieu government has taken through the planning system to ensure that our fast-growing western growth corridor has access to class A recycled water to ensure that this growth corridor remains sustainable as well as livable?

Hon. M. J. GUY (Minister for Planning) — Some people talk down our outer growth areas, but not the members of the Liberal Party and The Nationals. We stand by our growth areas as sustainable, innovative places to live. These new suburbs that are developing on the edge of Melbourne are producing, on a grand scale, some of the most ecologically sustainable and environmentally friendly homes we have seen anywhere in the world.

I thank Mr Finn for this question. He and Mr Elsbury represent some of the fastest growing areas in Australia. I recently had pleasure in bringing forward an amendment to the Wyndham planning scheme to allow for a dual water supply project that will bring drinking water, and importantly class A recycled water, to 20 000 homes in that growth corridor. That project will also bring class A recycled water to 143 hectares of open space, which is an area almost as large as the Melbourne CBD, also known as the Hoddle grid.

We — that is, the agriculture and water minister, Mr Walsh, and me — are bringing forward fantastic new initiatives to ensure that our suburbs not only grow but grow sustainably. I say again that the Baillieu government — the Liberal Party and The Nationals — stand by outer growth areas. We stand by people who want affordable housing, who want a chance to live in a

home — but more to the point, to live in an affordable, sustainable home — in a new suburb in one of Australia's fastest growing areas. This contrasts with some comments that have been made about those suburbs in the past.

Mr Leane — By whom?

Hon. M. J. GUY — I was not going to say anything, but I will take up Mr Leane's interjection. Members might be aware that the former Minister for Planning used the terms 'obese housing' and 'McMansions' in a disparaging way in relation to people who live in outer growth areas. They were shameful and disparaging comments that put down people who live in outer growth areas. His parliamentary secretary, Ms Mikakos, sits in this chamber; I wonder if she endorsed that point of view.

I do not think these homes are McMansions; these areas are new, sustainable suburbs. In the western growth corridor 20 000 of them will have access to class A recycled water because of the planning scheme amendment the Baillieu government has brought in and because of the actions of the water minister, Mr Walsh. The advocacy of Mr Finn and Mr Elsbury has seen those areas advance in terms of environmental sustainability.

I find it interesting that the growth corridor plans brought forward by this government, plans which were opposed by the opposition, contained references to Living Melbourne, Living Victoria, which is a plan to ensure that we get sustainability in our new suburbs. This plan was of course opposed by those opposite, and it was opposed yesterday by Steve Bracks, the man who brought more land into green wedges than any other Premier. What a rolled gold, gold medal hypocrite Steve Bracks is! He is the man with the shortest memory span in this state, who brought 47 000 hectares of land into the urban growth boundary. Forty-three thousand hectares were brought in by John Brumby, and not even 6000 hectares have been brought in by this government. A gold medal hypocrite is Steve Bracks. We are building sustainable suburbs. Steve Bracks and his colleagues are out there canning and bagging those new communities that the Baillieu government stands up for.

Medical physicists: enterprise bargaining

Ms HARTLAND (Western Metropolitan) — My question is to the Minister for Health. During question time on 15 August the minister said that since the 2010 elections he had had discussions with Dr Rosemary Kelly of the Medical Scientists Association of Victoria. While Dr Kelly has had one meeting with the minister since the 2010 election, the meeting was on an entirely different matter from the EBA (enterprise bargaining agreement). The minister has not even bothered to respond to Dr Kelly's written request for an urgent meeting, and I have a number of letters and emails to confirm this. Cancer treatment services are obviously at crisis point, yet the minister will not meet with the Medical Scientists Association. My question is: can the minister explain why he said he had met with Dr Kelly to discuss the EBA when he had not?

Hon. D. M. DAVIS (Minister for Health) — I can very clearly indicate that I met with Dr Kelly before the election and after the election — —

Hon. M. P. Pakula — But not about this matter.

Hon. D. M. DAVIS — Actually about Bendigo and about other matters, including workforce issues. We discussed academic positions and a number of matters around that, and that was very valuable. I was very pleased to meet with her on those matters, and indeed I will discuss other matters with her in the future, no doubt.

As the member will understand quite well, there is an enterprise bargaining agreement process under way now, and the Victorian Hospitals Industrial Association is doing the work to negotiate there, and steps have been taken in the last few days, as the member will be aware.

Supplementary question

Ms HARTLAND (Western Metropolitan) — According to Dr Kelly, she has met with the Minister for Health once regarding Bendigo Health, not about this matter. So the question I ask is: when will the minister actually meet with the medical scientists to try to find a solution to the impasse in the EBA negotiations that is bringing the treatment of people with cancer to crisis point?

Hon. D. M. DAVIS (Minister for Health) — I have to say I think I answered the question quite directly in the first instance, but I will repeat it: I was very happy to meet with Dr Kelly. We did discuss Bendigo, we also discussed matters around workforce and academic positions, and I will be happy to meet with her on those matters again. In terms of the EBA negotiations, as I think the member understands, the union is the bargaining party on one side and the Victorian Hospitals Industrial Association is the bargaining agent for government providers on the other hand, and those negotiations will proceed. The government is aware of the impact of bans, and indeed there has been legal

action in the last few days at Fair Work Australia. I am happy to provide an update to the house as soon as there has been a ruling by Fair Work Australia. I understand there is a further hearing today.

Ms HARTLAND (Western Metropolitan) — I move:

> That the minister's answer be taken into consideration on the next day of meeting.

The PRESIDENT — Order! I am happy to put that motion. I might say, though, that there is an established practice in terms of these negotiations. I was a little concerned about the supplementary question due to the fact that it sought to get the minister to meet on an industrial relations matter when in fact there is an established process, and it is a process used by all governments to pursue these matters. I have some concern that a minister — not specifically this one, but on any occasion — might be put in a position where he or she is asked to intervene in matters which are really outside the established process. Particularly in the context of the current Fair Work Australia arrangements, it would be improper for a minister to intervene in some of these matters. From that point of view I had some difficulty with the supplementary question.

The minister has answered to some extent, in that vein, outlining the process. That is clearly available to the house, and in that context I will put the take-note motion.

Motion agreed to.

Vocational education and training: apprentices and trainees

Mrs PEULICH (South Eastern Metropolitan) — My question without notice is directed to the Minister for Higher Education and Skills, Mr Hall, especially as this is National Skills Week. I ask the minister if he is able to advise the house on how Victoria compares nationally in the areas of apprenticeships and traineeships?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Mrs Peulich for her question. It is an appropriate one because, as she says, we are celebrating National Skills Week. The National Centre for Vocational Education Research (NCVER) does a lot of useful work in collating and analysing material relating to training effort across the nation. Its most recent publications give an analysis of enrolments and participation in training in so far as apprentices and trainees are concerned. It is very important work because the level of employment of apprentices and trainees is a good barometer for measuring the confidence that business and industry have in the economy. Therefore it was pleasing for me to note that the most recent analysis of apprenticeship facilitation across the nation — and this research report is for the 2011 year — indicates that in Victoria 4.1 per cent of our working population is enrolled as an apprentice or a trainee. That is in excess of the national rate. It is a very good figure — that 4 out of every 100 working Victorians are either an apprentice or a trainee. This figure compares very favourably with some of the other states. New South Wales has a similar figure, Queensland's figure is 3.8 and in Western Australia it is 3 per cent. I point out to the house that in traditional trade apprenticeship areas that figure is 12.3 per cent, so they are significant figures again.

The commencement rate is important. Between 2010 and 2011 Victorian apprenticeship and trainee commencement rates went up by 12.8 per cent. In 2011 we had 96 500 young people commence as either apprentices or trainees. Looking at the 2012 early indication figures, the comparative figure for the first quarter of 2012 compared to 2011 shows a very significant 23 per cent increase. That trend of a bigger participation rate and greater commencement rates in apprenticeships and traineeships is continuing, as documented in the NCVER statistics.

I also make the observation that the quality of people involved in apprenticeships and traineeships is very impressive. I had the opportunity to meet with a number of young people as part of National Skills Week this week and talk to them about their goals in life and why they undertook apprenticeships or traineeships. One of those I spoke to was the Victorian Apprentice of the Year award winner from last Friday night, Sevag Parseghian. Sevag completed a diploma of engineering before then commencing an apprenticeship in automotive skills. He could see that there was a need for the practical application of the skills that he was able to gain from his diploma, so he went on to transfer them into an apprenticeship. He is a bright young man with his head soundly screwed on.

Another observation I want to make concerns the Housing Industry Association annual awards ceremony, which I recently attended. The apprentice of the year within the housing industry was a young man who the previous year had completed his Victorian certificate of education with an Australian tertiary admissions rank score of 95. A score of 95 will take you into just about any university-level course that you would like to choose, but again that young man saw a future for

himself in building and construction, and to his great credit he has now entered into an apprenticeship area.

I think the message is getting through that vocational training is very important, it sits parallel with higher education, it is something that should be encouraged, and the National Skills Week does that.

Sitting suspended 12.54 p.m. until 2.02 p.m.

WORKING WITH CHILDREN AMENDMENT BILL 2012

Second reading

Debate resumed.

Mrs COOTE (Southern Metropolitan) — I have a great deal of pleasure and take pride in speaking to this bill today. It is another indication of how much the Baillieu government cares about vulnerable children in our state and takes very seriously anything to do with the abuse of children. The bill will help to further protect children from either or both physical or sexual harm; it revisits and reassesses the fundamentals of category 1 and category 2 applications; it provides for enhancements of the tests to be satisfied before a working-with-children check is issued; it makes murder a category 1 offence; and it also prevents a person who has made a category 1 or category 2 application, having committed one of the specified crimes, from working with children whilst their application for a check is being assessed.

Across our state there are thousands of Victorians who have a working-with-children permit. Those people do a phenomenal job within our community. They care about our vulnerable children, and they care about children who are under their protection and also in a broader sense. I know these people will welcome any further controls and regulations that deal with clarifying procedures for protecting our children in this state.

An article in the *Age* of 23 October 2002 states:

> The mandatory reporting law had been passed in 1993 as a result of the shocking death of Daniel Valerio. In September 1990, when Daniel was just two years and four months old, he was battered to death by his stepfather. The circumstances of the murder exposed deep flaws in how child abuse was being dealt with.
>
> More than 104 bruises were found on Daniel's body and both his collarbones had been broken. A post-mortem found he died from internal injuries to the abdomen, similar to those suffered in a road traffic accident.
>
> Daniel's stepfather, Paul Aiton, who was convicted of the boy's murder, admitted hitting Daniel two or three times to stop him crying. 'I'd go through a brick to get him to stop crying', he said. Aiton, himself a victim of child abuse …
>
> What shocked policy-makers, though, was the fact that in the lead-up to his murder, Daniel had been seen by 21 professionals — including a number of doctors and, briefly, a teacher.
>
> …
>
> When Daniel was taken to one doctor, with bruising around the eye, forehead and scalp, the doctor 'ignored the obvious' … and ordered blood tests to check if he had some rare blood disorder.

At the time I was working as ministerial adviser for the Minister for Community Services, Michael John. The Daniel Valerio incident shocked the entire state. It was a terrible indictment of our community. The Kennett government brought in mandatory reporting of child abuse, and it has been very successful. Subsequent governments — the Bracks and Brumby governments — also supported any measures to assist in dealing with child abuse. That is something about which the whole community feels very strongly.

When the Baillieu government came to power in November 2010 one of the very first things the Premier and the Minister for Community Services, Mary Wooldridge, indicated was that they wanted to address what was happening to vulnerable children in our state. As a consequence Minister Wooldridge asked an eminent former Supreme Court judge, Philip Cummins, to run an investigation into vulnerable Victorians.

Philip Cummins wrote an extensive report — I think it was over 900 pages in length. I have spoken about that report in this chamber, as indeed have many others here today. The report includes many recommendations. It discusses many of the issues we face today with the increasing number of children living in out-of-home care — a huge number of vulnerable children. It provides a blueprint of direction for what we could do.

Not every child is sexually abused or battered to death like Daniel Valerio, but many children in our community are tampered with or abused — more than we would ever expect. When mandatory reporting was first brought in during the Kennett era, as I said, I was working for then Minister for Community Services, Michael John, and we received a huge number of reports of abuse. Some of it was scurrilous — some of the allegations were made because people did not like their former partner, their neighbour, or their daughter-in-law — but most of the allegations were from people who had seen or experienced abuse, and this was their opportunity to come out and talk about it. We were overwhelmed by the number of people who gave their story.

Over the past 19 years we have seen the introduction of working-with-children checks and some stringent regulations about people working in out-of-home care or otherwise working with children, and it all is to be welcomed. Every step we can take to make quite certain that children in our care or in the care of other people in the community are not damaged, hurt or abused in any way, shape or form, is to be welcomed. Today we are dealing with a bill that takes us another step forward. It is another opportunity to make quite certain there is clarity and transparency around anything to do with working with children — vulnerable children or children in general — so that the rest of the community understands what the rules are. That is why the bill before us today is welcomed, I think by everyone. It shows that the Attorney-General, the Premier and the Minister for Community Services are very concerned about this issue and want to make sure that we fix any loopholes and make the rules very clear.

Philip Cummins made many suggestions and recommendations in his report, and the Baillieu government immediately put in $61 million to make quite certain that his recommendations would be implemented. One of those recommendations was that the government look into child-sex abuse reporting issues in non-government institutions. That reference was given to the Family and Community Development Committee, which is chaired by Ms Crozier. The government said it would increase support for this committee, and it has done so. It has appointed two prominent people — former Supreme Court judge Frank Vincent and former South Australian police commissioner, Mr Hyde, who has much experience in dealing with sexual and other abuse of children. The committee has also been provided with counsellors and additional support. Submissions have been called for, and many are coming in. It is vital to understand what happens after child abuse is reported. We have to make certain that this important step is followed through appropriately to bring clarity to other aspects of serious child abuse.

Phil Cummins listed a number of issues in his conclusion, chapter 23. He said there were 10 major system reforms to address the contributing factors in child abuse and neglect and the potential for increased prevention through effective and coordinated early interventions. This requires a whole-of-government strategic approach, driven at cabinet level by the government and supported by a strengthened Children's Services Coordination Board and overseen by a commission for children and young people.

The Working with Children Amendment Bill is a clear indication of that. The Attorney-General, Robert Clark, has recognised this as an issue and is dealing with this issue in the bill before us today. As I said, the Premier and the Minister for Community Services are also very supportive.

I turn to two of the major system reforms Mr Cummins put forward. The fifth was 'Strengthening the law and its institutions'. Although the bill before us today is not enormous in size, it does exactly that. The eighth system reform was 'A strengthened regulatory and oversight framework', and this bill does that too.

I would like to read from what Mr Cummins said, because, as I said earlier in my contribution, thousands of people across our state have working-with-children permits, and they are particularly cognisant of the delicacy of dealing with children, but in the scheme of things very few people perpetrate serious abuse against children. It is important to understand that the enormous number of volunteers across the state do the most phenomenal amount of work. In the final paragraphs of the report Phil Cummins wrote:

> Victoria relies heavily on its community sector for delivery of a wide range of services for vulnerable children and young people. A future system for protecting children will build community sector capability and provide a clear and transparent accountability and regulatory framework to promote responsive and high-quality service delivery.
>
> The inquiry observed firsthand the dedication and commitment of those individuals involved in working with vulnerable children and their families, sometimes on a voluntary basis, to improve their experiences and chances in life. These individuals reflect the powerful role that community and families can play in supporting and protecting our vulnerable children.

He ends by saying:

> At the heart of the inquiry's recommendations is a focus on meeting the needs of Victoria's vulnerable children and young people. Adopting such a focus will be critical for ensuring the success of a lasting reform agenda to address child abuse and neglect of Victoria's most vulnerable citizens.

The bill is another step towards achieving that goal. I commend the bill to the house.

Mr Leane — Acting President, I direct your attention to the state of the house.

Quorum formed.

Mr ELASMAR (Northern Metropolitan) — It gives me great pleasure to rise to speak on the Working with Children Amendment Bill 2012. As my colleagues have previously indicated, this side of the house does not oppose the bill, but let me remind the coalition that

the Working with Children Act 2005 was introduced by the previous Labor government. The purpose of that bill was to put safeguards in place for the most precious and vulnerable people within our community, our children. The bill before the house today seeks to improve the current mechanisms to further protect children within the community. As a parent and an elected parliamentarian I believe we have a responsibility to ensure the safety of our children. The amendments to the principal act are not opposed by Labor because the changes proposed in this bill address practical and technical issues.

The bill adds additional criteria to those currently applied by the Secretary of the Department of Justice and the Victorian Civil and Administrative Tribunal. I cite a case where VCAT overturned the Secretary of the Department of Justice's decision to deny a working-with-children check card to an applicant who had been convicted of the stabbing murder of an adult. This bill will ensure that that scenario will not be repeated in the future. It will ensure that certain category 2 offences, which comprise several serious crimes, will be re-categorised as category 1 offences.

This effectively means that the secretary will have no discretion to issue a working-with-children check card. A person who wishes to work with children but who has been convicted of murder will not be able to have that decision overturned by VCAT because the bill moves murder from category 2 to category 1, although an applicant may still apply to VCAT for a review under the new test. The new test requires VCAT to consider what a reasonable parent would think about the applicant having direct and unsupervised contact with their child. Along with my colleagues, I will not be opposing this bill.

Mr Leane — Acting President, I direct your attention to the state of the house.

Quorum formed.

Mrs PEULICH (South Eastern Metropolitan) — I rise in support of the Working with Children Amendment Bill 2012. As was put very persuasively by Mr Ondarchie, the natural instincts and role of human beings to protect their offspring is something that has been reflected around the world and across the cultures throughout the history of human civilisation.

It is a reflection on modern-day society that such a piece of legislation was necessary to begin with, but nonetheless I think it is a mark of our civilisation that we saw the shortcomings and have put in place a legislative measure to further protect children and young people from harm. That harm is mostly incurred physically, through sexual abuse, but there are other forms of harm as well. This legislation strengthens the working-with-children check scheme to enhance the protection of children, clarify the application of provisions of the act and streamline its administration. I note that there are some members in this chamber who have a working-with-children status. No doubt they will be able to speak on this bill from personal experience.

The bill addresses issues identified by the Department of Justice that are designed to improve the operation of the scheme, clarify certain aspects of the Working with Children Act 2005 and increase the protection afforded to children. I also understand that further amendments to be introduced in the committee stage will go one step further in clarifying some aspects of the bill that may inadvertently be ambiguous. I would like to commend the minister for picking up on those ambiguities at this stage, because we are all very familiar with legislation that has had to return to the chamber months and sometimes years after it was passed for the purposes of further clarification.

The original legislation is clearly working. I understand that since the commencement of the act up until 30 April 2012, 910 000 Victorians had applied for a check in order to engage in paid or volunteer child-related work. Approximately 1024 people — that does not sound like an approximate number — have been issued with a negative notice, making it unlawful for them to engage in child-related work, so many children have probably been protected as result of that system working. This legislation will make it work even better.

The proposed amendments do not alter the basic framework of the scheme but, as I said, seek to strengthen it, and they do that in a number of ways. The bill will strengthen the test that the secretary and the Victorian Civil and Administrative Tribunal (VCAT) must apply in deciding whether to issue a person with a working-with-children check or in deciding upon the ongoing suitability of a person to hold a check. It will remove a person's automatic right to work on a check application receipt or while their suitability is being reassessed where the person has a charge, conviction or finding of guilt in relation to a serious sexual, drug or violent offence. I think this is a very sensible and necessary precaution.

