

PARLIAMENT OF VICTORIA

**PARLIAMENTARY DEBATES
(HANSARD)**

LEGISLATIVE COUNCIL

FIFTY-NINTH PARLIAMENT

FIRST SESSION

TUESDAY, 16 NOVEMBER 2021

hansard.parliament.vic.gov.au

By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AC

The Lieutenant-Governor

The Honourable KEN LAY, AO, APM

The ministry

Premier.	The Hon. DM Andrews, MP
Deputy Premier, Minister for Education and Minister for Mental Health	The Hon. JA Merlino, MP
Attorney-General and Minister for Emergency Services	The Hon. J Symes, MLC
Minister for Transport Infrastructure and Minister for the Suburban Rail Loop	The Hon. JM Allan, MP
Minister for Training and Skills and Minister for Higher Education	The Hon. GA Tierney, MLC
Treasurer, Minister for Economic Development and Minister for Industrial Relations.	The Hon. TH Pallas, MP
Minister for Child Protection and Family Services and Minister for Disability, Ageing and Carers	The Hon. AR Carbines, MP
Minister for Public Transport and Minister for Roads and Road Safety .	The Hon. BA Carroll, MP
Minister for Energy, Environment and Climate Change and Minister for Solar Homes	The Hon. L D’Ambrosio, MP
Minister for Health, Minister for Ambulance Services and Minister for Equality	The Hon. MP Foley, MP
Minister for Ports and Freight, Minister for Consumer Affairs, Gaming and Liquor Regulation and Minister for Fishing and Boating	The Hon. MM Horne, MP
Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice and Minister for Victim Support	The Hon. NM Hutchins, MP
Minister for Local Government, Minister for Suburban Development and Minister for Veterans	The Hon. SL Leane, MLC
Minister for Water and Minister for Police.	The Hon. LM Neville, MP
Minister for Industry Support and Recovery, Minister for Trade, Minister for Business Precincts, Minister for Tourism, Sport and Major Events and Minister for Racing	The Hon. MP Pakula, MP
Assistant Treasurer, Minister for Regulatory Reform, Minister for Government Services and Minister for Creative Industries	The Hon. DJ Pearson, MP
Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business and Minister for Resources.	The Hon. JL Pulford, MLC
Minister for Multicultural Affairs, Minister for Community Sport and Minister for Youth	The Hon. RL Spence, MP
Minister for Workplace Safety and Minister for Early Childhood	The Hon. I Stitt, MLC
Minister for Agriculture and Minister for Regional Development	The Hon. M Thomas, MP
Minister for Prevention of Family Violence, Minister for Women and Minister for Aboriginal Affairs.	The Hon. G Williams, MP
Minister for Planning and Minister for Housing	The Hon. RW Wynne, MP
Cabinet Secretary	Ms S Kilkenny, MP

Legislative Council committees

Economy and Infrastructure Standing Committee

Mr Barton, Mr Erdogan, Mr Finn, Mr Gepp, Mrs McArthur, Mr Quilty and Mr Tarlamis.

Participating members: Dr Bach, Ms Bath, Dr Cumming, Mr Davis, Mr Limbrick, Ms Lovell, Mr Meddick, Mr Ondarchie, Mr Rich-Phillips, Ms Shing, Ms Vaghela and Ms Watt.

Environment and Planning Standing Committee

Dr Bach, Ms Bath, Dr Cumming, Mr Grimley, Mr Hayes, Mr Meddick, Mr Melhem, Dr Ratnam, Ms Taylor and Ms Terpstra.

Participating members: Ms Burnett-Wake, Ms Crozier, Mr Davis, Dr Kieu, Mrs McArthur, Mr Quilty and Mr Rich-Phillips.

Legal and Social Issues Standing Committee

Ms Burnett-Wake, Ms Garrett, Dr Kieu, Ms Maxwell, Mr Ondarchie, Ms Patten, Dr Ratnam and Ms Vaghela.

Participating members: Dr Bach, Mr Barton, Ms Bath, Ms Crozier, Dr Cumming, Mr Erdogan, Mr Grimley, Mr Limbrick, Ms Lovell, Mr Quilty, Ms Shing, Mr Tarlamis and Ms Watt.

Privileges Committee

Mr Atkinson, Mr Bourman, Mr Davis, Mr Grimley, Mr Leane, Mr Rich-Phillips, Ms Shing, Ms Symes and Ms Tierney.

Procedure Committee

The President, the Deputy President, Ms Crozier, Mr Davis, Mr Grimley, Dr Kieu, Ms Patten, Ms Pulford and Ms Symes.

Joint committees

Dispute Resolution Committee

Council: Mr Bourman, Ms Crozier, Mr Davis, Ms Symes and Ms Tierney.

Assembly: Ms Allan, Ms Hennessy, Mr Merlino, Mr Pakula, Mr R Smith, Mr Walsh and Mr Wells.

Electoral Matters Committee

Council: Mr Erdogan, Mrs McArthur, Mr Meddick, Mr Melhem, Ms Lovell, Mr Quilty and Mr Tarlamis.

Assembly: Ms Hall, Dr Read and Mr Rowswell.

House Committee

Council: The President (*ex officio*), Mr Bourman, Mr Davis, Mr Leane, Ms Lovell and Ms Stitt.

Assembly: The Speaker (*ex officio*), Mr T Bull, Ms Crugnale, Ms Edwards, Mr Fregon, Ms Sandell and Ms Staley.

Integrity and Oversight Committee

Council: Mr Grimley and Ms Shing.

Assembly: Mr Halse, Mr Rowswell, Mr Taylor, Ms Ward and Mr Wells.

Pandemic Declaration Accountability and Oversight Committee

Council: Mr Bourman, Ms Crozier, Mr Erdogan and Ms Shing.

Assembly: Mr J Bull, Ms Kealy, Mr Sheed, Ms Ward and Mr Wells.

Public Accounts and Estimates Committee

Council: Mr Limbrick, Mrs McArthur and Ms Taylor.

Assembly: Ms Blandthorn, Mr Hibbins, Mr Maas, Mr Newbury, Mr D O'Brien, Ms Richards and Mr Richardson.

Scrutiny of Acts and Regulations Committee

Council: Ms Patten, Ms Terpstra and Ms Watt.

Assembly: Mr Burgess, Ms Connolly, Mr Morris and Ms Theophanous.

Heads of parliamentary departments

Assembly: Clerk of the Legislative Assembly: Ms B Noonan

Council: Clerk of the Parliaments and Clerk of the Legislative Council: Mr A Young

Parliamentary Services: Secretary: Mr P Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL
FIFTY-NINTH PARLIAMENT—FIRST SESSION

President

The Hon. N ELASMAR (from 18 June 2020)

The Hon. SL LEANE (to 18 June 2020)

Deputy President

The Hon. WA LOVELL

Acting Presidents

Mr Bourman, Mr Gepp, Mr Melhem and Ms Patten

Leader of the Government

The Hon. J SYMES

Deputy Leader of the Government

The Hon. GA TIERNEY

Leader of the Opposition

The Hon. DM DAVIS

Deputy Leader of the Opposition

Ms G CROZIER

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Maxwell, Ms Tania Maree	Northern Victoria	DHJP
Bach, Dr Matthew ¹	Eastern Metropolitan	LP	Meddick, Mr Andy	Western Victoria	AJP
Barton, Mr Rodney Brian	Eastern Metropolitan	TMP	Melhem, Mr Cesar	Western Metropolitan	ALP
Bath, Ms Melina Gaye	Eastern Victoria	Nats	Mikakos, Ms Jenny ⁶	Northern Metropolitan	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFFP	O'Donohue, Mr Edward John ⁷	Eastern Victoria	LP
Burnett-Wake, Ms Cathrine ²	Eastern Victoria	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Patten, Ms Fiona Heather	Northern Metropolitan	FPRP
Cumming, Dr Catherine Rebecca	Western Metropolitan	Ind	Pulford, Ms Jaala Lee	Western Victoria	ALP
Dalidakis, Mr Philip ³	Southern Metropolitan	ALP	Quilty, Mr Timothy	Northern Victoria	LDP
Davis, Mr David McLean	Southern Metropolitan	LP	Ratnam, Dr Samantha Shantini	Northern Metropolitan	Greens
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Erdogan, Mr Enver ⁴	Southern Metropolitan	ALP	Shing, Ms Harriet	Eastern Victoria	ALP
Finn, Mr Bernard Thomas Christopher	Western Metropolitan	LP	Somyurek, Mr Adem ⁸	South Eastern Metropolitan	Ind
Garrett, Ms Jane Furneaux	Eastern Victoria	ALP	Stitt, Ms Ingrid	Western Metropolitan	ALP
Gepp, Mr Mark	Northern Victoria	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Grimley, Mr Stuart James	Western Victoria	DHJP	Tarlamis, Mr Lee ⁹	South Eastern Metropolitan	ALP
Hayes, Mr Clifford	Southern Metropolitan	SAP	Taylor, Ms Nina	Southern Metropolitan	ALP
Jennings, Mr Gavin Wayne ⁵	South Eastern Metropolitan	ALP	Terpstra, Ms Sonja	Eastern Metropolitan	ALP
Kieu, Dr Tien Dung	South Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Vaghela, Ms Kaushaliya Virjibhai ¹⁰	Western Metropolitan	Ind
Limbrick, Mr David	South Eastern Metropolitan	LDP	Watt, Ms Sheena ¹¹	Northern Metropolitan	ALP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Wooldridge, Ms Mary Louise Newling ¹²	Eastern Metropolitan	LP
McArthur, Mrs Beverley	Western Victoria	LP			