The bill provides the secretary with the ability to revoke a check if the secretary becomes aware that the person holding the check has been charged with, convicted of or found guilty of a serious offence and the person fails to provide the secretary with requested information following suspension of that check. A huge oversight

was obviously not making murder a category 1 offence initially; currently it is category 2 in a three-category system. Making murder a category 1 offence requires the secretary to automatically reject the application and issue a negative notice.

The bill clarifies that a person on a supervision order or detention order under the Serious Sex Offenders (Detention and Supervision) Act 2009 is unable to apply to VCAT for review of a decision to remove their ability to engage in child-related work. Coupled with that provision, the issuing of a check application receipt was previously delayed while a person was being reassessed; that now kicks in immediately. Hopefully many more loopholes will be addressed and children will be safer as a result.

The bill clarifies that a person alleged to be on a supervision order or detention order can apply to VCAT for a review on the basis of mistaken identity. Regrettably, that is emerging all too often as a fraudulent practice. No doubt those who are motivated to do harm to children, whether it is physical or sexual harm, are ingenious, and if we have the right to an automatic application for a VCAT review, the guilty person can in fact be tracked down.

The bill also clarifies that the secretary's reassessment of a person's suitability to hold a check should be conducted on the basis of the offence that gave rise to the reassessment and not the offence relating to the current check. It seeks to capture earlier versions of the Victorian offences of causing injury intentionally or recklessly and obscene exposure so that these earlier offences can be considered by the secretary in assessing the suitability of a person to engage in child-related work. It seeks to streamline the process for a person wanting to move from a volunteer check to an employee check by enabling the secretary to issue a new check without having to reconsider offences or instances of conduct that were previously considered in issuing the original check. All of this will hopefully make for a more effective system.

The proposed amendments will obviously strengthen the scheme to enhance what the state is able to do in fulfilling its statutory obligations to protect children from physical and sexual harm. The measures that are introduced here and the house amendments that will be introduced in the committee stage are designed to improve the scheme's operation to better protect children.

I am pleased to hear that Ms Pennicuik was reassured by the Scrutiny of Acts and Regulations Committee report, which gave its favourable endorsement of the legislation, and is, on behalf of the Greens, supporting it. I think it reflects very poorly on the Labor opposition that it is simply 'not opposing' the legislation. I would have thought there would have been a stronger ideological and policy commitment than just a hands-off 'we'll let this sail through' approach. Everyone has buy-in and a responsibility to make sure that the protection of children is a responsibility we all share equally and is not subjected to simple political grandstanding.

I am pleased to speak in support of this legislation, and I look forward to seeing it work even better. Clearly it has been doing its job. Where there are loopholes it is the responsibility of legislators and the minister to step in and fix those, and that is hopefully what this bill does. I am assured that there has been extensive consultation through the Department of Justice with various stakeholders, both internal and external, throughout the development of the bill. I understand that the departments with key interests in legislation include the Department of Transport and the Department of Business and Innovation. The child safety commissioner and the Victorian privacy commissioner have also been fully engaged in the development of this legislation.

With any legislative change there is a responsibility to make sure that the community understands it, which particularly falls on those responsible for its implementation. An ongoing community education program is critical to the even more successful functioning of this working-with-children check regime. Obviously that will require broad communication of the fact that the operations of the check have been strengthened in order to further assist the protection of children from physical and sexual abuse. I have no doubt that the minister responsible, whom I must commend for filling in the gaps, will do that.

Without further ado, I think the motivations of this bill are honourable, the legislative amendments are necessary and the responsibility is on all parties in this Parliament to commit to, support and ensure the effective implementation of these changes, which will further strengthen pieces of legislation regrettably, that modern life has required us to devise in the first place.

Mrs KRONBERG (Eastern Metropolitan) — I am pleased and proud that it is the Baillieu government that has brought these amendments to the Working with Children Act 2005 to the chamber in the form of the Working with Children Amendment Bill 2012. This bill is very important. From 2006, when the principal act commenced, up until April this year,

910 000 Victorians had applied for working-with-children checks. It is really important to stress that amongst those 910 000 Victorians who have made this application are professionals from all sorts of disciplines and cohorts of volunteers who work assiduously and often tirelessly to bring other dimensions to bear in the lives of children through sport and other sorts of activities. Their work is to be commended, and no element of this bill is meant to cast any kind of shadow or aspersion on the work of the great bulk of Victorians.

However, we need to recognise the impetus behind this amendment to the Working with Children Act 2005: the 1024 Victorians who were knocked back after applying for a working-with-children check. Clearly what that has meant is that they have been prohibited from being lawfully engaged in any child-related work, and this is important. The government regards this as a top priority in deciding on tests. The tests for these working-with-children checks have to be in the interests of children and their families. The tests that apply under the current law are regarded as being far too focused on the interests of individuals who apply for the checks. I reiterate that one of the top priorities of lawmakers in this state and people who have been alerted to some of the problems that have manifested since 2006 is always going to be the interests of children and their families.

The main objective of the Working with Children Amendment Bill is to strengthen the working-with-children check scheme to enhance the protection of children from physical and sexual abuse. It clarifies the application of provisions of the act and streamlines its administration. The bill addresses issues identified by the Department of Justice and is designed to improve the operation of the working-with-children check scheme, to clarify certain aspects of the Working with Children Act 2005 and to increase the protections afforded to children.

The bill will remove a person's automatic right to work on a check application receipt or while a person's suitability is being reassessed where the person has a charge, conviction or finding of guilt against them in relation to a serious sexual, drug or violent offence. The Secretary of the Department of Justice will be given the ability to revoke a check where the secretary becomes aware that the person holding the check has been charged with, convicted or found guilty of a serious offence and the person fails to provide the secretary with requested information following the suspension of that check.

Importantly, the bill will make murder a category 1 offence. This means the secretary will be required to reject the application and issue a negative notice. Furthermore, it clarifies that a person on a supervision order or a detention order under the Serious Sex Offenders (Detention and Supervision) Act 2009 is unable to apply to the Victorian Civil and Administrative Tribunal for review of a decision to remove their ability to engage in child-related work.

A number of my colleagues have made other focused and technical contributions; I want to make just a couple of points from my personal experience. When I was teaching at Box Hill Institute I applied for and received a working-with-children check. Prior to the 2005 act I had the most disquieting and upsetting experience when I interrupted some kind of physical contact between a senior colleague of mine and a young man who had been trusted by his family to attend a series of sports training events. That brought home to me just how incidents of child abuse can occur even in an adult learning environment — this young person was about 14 years of age — and the kind of spell and thrall that a person of influence dealing with a young person can bring to bear.

Innocence can be drawn into a web of deceit — and quite often depravity — for the sexual gratification of the person engaged in that kind of liaison. I still feel quite sick to the stomach to think about what happened when I unwittingly interrupted things and saw the looks on their faces, especially that of the adult perpetrator. Parenthetically I will say that that adult perpetrator is no longer within the employ of any educational body in this country.

I also had an opportunity when I was working in the field of executive search and selection through my forensic approach to interviewing applicants for a role in a local government entity. That local government entity was looking to restructure second and third-tier management positions. Through crossmatching of information I just happened to stumble on an interesting relationship. I thought it was a little bit unusual that middle-aged men were hell-bent on having a change in career direction to preside over children in a council-related child-care centre when they were not entirely suitable or qualified. My in-depth checking and examination of their backgrounds confirmed what my original suspicions were: their intentions were basically to combine career objectives with the sexual exploitation of little children under the age of four years.

I cannot begin to tell you how important it is from my own personal experience that we tighten up these checks and remain continually vigilant. Unfortunately these checks derive from that imperative. The people

who approach working-with-children checks with the noblest reasons unfortunately have to be judged by the sins of the 1024 people who have failed to be awarded working-with-children checks in this state. We need to maintain that vigilance because people wishing to exploit children of any age — from when they are still in nappies and children under the age of 2 right through to people of 17 years and 11 months of age — will continue to pursue their own personal aims and depraved personal objectives. My comments are right out of the field of physical abuse.

I must say that my parliamentary colleague Mrs Coote gave a most moving account in the chamber earlier when she pointed to the imperative and the instigation of the mandatory reporting process, which is the genesis of the direction of this particular legislation. I vividly remember the Daniel Valerio case, and who could forget that pained image of the little boy with a massive black eye peering at us from the front pages of our newspapers. I commend Mrs Coote for her sensitive accounting of that and the fact that she has shared with us her depth of experience in this field. I commend her for her contribution, as I commend the Baillieu government for introducing this bill.

I would also like to make an oblique comment that underpins the point my colleague Mrs Peulich made in her contribution, in that in some inexplicable fashion the Labor opposition has chosen not to oppose this bill, rather than fulsomely supporting it. I am not sure what kind of pit of self-doubt underlies that, and it is hard to fathom the motives of the Labor opposition. It will be wonderful to see the passage of this bill through the house later this day.

Mr P. DAVIS (Eastern Victoria) — I am pleased to have the opportunity to make some brief remarks on the Working with Children Amendment Bill 2012, and like many members of this house, I have in my possession a working-with-children check. As I sat here in anticipation of the debate, I thought I should read what was on the card. I realise that there is a bit of discrimination contained within this, because although it says, 'The person identified in his card has passed a working-with-children check', it then says, 'This card cannot be used to engage in child-related work for profit or gain'. That does not worry me too much, because I obtained this card as part of my community service activity and I am not likely to engage in working with children for profit or gain.

I want to come back initially to the point made several times during the debate by way of interjection by opposition members about members of the now government parties having, at the time of the passage of this legislation, expressed concerns, as they reasonably did.

Hon. M. P. Pakula — You voted against it!

Mr P. DAVIS — By way of interjection Mr Pakula has said I voted against it. I am on record as expressing concern about some of the administrative and bureaucratic implications of the bill and its provisions. I have to say in practical terms those still technically exist, although I think the consequences are ignored. I am not going to reflect on the debate we had at the time, but it was to do with neighbouring farming families and the like in rural communities where there are unusual circumstances about the way kids grow up together — such as, what is a workplace? The questions often can be asked about kids on a farm engaging in what they regard as play, but it being alleged they are participating in a workplace activity. That is another debate for another time. It still remains as a technical issue in terms of this legislation, but I do not want to go there today.

I want to talk briefly about the fact that to date there have been 910 000 applicants for working-with-children checks; of that number, 1024 have been declined, therefore preventing those people from lawfully engaging in child-related work. It is interesting to look at predictions that were made about the layer of bureaucracy, and they were not really understood.

As I have just declared, I have a working-with-children check, and that is as a result of being actively engaged in my community and volunteer work; so it is not just added at a government level where there has had to be investment in a structure to process the necessary applications for these checks. Progressively community and volunteer organisations have had to build into their own processes a bureaucratic process to ensure that participants in that organisation comply with what are new levels of rules in the organisations that require their volunteers to have working-with-children checks.

It is sad really — and I think we would all agree — that we live in a society where people cannot just roll up, put up their hand to volunteer and get on with it. To be an active volunteer they have to wait until they have been through a process that is designed to weed out undesirable elements, but that is just the pragmatic reality of the society within which we live today. I note it is regrettable, but in saying that I have to attest that I support this bill, because it seeks to achieve an improvement in the system, which I acknowledge was set up by the previous Labor government, making it possible for applicants with a serious criminal history to

be weeded out in the working-with-children check process.

However, in recent years we have seen the Department of Justice refuse working-with-children clearances to people with serious criminal histories only for the Victorian Civil and Administrative Tribunal to overturn these decisions and approve the checks. The government obviously believes that children and their families should be the top priority in regard to working-with-children checks, rather than the interests of those individuals who are applying. The amendments to the legislation will improve the level of confidence that families have in people who work with their children.

It is useful to note that while all members who have made contributions today have taken different rhetorical positions, it is clear that the bill will pass with the overwhelming support of members of this place. As I understand we are about to go into a committee stage, and given that it is the last sitting day for the week, I will not take up any more time of the house. I commend the bill.

Mr FINN (Western Metropolitan) — I rise with some reluctance to speak this afternoon. What Mr Davis said about this being a sad bill is very true. I have expressed the view in this house before that the fact that we have to have legislation of this nature reflects very badly on modern society. The fact that we have to have legislation to check for people who would use children for their own purposes, whether for sexual gratification or whatever it may be, to prevent them from working with children reflects very badly on the values of perhaps far too many people in modern society.

I have to say up-front that for the life of me I do not understand how anyone could hurt a child. I do not understand how anyone could use a child, in all his or her innocence, for their own personal sexual gratification. I do not understand anybody who would deliberately harm a child in terms of physical or mental abuse. I do not understand anybody who would deliberately go out of their way to cause pain and suffering to children in the way that has been highlighted all too often in recent years.

Perhaps it is a symptom that the society we live in is not as healthy as it used to be, or perhaps we now live in a society that highlights this behaviour far more than has ever been the case before. Perhaps in years gone by this sort of behaviour did go on but it was covered up and the newspapers and media did not talk about it. It is a very good thing that it has been uncovered because this sort of thing, as with any evil, flourishes when it is covered up. It flourishes when it is not exposed to the light. In its own way it is a good thing that this sort of mistreatment and evil activity has been exposed for what it is.

Over the years some people have said to me that they believe people who harm children in this way — particularly sexual deviants and people who have committed vile sexual abuse of children, often abuse that has resulted in the child's death — should be liable for capital punishment. As a father of young children, I find that a very tempting proposition, but it is not a proposition I support. Quite frankly, I do not fully understand what goes on in the mind of somebody who involves themselves in that sort of activity. In my mind there is some doubt as to the fitness of the mental state of anybody who, for example, is involved in child pornography, who uses a child for their sexual gratification or for their own gratification in any way. There is some doubt in my mind as to whether those people are in full control of what they are doing.

Perhaps it is more from hope than anything else that I say that. Perhaps it is the naive part of me hoping that nobody in their right mind could possibly commit the sorts of heinous acts that we have seen committed against children over recent years. I hope against hope that anybody who involves themselves in the sort of dreadful activity that we are endeavouring to further legislate against today has some mental problems that force them into these sorts of acts.

I am a great believer in the fact that the rights of children in society must be protected at all costs, and I have said this on the public record for almost 20 years, since I first entered Parliament. The rights of children are absolutely paramount. We as adults have a fair chance of looking after ourselves. We can stand up and defend ourselves and look after our own rights, but children cannot. Children need legislative and other protection. Those of us who are big, ugly and loud and who can stand up and maybe swing the odd punch or make enough noise to ensure that we are able to look after ourselves perhaps do not need as much protection as the little innocent ones.

I spend a fair portion of my life defending children from a very early age.

Mrs Kronberg interjected.

Mr FINN — As Mrs Kronberg knows, I defend children from a very early age. It is sad that what we have seen in this society over the last 20 years is an undermining of the rights of children. Over the last 20 or perhaps even 30 years we have seen various interest

groups pushing their own agenda to the detriment of the rights and welfare of children. Unfortunately we have seen it in this house. Over the last few years we have seen some major pieces of legislation passed in this house which have worked against the best interests of children. I do not want to go into the specific pieces of legislation because that would start another debate altogether, but I assure the house that on at least one of those issues there will be a debate very soon as we wind back the legislation which has harmed the rights of tiny, innocent children.

The bill we are debating today is not a new issue. Back in the 1990s during the Kennett years I was a tad confused — and it confuses me still — about why anybody would oppose mandatory reporting. There was such a brouhaha; some people were talking about civil liberties and all that sort of thing. Civil libertarians have a tendency to get a bit carried away from time to time, but for those of us who believe that the rights and the welfare of children are paramount it was not an argument. It was never something that could seriously be debated. Of the many things the Kennett government achieved in its seven years, we can be very proud of the mandatory reporting legislation that was passed in that time. As a member of that government, I am very proud of what we did way back in the 1990s.

One of the issues this legislation brings to this Parliament is the question: do kids really matter? As a father, I have to say that they most certainly do. I heard a talkback caller on the radio this morning who was asked, 'Would you like a mansion, or would you like kids?'. The discussion on the radio was about those who have chosen material wealth over a family, and it is a pity we have got to the stage in this country where such a choice is necessary. Without hesitation this particular chap said, 'Kids', and I thought, 'Well, there is hope for the world yet'. As far as I am concerned the greatest gift we have on this earth is children. There is no question in my mind when I say that. I think of my own children at home, whom, despite their tremendous capacity to destroy things, I still love more than anything else — more than I could ever have imagined before they came along.

To people who say, 'Kids do not matter; there are other priorities, and children have to be put on the backburner', I say, 'They have got it completely wrong'. To those people who use children to make money in ways that are quite despicable and totally evil in every way — for example, purveyors of child pornography — I say, 'You are surely the lowest form of life to use children in a way that completely destroys the innocence of childhood to which every child is entitled'. Childhood is one of the great times in our lives. In this place I often think, 'If only I could turn the clock back a few years'. Everybody is entitled to a childhood and that innocence, and everybody is entitled to feel safe during that time.

The tragedy is that we have to have legislation such as this to ensure that that safety is there; we have to have legislation instead of being in a situation where we know parents will look after their kids, as happened in my family — I was very fortunate. I certainly go out of my way at every opportunity to ensure that my children know they are safe and secure, and I do everything I possibly can to make them happy. I have to say that if anybody hurt them in the ways we have talked about in relation to this bill, I would not be held responsible for what I did to the perpetrator of that act. Anybody who is even thinking about that should be warned. It would not be a matter of capital punishment because they would not get that far.

This legislation is very important. It is welcomed. I am not delighted that the opposition is not opposing it; I wish it was supporting it. I wish the bill a speedy passage, and I sincerely hope that every child in our state is safe and can feel safe for the entirety of their lives.

Mr O'BRIEN (Western Victoria) — It is with great pleasure that I rise to speak in the debate on the Working with Children Amendment Bill 2012. I have listened to the contributions made by members on both sides of the house, and I note in particular the opening contribution on this side by Mr Ondarchie. Together with his earlier speech in relation to the victims of crime legislation, it is clear that he brings a significant personal and sincerely held position to this important legislation, as I am sure all members of the house on all sides do. It is in that spirit that this debate is being held today.

I also note that in their contributions Mrs Coote and Mrs Peulich discussed the legislation in significant detail, including their work with vulnerable children and the mandatory reporting process, which both members have had a significant role in bringing to attention of the house. I also note the contributions of the Acting President, Mr Elasmar; other members of the opposition; members of the Greens; Mrs Kronberg; Mr Philip Davis; and, last but by no means least, Mr Finn, who always speaks passionately about the interests of children, born and unborn. Mr Finn has made his views on those matters known over a long period of time, and, with a family of his own, he brings great heartfelt dedication to this bill.

The issue that this legislation seeks to address has long been a concern to the community. It is of particular concern to all of those people who do their best to ensure the greatest protection for children and those who are entrusted with the care, for the time being, of our children for various activities. It is true that there have been references to the position of The Nationals, and in the past The Nationals did oppose the initial Working with Children Act 2005. However, it is also the case that The Nationals members who spoke in the debate at the time made it very clear that they had no issue with the notion of protecting our children from sexual predators; rather, their opposition to the legislation was based on its detail and its administrative impact, particularly on volunteer communities and farming communities in the manner that was identified by Mr Philip Davis in his contribution.

Those matters were identified in the contributions made by Dr Sykes, the member for Benalla in the Assembly, and the Honourable Jeanette Powell, the Minister for Local Government and member for Shepparton in the Assembly, who made it clear that some of the concerns they had in relation to the previous legislation were about the impacts and practical difficulties of the conditions and the need for two volunteer assessment notices — one for volunteers and one for paid workers. It is some of those administrative and practical difficulties that the legislation the coalition government has brought before the house, with the support of The Nationals, is designed to redress. I will turn to those issues shortly in a brief discussion of the legislation.