¹ Appointed 5 March 2020

² Appointed 2 December 2021

³ Resigned 17 June 2019

⁴ Appointed 15 August 2019

⁵ Resigned 23 March 2020

⁶ Resigned 26 September 2020

⁷ Resigned 1 December 2021

⁸ ALP until 15 June 2020

⁹ Appointed 23 April 2020

¹⁰ ALP until 7 March 2022

¹¹ Appointed 13 October 2020

¹² Resigned 28 February 2020

Party abbreviations

AJP—Animal Justice Party; ALP—Labor Party; DHJP—Derryn Hinch's Justice Party;

FPRP—Fiona Patten's Reason Party; Greens—Australian Greens; Ind—Independent;

LDP—Liberal Democratic Party; LP—Liberal Party; Nats—The Nationals;

SAP—Sustainable Australia Party; SFFP—Shooters, Fishers and Farmers Party; TMP—Transport Matters Party

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Tuesday, 16 November 2021

The PRESIDENT (Hon. N Elasmr) took the chair at 11.35 am and read the prayer.

Announcements

ACKNOWLEDGEMENT OF COUNTRY

The PRESIDENT (11:36): On behalf of the Victorian state Parliament I acknowledge the Aboriginal peoples, the traditional custodians of this land which has served as a significant meeting place of the First People of Victoria. I acknowledge and pay respect to the elders of the Aboriginal nations in Victoria past, present and emerging and welcome any elders and members of the Aboriginal communities who may visit or participate in the events or proceedings of the Parliament.

Bills

EDUCATION AND TRAINING REFORM AMENDMENT (SENIOR SECONDARY PATHWAYS REFORMS AND OTHER MATTERS) BILL 2021

FORESTS AMENDMENT (FOREST FIREFIGHTERS PRESUMPTIVE RIGHTS COMPENSATION) BILL 2021

TERRORISM (COMMUNITY PROTECTION) AMENDMENT BILL 2021

WATER AND CATCHMENT LEGISLATION AMENDMENT BILL 2021

Royal assent

The PRESIDENT (11:37): I have a message from the Governor, dated 3 November:

The Governor informs the Legislative Council that she has, on this day, given the Royal Assent to the undermentioned Act of the present Session presented to her by the Clerk of the Parliaments:

45/2021 Education and Training Reform Amendment (Senior Secondary Pathways Reforms and Other Matters) Act 2021

46/2021 Forests Amendment (Forest Firefighters Presumptive Rights Compensation) Act 2021

47/2021 Terrorism (Community Protection) Amendment Act 2021

48/2021 Water and Catchment Legislation Amendment Act 2021

LIQUOR CONTROL REFORM AMENDMENT BILL 2021

Royal assent

The PRESIDENT (11:37): I have a further message from the Governor, dated 9 November:

The Governor informs the Legislative Council that she has, on this day, given the Royal Assent to the undermentioned Act of the present Session presented to her by the Clerk of the Parliaments:

49/2021 Liquor Control Reform Amendment Act 2021

Committees

PARLIAMENTARY COMMITTEES

Membership

The PRESIDENT (11:38): I advise the house that I have received a letter from Mr Matthew Guy, the member for Bulleen, resigning from the Electoral Matters Committee effective from 28 October 2021. I further advise the house that I have received a letter from Mr Ryan Smith, the member for Warrandyte, resigning from the Scrutiny of Acts and Regulations Committee effective from 16 November 2021.

Announcements**SIGNIFICANT MILESTONES**

The PRESIDENT (11:38): I wish to acknowledge some significant milestones over recent days.

Last Thursday we commemorated the 103rd anniversary of the armistice ending the First World War and we honoured the many people who made the ultimate sacrifice for our nation. We will remember them. Lest we forget.