It is well known that I have four children. I do not seek to personalise things too much, but I am moving into a phase of my life where I entrust them to the care of others, such as sporting coaches et cetera, all of whom do a commendable job. However, as the father of four children I have great sympathy with and feel the outrage that Mr Finn expressed in relation to those poor victims, both the children and the parents, who have to deal with the consequences of the perpetration of an offence, particularly one that goes undetected or is unknown for some time.

Another point that has been made by other speakers in this debate is that no amount of legislation will ever remove the primary responsibility for individuals to do the right thing in the first place, for individuals with such temptations to think twice about the consequences of their actions, and for others who are aware or who might be aware or should be aware that such actions are taking place to speak up, to report and to do what they can to prevent such actions taking place.

I turn now to the legislation. Members will be aware that the purpose of the original Working with Children Act 2005 was to assist in the protection of children from physical and sexual harm by ensuring that people who work with or care for children, including volunteers, have their suitability checked by a government body. The bill came into force in April 2006, and it was implemented over a five-year phasing-in period. It now covers paid and voluntary work in 20 broad occupational fields.

Since the commencement of the act, up until 30 April 2012, as Mrs Kronberg pointed out, over 910 000 Victorians have applied for a check, including Mr Ondarchie — whose card I saw earlier — and Mr Philip Davis, who both required the check in order to engage in child-related volunteer work. Approximately 1024 people have been issued with a negative notice, making it unlawful for that person to engage in child-related work.

The proposed amendments do not alter the basic framework of the scheme; rather, the Working with Children Amendment Bill 2012 seeks to strengthen the scheme to enhance the protection of children, clarify the application of the provisions of the principal act and streamline its administration. As such, the bill supports the Victorian government's commitment to protecting children, especially from physical and sexual harm. The changes are designed to ensure that the act continues to meet its aims of providing a safer environment for children and maintaining community confidence in the scheme whilst not overburdening those who are required to comply with it.

The bill proposes substantive policy changes to strengthen the scheme and five housekeeping amendments to maintain the robustness of the act. The first set of changes are about strengthening the tests for obtaining or maintaining a check. In this regard the bill will strengthen the test that the Secretary to the Department of Justice and the Victorian Civil and Administrative Tribunal (VCAT) must apply in deciding whether to issue a person with a check or in deciding the ongoing suitability of a person to hold a check when reassessing the applicant's suitability to engage in child-related work.

The amendments will introduce two new limbs to the tests applied by the secretary and VCAT. The first limb is whether a reasonable person would allow his or her child to have direct contact with the applicant that is not directly supervised by another person while the applicant is engaged in any type of child-related work. That is what has been described as the 'reasonable person' test. The second limb is whether the applicant is

suitable to work or volunteer in any type of child-related work rather than the specific child-related work relevant to the application. That is the 'any type of work' test.

The policy basis for the new test is to strengthen and tighten the test in relation to persons who have committed serious sexual or violent offences so as to give priority to the interests and welfare of children and their families. As pointed out by Mr Finn, I am reluctant to quote the Michael Jackson phrase 'children are our future', but in a sense putting the interests of the child first has been an important imperative of all — certainly since the United Nations Declaration of the Rights of the Child. The difficulty sometimes lies in determining how that is to take place.

It is not expected that the amendments will have a significant impact on decisions made by the secretary, although it is intended that they will have a greater impact on decisions made on review by VCAT, which in recent times has appeared to exercise the discretion in some cases too liberally. The new test has been drafted with a view to invoking the higher level of care in judgement that might be taken by a person with a child and is considered appropriate for this legislation.

In practical terms the reasonable person test will require the secretary and VCAT to turn their minds to how a reasonable person with children would react to having their children in direct, unsupervised contact with the applicant while engaged in any type of child-related activity. The key part of the legislation in relation to the test is the use of the phrase 'reasonable person', which was intended to maintain a large degree of objectivity in the test through the use of the accepted legal standard of a reasonable person and against which the applicant's conduct may be measured.

This objective standard was used in the case of *Ball v. McIntyre* (1966) 9 FLR 237 in which the meaning of 'offensiveness' in the criminal context was considered. The critical issue was whether the student's behaviour was offensive. Although the term was not defined in the relevant act, page 243 indicates that Justice Kerr held that to be offensive the behaviour must be 'calculated to wound the feelings, arouse anger or resentment or disgust or outrage in the mind of a reasonable person'. The reasonable person test is not used in other jurisdictions and is unique to the Victorian scheme. The test was devised solely for this unique scheme and is only to be used in particular situations.

The policy basis for the test determining eligibility for any kind of child-related work is to recognise the portability of a check once issued. This is another administrative efficiency which is carefully balanced and will improve the operation of the principal act. In considering the risk to children the full range of child-related work that the person may undertake once issued with a check, not just the type of work specified in an application, needs to form part of the assessment. For example a person applying to work in a school may have been convicted of offences involving inappropriate behaviour when working in close-contact situations, such as baby or childminding situations, but these offences may be less relevant in a school. The more streamlined test will now consider the broader concept of any type of child-related work in the check, providing greater comfort to the community, parents and children themselves.

The second series of amendments will remove the ability to work while in possession of only an application receipt or during a period of reassessment for a category 1 or 2 applicant. The bill will remove a person's automatic right to work on a check application receipt or while a person's suitability to continue holding a check is being reassessed where the person has a charge, conviction or finding of guilt in relation to a serious sexual, drug or violent offence. Currently a person who applies for a check is able to work on an application receipt while their application is assessed by the secretary even if that person has a charge, conviction or finding of guilt in relation to a serious sexual, drug or violent offence, otherwise known as a category 1 or 2 offence.

The policy basis of this amendment is to prevent people convicted of category 1 or 2 offences from engaging in child-related work prior to being assessed as suitable to work with children. This is because such persons may present a risk to the safety of children due to their criminal histories and therefore should wait until their suitability to work with children is assessed. Currently the average time taken to issue a negative notice for a category 1 applicant is 51 days, and 104 days is the average time taken for a category 2 applicant. This is a critical amendment in the bill.

One of the considerations in legislation like this is the reliance on the working-with-children check process and the impact that has on the community. If this legislation is in place, it is providing a check process, but, as members who have contributed all the way through this debate have said, that check process does not do away with all the other mechanisms for monitoring behaviour. Nevertheless, people begin to rely on the results of this working-with-children check process. Relying on the process prior to an outcome being reached is a danger that this amendment will seek

to reduce. It will not remove the risk altogether, but it is another step towards improving the present situation.

In the case of a person who already holds a check, the proposed changes will enable the secretary to immediately suspend a person's check while that person's suitability to continue holding a check is reassessed if they are charged with a category 1 or 2 offence. One of the other significant amendments that has been referred to, and I will not go over it in detail, is to make murder a category 1 offence. It is surprising to some people that it is not already a category 1 offence, but this bill will make it so.

In closing I will turn to some of the housekeeping amendments that were highlighted by others, including the member for Benalla in the other place, Dr Sykes, which include the streamlining of the process by which a person can move from a volunteer check to an employee check by enabling the secretary to issue a new check without having to reconsider offences or conduct previously considered in issuing the original check. The policy basis for this change is that the secretary should not be required to consider information about an applicant that was previously considered just because a person wishes to move from a volunteer to an employee check. Only new relevant information since the volunteer check will be considered.

This is an important piece of legislation, and I commend the government for bringing the bill to the house. I look forward to its speedy passage and its consideration in the committee stage.

Mr Leane — Acting President, I draw your attention to the state of the house.

Quorum formed.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 16 agreed to.

Clause 17

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I move:

1. Clause 17, lines 4 to 33, omit all words and expressions on these lines and insert —

'For clause 102 of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998, substitute** —

"**102 Review of category 2 application**

(1) If the proceeding relates to the giving of a negative notice on a category 2 application within the meaning of the **Working with Children Act 2005**, the Tribunal must determine that it is appropriate to refuse to give an assessment notice unless satisfied that giving the assessment notice would not pose an unjustifiable risk to the safety of children having regard to any matters to which the Secretary must have regard under section 13(2) of that Act.

(2) In satisfying itself that giving an assessment notice would not pose an unjustifiable risk to the safety of children, the Tribunal must be satisfied that —

(a) a reasonable person would allow his or her child to have direct contact with the applicant that was not directly supervised by another person while the applicant was engaged in any type of child-related work; and

(b) the applicant's engagement in any type of child-related work would not pose an unjustifiable risk to the safety of children.

(3) Even if the Tribunal is satisfied under subclauses (1) and (2) that giving an assessment notice would not pose an unjustifiable risk to the safety of children, the Tribunal must determine that it is appropriate to refuse to give the assessment notice unless it is satisfied that it is in the public interest to give the assessment notice.".'.

Hon. M. P. PAKULA (Western Metropolitan) — Given that the amendments have not been gone through in any great detail, I ask the minister to give an explanation of amendment 1.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Firstly, these amendments have been introduced for two reasons: both clauses 17 and 18 contain amendments to better clarify the intention of the test that must be applied by the Victorian Civil and Administrative Tribunal (VCAT) so as not to leave room for error or doubt. Clause 18 contains a further amendment to correct a typographical error in clause 18(1)(b), which reversed the intention of the test that is set out in the explanatory memorandum. The reason the amendments are before the chamber is because when the typographical error was discovered, which I will get to in clause 18, the opportunity to further clarify the test that VCAT must apply was taken.

In terms of clause 17, I tried to provide Ms Pennicuik, Ms Mikakos and Mr Pakula with the range of documents that were provided to me by the department. The first one laid out clause 17 as passed in the Assembly. The reasons for that amendment are that currently an applicant may apply to VCAT for a review of the secretary's decision to give a negative notice on a

category 2 application, and there are a range of reasons outlined in the bill before the chamber.

Rather than trying to correct bits and pieces of the provision, the department, following advice from parliamentary counsel, thought it would be more efficient to replace the entire clause and insert a new clause into the Victorian Civil and Administrative Tribunal Act 1998. In effect the house amendments to clause 17 are being introduced today to ensure that the tests which VCAT must apply are fully aligned with those that the secretary must apply under the amendments to the bill so as not to leave room for error or doubt. The amendments also make it clear that the public interest test which VCAT must apply is a separate and additional test to the unjustifiable risk to the safety of children test.

The house amendments amend the bill in the following ways. The proposed amendments to clause 17 fully align the tests VCAT must apply in a proceeding relating to the giving of a negative notice on a category 2 application under the Working with Children Act 2005 with the tests the secretary must apply. Instead of asking VCAT to have regard to whether giving an assessment notice would pose an unjustifiable risk to the safety of children, taking into account the factors the secretary may have regard to under section 13(2) of the act — as the current bill in clause 17(1) does — the house amendment replaces clause 102(1) and requires VCAT to apply the same test the secretary must apply under section 13(2) of the Working with Children Act 2005. This means that, like the secretary, VCAT must refuse to give an assessment notice unless VCAT is satisfied that giving an assessment notice would not pose an unjustifiable risk to the safety of children, having regard to any matters the secretary must consider under section 13(2) of the Working with Children Act 2005.

Clause 17(2) of the bill required VCAT to apply the two new tests which the secretary must apply under proposed new section 13(3), which is inserted by clause 4 of the bill. The house amendment does the same in proposed clause 102(2) — this is in the same terms as clause 17(2) of the bill.

Clause 17(1) of the bill clarified, in proposed clause 102(1)(b), that VCAT must determine whether it was in the public interest to give an assessment notice as an additional test after being satisfied that giving an assessment notice would not pose an unjustifiable risk to the safety of children. The house amendment I am putting forward strengthens this requirement for an additional public interest test and moves it to proposed clause 102(3) of the Victorian Civil and Administrative Tribunal Act 1998, as I have outlined in the house amendment. This requires that VCAT must be satisfied that it is in the public interest to give an assessment notice in addition to being satisfied that giving the notice would not pose an unjustifiable risk to the safety of children.

Hon. M. P. PAKULA (Western Metropolitan) — I thank the minister for his answer. This is the difficulty in dealing with these things via house amendment, and it is happening more often when bills are introduced into Parliament. Briefings are provided to the opposition, the Greens and others, and then sometime later a change is made and we need to assess these things in a very short time.

Mrs Peulich interjected.

Hon. M. P. PAKULA — Bully for me, Mrs Peulich. The point is that it has been quite a while now since the original briefing, and I am struggling to recall whether what the minister has just outlined is consistent with the original intention of the bill — in other words, whether the intention has not changed but the government has determined that there has been a drafting error and this house amendment is designed to reinforce the original intention and what the opposition was told at the briefing, or whether the intention has changed since we were originally briefed and this amendment will do something different from what we were originally told the bill was designed to do. I seek clarification from the minister on that point. Is the bill in its intent identical to the intent at the time it was introduced and to what the opposition was told during the initial briefing or has there been a change in the intention of the bill from the time of its introduction to today?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank Mr Pakula for his question because it is important to make sure that the bill he is considering is the same as the bill discussed at the briefing. For the record, I had a meeting earlier this week with the department. We sat down yesterday to go through the bill so that I had a full understanding that there was no variation. The advice I have is that the intention of the amendments is identical to the intent at the time the bill was introduced. There was an issue about clause 18, which will become evident and is the reason we needed house amendments. Parliamentary counsel believed that, rather than attempting to make amendments to the amendments, it was better to throw the amendments out and put these in their place. For the record and for the opposition and the Greens, the intention in the amendments I have proposed is identical to the intent at

the time the bill was introduced and therefore at the time of the briefing.

Hon. M. P. PAKULA (Western Metropolitan) — I thank the minister for that answer. I am satisfied by it.

Ms PENNICUIK (Southern Metropolitan) — My question for the minister is about the new amendment to clause 17. He mentioned that there has been a problem with clause 18, which has necessitated a change to clause 17 as well as to clause 18. Is the minister able to tell us what the problem is? That will inform me about clause 17, because the minister has linked the two clauses.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — In terms of clause 18 which I will proceed to, I mentioned that there was a typographical error in clause 18(1) of the bill. The house amendments were introduced for two reasons: to correct a typographical error in clause 18(1) of the bill which inserted new clause 103(1)(b) in the Victorian Civil and Administrative Tribunal Act 1998, which reversed the intention of the test that is set out in the explanatory memorandum by including the superfluous words 'refuse to'. In the briefing I had I was made aware that, looking at what was originally proposed in clause 18(1)(b) of the bill at page 16, it can be seen that the words 'to refuse' should not have been included.

That is the reason I had the briefing yesterday, to get my understanding clear, because when I compared it with the Working with Children Act 2005, which then had an amendment, and now the further amendment which I am proposing, parliamentary counsel made it clear that to bring in amendments to further amend the amendments would in itself create a level of confusion in attempting to work out the bill. As I indicated to Mr Pakula and Ms Pennicuik, the intent is not to make it difficult; it is fundamentally to remove those two words.

The other reason was to align the tests applied by Victorian Civil and Administrative Tribunal with those applied by the secretary so as not to leave room for error or doubt. That is what lawyers do. When they went through clause 18 it was clear that clause 17 was related in terms of clauses 102 and 103 of schedule 1 of the VCAT act. There were those views and the advice I had from the department that the intent was not to mislead; it was to identify a typographical error and correct it and then to identify that the two clauses could be better written.

Ms PENNICUIK (Southern Metropolitan) — I appreciate that advice because during my contribution to the second-reading debate I referred to it and in fact only minutes ago I spoke to the advisers about this very issue — that is, the way it is expressed in the bill as to what VCAT has to consider and in what order before it refuses to grant an assessment notice or indeed grants an assessment notice. It has been the most difficult part of the bill, which is why we need to understand what it is about and get it right in the committee stage. I found it the most difficult part of the bill, given the way these things were expressed. It had wording like 'We have refused to give an assessment not to oppose it if it does'. There is a lot of jumbling of positives and negatives in there, which you have to read very carefully — —

Mrs Peulich interjected.

Ms PENNICUIK — My point is that with the juxtapositions of positives and negatives, it needs to be very clear to VCAT, because I presume the intention is to make sure that VCAT gets it right. Under the previous bill — and I alluded to this in my contribution to the second-reading debate — perhaps the test that VCAT had in front of it was not strong enough, and certainly the bill strengthens that or provides more tests for VCAT and the secretary to look at. It is important that we get this particular wording right. I think it is better than the original wording, but I still think the wording is difficult to get around with the positives and negatives in there.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank Ms Pennicuik. I see Ms Mikakos nodding, and I am nodding as well, because in my briefing I noted the double negatives and raised the same issue. The double negatives in the VCAT act amendments are unavoidable due to the original wording in the Working with Children Act 2005. The advice from parliamentary counsel is that the VCAT act needs to reflect the Working with Children Act, and apparently that act has a similar style, hence the double negatives.

I was of the same mind as Ms Pennicuik in terms of wondering why it could not be clearer, but in a sense it is clear because it is reflective of the Working with Children Act. That is the advice I have been given by the department, and that is the explanation for the house. I thank Ms Pennicuik for raising this issue.

Ms MIKAKOS (Northern Metropolitan) — I put on record the Labor opposition's support for this amendment. I thank the minister for his explanation. These issues have arisen because of some ambiguity

regarding VCAT's interpretation of the current test, and we support the further strengthening and clarifying of those tests to ensure that VCAT applies what I believe is the original intention of the legislation.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I put on the record my appreciation of the attitude of members of the opposition and the Greens regarding these late amendments to this important bill.

Amendment agreed to; amended clause agreed to.

Clause 18

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I move:

2. Clause 18, lines 2 to 29, omit all words and expressions on these lines and insert —

'For clause 103 of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998, substitute** —

"103 Review of category 3 application

(1) If the proceeding relates to the giving of a negative notice on a category 3 application within the meaning of the **Working with Children Act 2005**, the Tribunal must determine whether in the particular circumstances it would be appropriate to refuse to give an assessment notice, having regard to any matters to which the Secretary must have regard under section 14(3) of that Act.

(2) The Tribunal must determine that it is appropriate to refuse to give an assessment notice unless the Tribunal is satisfied that —

(a) a reasonable person would allow his or her child to have direct contact with the applicant that was not directly supervised by another person while the applicant was engaged in any type of child-related work; and

(b) the applicant's engagement in any type of child-related work would not pose an unjustifiable risk to the safety of children.

(3) Even if the Tribunal does not determine under subclause (1) or (2) that it would be appropriate to refuse to give an assessment notice, the Tribunal must determine that it is appropriate to refuse to give the assessment notice unless it is satisfied that it is in the public interest to give the assessment notice.".'.

I have moved the amendment on the basis of the reasons given in the previous discussion. The intention of the amendment is to reflect the intention at the time the bill was introduced in the Assembly, bearing in mind the typographical error in terms of the words 'to refuse', as I outlined earlier. The correction of that wording will make it clearer to VCAT and leave no room for error or doubt. The intent is obviously as is set out in the explanatory memorandum.

Ms MIKAKOS (Northern Metropolitan) — I put on the record the fact that the Labor opposition is supporting this amendment, noting that the minister gave an explanation about the second amendment when he explained the earlier amendment. As I understand it, they are very similar in nature. The earlier amendment related to category 2 offences and this amendment relates to category 3 offences. We are satisfied with the amendment.

Ms PENNICUIK (Southern Metropolitan) — We support the amendment.

Amendment agreed to; amended clause agreed to; clauses 19 to 21 agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I move:

That the bill be now read a third time.

In doing so, I thank all members for their contributions.

Motion agreed to.

Read third time.

Mr Lenders — President, I direct your attention to the state of the house.

Quorum formed.

AUSTRALIAN DEFENCE FORCE: AFGHANISTAN DEATHS

The PRESIDENT — Order! I thank members for returning to the chamber promptly. It is with regret that I advise the house of the deaths in Afghanistan of five Australian soldiers. They have been killed in two separate incidents in the past 24 hours. Earlier today the government confirmed that three Australian soldiers had been killed and two injured in a rogue attack in Afghanistan by someone wearing an Afghan army uniform.

Then this morning Australian time two Australian soldiers were killed in a US Black Hawk crash in Afghanistan. I am not aware at this stage whether any of the soldiers involved were Victorians, but it is

obviously a matter of great sadness for us all that five young Australian lives have been lost and two further Australians have been injured as a result of an attack in Afghanistan.

As a mark of respect to those soldiers who have lost their lives, I would ask that members stand in their places for 1 minute.

Honourable members stood in their places.

BUSINESS OF THE HOUSE

Adjournment

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

> That the Council, at its rising, adjourn until Thursday, 6 September 2012.

Motion agreed to.

UPPER YARRA VALLEY AND DANDENONG RANGES REGIONAL STRATEGY PLAN: AMENDMENT

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

> That pursuant to section 46D of the Planning and Environment Act 1987, amendment 119 to the Upper Yarra Valley and Dandenong Ranges regional strategy plan be approved.

In doing so, I will make a couple of comments about the Upper Yarra Valley and Dandenong Ranges regional strategy plan and amendment 119, which is before the Parliament. Amendment 119 to the Upper Yarra Valley and Dandenong Ranges regional strategy plan has been forwarded for approval by both houses of Parliament in accordance with the Planning and Environment Act 1987.

Amendment 119 is needed to remove inconsistencies between the regional strategy plan and the planning scheme exemptions for bushfire protection introduced by amendment VC83 so that an amendment to the Yarra Ranges planning scheme can be approved to give effect to the exemptions in that scheme. Amendment VC83 made changes to the Victoria planning provisions and all planning schemes in Victoria to introduce new planning scheme provisions for bushfire protection in response to recommendations 39, 41 and 52 of the 2009 Victoria Bushfires Royal Commission.

Among other things, amendment VC83 introduced clause 52.48, bushfire protection: exemptions, to consolidate and update planning permit exemptions for bushfire protection. It includes the 10/30 rule and 10/50 rule permit exemptions for vegetation removal. Amendment VC83 also introduced a new permit exemption to enable vegetation to be removed, destroyed or lopped to reduce fuel loads on roadsides without a planning permit, subject to the agreement of the Secretary of the Department of Sustainability and Environment.

Clause 53.01 of the Yarra Ranges planning scheme provides that if there is an inconsistency between any provisions in the schedule to clause 53.01 and any other clause or provision of the planning scheme, the requirements of the schedule would prevail. The provisions of the schedule do not align with the exemptions in clause 52.48. This inconsistency means that the clause 52.48 exemptions do not operate in the Yarra Ranges planning scheme.

Under clause 53.01-1 a planning permit is required to remove, destroy or lop any vegetation unless the schedule to clause 53.01 specifically states that a permit is not required. There is no exemption from this permit requirement equivalent to the roadside vegetation permit exemption introduced by amendment VC83.

Amendment VC83 did not amend the Yarra Ranges planning scheme to remove inconsistencies between the schedule to clause 53.01 and clause 52.48 or add the roadside permit exemption to the schedule, because under section 46F of the Planning and Environment Act an amendment to the Yarra Ranges planning scheme cannot be approved if it is inconsistent with the approved regional strategy plan.

An honourable member interjected.

Hon. M. J. GUY — Why? Are you saying it's complex?

The exemptions introduced by amendment VC83 are inconsistent with the regional strategy plan because they enable development, which the regional strategy plan states should be prohibited or subject to approval, to be undertaken without a planning permit. Subject to amendment 119 being approved by the Legislative Council and the Legislative Assembly in accordance with section 46D(1)(c) of the act, an amendment to the Yarra Ranges planning scheme will be approved to enable these amendments to operate in that scheme.

It should be noted, as I said before, that the shire of Yarra Ranges is recognised as an area of high bushfire risk. I think we all know that. The region has experienced a number of large fires: those of February 2009, as we know; the January 1997 Dandenong

Ranges fires; the February 1983 Ash Wednesday fires; and of course the Black Friday fires. As a result of this high fire risk, it is desirable to avoid further delays to the introduction of amendments that are necessary to enable people to efficiently respond to the risk of bushfires by accessing planning scheme exemptions already available to other Victorians. The amendments facilitated through this process have the added benefit of increasing community resilience to bushfire and will ensure the statewide operation of the exemptions through VC83.

The planning scheme exemptions for bushfire protection have been in operation in other planning schemes since November 2011 and have been extensively publicised. The VC83 amendment gave effect in the Victoria planning provisions and other planning schemes to key royal commission recommendations relating to the building and planning system in Victoria. Amendment 119 will enable the Yarra Ranges planning scheme to be amended so that land owners, land managers and residents can take reasonable steps to assist with making their properties and communities fire ready without the burden of applying for permits.

The Victorian government has committed to providing a consistent planning framework for bushfire protection across this state. Amendment 119 will enable changes to be made to the Yarra Ranges planning scheme to give effect to the intended statewide operation of the new bushfire protection provisions introduced by amendment VC83 last year. While the regional strategy plan provides for the protection of vegetation for its environmental, landscape, character and amenity value, it also recognises the need to balance this policy against the need for management for fire protection purposes. Thus amendment 119 appropriately prioritises the protection of human life over other policy considerations in planning and will assist to strengthen community resilience to bushfire. This supports the state planning policy objectives for bushfire. With that, I move this motion.

Mr BARBER (Northern Metropolitan) — The minister said a lot very quickly there about the mechanics of this particular motion, but he did not in fact give us any rationale for the motion. He did not set about explaining it, and I listened carefully. Of course we have had this debate before, with Mr Guy in a different position, haven't we? At that time he started off by talking in glowing terms about the provisions of the Yarra Ranges and the Macedon Ranges planning schemes and the special nature of them. They were brought in many years ago — it may have been by the Hamer government, to continue this week's theme; I am not too sure — but, nevertheless, with the intent of protecting the special nature of those two areas. Mrs Petrovich certainly encouraged the minister at the time to reflect on the importance of the Macedon Ranges planning scheme provisions, and there are plenty of others who could talk about what is special about the Yarra Ranges area.

Of course what is predominantly special about the Yarra Ranges is its forested nature, which, as everybody understands — particularly those with legal responsibilities in this area — brings with it a degree of bushfire hazard that we have to work very hard to address, and the Yarra Ranges Shire Council certainly does do that. The Yarra Ranges council is directly involved in areas of emergency management, it is directly involved with native vegetation management on its own land and it is directly involved in advocating for the state government to deliver on all of the 2009 Victorian Bushfires Royal Commission recommendations — and in some of those areas it is still waiting. But on this particular amendment the Yarra Ranges Shire Council is not barracking for Mr Guy to continue in the way that he is, and it is not barracking for me to vote for this amendment. It is in fact asking that amendment VC83 to the Victoria planning provisions be put through a process of exhibition under the provisions of the Planning and Environment Act 1987.

This is very interesting, because earlier today in question time Mr Tee asked the Minister for Planning to give a rolled-gold guarantee that all changes to planning schemes involving residential zones and neighbourhood character would be provisions that local councils had asked for. Of course it was a trick question, because it is a reality of the Planning and Environment Act that only the minister can have the final sign-off on a planning scheme amendment. In reality, whatever a council might put forward, the final arbiter is in fact the minister — and the final, final arbiter is of course the Parliament, which can disallow an amendment. Yet, in relation to this particular amendment, Mr Tee will be joining with Mr Guy to do the exact opposite. He is going to say — over the wishes of the council, which predominantly supported this particular amendment to be put on exhibition and be the subject of public consultation — 'No, don't do that. We will just vote for it right now, real quick'.

The only place you can get a copy of this particular planning scheme amendment is 20 yards away from here, in the papers office. You cannot jump online and have a look at how it is going to work in the shire of Yarra Ranges. It has not been advertised as such. In fact you would have to know about it and then make your

way down to the Parliament of Victoria and check out 100 pages of material in order to examine it further. There will be no panel report that goes with it, and therefore there will be no opportunity for us to interrogate the logic behind it except to the extent that I am going to do so now.

Predominantly what the minister is pushing forward here is the idea of a 10/50 rule — that is, that you can clear all native vegetation within 10 metres of your house and all native vegetation other than trees within 50 metres of your house. The 10/30 rule was brought in by the former Minister for Planning, Justin Madden, now the member for Essendon in the Assembly. That is what has led to the debate which I reprised a minute ago in terms of Mr Guy's contribution. What did we find out at the time? We found out that there was no scientific basis for that, and, for that matter, there was no recommendation from the 2009 Victorian Bushfires Royal Commission to introduce that rule.

In fact we found out quite clearly from the then Premier, Mr Brumby, that he introduced the rule after he had been listening to talkback radio. Having heard that channel, he decided to give people more power than they already had to clear native vegetation. However, there was no particular rationale associated with that. In fact the opposite rationale has been around for a very long time, and if members studied the history of bushfire protection and the science that has gone into that, predominantly since the time of and following the 1983 fires, they would know that there is absolutely no scientific unanimity on the theory that clearing trees around your house will make your house safer.

The provisions that applied prior to the 10/30 rule were that you could clear trees that overhung your property and a certain amount of native vegetation within 30 metres as of right. There were also a large number of other exemptions and other opportunities within the planning scheme to clear even more vegetation. I will go back to those in a second. The particular set of rules which has been in place post the 1983 fires was based on science and made sense. By the way, I should say you were always able and in fact were encouraged to remove fine fuel from around your property because fine fuel — bits of vegetable matter about the size of your finger or smaller — is the predominant hazard that drives a bushfire.

Quite contrary to the 10/30 rule, during the bushfires royal commission evidence was given to the royal commission that having trees around your property — and this came from more than one expert witness — could help reduce wind speed, which is critical to fire danger, and also provide a barrier to flying embers. Embers present a great risk to your house when they work their way into it through cracks in the building due to the high degree of wind, which then causes ignition of your house.

We do not know much about exactly how houses ignite and catch fire during bushfires, because it is rare for a house to burn down partly during a bushfire. Therefore often no evidence is left after the fact to find out where the fire first started and how it progressed through the house. Generally speaking, people either protect their houses if they are present or, where people are absent, the house burns down completely or, tragically, people die in their houses, as we experienced in large numbers in 2009. However, we do know — the Commonwealth Scientific and Industrial Research Organisation bushfire division led this evidence — that the access of embers into the building would be one of the ways, often the most critical way, that houses catch fire.

There was further evidence, and members only needed to hear it to know — I certainly listened and heard it, and I contacted some of the experts myself to get further clarification — that having trees around your property can in fact reduce wind speed and the amount of flying embers hitting your structures and, through that, in some circumstances provide some measure of protection from bushfire hazard. However, John Brumby had another idea. He heard people on talkback radio saying, 'I should be able to chop down the trees', and he went with that. Today the government has gone a little bit further. The government has also made the claim, as its fact sheet on its website claims, that the bushfires royal commission called for this amendment. In fact it did not.

It is true that the bushfires royal commission called for more clarity around how native vegetation rules work in the planning scheme. I have read some of the individual Victorian Civil and Administrative Tribunal cases where you can see it is often extraordinarily unclear. Recommendation 41 of the bushfires royal commission called on the state to:

> … amend the Victorian planning provisions to require that, when assessing a permit to remove native vegetation around an existing dwelling, the responsible authority and the Department of Sustainability and Environment, as referral authority, take into account fire hazard and give weight to fire protection purposes …

and further recommended that it should:

> … develop guidelines for determining the maximum level of native vegetation removal for bushfire risk mitigation, beyond which level the application would be rejected.

This motion is not about that, because it is not about planning permits; this is about removing the need for a planning permit.

Even should one wish to make provision for further removal of native vegetation, there is any number of avenues to do it. The current government and the former government used to make suggestions that tree clearing was banned. It was not banned; it was just that you had to apply for a planning permit to clear trees. That is like suggesting that people are banned from driving because you first have to obtain a driver's licence before you can drive. There was no ban on removing native vegetation; there was a requirement to apply for a permit in certain circumstances.

There were many exemptions operating under the old version of clause 52.17 of the planning scheme. That included lopping and pruning for maintenance; mowing and slashing of grasses within a lawn, garden or other planted area; and removal of native vegetation that is regrowth which has naturally established and is less than 10 years old or if a property vegetation plan has been submitted. It certainly included native vegetation that was dead unless it was a dead standing tree. No permit is required for removal on land less than 0.4 hectares if the vegetation is part of the need to clear environmentally listed weeds — and God knows there are enough of those in the Yarra Ranges as I saw when I went on a bus tour just recently with some Liberal and Labor MPs, Nor is a permit needed if it is to get rid of pest animal burrows, if it complies with the land use condition under the Catchment and Land Protection Act 1994, if it is vegetation that has been planted deliberately, such as in rows for wood lots, street trees and so on, or if it is for emergency works with immediate risk of personal injury.

Obviously no permit is required for periodic fuel reduction burns, with the making of a fuel break or a firefighting access track up to 6 metres wide, or for a tree overhanging the roof of a house that is being used for accommodation. The government again claimed today, and its fact sheet claims, that this would simplify the rules, but we interrogated the previous minister on that and he could not in any way demonstrate that it simplified the rules. I will explain why.

Under the old rules you could, by right, chop down a tree that was overhanging your house or you could chop down other vegetation within 30 metres. The new rule is that you can chop down trees and vegetation within 10 metres and then other vegetation within 30 metres. How do you know what the definition of a tree is? What is a tree? I asked the previous Minister for Planning, Justin Madden, for this piece of information, and he gave one of his fairly textbook non-sequitur answers.

It is a very important definitional issue if you are a council planning department enforcing these rules. It did not matter before, when it was clearly a matter of a tree overhanging your house, because if something is overhanging your house, it is very clearly a tree. However, now we have different definitions of trees, shrubs and so forth as you move 10 metres, 30 metres and 50 metres from your house. There could be a vast number of different vegetation classes represented here — everything from tea-tree scrub to mountain ash forest, with its four or five different layers of understorey, mid-storey, canopy, emergent trees and so forth.

In any case, because this is not a planning scheme amendment that was put out to panel or that was backed by any kind of considered document, we do not even know how the 10-metre/30-metre rule has been operating in the Yarra Ranges. The previous government put that rule in as an interim control and said it would be reviewed at the end of 12 months. It was not reviewed. It was rolled over, and now this government is having a different go, which flies in the face of direct and practical experience out there in the bush.

The major problem that the Shire of Yarra Ranges has right now is getting people to clean up their blocks at the beginning of fire season, even with the existing rules. Every year thousands of notices have to be issued by rural municipalities to land-holders to say: 'Clean up in advance of fire season'. There is a lot of work involved in cleaning up that fine fuel from the ground around your property and, for that matter, other hazards such as your woodpile, sheds and outbuildings — even your wooden fences and items on neighbours' properties — which can all be a source of significant heat load which is put onto your dwelling and which can therefore put your dwelling at high risk.

If you drive through these areas and have a look at each property, you see the really quite hazardous fuel loads that have been put there, all of which can and should already be cleaned up. We are talking about a 30-metre radius. Think about the work involved in simply clearing the ground fuel — and usually you will be doing this by hand, with rakes and so forth — from within a 30-metre radius of your house. Year 9 geometry will tell you exactly how many hectares that is. It is a significant area and a significant workload, and it has to be done every single year to maintain minimal fuel loads in treed areas.

On top of that the government suggests that this rule — this continually expanding proposal to clear trees — is somehow going to make things safer. It will not, and there is certainly a very credible scientific argument that says it will make things less safe in certain circumstances. The government's proposal has not been put on exhibition. It has not been put up for scrutiny. The only scrutiny it will ever get is this debate that we are having right here and now, and for that reason the Greens will oppose the motion.

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to speak on this motion, which proposes to implement amendments to the Upper Yarra Valley and Dandenong Ranges regional strategy plan which will in effect make that plan consistent with existing planning scheme amendment VC83. Those consistencies relate to providing permit requirement exemptions for the removal of vegetation to create a defendable space around buildings and fence lines and for buildings and works associated with community fire refuges. There is also a permit requirement exemption for buildings and works associated with private bushfire shelters. For those reasons the opposition will not oppose the motion.

However, we are concerned about the process and about how we got to this point. The Department of Planning and Community Development wrote to the council and asked whether it wished to amend the Yarra Ranges planning scheme to make it consistent with the statewide bushfire planning provisions introduced through amendment VC83. It is curious because at one level the council received a letter from the department asking whether or not it wanted to have that — it was in effect asking for the council's view — but at another level when the department and the minister got the response, and I think it is fair to say that the response was an equivocal yes or a yes subject to a number of conditions, the minister appears to have disregarded the council's view. The question then is: why would you write to the council asking whether it wanted this outcome when you then proceed to disregard its response?

The council's position was put by way of a motion moved on 13 December 2011 where the council endorsed the Minister for Planning undertaking an amendment to the Yarra Ranges planning scheme and endorsed changes to the Upper Yarra Valley and Dandenong Ranges regional planning scheme to implement new bushfire provisions recently introduced through amendment VC83 to the Victoria planning provisions. At one level the council endorsed the minister's amendment, but it did so subject to two conditions: the first one being undertaking full public consultation through the amendment process, and the second one being providing to the council and community the evidence and science behind the proposed changes. As is this minister's wont, he disregarded both of those requests. This is disappointing but certainly not surprising.

Cr Dunn, who is a Greens councillor, voted against that motion, so it is unclear — —

Mr Barber — We opposed the amendment. It was quite clear.

Mr TEE — There was no amendment.

Mr Barber — We opposed the provisions of VC83, as I am doing right here, right now.

Mr TEE — What the council resolved was that it would support the amendment if there was consultation.

Mr Barber — If it was exhibited.

Mr TEE — Yes, and also if there was evidence presented to the council.

The ACTING PRESIDENT (**Mr Ramsay**) — Order! Mr Barber has made his contribution, and I ask him to allow Mr Tee to make his contribution without interruption.

Mr TEE — That outcome was not supported by the Greens on the council.

We are very concerned that once again the minister, having asked for the view of the council and received the view of the council, has disregarded the view of the council. It is our view that it would have been appropriate to have public consultation and to provide the evidence and science behind the changes to the council and to the community. It would have been appropriate because in matters like this every opportunity should be taken to inform the community, particularly when it comes to issues around bushfires and issues of the environment and rights.

We appreciate the need for consistency across the planning scheme and that this is the outcome that is achieved. We are disappointed that the opportunity to undertake public consultation and to provide the evidence of the need for these changes was not taken by this government, although we are not surprised by that. We hope that the government's approach changes in the future, particularly when it comes to matters like this. Because of the consistency argument and because of the importance of this issue, we will not be opposing the motion.

Hon. M. J. GUY (Minister for Planning) — In wrapping up debate on this motion, I want to

acknowledge some points that were raised by Mr Barber and Mr Tee and simply say that in terms of consistency this motion brings the Yarra Ranges into line with the rest of the state. Any commentary that there has not been consultation around a 2009 Victorian Bushfires Royal Commission recommendation is bizarre.

Mr Barber — It has nothing to do with the recommendations. Point me to one recommendation saying to do this.

Hon. M. J. GUY — Mr Barber might want to grandstand for some people in the gallery, but I suggest we just get this through.

Once again, this is about bringing the Yarra Ranges into line with the rest of the state. It is very simple. It is very straightforward. The Greens may have a view that they oppose elements of the bushfires royal commission's recommendations. The Labor Party is reluctantly supporting the recommendations of a royal commission that it established. But this is an important recommendation to ensure the safety of the people of the Yarra Ranges and ensure that the municipality of the Yarra Ranges is brought into line with the recommendations of the royal commission, as is the case for every other municipality in the state of Victoria, the anomaly being the way that the planning system and planning scheme is set up in the Shire of Yarra Ranges. To ensure there is consistency in that municipality with the rest of the state, this motion needs to be passed.