Last week also marked 170 years since Victoria's first Legislative Council met for the first time at St Patrick's Hall in Bourke Street to begin the work of developing a constitution for Victoria. On 11 November 1851 the Council convened to swear in its members and elect its presiding officer. The official opening was held on 13 November 1851.

Finally, this past Sunday marked the 170th anniversary of our parliamentary library, which was established on 14 November 1851, working first at St Patrick's Hall before moving to its permanent home here at Parliament House on Spring Street. May I take this opportunity on behalf of all members to congratulate and thank all the staff of our parliamentary library past and present for their dedicated service to the Parliament.

COVID-19 VACCINATION

The Clerk: Pursuant to paragraph (6) of an order of the Council on 14 October 2021 and further to my emails to members on 29 October 2021, I report to the house that Mr Limbrick and Mr Quilty have now complied with paragraph (3) of the order and their suspensions have been lifted.

Business of the house**STANDING AND SESSIONAL ORDERS**

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:40): I desire to move, by leave:

That the following temporary order comes into effect immediately and remains in place until 31 December 2021, unless the house resolves otherwise:

1. Order of Business

The Order of Business on Wednesday will be—

Messages

Formal Business

Members' Statements (up to 15 Members)

General Business

At 12.00 noon Questions

Constituency Questions (up to 15 Members)

General Business (continues)

At 6.45 p.m. Statements on reports, papers and petitions (30 minutes)

At 7.15 p.m. Adjournment (up to 20 Members)

Upon any interruption of business under this temporary order, Standing Order 4.08 relating to the extension of sitting will apply and unless otherwise ordered by the Council, the Order of Business on Friday will be—

Messages

Formal Business

Government Business

At 12.00 noon Questions

Constituency Questions (up to 15 Members)

Government Business (continues)

At 4.00 p.m. Adjournment (maximum 30 minutes)

Leave refused.

Questions without notice and ministers statements

COVID-19

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (11:42): My question is to the Attorney-General. I refer to the freedom-of-information request concerning the government's February lockdown, where the opposition sought formal written briefings provided to the chief health officer and specifically also to the determination of the Office of the Victorian Information Commissioner that key briefings be released. Minister, the government has appealed the independent umpire's decision and is seeking to block the release of these secret briefings. Why is the government not behaving as a model litigant in these matters, instead seeking to block the release of information the public is entitled to see?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:43): I thank Mr Davis for his question. Mr Davis, the government is entitled to afford itself rights that are attributable to everyone under the legal parameters that we operate in, so there is nothing unusual about reviewing a decision. But I will also put on the record that it is not my decision to make.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (11:43): I thank the Attorney for her response. Whilst the decision is not hers to make as such, it is hers to make with respect to ensuring that the government behaves as a model litigant. In this case the government is using legal tricks and chicanery far beyond the normal approach, and as a model litigant the government should be open to providing information instead of blocking its release. I ask therefore: will you investigate the government's misbehaviour in repeatedly blocking the release of health information when it should be behaving as a model litigant?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:44): I refute the premise of the question. It is not inappropriate to seek to have questions determined by the appropriate legal avenues, and I stand by my answer to your substantive question.

COVID-19

Dr CUMMING (Western Metropolitan) (11:44): My question is to the Premier. Does he support the view of the chief health officer expressed in an article in the *Medical Journal of Australia*? The chief health officer has criticised the federal government for not addressing the economic and mental health effects of the pandemic in its national COVID road map. To quote the article:

The continuing mental health effects of disruptions to life during 2020 and 2021 are already being seen in the health system, and, as with natural disasters, they will need to be managed for years, not weeks.

It is:

... as if we could all soon heave a sigh of relief and ... move on.

The recovery phase after public health emergencies normally includes addressing their economic effects and managing the mental health impacts.

This is from the chief health officer.

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:45): Dr Cumming, you have sought a response from the Premier. I believe you have asked for an opinion of his in relation to the comments that you articulated are present in that article referencing the chief health officer. I will forward your question to the Premier for a response.

Dr CUMMING (Western Metropolitan) (11:46): Thank you, Attorney. I look forward to the Premier's response. Does the Premier acknowledge that the economic and mental health effects of COVID are due to the harsh lockdowns and restrictions imposed by the chief health officer? Victoria has suffered the harshest lockdowns anywhere in the world. Victorians were locked up in their homes for over 20 hours a day. They were homeschooling their children. They were working from home. They were separated from their friends and their loved ones, from their support systems. They lost their jobs and their businesses. And then they were coerced into getting a vaccine or locked out of society—all supposedly in the interest of keeping us safe and well. I am looking forward to the Premier's response.