House divided on motion:

Ayes, 32

Atkinson, Mr	Leane, Mr
Broad, Ms	Lenders, Mr
Coote, Mrs	Mikakos, Ms
Crozier, Ms	O'Brien, Mr (*Teller*)
Dalla-Riva, Mr	O'Donohue, Mr
Davis, Mr D.	Ondarchie, Mr
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 (*Teller*)
Hall, Mr	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr
Koch, Mr	Tee, Mr
Kronberg, Mrs	Tierney, Ms

Noes, 3

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

Motion agreed to.

ENERGY LEGISLATION AMENDMENT BILL 2012

Introduction and first reading

Received from Assembly.

Read first time for Hon. P. R. HALL (Minister for Higher Education and Skills) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. P. R. HALL (Minister for Higher Education and Skills), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

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

In my opinion, the Energy Legislation 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 purposes of the bill are to:

provide for new Corporations Act displacement provisions and/or amend existing Corporations Act displacement provisions under the Electricity Industry Act 2000, Gas Industry Act 2001 and Fuel Emergency Act 1977;

amend the National Electricity (Victoria) Act 2005 by inserting a new division 4 of part 3 to specify certain building block amounts to be applied by the Australian Energy Regulator when approving the pricing proposals of Victorian distribution network service providers (DNSPs) under the distribution determinations that apply to those providers; and

amend the Energy Safe Victoria Act 2005 to enable Energy Safe Victoria's staff to perform functions and duties and exercise powers under certain commonwealth laws with the approval of the minister.

Human rights issues

Parts 2, 3 and 4 of the bill

The Electricity Industry Act 2000, Gas Industry Act 2001 and Fuel Emergency Act 1977 contain various provisions which empower Victorian officials to take various steps in the context of addressing emergency situations and/or shortages in electricity, gas or fuel. This includes ministerial directions given to persons (or bodies) involved in the extraction or generation, production, distribution, supply, sale, use or consumption of electricity, gas or fuel. These provisions have

the potential to engage human rights, such as the right to property (s 20) and the right to privacy (s 13).

However, parts 2, 3 and 4 of the bill do not re-enact existing provisions or provide for new powers under the Electricity Industry Act 2000, Gas Industry Act 2001 and Fuel Emergency Act 1977. Rather, those parts amend the Victorian acts by providing for new Corporations Act displacement provisions. That is, the amendments made by parts 2, 3 and 4 of this bill effectively override any provisions of chapter 2D and chapter 5 of the Corporations Act 2001 (cth) where the respective provisions of the Victorian acts and the Corporations Act 2001 would otherwise be inconsistent.

Parts 2 and 3 of the bill also amend existing Corporations Act displacement provisions relating to suppliers of last resort for electricity and gas under the Electricity Industry Act 2000 and Gas Industry Act 2001, in order to align those existing provisions with the new displacement provisions inserted by the bill.

Therefore, in my view parts 2, 3 and 4 of the bill do not engage any rights under the charter act.

Part 5 of the bill

Part 5 of the bill inserts a new division 4 of part 3 of the National Electricity (Victoria) Act 2005 in respect of the decision of the Australian Competition Tribunal in *Application by United Energy Distribution Pty Limited* [2012] ACompT 1. Division 4 of part 3 reverses this unintended outcome by ensuring the application by the Australian Energy Regulator of the service adjustment and efficiency carryover mechanism, when approving pricing proposals of Victorian DNSPs. As interpreted in the tribunal's decision, the National Electricity Rules fail to carry into the current regulatory period incentive schemes designed to reward DNSPs for meeting high standards in efficiency and service delivery during previous regulatory periods (and to provide disincentives to the provision of inefficient and/or substandard service).

I note that division 4 of part 3 will affect Victorian DNSPs and that only persons have human rights (section 6(1) of the charter act). Although an individual could be a DNSP, in practice they are corporations, and indeed, those Victorian DNSPs to which division 4 of part 3 applies are defined as particular corporations under new s 16H(1) of the National Electricity (Victoria) Act 2005.

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.

Hon. Peter Hall, MLC
Minister for Higher Education and Skills

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The Energy Legislation Amendment Bill 2012 will amend various acts within the energy and resources portfolio.

Importantly, the bill will prevent an unanticipated and unwarranted increase of at least $35 million, and possibly up to $94 million, in electricity distribution network revenue that would otherwise occur in the period to 2015.

In particular, the bill will amend the National Electricity (Victoria) Act 2005 to modify the operation of rules regulating electricity distribution network pricing, so as to preserve the intended operation of network performance incentive schemes put in place by the Essential Services Commission of Victoria. The relevant schemes are the commission's service adjustment or 'S-factor scheme' and the commission's 'efficiency carryover mechanism'. These schemes were designed to reward or penalise an electricity distribution business by increasing or reducing that business's allowed annual revenue where the business satisfied or failed to satisfy performance standards in previous years.

Responsibility for distribution network pricing transferred to the Australian Energy Regulator in 2009 under legislation introduced by the former Labor government. In 2010 that regulator determined to continue the commission's network performance incentive schemes in its distribution price determination applying for the calendar years 2011 to 2015. The continued operation of the commission's schemes, as determined by the Australian Energy Regulator, would have led to a total reduction in allowed annual revenue for all distribution businesses in that five-year period of approximately $96 million. However, in January of this year, that determination of the Australian Energy Regulator, as it applied to certain distribution businesses, was held to be invalid by the Australian Competition Tribunal.

The commission's network performance incentive schemes were designed to operate in the calendar years 2011 to 2015, and distribution businesses expected the impact of these schemes to apply for those years. The tribunal's decision has not yet taken effect but will give to certain distribution businesses a windfall increase in regulated revenue, which in turn will result in higher distribution network prices for consumers in those distribution regions.

The bill will prevent this occurring by preserving the intended operation of the network performance incentive schemes. Distribution businesses and the Australian Energy Regulator will be required to prepare and assess pricing proposals for distribution network tariffs for the calendar years 2013 to 2015 as if the regulated revenue for each business included an allowance (a revenue increase or decrease) for the continued operation of the S-factor scheme and efficiency carryover mechanism. The bill specifically defines this allowance by incorporating the revenue increases and decreases determined by the Australian Energy Regulator as required to preserve the intended operation of the commission's schemes.

The coalition government will not stand by while a legal loophole created by the former Labor government delivers a multimillion-dollar windfall to electricity distribution

businesses at the expense of higher prices to Victorian electricity consumers. This bill ensures that the results of the performance of Victoria's electricity network businesses against agreed standards are properly reflected in the regulated revenue of those businesses.

The bill will also improve the operation of the energy supply emergency provisions of the Electricity Industry Act 2000, the Gas Industry Act 2001, and the Fuel Emergency Act 1977. It will do this by clarifying that an energy company may comply with directions given under state legislation in the event of an emergency, notwithstanding that compliance may be inconsistent with the duties of directors of corporations, or the powers of administrators of corporations, under the commonwealth Corporations Act 2001. The proposed amendments will ensure that directions issued during an electricity supply emergency cannot be invalidated due to inconsistency with commonwealth legislation under section 109 of the commonwealth constitution.

The bill also makes consequential changes to existing Corporations Act 2001 displacement provisions in the Electricity Industry Act 2000 and the Gas Industry Act 2001, applying to energy sector retailer of last resort schemes, so that these provisions are consistent with the new Corporations Act 2001 displacement provisions to apply in relation to energy supply emergencies.

Finally, the bill will amend the Energy Safe Victoria Act 2005 to enable Energy Safe Victoria to undertake functions under national legislation for the greenhouse and energy minimum standards scheme. The greenhouse and energy minimum standards scheme will replace the Council of Australian Governments coordinated minimum energy performance standards scheme that currently operates in Victoria under Victorian legislation. Both schemes regulate energy performance standards and labelling for a range of products. Under the greenhouse and energy minimum standards scheme, Energy Safe Victoria employees may undertake administrative functions or be appointed inspectors for compliance and enforcement purposes. These functions are comparable to the administrative and compliance functions currently performed for the minimum energy performance standards scheme under the Electricity Safety Act 1998.

I commend the bill to the house.

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

Debate adjourned until Thursday, 6 September.

RACING LEGISLATION AMENDMENT BILL 2012

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) 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 Racing Legislation Amendment Bill 2012.

In my opinion, the Racing Legislation 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 main objectives of the Racing Legislation Amendment Bill 2012 are to amend the Racing Act 1958 (act) to:

i. permit licensed bookmakers to accept bets using a method of approved communication at offcourse premises;

ii. remove the 1 per cent turnover ceiling relating to the bookmaker's licence levy; and

iii. enable the racing integrity commissioner (RIC) to share integrity-related information with four new specified bodies.

Finally, the bill provides for a raft of miscellaneous amendments to correct typographical errors and other minor discrepancies in the act.

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

Privacy

'Section 13 — Privacy and reputation

A person has the right —

(1) not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and

(2) not to have his or her reputation unlawfully attacked'.

Power of the racing integrity commissioner to disclose information

Section 37E of the Racing Act 1958 is being amended by the bill to give the racing integrity commissioner (RIC) the power to disclose integrity-related information to four additional bodies, including the Australian Crime Commission, the Australian Securities and Investments Commission, the Commonwealth Services and Delivery Agency (Centrelink) and the Ombudsman Victoria. This power involves the disclosure of information that may include personal information.

The 2008 *Report on Integrity Assurance in the Victorian Racing Industry* (the Lewis report) cited 'the difficulty in

dealing with unlicensed persons, and particularly … matters drawn to [Judge Lewis's] attention by Victoria Police' as highlighting the need for section 37E. The power of the RIC to disclose information to Victoria Police and other law enforcement agencies and persons is an integral part of the government's strategic approach to bolstering integrity assurance in the Victorian racing industry.

This power is necessary in instances where information is forthcoming that relates to alleged breaches of the rules of racing, the potential commission of criminal offences, or other general matters concerning possible breaches of integrity in the racing industry. It is essential to any subsequent investigation that 'integrity-related information' is disclosed to enable a full and proper investigation by the appropriate agency.

Whilst the four additional bodies have been specified by way of ministerial order under section 37E(1)(j)(ii), specifying the four bodies under section 37E(1) of this bill will ensure added legislative transparency.

The exercise of this function will serve to strengthen the public perception that the utmost is being done to ensure the integrity of the industry is upheld and to protect all its participants.

Freedom of expression

'Section 15 — Freedom of expression

(2) Every person has the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside Victoria and whether —

…

(c) in print; or

(3) Special duties and responsibilities are attached to the right of freedom of expression and the right may be subject to lawful restrictions reasonably necessary —

…

(b) for the protection of national security, public order, public health or public morality'.

Approval of offcourse premises for remote betting

Whilst section 15 of the charter act establishes the right of expression in print, this right is subject to reasonably necessary lawful restrictions in the interests of protecting the public health. It may be argued that the prohibition on publishing prohibited advertising in relation to offcourse premises (as being inserted by clause 7 of the bill) may infringe on a person's ability to advertise freely.

The purpose of the prohibition of publishing prohibited advertising is reasonably necessary for the protection of public health and public order. The proposed measure will enable bookmakers to legally accept telephone and internet bets at approved locations without being required to be physically present at a racecourse. It is not intended to facilitate the expansion of wagering. Any direct or indirect expansion of wagering activity beyond what is already mandated in the bill is discouraged by way of penalties under new section 4I in the interests of protecting public health and public order, including the prohibition on prohibited advertising.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities Act 2006 because, to the extent that any provisions of the bill engage human rights, those provisions do not limit any human rights.

Hon. Gordon Rich-Phillips, MLC
Assistant Treasurer
Minister for Technology
Minister responsible for the Aviation Industry

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The Racing Legislation Amendment Bill 2012 will provide for the implementation of a number of necessary reforms to the Racing Act 1958 (the 'act').

Firstly, the bill will enable the Victorian bookmaking profession to compete more effectively by permitting registered bookmakers to accept bets via telephone and the internet at an approved offcourse premises. This will remove the requirement for bookmakers to be physically present on a racecourse to accept those types of bets. Bookmakers will still be required to be oncourse to accept cash bets.

Secondly, the bill will remove the current ceiling for product fees charged by Victorian racing controlling bodies to Victorian registered bookmakers as part of the bookmaker's licence levy. This amendment is being made to enable Racing Victoria to implement a new product fee pricing model for wagering service providers and to ensure that the racing industry can obtain a fair and reasonable return for its product.

The bill will also strengthen integrity assurance in the Victorian racing industry by formalising, through legislation, the authority for the racing integrity commissioner to share integrity-related information with four new specified bodies.

Finally, the bill provides for various miscellaneous amendments to correct typographical errors and other minor discrepancies in the act.

Permit bookmakers to accept bets via telephone and internet without being physically present on a racecourse

Currently, Victorian bookmakers can only accept bets while they are located on a licensed racecourse. Such betting can occur face to face as part of a race meeting, or at any other time using a method of communication approved by the minister — that is, via telephone or the internet provided they

(the bookmaker) are located on a racecourse at the time the bets are accepted.

This arrangement was established by the government, with support from the racing fraternity, as a way to provide Victorian bookmakers with the opportunity to effectively compete in the offcourse wagering market, while ensuring ready access for racing stewards to bookmakers and their betting records.

The system as it is currently structured presents a unique set of challenges for Victorian bookmakers. From a logistical perspective, Victorian racetracks were not designed to accommodate the demands of a modern bookmaking business, which may require housing for IT infrastructure, traders, marketing, customer service, analysts and administration. This potentially limits the opportunity for Victorian bookmakers to grow their businesses.

From an occupational health and safety perspective the requirement to have administrative staff operating in such isolated circumstances poses unacceptable security risks, particularly at night or during non-race days. The government understands that this has made it difficult for some bookmaking businesses to attract appropriate staff.

These constraints limit the ability of Victoria bookmakers to compete with the major bookmaking companies located interstate and overseas.

From a regulatory perspective, electronic betting via telephone and the internet can only be legally conducted according to methods approved by the minister and is tightly monitored and regulated by racing controlling bodies. The government has been assured by racing regulators that the physical location of bookmakers has no impact on the capacity of the industry to monitor remote betting.

The government is committed to reducing the burden for these bookmakers and ensuring their survival by amending section 4 of the act to remove the requirement for bookmakers to be physically present on the racecourse in order to legally accept a bet via the telephone and internet.

This amendment does not extend to face-to-face retail betting by bookmakers, which will still only be legal when transacted on a licensed racecourse at which a race meeting is taking place. It is important to note that this amendment will not result in any additional opportunities for gambling, and will ensure that Victorian registered bookmakers can effectively compete with interstate-based wagering providers.

Remove the ceiling for product fees charged by the racing industry to licensed bookmakers as part of the bookmaker's licence levy

Section 91B of the act allows a racing controlling body to impose a periodic levy on bookmakers up to, but not exceeding, 1 per cent of the bookmaker's betting turnover. The levy was introduced in 2000 to replace a former turnover tax on bookmakers' wagering turnover.

In 2005, Victoria enacted race fields legislation to require wagering service providers licensed elsewhere within Australia to pay a fee for the publication and use of Victorian racing data. Similar provisions have since been enacted in each Australian jurisdiction. The Victorian legislation is silent on the level or preferred method for calculation of race fields fees and has deliberately been structured that way to provide the Victorian racing industry with control over its own commercial decisions.

In November 2008, RVL introduced a new model for charging a fee to interstate totalisators, bookmakers and betting exchanges betting on Victorian thoroughbred racing. Under this model, fees are calculated on the basis of a wagering provider's gross revenue (i.e., profit) rather than its wagering turnover.

Racing Victoria has recently announced that it intends to return to a turnover-based pricing model. There is currently no regulatory impediment to implementation by RVL of its new policy in respect of bookmakers registered outside of Victoria. The removal of the ceiling on the bookmaker's licence levy will enable RVL to implement its new pricing model on a consistent basis regardless of the location of the wagering operator.

Specify new bodies to whom the racing integrity commissioner may disclose integrity-related information

In order for the racing integrity commissioner to effectively carry out his duties, access to reliable information is paramount, as is his capacity to share that information with appropriate agencies. Section 37E of the act specifies a number of agencies to which the commissioner may disclose integrity-related information, along with a definition of what constitutes integrity-related information.

Whilst a number of agencies were included as part of the establishment of the Office of the Racing Integrity Commissioner, it was always intended that the commissioner should advise government if he believed that additional bodies should be specified in order to assist him in his work.

The commissioner has written to the government requesting that the Australian Crime Commission, the Australian Securities and Investments Commission, the Commonwealth Services Delivery Agency (Centrelink) and Ombudsman Victoria should be included as bodies to whom the commissioner may disclose integrity-related information.

This bill will further support the important work of the commissioner, by providing him with increased information-sharing arrangements.

Miscellaneous amendments

Finally, the bill provides for a number of miscellaneous amendments required to resolve typographical errors and other minor discrepancies in the act.

Section 83OA(3) relates to actions of Greyhound Racing Victoria. 'HRV' is mistakenly referenced in this section and will be replaced with 'GRV'.

Several provisions of the act require amendment to ensure consistency in terms of the time available for persons to appeal to the relevant racing appeals and disciplinary boards against penalties. The racing integrity commissioner has advised that some participants may be unfairly disadvantaged by the current provisions and he has recommended an amendment so that the timing for appeals is the same for all participants. The discrepancy is unintended and occurred as part of the bill drafting process.

Section 37F currently requires the racing integrity commissioner to submit the annual report for the office of the

RIC before 31 August each year. It further requires that the minister must cause this report to be laid before Parliament within seven sitting days of receipt. This provision will be amended to allow the commissioner additional time to table his annual report.

President, the initiatives under this bill will support the racing industry by bringing greater certainty and clarity to the Racing Act 1958.

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, 6 September.

EVIDENCE AMENDMENT (JOURNALIST PRIVILEGE) 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. G. K. Rich-Phillips; 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. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

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

In my opinion, the Evidence Amendment (Journalist Privilege) Bill 2012, as introduced to the Legislative Council, is compatible with human rights as set out in the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purposes of the bill are to:

(a) amend the Evidence Act 2008 to —

provide for a journalist privilege;

provide for mutual recognition of self-incrimination certificates issued under provisions in other jurisdictions which are equivalent to sections 128 and 128A of the Evidence Act 2008;

implement other technical amendments approved by the Standing Committee of Attorneys-General to bring the Evidence Act 2008 into line with the Model Uniform Evidence Bill;

make other minor technical amendments to the Evidence Act 2008;

(b) amend the Coroners Act 2008 to apply the statutory privileges in part 3.10 of the Evidence Act 2008 to the Coroners Court; and

(c) make necessary consequential amendments and provide for transitional arrangements.

Human rights issues

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

Freedom of expression

Section 15(2) of the charter act provides that every person has the right to freedom of expression. The bill is compatible with this right as it does not limit any person's freedom to express themselves including to seek, receive and impart information and ideas of all kinds.

Clause 3 of the bill protects a journalist from having to disclose the identity of a source who has been promised confidentiality, unless a court considers that a balance of public and private interests requires disclosure.

Clause 3 provides more protection to journalists' confidential sources than the common law.

Cases under the European Convention on Human Rights have held that the human right to freedom of expression requires protection from compelled disclosure of journalists' sources. However, the Supreme Court of Canada has held that the Canadian charter right to freedom of expression does not require protection of the confidentiality of journalists' sources and instead has developed a common law privilege for case-by-case application. The United States Supreme Court has also held that the First Amendment guarantee of freedom of speech and freedom of the press does not protect the confidentiality of journalists' sources, and left the issue to the legislature.