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:47): I will pass that on to the Premier.

MINISTERS STATEMENTS: SEXUAL OFFENCES

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:47): It is a great honour to update the house on the government's response to the Victorian Law Reform Commission's (VLRC) landmark report into improving the justice system's response to sexual offences. This report is sobering reading. The number of victims who never report what happened to them, the number of offenders who never have to account for their conduct and the way the system retraumatizes those who do come forward are confronting, and we have committed to take action. This report represents a road map for government to make the system work better. We are getting on with the work of implementing the report. We already have been developing a 10-year whole-of-government strategy on sexual violence and sexual harm, which I will bring back to the public and to this chamber next year.

I was pleased to announce that we will be developing reforms to move Victoria to an affirmative consent model. This significant change will shift focus away from the conduct of the victim and ask what the perpetrator did to ensure the victim was consenting. We will also legislate to make it clear that the dangerous practice of stealthing—that is, removing a condom or other protective device during sex without consent—is a crime. These changes will form just one part of our work to transform the system into one that works coherently to support victims in seeking justice and reduce sexual harm in all its forms.

I want to thank the VLRC and chair Tony North, QC, for their comprehensive report, which is a monumental piece of work. I also want to express my gratitude to and respect for the survivors who contributed their experiences to the VLRC's report and the many who have said that they want to work with us to implement this response. Your resilience in the face of trauma and your commitment to protecting those who come after you are truly remarkable. In the words of an amazing survivor, Geraldine Bilston:

We share our stories not because we want you to feel sorry for us but because we believe in a better future.

COVID-19

Ms CROZIER (Southern Metropolitan) (11:49): My question is to the Minister for Workplace Safety. Minister, the shocking deaths, mismanagement and mistakes that occurred at St Basil's aged-care home are being investigated, with St Basil's suspected of breaches of the health and safety act. Yet, Minister, a root cause analysis by specialist emergency physician Dr Ian Norton, who handed it to the inquest currently underway, highlighted a decision by chief health officer Brett Sutton to replace all St Basil's staff with a commonwealth workforce, despite it being dismissed by doctors from Northern Health as a 'shocking idea', and I ask: why is WorkSafe not currently probing the responsibility, the mistakes and the culpability of the Victorian Department of Health in the deaths that occurred at St Basil's?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (11:50): I thank Ms Crozier for her question, and I note that these matters are currently the subject of

a coronial inquest. It would not be appropriate for me to comment in that context, and as I have said a number of times in the house before, WorkSafe's enforcement activities are at arm's length from me and are a matter for the independent safety regulator. I further note that the aged-care sector other than the public part of that sector—the private aged-care sector—is the primary responsibility of the federal government, and Ms Crozier would be well aware of that fact.

Ms CROZIER (Southern Metropolitan) (11:51): I note the minister is again trying to have no responsibility in her portfolio. Minister, Dr Sutton was the one who officially ordered the workforce standdown and was certainly responsible for the delay in the Victorian Department of Health notifying the commonwealth, despite the Victorian department being notified, so I ask: why is WorkSafe not investigating Dr Sutton's delay in notifying the commonwealth, given this delay is likely to be central to many of the sad deaths that occurred? Is it another Andrews government cover-up? Doesn't WorkSafe owe it to the 50 residents who lost their lives and their families to find the truth?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (11:51): I thank Ms Crozier for her supplementary question. Again, these matters are currently the subject of a coronial inquest. In addition to that, Ms Crozier would know that outbreak management is squarely the responsibility of the public health team. Throughout this pandemic that has been the case, and that is the responsibility of the chief health officer, the public health team and the Minister for Health. What investigations WorkSafe undertake in the context of the safety of workers and the responsibilities of duty holders is a matter for the safety regulator. I do not direct WorkSafe in that regard, and I would point Ms Crozier to the answers I have given the chamber in relation to this matter on numerous occasions.

POLICE CONDUCT

Mr LIMBRICK (South Eastern Metropolitan) (11:52): My question is for the minister representing the Minister for Police in the other place. On 29 September this year the ABC reported that a police officer had been suspended pending an investigation after a video which was widely shared on social media surfaced. The video appeared to show a man talking calmly to two police officers at Flinders Street station who was approached from behind by another officer and then thrown to the ground, with his head appearing to hit the ground. I would like to ask the minister to provide an update to the house on the status of this investigation.