It is therefore doubtful whether the right to freedom of expression in section 15(2) of the charter act affords protection from compelled disclosure of a journalist's sources. Even if it did, clause 3 of the bill is compatible with section 15(2) because the right to freedom of expression is subject to an internal limitation under section 15(3) of the charter act, which provides that the right may be subject to lawful restrictions that are reasonably necessary to respect the rights and reputation of other persons or for the protection of national security, public order, public health or public morality.

The discretion given to the court to compel a journalist to answer questions in clause 3 of the bill is reasonably necessary both to respect the rights of other persons, particularly the right to a fair hearing, and for the maintenance of public order.

Parts 5, 6, 7, 8, 10 and 11 of the bill provide that the journalist privilege is not available in the non-curial settings established under the Independent Broad-based Anti-corruption Commission Act 2011, the Major Crime (Investigative Powers) Act 2004, the Ombudsman Act 1973, the Police Integrity Act 2008, the Whistleblowers Protection Act 2001, and the Victorian Inspectorate Act 2011. As noted above, it is

doubtful whether section 15(2) of the charter act affords protection from compelled disclosure of journalist's source. However, even if it did, the internal limitation under section 15(3) of the charter act means that the exclusion of the journalist privilege from these settings which concern the investigation of corruption and major crime is compatible with the charter act.

Clauses 11 and 12 of the bill extend the statutory privileges in part 3.10 of the Evidence Act 2008, including the journalist privilege, to investigations and inquests conducted by the Coroners Court. The statutory privileges replace existing common law privileges. In doing so, the bill brings the Coroners Court into line with all other Victorian courts to which the privileges in part 3.10 already apply. These privileges do not limit any person's ability to express themselves and are compatible with section 15(2) of the charter act.

Some commentators have suggested that there is a negative freedom of expression right, that is, a right to remain silent. Some international jurisprudence suggests a person may have a right not to be compelled to express views that he or she does not hold. However, international jurisprudence does not support any broader negative freedom of expression right to remain silent and, for example, to refuse to provide factual information.

Right to a fair hearing

Under clause 24 of the charter act, persons charged with a criminal offence and parties to civil proceedings have the right to have the charge or proceeding decided after a 'fair and public hearing' by a court or tribunal. The bill is compatible with that right.

The conduct of a 'fair' hearing in any given case depends on striking an appropriate balance between the relevant interests of stakeholders. These may include the accused, the victim, parties to civil proceedings, witnesses and society. What is in the interests of the accused in a criminal proceeding or the defendant in a civil proceeding will not necessarily be taken to outweigh a conflicting interest of the public, the victim, a witness or an opposing party.

The creation of the journalist privilege under clause 3 of the bill is compatible with the right to a fair hearing. The privilege is not absolute. The court has the discretion to compel a journalist to provide evidence that will disclose the identity of an informant. The exercise of this discretion will depend on the court's assessment of the competing interests of the relevant stakeholders in each case.

Clauses 11 and 12 of the bill, which extend the statutory privileges in part 3.10 of the Evidence Act 2008 to investigations and inquests conducted by the Coroners Court, are also compatible with the fair hearing right as they reflect the balances previously struck by the courts in conducting fair trials.

Protection against self-incrimination

Section 25(2)(k) of the charter guarantees the right of a defendant in criminal proceedings not to be compelled to testify against himself or herself or to confess guilt. Clauses 4 and 5 of the bill are compatible with this right and promote it.

Section 128 of the Evidence Act 2008 currently provides protection where a witness is required to give evidence that may be self-incriminating. The court will issue a certificate prohibiting the subsequent use of that evidence, and any evidence derived from it, against the witness in other proceedings. The new provisions in the bill prevent evidence being led for which a certificate has been issued in another jurisdiction under legislation comparable to section 128 of the Evidence Act 2008.

Right to privacy and reputation

The bill is compatible with section 13(a) of the charter act, which provides that a person has the right not to have his or her privacy, family or home unlawfully or arbitrarily interfered with.

The discretion given to the court by clause 3 to order a journalist to identify an informant is neither unlawful nor arbitrary because it is made on the evidence after considering and balancing the competing interests described in the clause. The clause is therefore compatible with section 13(a). The clause also promotes the protection of other rights in the charter act, including the right to a fair hearing.

Similarly, under the other statutory privileges and their limitations which are extended to the Coroners Court, a witness may be required to divulge personal information in certain circumstances. However, these provisions do not authorise arbitrary or unlawful interference with privacy.

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. G. K. RICH-PHILLIPS (Assistant Treasurer).

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill amends the Evidence Act 2008 to create a journalist privilege. The bill implements the government's commitment to provide protection to journalists by introducing a shield law to protect journalists from being compelled to give evidence in court proceedings that would reveal their confidential sources.

The bill strengthens the capacity of journalists to maintain the anonymity of their sources. It creates a privilege that will allow a journalist who is being questioned in a court to refuse to answer any question that would disclose the identity of a source where the journalist has promised to keep the source's identity a secret. The privilege is a rebuttable presumption that a journalist is not compellable to give evidence that would disclose the identity of their source.

If a party to the proceeding wants to argue that the privilege should not apply, the court will consider whether the public interest in the disclosure of the identity of the source outweighs:

any likely adverse effect of the disclosure on the source or any other person; and

the public interest in the communication of facts and opinion to the public by the news media and, accordingly also, the ability of the news media to access sources of facts.

This is a decision that will be made in each individual case, on the facts of that case.

By this means, the bill strikes the right balance between the public's right to know and the capacity of our courts to access the information needed to uphold justice.

The privilege recognises the important role that journalists play in a democracy. Some sources of information that is of legitimate interest to the public will only provide that information to journalists on condition of anonymity. Most journalists subscribe to an ethical code which requires that they be cautious in promising confidentiality to informants. However, when a journalist promises confidentiality, he or she must respect that promise. Journalists can, therefore, face an ethical dilemma when questioned in a court proceeding about the identity of an anonymous source.

The privilege conferred by the bill will apply in carefully specified circumstances. Only a 'journalist' can claim this privilege. 'Journalist' is defined as a person engaged in the profession or occupation of journalism in connection with the publication of information in a news medium. The definition is not intended to cover amateur bloggers.

The limitation of the privilege to people who are professionally engaged or occupied as journalists is reinforced by a number of factors to which a court may have regard when determining whether a person is a 'journalist'. These factors include accountability to a recognised professional standard.

The bill also makes clear that journalists must have received the information when acting in their capacity as a journalist. Further, the privilege only applies when a journalist has specifically promised the informant anonymity.

These provisions reflect the policy underpinning the privilege: to provide an appropriate balance between support for the capacity of journalists to investigate and report on matters of legitimate public interest, and the public interest in a court having before it all relevant and probative evidence.

The privilege is not absolute. The court will exercise its discretion on a case-by-case basis to determine whether the journalist will be required to provide evidence that will identify the informant. As can be seen from the key New Zealand case of *Police v. Campbell* [2010] 1 NZLR 483, the court evaluates a number of factors, including the harm that would be caused to the informant if their identity were to be disclosed and the right of the defendant to know all relevant information on which to construct their defence.

The nature of the proceeding or the seriousness of the charge in a criminal proceeding and the public interest in the court having before it all relevant and probative evidence to facilitate a just outcome will also be relevant to the court's decision. *Police v. Campbell* also refers to the public interest in the investigation and prosecution of crime, the nature of the information obtained from the source and the manner in which the information was obtained by the source.

The amendments made by this bill will generally apply to court hearings that commence on or after the commencement date regardless of when a journalist made a promise to an informant. This is consistent with the approach taken to the implementation of the Evidence Act 2008.

The bill also includes some other important amendments to the laws of evidence in Victoria.

The Statute Law Amendment (Evidence Consequential Provisions) Act 2009 amended the definition of 'unavailability of persons' within the Evidence Act 2008. The other Uniform Evidence Act jurisdictions have now agreed to similar changes in their Evidence Acts. Consequently, this bill adjusts the numbering of these provisions to ensure uniformity. This amendment does not alter the substance of the definition of 'unavailability of persons', it only makes the form consistent with the Model Uniform Evidence Bill.

The implementation of mutual recognition of certificates issued in other state and territory jurisdictions is another important aspect of this bill. These certificates are provided by a court when a person is required to give evidence which may incriminate the person. The certificate ensures that the evidence the person is required to give, and evidence derived from that evidence, cannot be used against the person in any other court proceedings. As more court proceedings have cross-jurisdictional implications, it is important to ensure that potentially incriminating evidence obtained in one jurisdiction, which is subject to an immunity, is not used in another jurisdiction.

The bill also brings the Coroners Court into line with all other courts in Victoria by replacing the operation of common law privileges with the statutory privileges found in part 3.10 of the Evidence Act 2008.

Freedom of the press is vitally important in a democratic society. The bill recognises the public interest in the communication of facts and opinion and the need for the media to be able to access information. The introduction of a journalist privilege adds to a healthy democracy in Victoria. This bill delivers on the government's commitment to enact a privilege to protect journalists from being forced to make a decision between revealing their confidential sources or contempt of court. It supports the capacity of journalists to investigate and disseminate matters of public interest without compromising the information available to a court in civil and criminal proceedings.

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, 6 September.

RESIDENTIAL TENANCIES AND OTHER CONSUMER ACTS AMENDMENT BILL 2012

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

For Hon. M. J. GUY (Minister for Planning), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

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

In my opinion, the Residential Tenancies and Other Consumer Acts Amendment Bill 2012, as introduced into 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 bill includes amendments to establish a statewide register of rooming houses ('the register') and to enable agreements to sell part 4A dwellings to be rescinded in certain circumstances.

Human rights issues

The bill engages the following human rights:

Privacy and reputation — section 13 of the charter act

Section 13 of the charter act provides that a person has the right, among other things, not to have his or her privacy unlawfully or arbitrarily interfered with and not to have his or her reputation unlawfully attacked.

The bill engages this right by: providing for the sharing of information contained in the register (which may include personal information) between state and local government agencies; enabling councils to record information about unsuccessful applications for registration on the register; and authorising the director of Consumer Affairs Victoria ('the director'), who will maintain the register, to make public the addresses of registered rooming houses, as well as the name and ABN (or ACN) of their proprietors.

In my view, these provisions of the bill do not limit the right under section 13(a) as they do not allow for unlawful or arbitrary interferences with an individual's privacy.

Where a council chooses to enter in the register information about unsuccessful applications for registration, the bill specifically provides that this information must not be publicly disclosed by the director.

The bill also enables an applicant for registration of a rooming house or the proprietor of a registered rooming house who is an individual to apply to the director to restrict public access to that person's personal information.

The establishment of the register responds to a demonstrated need to improve the information base about rooming houses in Victoria, through the consolidation of certain information held by councils about these premises.

Property rights — section 20 of the charter act

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

The bill enables a site tenant to rescind a part 4A dwelling purchase agreement in particular circumstances. This aspect of the bill engages section 20 of the charter act as it modifies existing commercial arrangements that would otherwise apply in relation to the sale of these dwellings.

The capacity to rescind a part 4A dwelling purchase agreement will only arise in circumstances where the site tenant has decided to exercise cooling-off rights for a related site agreement, or has decided not to sign the related site agreement.

Where a site tenant elects to rescind the purchase agreement for a part 4A dwelling, the seller of the dwelling may be deprived of the use of his or her property (for example, to sell the dwelling to another party) during the period between the site tenant exercising his or her right to rescind the purchase agreement and the return of the dwelling to the seller. This period is likely to be negligible but, in any case, would arise as a result of the operation of the law. For that reason, the bill does not limit a seller's rights under section 20 of the charter act.

Conclusion

I consider that the bill is compatible with the charter act because it does not limit any human right protected by the charter act.

Hon. Matthew Guy, MLC
Minister for Planning

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill is the second bill the government has introduced this year to improve real estate regulation and practice in Victoria.

Among the amendments introduced by the bill are a suite of significant amendments relating to rooming houses. In particular, the bill: provides for the establishment of a new statewide register of rooming houses; introduces a new duty

on rooming house owners to comply with minimum standards for rooming houses; and makes minor amendments relating to the registration of rooming houses.

The bill also includes amendments to protect purchasers of manufactured dwellings from undue pressure to enter into leases for sites in long-stay residential parks, and improves the operation of provisions relating to warnings to be included in contracts for off-the-plan sales of land. Finally, minor changes are made to the powers of the Business Licensing Authority. I will discuss each of these in turn.

A rooming house is a form of shared accommodation, in which residents occupy a room in a premises either exclusively, or with others, and share cooking, bathing and toilet facilities.

In Victoria, local councils are responsible for registering rooming houses located in their municipalities. Each council currently maintains a register of these rooming houses, as part of a broader register of prescribed accommodation required under the Public Health and Wellbeing Act 2008.

A key feature of the bill is that it creates an online, statewide register of rooming houses, to be known as the rooming house register.

The register will consolidate certain information kept on the existing registers of rooming houses maintained by each local council in Victoria, including important details such as the addresses of registered rooming houses, details of their proprietors, and the status of a rooming house's registration.

The new rooming house register will be hosted by Consumer Affairs Victoria but populated by local councils, consistent with councils' responsibility for registering these types of premises.

Local councils and certain government departments with a role in regulating or finding places in rooming houses will be able to access the rooming house register at any time. To ensure that members of the public are able to identify registered rooming houses and their proprietors, these details will be made publicly accessible through an online portal. However, the bill contains provisions to protect proprietors' personal information, where exceptional circumstances exist.

The key benefit of the rooming house register will be for councils and rooming house residents. Once the register commences, it will facilitate councils' capacity to share critical data about rooming houses in their municipalities with other councils, and in particular, allow councils to identify large-scale rooming house operators.

The register will also assist other arms of government to enforce regulatory requirements that apply to rooming houses, and enable research into, and evaluation of, the state's rooming house sector. This will directly assist rooming house residents by promoting better compliance with, and stronger enforcement of, the statutory minimum standards for rooming houses that have been introduced by the coalition government.

The rooming house register will also advantage potential rooming house residents, by enabling housing referral agencies to provide residents with information about rooming houses located in their vicinity that have been registered by the relevant council.

Members of the public are also likely to benefit from the establishment of the rooming house register. In particular, rooming house owners and their agents, who are required by section 142D of the Residential Tenancies Act 1997 to report suspected unregistered rooming houses, will have an easily accessible database to which to refer in order to ascertain whether or not the premises are registered as required.

As I mentioned, the bill also makes other important amendments to improve the operation of rooming house provisions.

Earlier this year, the Residential Tenancies (Rooming House Standards) Regulations 2012 were made, prescribing minimum privacy, safety, security and amenity standards that will apply to all rooming houses in Victoria from 31 March 2013. The regulations require that all rooming houses meet basic standards in relation to proper cooking facilities, adequate hot water, window coverings for privacy and seating for meals. Importantly, the regulations also address safety issues, requiring that each room in a rooming house have two power outlets and a door lock that can be opened from inside the room, and requiring that the premises undergo regular gas and electricity safety checks.

Under the Residential Tenancies Act 1997 it will be an offence, once the minimum standards come into operation, for a rooming house owner to provide a rooming house resident with a room, facility, service or common area that does not comply with those standards.

As with all offences under that act, the director of Consumer Affairs Victoria has the power to take legal action to address instances of non-compliance. However, residents of rooming houses currently have no ability to take independent legal action of their own to remedy breaches of the standards.

The bill addresses this, by introducing a new duty for a rooming house owner, who is defined to be not only the actual owner of the premises but also a person in the business of operating a rooming house on that premises, to comply with the minimum standards.

This amendment will enable rooming house residents to take direct action to address a breach of the standards by giving the rooming house owner a breach of duty notice, requiring the breach to be remedied with a specified time frame. If the breach is not subsequently remedied, residents can take enforcement action in relation to the breach of duty in the Victorian Civil and Administrative Tribunal, either on their own initiative, or with the support of Consumer Affairs Victoria or the Tenants Union of Victoria.

Consumer Affairs Victoria will still be able to prosecute and seek fines, injunctions and other orders against recalcitrant rooming house operators, but as a result of this bill residents will now have rights themselves.

In recognition that the Residential Tenancies (Rooming House Standards) Regulations 2012 are part of the regulatory framework that applies to rooming houses, the bill also makes minor amendments to the Public Health and Wellbeing Act 2008 to enable councils to consider compliance with these standards as part of the decision whether or not to register a rooming house.

The bill does not change responsibility for enforcing compliance with the rooming house standards. This responsibility will remain with Consumer Affairs Victoria, which will provide advice to councils about a rooming

house's compliance with the standards. This advice will inform a council's decision whether or not, for example, to register the premises, or to register subject to a condition that certain alterations or improvements be made to address compliance issues.

I turn now to other aspects of the bill.

In 2010, new part 4A was inserted into the Residential Tenancies Act 1997, in direct response to the growth in the number of residential parks offering long-term accommodation options for Victorians.

Residential parks are areas of land, divided into sites, on which manufactured moveable dwellings can be located. Typically, residents will enter into long-term leases, known as site agreements, for particular sites on which to locate a manufactured dwelling they have purchased. The owners of residential parks often sell these dwellings to prospective residents as a package with a particular site.

In recognition of the significant undertaking signing a site agreement involves, part 4A provides prospective residents of residential parks with a precontractual period of at least 20 days to consider the terms of a site agreement, together with a 5-day cooling-off right.

However, these protections do not extend to the purchase of the manufactured dwelling in which a prospective resident will live.

This could potentially lead to a situation where a residential park owner exerts significant pressure on a prospective resident, who has already bought a dwelling but who has either not seen or had the opportunity to closely review a site agreement, to sign an undesirable site agreement. Alternatively, an individual who has already signed a site agreement but who wishes to exercise his or her statutory cooling-off rights in respect of that agreement may be discouraged from doing so, where he or she has already purchased a dwelling to locate on the site.

To address this risk, the bill amends part 4A of the Residential Tenancies Act 1997 to ensure that, in certain circumstances, the purchaser of a manufactured dwelling can rescind the contract for that dwelling.

The right of rescission will only be available where either the purchaser has been given, but decides not to sign, a related site agreement or, having already signed a related site agreement, the purchaser exercises his or her statutory cooling-off rights, and in so doing, rescinds the site agreement.

The bill also confines the right to rescind a dwelling agreement to circumstances in which the dwelling has been purchased from a residential park owner (whether acting on his or her own behalf or as an agent of another person), or an agent of a residential park owner, and the manufactured dwelling is, or is intended to be, located on a site that is let or intended to be let by the park owner to the purchaser of the dwelling under a site agreement.

Amendments are also made to ensure that purchasers of manufactured dwellings who rescind their dwelling purchase agreements are able to seek orders from the Victorian Civil and Administrative Tribunal for a refund of moneys paid under the agreement. The tribunal will also be able to order the return of the dwelling to the vendor, and award compensation to a vendor for any damage to the dwelling.

The amendments to part 4A will ensure that a purchaser of a manufactured dwelling who negotiates with a residential park owner, or an agent of the owner, or a related party, in good faith in relation to the purchase of the dwelling, does not find him or herself obliged to sign a site agreement (for a site on which the dwelling is already, or is intended to be, located) simply because the purchaser has already purchased the dwelling.

To improve efficiency in licensing, the bill also includes amendments to broaden the delegation powers of the Business Licensing Authority. The authority is responsible for the licensing of a range of occupations, including estate agents, motor car traders and sex work service providers.

Currently, all decisions about licence and permission applications must be made by members of the authority. They cannot be delegated to its staff, no matter how basic. A number of these decisions are relatively straightforward, and now, after the authority's years of operation, its experienced staff could be making them under delegation determined by the authority. This bill will enable that to occur.

Nevertheless, it is recognised that there are some licensing-related decisions that are of sufficient complexity that they should only be made by the authority itself. Accordingly, the bill provides that particular decisions may be prescribed in regulations made under the Business Licensing Authority Act 1998 as decisions that the authority cannot delegate, that is, decisions that must be made by a member of the authority.

The bill will also improve contractual certainty in off-the-plan sales of land.

From 1 December 2012, the Sale of Land Act 1962 will include a requirement that contracts for off-the-plan sales of land include a notice warning purchasers that: they can negotiate the deposit amount payable under the contract, up to a maximum of 10 per cent of the purchase price; there may be a lengthy period between signing the contract and becoming the registered proprietor of the land; and that the value of the land may change in that time.

It was originally proposed that the warnings be positioned on the 'front page' of a contract. However, due to stakeholder concerns that the 'front page' of a contract can mean different things to different people, as well as legal decisions that raise doubts regarding terminology of this nature, this bill replaces the requirement that these warnings be included in a notice on the front page of a contract with a requirement that warnings be included in a 'conspicuous notice' in the contract.

The bill also removes a purchaser's right — which would otherwise come into effect on 1 December 2012 — to rescind a contract for an off-the-plan sale of land where there has been a failure to include the notice in the contract, in recognition that rescission is a disproportionate remedy for a failure of this kind.

Finally, the bill makes a number of minor technical amendments.

I commend the bill to the house.

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

Debate adjourned until Thursday, 6 September.

COMMUNITY BASED SENTENCES (TRANSFER) 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. G. K. Rich-Phillips; 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. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

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

In my opinion, the Community Based Sentences (Transfer) 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 bill provides a scheme under which community-based sentences from other participating Australian jurisdictions can, at an offender's request, be formally transferred to be served in Victoria, and under which Victorian community-based sentences can, at an offender's request, be formally transferred to be served in other participating jurisdictions.

Human rights issues

Section 13 — Privacy

Section 13(a) of the charter act protects a person's right not to have his or her privacy interfered with in a manner that is unlawful or arbitrary. The bill engages this right by providing for the sharing between jurisdictions of information about an offender, including psychological reports and any other document required by the receiving jurisdiction (clauses 13, 14 and 23). However, in my view these provisions do not limit the right as they do not allow for interferences with offenders' privacy that are unlawful or arbitrary. The ability to share such information is integral to the proper operation of the scheme, as such information is necessary for the receiving jurisdiction to consider an application and administer any sentence.

Sections 17 and 19 — Protection of families and children and cultural rights

The bill enhances the protection of families and children (section 17) and cultural rights (section 19) by enabling offenders to be transferred interstate. Where these rights are relevant, the secretary and his/her delegates will need to give proper consideration to these rights and act compatibly with them in making any decision upon a request for transfer.

Section 24 — Fair hearing

Section 24(1) of the charter act provides that a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. In Victoria, authorities suggest that the right to a fair hearing is not confined to proceedings of a judicial character and can apply to civil proceedings which are of an administrative character. In assessing compliance with a right, regard may be had to the whole decision-making process, including reviews and appeals.

The bill provides the Secretary of the Department of Justice (or his or her delegates) with discretion to make a request, following an application by the offender, to transfer a Victorian community-based sentence to another jurisdiction (clause 22). The bill also provides the Secretary of the Department of Justice (or his or her delegates) with discretion to accept a request from another jurisdiction to transfer a community-based sentence to Victoria (clauses 12 and 17). In exercising this discretion, the secretary is not required to hear from the offender and may rely on the documents and other information available (clause 17(5)). However, the secretary's decisions are amenable to judicial review.

I consider that, to the extent that the decision to transfer the offender may engage the right to a fair hearing under section 24 of the charter act, the procedures provided for in the bill, including the availability of judicial review, are appropriate to the nature of the particular interests that are at stake. In my opinion, the provisions are compatible with section 24 of the charter act.

Section 27(2) — Right not to be subjected to a higher penalty than applied when the offence was committed

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

A sentence can only be transferred between jurisdictions where the sentence substantially corresponds with a sentence available in the receiving jurisdiction, or where the sentences are declared by regulation to correspond (clause 16(2)). Substantial correspondence requires both the penalty and the conditions of the new sentence to be of substantially the same nature as the original sentence (clause 16(3)).

The words 'penalty that applied' in section 27(2) of the charter act have been interpreted by comparative jurisdictions as referring to the maximum penalty which a court was authorised to impose at the time an offence was committed. The right has been interpreted as requiring that no penalty be imposed on a person that is greater than the maximum penalty that could have been imposed on that person at the time that the offence was committed. It is a protection against changes in the law which increase a penalty above the maximum prescription that existed at the time of the offence. As the scheme established by the bill relates to the post-sentence administration of the penalty imposed in a particular case the transfer scheme established by the bill does not engage the right.

Conclusion

I consider that the bill is compatible with the charter act.

Hon. 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. G. K. RICH-PHILLIPS (Assistant Treasurer).

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

That the bill be now read a second time.

Incorporated speech as follows:

The Community Based Sentences (Transfer) Bill will create a new principal act which will allow offenders serving community-based sentencing orders to formally transfer their order from another participating jurisdiction into Victoria, or from Victoria to another participating jurisdiction.

A participating jurisdiction is one that has enacted legislation in similar terms to this bill.

There has been a national legislative scheme for the interstate transfer of prisoners and parolees since 1983. In 2003, the corrective services ministers agreed that there should be a similar scheme for the transfer of community-based sentencing orders.

Following a successful trial by New South Wales and the Australian Capital Territory, the corrective services ministers decided in 2007 that all Australian jurisdictions would enact legislation based on the New South Wales act.

So far, New South Wales, the Australian Capital Territory, Western Australia and Tasmania have enacted this legislation and are therefore participating jurisdictions.

This bill will enable Victorian offenders subject to community correction orders to seek to formally transfer their order to any of these participating jurisdictions, and likewise offenders from these jurisdictions can seek to transfer their order to Victoria.

The circumstances in which a transfer of a community-based sentence to another jurisdiction may be appropriate include where an offender has committed an offence whilst in another jurisdiction on a temporary basis and it is considered appropriate for the offender to fulfil the obligations of their community-based sentence in their home state, or if they have obtained employment in another state or territory.

For Victoria, a community-based sentence that will be capable of being transferred to another jurisdiction will be a community correction order under the Sentencing Act 1991.

The Victorian community correction order enables courts to deliver tough, common-sense sentences targeted directly at the offender and the offence. These orders give courts a wide range of express powers to impose conditions that seek to protect the community and prevent reoffending. The conditions can include unpaid community work, treatment and rehabilitation, and curfews.

For a community-based sentencing order to be eligible for transfer, whether into Victoria or to another participating jurisdiction, the following registration criteria must be met:

first, the offender must consent to the transfer;

secondly, there must be a corresponding order in the receiving jurisdiction;

thirdly, the offender must be able to comply with the order in the other jurisdiction; and

finally, the sentence must be able to be safely, efficiently and effectively administered in the other jurisdiction.

An order will be considered to be a corresponding order if it corresponds or substantially corresponds (that is, a penalty and conditions of substantially the same nature) with a sentence or if it is declared to be a corresponding order by regulation.

Even if the registration criteria are met, the proposed transferee jurisdiction retains the discretion to reject or accept an application for transfer.

The requirement that there be a corresponding order, and that the offender be able to comply with the order in the receiving jurisdiction, means that no offender will be able to avoid the obligations of their community-based sentence by transferring to another jurisdiction.

Once registered, a sentence becomes a sentence in force in the transferee jurisdiction, and the order is taken to have been imposed by a court of that jurisdiction. The order will continue to apply in accordance with its original terms.

If a transferred offender breaches their order, courts in the transferee jurisdiction will be able to deal with the offender in accordance with the laws of that jurisdiction. However, the penalty that may be imposed by the court upon resentencing is the penalty that applied to the original offence in the original jurisdiction.

If an interstate offender transfers to Victoria, they will be supervised by Corrections Victoria. Despite the sentence being transferred to another jurisdiction, the rights of the offender in relation to review or appeal of the conviction or imposition of the sentence in the originating jurisdiction are not affected.

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, 6 September.

CARDINIA PLANNING SCHEME: AMENDMENT

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

That pursuant to section 46AH of the Planning and Environment Act 1987, Cardinia planning scheme amendment C104 be ratified.

Maryknoll is a small low-density township set in the Southern Ranges foothills north of the Princes Highway near the Bunyip State Park. It has a distinct character based on its historical establishment as a religious community in the 1950s. The existing low-density lots are generally in the range of 0.8 hectares to 1.2 hectares. Cardinia planning scheme amendment C104, which I have moved today, applies to land at 13–15 Wheeler Road and 310 Snell Road, Maryknoll. It rezones the land from a green wedge zone to a low-density residential zone, applies a design and development overlay to the land and amends the schedule to the low-density residential zone to specify a minimum lot size in Maryknoll of 0.8 hectares.

The amendment will provide for limited growth of the Maryknoll township and provide the opportunity to remove a long-established broiler farm from within the township. The size of the land is 26.5 hectares, currently consisting of three lots. The potential lot yield, taking into consideration the provision of roads and the need to protect native vegetation and provide for setbacks from the creek, could be approximately 25 lots. There is no urban growth boundary around Maryknoll.

The amendment is consistent with the Maryknoll township policy at clause 22.07-3, which states that:

> The boundary of the Maryknoll township be defined by Snell Road, Mortimer Road, Fogarty Road and Wheeler Road, and that new residential lots either be contained within this boundary or fronting onto these roads if the land is not of environmental significance.

The amendment is consistent with the objectives of the Maryknoll township policy in that it provides for the limited growth of the Maryknoll township. The amendment is also consistent with the council's own municipal strategic statement, which states:

> Limit residential development, including rural residential subdivision, in the hills towns … unless provided for by the strategy plan for the township or the development results in significant environmental or community benefits.

In the case we are considering, it is supported by the township policy and will result in a community benefit with the potential removal of the broiler farm from within the township.

The amendment was authorised for exhibition on 16 February 2010 by the then state government. It was then exhibited by the Cardinia Shire Council from 3 February 2011 to 7 March 2011. Submissions were considered by an independent planning panel in August 2011. Council followed the panel's recommendations and adopted the amendment on 17 October 2011.

The amendment requires ratification by Parliament under section 46AG(1) of the Planning and Environment Act 1987 as it has the effect of altering or removing any controls over the subdivision of any green wedge land to allow the land to be subdivided into more lots or into smaller lots than allowed for in the planning scheme. The amendment allows for the subdivision of smaller lots than are currently allowed for under the provisions of the special use zone. Cardinia Shire Council should be congratulated on progressing a common-sense amendment such as this.

Mr BARBER (Northern Metropolitan) — Yes, it should be congratulated; I concur with that statement. Unlike the last amendment the minister brought forward, which left a citizen holding a whipper snipper facing three different sets of native vegetation exemptions depending on which municipality or overlay they happened to be under, this amendment is quite simple. It has the added advantage that it has been through a planning panel.

I have had the opportunity, which Mr Guy pointed me to, to read the planning panel report. It goes for many pages. The Greens always pay close attention to developments outside the urban growth boundary in areas that are under pressure from leapfrog development — pressure that becomes so much worse when a succession of governments, Labor and Liberal, keep shifting the so-called urban growth boundary, that oxymoron of a growth boundary that does not put a boundary on growth but seems to be tinkered with every time another minister comes along and has an idea.

Having read those many hundreds of pages — at least 100 pages — and seen the considerable effort that the planning panel went to and the opportunity for submitters which the council initiated, I can see that the recommendation put forward here, while it has some complexities associated with it that are largely to do with the previous pattern of land use, is probably a good outcome. Therefore the Greens will support this amendment.

Mr SCHEFFER (Eastern Victoria) — The opposition will not be opposing amendment C104 to the Cardinia planning scheme. This amendment proposes to rezone 26.5 hectares of land within the town boundary of Maryknoll. The effect will be that more land will be allocated for low-density housing. The amendment was exhibited early last year and 48 submissions were received, including some from individuals and organisations that opposed the proposal. As a result the Cardinia Shire Council decided that the amendment should be referred to a panel. The panel

considered a range of issues, received submissions and oral presentations and indicated in its report that the key issue involved the strategic planning behind the amendment and the policy framework within which the amendment was proposed. The panel report points out that for land within the green wedge there are several references to the kind of development that should occur and there are conflicting directions on circumstances relating to country towns within the green wedge.

The panel notes also that in the case of Maryknoll the policy position on future development is much clearer. It says this is why it gave a lot of weight to the local planning policy. The panel examined the state planning policy framework, the state policy for green wedges, the local planning policy framework and local policies. It also reviewed the statutory framework. I single out three references that the panel made to give members a sense of the basis upon which its decision was made. The panel points out that the state policy for the green wedge permits the consolidation of:

> … new residential development within existing settlements and in locations where planned services are available and green wedge area values can be protected.

The panel also points to the state policy for rural residential development, which lists one objective as:

> To identify land suitable for rural living and rural residential development.

The objective of clause 21.08-4 in the municipal strategic statement is:

> To recognise the demand for rural residential development, and to provide for this development where it is closely integrated with an existing township or urban area, which reflects a high quality of urban design and which does not result in environmental degradation.

The panel report is there for anyone with an interest in this issue to read and consider. I believe that the panel has done its work as it is required to do and that, even though not everyone in the community supports the subdivision, the decision and recommendation of the panel should be adhered to because the process has been followed and a defensible decision arrived at.

Motion agreed to.

ADJOURNMENT

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

> That the house do now adjourn.

Ministerial staff: code of conduct

Hon. M. P. PAKULA (Western Metropolitan) — The matter I wish to raise is for the Premier, and it concerns his much-vaunted and so far meaningless ministerial code of conduct. As I have indicated previously, the very thin code had an even thinner reference to a ministerial staff code of conduct and said that ministerial staff needed to abide by it. Unfortunately we do not know what is in that code. The Premier has never released it, and so it is difficult to know what conduct by ministerial staff or former ministerial staff is appropriate and what is not. My interest in this has been renewed by the decision of the Premier's planning gatekeeper, Mr David Vorchheimer, to leave the Premier's office and take up a role as the Melbourne planning partner for the firm HWL Ebsworth. On 26 July Mr Vorchheimer put out a statement saying:

> I am delighted to confirm that after 18 months with the office of the Premier of Victoria as the Premier's senior advisor in relation to planning, building and local government matters, I have joined HWL Ebsworth lawyers …
>
> …
>
> I look forward to being in contact with you shortly and of course introducing you to some of my colleagues.

Given the recent attempts by the government to tar up former Minister for Police and Emergency Services Bob Cameron for supposedly leveraging off his distant past, I would be interested to know the Premier's thinking about this fairly transparent effort by Mr Vorchheimer to leverage his very recent past and his ongoing contacts with the current government. One way to understand whether this kind of introduction is considered appropriate would be for the Premier to release the ministerial staff code of conduct, and I seek that he do that so that we can understand what goes and what does not in relation to former ministerial staff.

Manufacturing: government support

Mr ELSBURY (Western Metropolitan) — I rise this afternoon to raise a matter for the Minister for Manufacturing, Exports and Trade, the Honourable Richard Dalla-Riva. It is in relation to manufacturing, which is a major component of the economy in Melbourne's western suburbs, as we heard today from the Honourable Gordon Rich-Phillips. Information is the new gold for Victoria and being able to share between various manufacturers information and ideas on different ways of manufacturing can assist in our competitiveness in the global market.

I ask the minister that he continue to work with local industries across the western suburbs of Melbourne to provide them with the assistance they need to be able to develop their ideas and put forward products that are needed in the global market. Costs in other countries can sometimes be lower, but we have a competitive edge in being able to produce things of a higher quality. In the western suburbs of Melbourne we have the Altona North, Laverton North, Truganina and Tarneit areas. Up through Craigieburn along the Hume Highway we also have various manufacturers and heavy industries that can work together to push their products out to China and India. We have seen that through the super trade mission that has already gone to India and soon will be going to China.

I ask the minister to continue to work with industry in Melbourne's western suburbs on developing innovation in their various fields, whether it be through manufacturing of aluminium products or even plastics and components that will go into other vehicles and instruments.

Winchelsea Gun Club: relocation

Ms TIERNEY (Western Victoria) — My adjournment matter this evening is for the Minister for Environment and Climate Change, and it is in relation to the Winchelsea Gun Club. The minister may be aware that the Department of Sustainability and Environment (DSE) has ordered the club to vacate its current premises at the Winchelsea Common by 31 December this year. The club has a membership base of over 200 people and has been in existence for more than 30 years. Currently the club meets and shoots on two Saturdays per month, with around 100 participants, and it is well supported by the local community. The Lions Club caters at the meetings, and its profits flow back into the township of Winchelsea.

Over the past several years senior club members have been investigating possible locations for the club's new home; however, none of them has so far come to fruition. These investigations have included the preparation of submissions and the engagement of consultants and legal advisors, and the costs have been borne by the gun club itself. Eight different sites have been investigated at the club's expense.

Members of the Winchelsea Gun Club are requesting that DSE extend the notice period for the vacation of the current site to allow them more time to find a suitable new home. I ask the minister to look favourably upon the request from the gun club to allow it to continue to meet as a club while it finds a suitable location. I ask the Department of Sustainability and Environment to increase its efforts to provide assistance, working with the club, to find a suitable location for the club and for the relocation to proceed as soon as possible.

Renewable energy: guidelines

Mr BARBER (Northern Metropolitan) — My adjournment matter is for the attention of Mr Guy, the Minister for Planning. My request is for the minister to begin developing some planning, environmental and assessment guidelines for renewable energy in the form of tidal and other sorts of marine power.

We have had a number of these proposals in Victoria, but so far there is not a detailed set of decision guidelines and considerations that such an application would face. In fact, it is not even clear under the planning scheme which type of use they are. There is a use known as renewable energy and a sub-use within that known as a wind energy facility, but nothing specific for tidal and marine power. There are, of course, potential environmental impacts associated with the development of these offshore facilities. That could include tangling in buoys and wires, noise from the facilities, the laying of undersea cables and moorings which would create some disturbance on the sea floor, and of course the connection of these things across, up and over the beach and through the foreshore and onto the electricity grid.

It would be timely for the government to set out a clear set of decision guidelines so that an applicant for one of these facilities, which of course we want to encourage, would know how they are to be assessed, rather than it having to be an ad hoc application to an ad hoc decision-making process.

The previous government started a process looking at this form of renewable energy policy. It was looking at energy and at land tenure, and it was looking towards assessment and environmental impacts. But I am specifically requesting the Minister for Planning — and he may be working in conjunction with the Minister for Environment and Climate Change, who has responsibility for the Coastal Management Act 1995 to do this — to create a set of assessment guidelines so that applicants and communities and the government itself will be able to provide a transparent assessment procedure for these sorts of applications which are new, which are novel and which we hope will become more prominent across Victoria's coastline.

Resources: government policy

Mr LENDERS (Southern Metropolitan) — The matter I raise on the adjournment tonight is for the attention of the Minister for Energy and Resources, Michael O'Brien. I seek from him a ministerial statement, because there is much confusion in the Victorian community on what the Baillieu government's policy is on resources.

Yesterday's notice paper in this place included a notice of motion that this house take note of an April press release from the minister entitled 'Labor's fracking hypocrisy knows no bounds'. The press release outlined a very clear position from the government on coal seam gas. Of course another press release just this week announced a totally contra position from the government on coal seam gas, which essentially moves from rampantly supporting it and opposing any moratorium, to actually asking the federal government to take the lead and come up with a solution to a very complex issue in regional Victoria.

The examples are not just in that area. The minister has also created confusion about the issue of brown coal. He, the Treasurer and a number of others boldly saw a great future for brown coal in the Latrobe Valley. I am not contesting any of that at all, but there have been many bold statements about brown coal use and brown coal exports. However, there has really been no action other than a lot of dynamic discussion about plans that may take effect in the next 5, 10, 15 or 20 years if they pass various feasibility studies and a range of other things.

There has also been some real confusion on the issue of mineral sands. We have seen a great industry in western Victoria which has generated many jobs in Hamilton, and there will be jobs going in many other areas as well. However, when the mineral sands industry was savagely attacked over what it was doing, whether there was radioactivity in the residue and a range of other things, the minister was missing in action. It took the member for Lowan in the other place, Mr Delahunty, to go out and defend the mineral sands industry in Hamilton rather than the Minster for Energy and Resources, who you would think should be the greatest spokesperson in that area.

I am seeking that the minister come out with an unequivocal ministerial statement on what the Baillieu government's policy is on resources in Victoria. I am not about to critique the various policies — I would be happy to do that in responding to a ministerial statement — but it would give great comfort to the community and some certainty to the industry, which was quite scathing in a mineral council's report just last week, if I recall, which talked about where Victoria was heading. I urge the minister to be transparent, to reconcile his comments on 'Labor's fracking hypocrisy knows no bounds' in a press statement in April with the actual government statement in August, and most importantly, to make a clear path for something which has traditionally been a job generator in Victoria and will be in the future. I urge the minister to make a ministerial statement forthwith.

Building industry: union action

Mr RAMSAY (Western Victoria) — My matter tonight is for the Minister for Police and Emergency Services, Peter Ryan, and is related to the outrageous, illegal, inexcusable activities of the Construction, Forestry, Mining and Energy Union (CFMEU), which is, by its very actions, thumbing its nose at the law of the land and making a mockery of our court rulings.

The orchestrated union blockade this week has all the hallmarks of the bad old days of the Builders Labourers Federation, and when intimidation was the rule of power, where bribes, violence and thuggery were the tools used to create union strongholds on construction sites. I have read about, seen or been part of similar incidents, whether it be the Mudginberri Abattoir dispute, the shearers' strike, which was a catalyst for the formation of the Australian Workers Union, the docks dispute with Patrick Corporation and so on. They all had a similar theme. Regardless of the bullying by the unions, the outcome of these disputes has been diluted union influence with huge increases in productivity.

I congratulate the Premier on his urging the Prime Minister to amend federal legislation so that unions which breach Supreme Court orders will be deregistered. He called on Ms Gillard to amend the federal Fair Work Act 2009 to create new sanctions against law-breaking unions.

The Victorian community would find the behaviour of the CFMEU totally unacceptable, and those members of the opposition who have sat in silence while the unions have tried to create anarchy on our streets this week should be ashamed of themselves for not denouncing this illegal behaviour. However, I congratulate the Minister for Police and Emergency Services, Peter Ryan, and members of Victoria Police on standing their ground in the face of a well-organised machine with the real intention of showing a bit of union muscle and intimidating Grocon into bowing to union demands, an action which in effect escalated to the point of putting the public at risk.

My real concern is that valuable police resources, including police horses, the dog squad and special operations officers were deployed away from protecting the Victorian community and normal front-line operations to respond to illegal activities by the CFMEU. At what cost to the Victorian taxpayers purse was the disruption caused by this union sabre rattling? That is the question I ask the minister.

We saw images of union workers blockading worksites in Melbourne this week. We saw them punching horses, attacking police, stopping workers from getting to their place of work and inciting a herd mentality that demonstrated to the Victorian public that these union workers perceive themselves above the law. This is happening at a time when the coalition government is making sure that it is doing everything possible to build up front-line operational police from the position in which Labor left us where we had fewer front-line operational police per capita than any other state in the nation.

Last week Minister Ryan announced a further 350 front-line police to be deployed by June 2013, 27 of whom will be deployed to the Ballarat region. That will bring the number of additional police officers provided in the first term of this government up to 1200. It is essential that these police be highly visible on the streets doing proactive policing and not be distracted by orchestrated, illegal activities of unions. Again, my request to the minister is that he consider providing a briefing on the extent of the damage to normal policing, the waste of resources and what might be done in the future to prevent police members from being diverted from their normal operational duties.

The PRESIDENT — Order! Mr Ramsay's contribution only just got in because some of it, particularly towards the end, had a tendency to be a set speech, which is not allowed in the adjournment debate, but it passes.

Planning: zoning reform

Mr TEE (Eastern Metropolitan) — My adjournment matter is for the attention of the Minister for Planning, and it relates to the proposed zones being put out by the minister for consultation. If implemented, these zones will dramatically change the landscape of green wedges, which will be reduced in size and there will be considerable development. There will also be unprecedented development in residential zones, which will change the look and feel of our suburbs.

My concern relates to the fact that the community has only been given until 21 September to respond, and I have received quite a bit of correspondence from organisations. A letter from the Flinders Community Association says:

> We think the proposed open-slather approach to development on the green wedges will be a disaster for the Mornington Peninsula, which is a favourite relaxation spot for many Melburnians and will be ruined without adequate planning controls.

The association is concerned about the particularly short time frame for consultation.

South Gippsland Shire Council has also expressed concerns about the very tight time frame, as has the Nillumbik Shire Council. The Nillumbik council expressed its concern about the state government's proposed changes to planning zones in a letter, and in part the letter also says the council is:

> … concerned with the 21 September deadline for comments … given the timing of this deadline with council elections and the associated caretaker period.
>
> …
>
> We have serious concerns about the detail of the proposed changes and their potential to erode the green wedge and neighbourhood character of Nillumbik.
>
> …
>
> … the removal of these necessary controls and restrictions will lead to speculative development proposals that will ultimately need to be adjudicated in VCAT —

the Victorian Civil and Administrative Tribunal —

> Rather than providing clarity around the types of use and development for the green wedge … the lack of conditions associated with permit applications will provide confusion, which council ultimately fears will result in further bureaucratic red tape and increased time at VCAT.

My request is that the minister take note of the very short time frame and the concerns about the complexity of the changes and provide an extension of the time frame so that there can be thorough consultation and community groups and local councils can have the time they need to understand the implications of these zone changes. That will ensure that the government is better informed because these community groups and councils will have had an opportunity to provide submissions. The government would then be better informed before it finally made a decision in relation to these proposed zones.

South West Institute of TAFE: government assistance

Mr O'BRIEN (Western Victoria) — My adjournment matter is for the Minister for Higher

Education and Skills, the Honourable Peter Hall. It relates to South West Institute of TAFE, which is in my electorate of Western Victoria Region.

I note that the minister recently attended the 2012 Victorian Training Awards presentation dinner, which celebrated the outstanding and innovative work done in our vocational education and training sector by students, teachers and training providers alike. I would like to join the attendees of that event in congratulating all of the finalists, particularly the winner of the Victorian Vocational Student of the Year award, Mr Bret Ryan, who is from South West TAFE. That award is presented to the student who has demonstrated the most astounding achievement in their studies. The winner is awarded a $10 000 fellowship and is recognised as the best student in Victoria's vocational education and training system.

Bret is a marine biologist from Apollo Bay who was prompted to rethink his career by a downturn in the fishing industry. After five years working as a part-time surveyor for a local engineering firm he enrolled in a diploma of conservation and land management. Last year Bret was awarded South West TAFE's Outstanding Vocational Student Award. He has set up his own environmental consultancy and now works at the Corangamite Catchment Management Authority as its regional Landcare facilitator. I take this opportunity to also send my congratulations to the many other Landcare facilitators. Bret also provides information on sustainable agricultural practices and the federal carbon farming initiative to Landcare networks and industry.

I will also take the time to congratulate other finalists in the Victorian Training Awards from South West TAFE, including John Leontiades, who recently completed a certificate III in food processing, specialising in retail baking, and was a Victorian Apprentice of the Year award finalist. John was also awarded the LA Judge Award for the top baking apprentice in Australasia this year. John studied baking while undertaking a bachelor of management, majoring in commercial law. John has lived, worked and grown up in the baking industry, and he is currently employed in the family-owned business Louttit Bay Bakery in Lorne. He will apply the studies he is currently undertaking to the improvement of the family business.

Another finalist from South West TAFE was Donna Ellis. Donna was a finalist in the Victorian Teacher/Trainer of the Year award, which recognises innovation and excellence on the part of a teacher or trainer. She began teaching in 1997.

I also congratulate Mr Joe Piper on his time and service at South West TAFE.

My request to the minister is that he continue to assist South West TAFE. I commend him on his handling of the TAFE sector through the administration of his portfolio, and I ask him to continue to assist South West TAFE to deliver quality education in the south-west of the state.

The PRESIDENT — Order! It is something I really do not like when the phrasing of an adjournment matter is that a minister should 'continue to do' something. If the minister is already doing it, encouraging him to continue to do it smacks to me of a setpiece speech designed to get a press release rather than a request for genuine action or comment that requires the minister to give some consideration to a matter. I will let it go tonight. Members should, however, be cautious about how they phrase their adjournment matters. Relevant material on this has been circulated before, and members should have regard to it.

Victorian Manufacturing Council: appointments

Mr SOMYUREK (South Eastern Metropolitan) — I raise a matter for the attention of the Minister for Manufacturing, Exports and Trade, Richard Dalla-Riva, concerning the Victorian Manufacturing Council. The key body meant to give strategic advice about and monitor performance in the manufacturing industry has still not convened eight months after it was formally announced on 19 December last year, leaving the industry unsure of the direction of government.

To great fanfare last year the manufacturing minister boasted that the Victorian Manufacturing Council would be 'a source of strategic advice to the government' and 'an important channel for the government to consult and interact directly with manufacturers' as well as having a key focus on 'reporting on the performance of the industry'. The minister also announced that the council would provide a platform for information sharing between government, industry and research institutions.

Eight months after this declaration, and seven months after expressions of interest to join the manufacturing council closed, the minister has still not delivered. This lengthy and unexplained delay has left the industry uncertain of where it stands in terms of government priorities and sceptical about the government's commitment to manufacturing in the state.

The state government's policy document, *A More Competitive Manufacturing Industry*, states:

> Implementation of the manufacturing strategy will be overseen by the Victorian Manufacturing Council, fulfilling an election commitment …

It is all very well to put a 'policy implemented' stamp on a media release, but it is nearly two years since the election and the minister still has not got the council off the ground. Serious questions need to be asked. Given that the minister indicated that it was intended that the Victorian Manufacturing Council play a key role in strategy, communication and information sharing, and reporting, as well as a crucial role in strengthening governance and accountability, one has to wonder what, if any, of this work is being performed in the absence of this council.

I ask the minister to inform the house when the Victorian Manufacturing Council will convene and what the make-up of that council will be in terms of representation across stakeholder interests such as industries within manufacturing and representation of employers and employees.

The PRESIDENT — Order! I call on Mr Leane.

Mrs Peulich — Call a quorum!

Tormore–Boronia roads, Boronia: traffic lights

Mr LEANE (Eastern Metropolitan) — This could be worth a quorum.

My adjournment matter is for the Minister for Roads, Mr Mulder, and it concerns the intersection of Boronia Road and Tormore Road in Boronia. There has been a lot of discussion about safety at this intersection for a number of years, and concerns have been raised by a number of schools and community groups in the area.

A few years ago VicRoads looked at the area and installed sensors on the side roads that would trigger a pedestrian crossing on Boronia Road, which would pull up the traffic on Boronia Road and allow the cars on the side streets to get out relatively safely with the pedestrian red light. Before the 2010 election the member for Bayswater in the Assembly and one of the Knox councillors were very passionate about saying that that was not good enough, that a set of traffic lights should be installed at that intersection as soon as possible and that if the coalition were successful in gaining government, a set of traffic lights would be installed there as soon as possible because of the urgency of the situation.

I think that was probably a fair call. If they thought the intersection was dangerous and people were calling for traffic lights to be installed rather than just the VicRoads remedy, fair enough. But the urgency does not seem to be there, because the ground at the intersection has not been scratched for two years and there has not been a mention of this from the member for Bayswater or the councillor in question in the two years since a series of local newspaper articles were published saying what VicRoads did a number of years ago was not good enough.

The action I seek from the minister is that he fulfil the election commitment of the member for Bayswater and install a set of traffic lights at the intersection.

Teachers: professional association

Mrs PEULICH (South Eastern Metropolitan) — The matter I wish to raise is for the attention of the Minister responsible for the Teaching Profession, and it is the vexed, difficult and challenging issue of policy to do with the teaching profession — that is, how to recruit better, how to ensure that we have effective pre-service training, how to remunerate and reward teachers and how to support underperforming teachers. All of these issues go to the heart of improving teacher quality, which is the most important ingredient of effective education; that is something I have long espoused. I remember delivering a speech on this in the other place back in 1996, when the whole movement calling for smaller class sizes seemed to be drawing focus away from this key issue.

One of the good ways in which the Department of Education and Early Childhood Development acknowledges the importance of the teaching profession is through the Victorian Education Service Awards. Along with the Minister for Higher Education and Skills, Mr Hall, and the Minister for Education, Mr Dixon, I recently had the pleasure of attending the presentation of those awards, where service awards were meted out to long-serving educators.

Those who received awards for 40 years of service included: Domenico Bolzonello, Mount Waverley Secondary College; Anne Collins, Noble Park Secondary College, Michelle Culling, Glen Waverley Secondary College; Lynette Doherty, Parkdale Secondary College; Petula Dunn, Langwarrin Primary School; Leonie Fitzgerald, Dandenong South Primary School; Shirley Frost, James Cook Primary School; Peter Godson, Elizabeth Murdoch College; Peter Greenwell, head office, southern metropolitan region executive; Loretta Hamilton, Courtenay Gardens Primary School; Joseph Kelly, Cranbourne South

Primary School; Leslie Mullins, Mount Waverley Secondary College; Gaye Peel, Dingley Primary School; Barbara Pitts, Wellington Secondary College; Mary-Jo Putrino, Wellington Secondary College; Stephen Ramsay, Dandenong High School; Brian Rollason, Dandenong High School; Rosalynne Sampson, Dandenong High School; Gerard Schiller, Glen Waverley Secondary College; Geoffrey Shaw, Bonbeach Primary School; Cheryl Slocombe, Glen Waverley Secondary College; Sandra Smith, Wellington Secondary College; Marie Tate, Glen Waverley Secondary College; Susan Telfer, Aspendale Primary School; Trevor Thomas, Hampton Park Secondary College; Gary Tippet, Springvale Rise Primary School; Geoffrey Triplow, Seaford Park Primary School; and David Williams, Dandenong High School.

The recipients of awards for 45 years of service included: Martin Culkin, formerly of Dandenong High School; John Farmer, Westall Secondary College; and Judith Wilson, Yarrabah School. Awards for 50 years of service went to John Hurley, from Thomas Mitchell Primary School, and Kevin Mackay, from Dandenong North Primary School. All of those award recipients were from South Eastern Metropolitan Region.

During conversations I had at the presentation of those awards, I learnt that many of these teachers come from families with a longstanding commitment to vocational education and training and education more broadly. One issue that was raised with me was the detrimental effect of militant industrial union campaigns and whether the minister as part of his review of the teaching profession could consider the need for a professional association that represents teachers on industrial matters in a way that enhances the profession and does not diminish it.

Responses

Hon. P. R. HALL (Minister for Higher Education and Skills) — Eleven matters have been raised on tonight's adjournment, the first of those by Mr Pakula, who raised a matter for the attention of the Premier. Mr Pakula put forward a case suggesting that there is good reason for the public release of the ministerial staff code of conduct. I will pass that on to the Premier, and I am sure he will take into account the arguments put forward by Mr Pakula and respond in due course.

Mr Elsbury raised a matter for the Minister for Manufacturing, Exports and Trade, Mr Dalla-Riva. Mr Elsbury was very pleased with the way the minister is working with many local manufacturers in the western region but sought some assistance from the minister to help develop export market opportunities for manufacturing industries in his electorate. I will pass that request on.

Ms Tierney raised a matter for the Minister for Environment and Climate Change concerning the future of the Winchelsea Gun Club. She is basically seeking an extension of the deadline by which it needs to vacate its existing premises in order that it might find some suitable alternative premises. I will pass that request on to the minister.

Mr Barber raised a matter for the Minister for Planning concerning tidal and marine power and suggested that there need to be guidelines for the development of that sort of energy industry. Mr Barber is not here, otherwise I would tell a nice little story about local tidal-powered production. I will perhaps convey that to him some other time. I will pass that request on to the Minister for Planning.

Mr Lenders raised a matter for the Minister for Energy and Resources concerning his view that there should be a ministerial statement on energy and resources use in Victoria as he claims there are some indefinite and inconclusive policy positions on areas like coal seam gas, brown coal and mineral sands, to give three examples. It would be interesting to have such a debate and for both sides of the house to put policies on the table in respect of these matters because, as Mr Lenders would well understand, often the development of these minerals spans more than a single term of government — they are not short-term projects — and therefore if Mr Lenders is arguing the need to give some certainty to those who are potentially utilising those resources, I think it would need to come from both sides of the house. I am sure we will have a debate on this matter as time goes by, but I will convey the request for a ministerial statement to the Minister for Energy and Resources for his consideration.

Mr Ramsay raised a matter for the attention of the Minister for Police and Emergency Services requesting a briefing about the costs incurred by Victoria Police with respect to its response to recent industrial action taken by unions. That is a fair request, and I will pass it on to the Minister for Police and Emergency Services.

Mr Tee raised a matter for the Minister for Planning concerning changes to Victoria's planning zones. In particular he sought an extension of time to allow those who need it to put in a considered view regarding those planning zone changes, so I will pass that request on to the Minister for Planning.

Mr O'Brien was making sure that I do not drop the ball in terms of the support and assistance that the government is giving to the South West Institute of TAFE. It was legitimate of him to crack the whip to make sure I do not lessen my efforts in respect of that issue. I know the South West Institute of TAFE is a very high performer and has achieved a lot and won some recent awards, as Mr O'Brien described in his comments. It continues to deliver some very high-value training services for people in the south-west of the state. I will be happy to continue that hard work, and I can assure Mr O'Brien that my efforts to assist the South West Institute of TAFE will not be lessened in any way, and I thank him for making sure that this is constantly brought to my attention.

Mr Somyurek raised a matter for the Minister for Manufacturing, Exports and Trade, Mr Dalla-Riva, concerning the establishment of the Victorian Manufacturing Council, which he claims has not yet been established.

Mr Somyurek — It was confirmed today by the minister.

Hon. P. R. HALL — I will pass that request on as Mr Somyurek is urging that action be taken in respect of that particular endeavour as soon as possible.

Mr Leane raised a matter for the Minister for Roads concerning the intersection of Boronia Road and — —

Mr Leane — Tormore Road.

Hon. P. R. HALL — Tormore Road. Mr Leane's matter concerns the intersection of Boronia Road and Tormore Road. He claimed this was an election promise prior to the last election and indicated to the house that it is high time that that particular issue is addressed, so I will pass that on to the Minister for Roads.

Mrs Peulich raised a matter for my attention in my capacity as Minister responsible for the Teaching Profession. She suggested I might play a role in facilitating an association for teachers, the purpose of which would be to advance the standing of the teaching profession but which would not be tainted by any industrial action. That is a matter to which I will give consideration and respond in due course.

The PRESIDENT — Order! The house stands adjourned. I look forward to seeing you all in Bendigo.

House adjourned 5.23 p.m. until Thursday, 6 September.