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (11:53): I thank Mr Limbrick for his question on the case that he raised, and I will refer that matter to the Minister for Police for a response.

Mr LIMBRICK (South Eastern Metropolitan) (11:53): I thank the minister for passing that on. Further to this incident, I have been asked by many members of the public about the welfare of this man, as he appeared to suffer a severe blow to the head. Could the minister please comment as to the welfare of this man after the incident?

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (11:53): Again, I thank Mr Limbrick for his supplementary question, and I will see whether the minister has any information in respect to that matter.

MINISTERS STATEMENTS: REMEMBRANCE DAY

Mr LEANE (Eastern Metropolitan—Minister for Local Government, Minister for Suburban Development, Minister for Veterans) (11:54): I would like to update the house on this year's Remembrance Day service at the Shrine of Remembrance, which our government were very happy to facilitate with \$70 000 to help put this event on. Can I say at the outset what a magnificent job the shrine trustees and the CEO, Dean Lee, did in delivering a fantastic commemoration in a year that honoured 21 years of service and sacrifice in the 21st century. They recognised and honoured the Australian Defence Force veterans past and present and reflected on recent conflicts, peacekeeping

efforts and disaster relief missions. I acknowledge the attendance, of course, of Victoria's Governor, the Premier, the Prime Minister and the Deputy Prime Minister.

In a very significant moment, Boon Wurrung elders Uncle Shane Clarke and Uncle Mik Edwards performed a smoking ceremony. This was the first time a smoking ceremony has been performed at the shrine. Uncle Mik Edwards delivered a powerful welcome to country, and I thank him for that. The Remembrance Day commemorations were also live streamed on the shrine's website, Facebook and YouTube channels for commemoration at home.

Of course, while we commemorate brave Victorians, we also need to continue to acknowledge contemporary veterans and ex-service men and women in really important ways. I acknowledge the announcement from Minister Pulford of a subsidy of \$20 000 for any employer that employs an ex-service man or woman. This is a great announcement, and I think these are real things. I will have more to say about housing early next year and also more to say about employment early next year and also more to say about mental health for these important people.

YOUTH EMPLOYMENT

Dr BACH (Eastern Metropolitan) (11:56): My question is for the Minister for Employment. ABS data released last week revealed that almost 22 000 young Victorians lost their jobs during the pandemic following the government's many lockdowns. Victoria now accounts for almost six in 10 jobs lost by Australians aged between 15 and 24 years. In June this year you said, Minister:

Our priority is to make sure that no one misses out on a chance to keep a job or find a job—our young people are so important and we won't leave them behind as we work our way through this pandemic.

Well, you have left them behind. What is your new plan to get those 22 000 young Victorians back in work?

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (11:57): I thank Dr Bach for his question and his interest in the government's extensive program of support for people who are at risk of missing out on being part of the rapid economic recovery that is occurring in Victoria at the moment.

Dr Bach referred to the latest Victorian labour force statistics, which were released last week. As all members would expect, they represent a period of very significant restrictions following an extended lockdown. I would refer members for their reference also to comments made at the Public Accounts and Estimates Committee last week by the Secretary of the Department of Treasury and Finance. Whilst the current unemployment rate is 5.6 per cent, last month's accounting of this had it at 4.7. The estimation of the Treasury department is that it will not be any time much at all until the number begins with a 3. One of the most significant things facing Victorian industry at the moment is a labour shortage and a skills shortage, and as people open this is quite acute and it is particularly impacting some sectors.

But specifically on the question of what we are doing to support young people who are out of work, I would refer Dr Bach to our \$619 million Jobs Victoria program. It is providing wage subsidies of \$10 000 or \$20 000 to people in at-risk groups, so groups at risk of long-term unemployment—indeed the veterans that Mr Leane referred to just a moment ago, women over 45, young people under 25 and a number of other groups that experience particular vulnerabilities or particular risk of being long-term unemployed.

There are many, many examples I could give, Dr Bach, but just yesterday I visited Ohana Hairdressing—Hawaiian for 'family'—in Collingwood, and I met Olivia, who is the business owner. She has just taken on a young woman called Ciara—always wanted to be a hairdresser—who has been out of work for quite some time, including through the pandemic, and is just commencing now as a direct result of one of the programs funded through the \$250 million jobs fund, a partnership with Box

Hill Institute getting 75 hairdressers into work from having been out of work. Many of those will be young people.

There are similar initiatives in caravan construction, in aged care, in community services, in logistics and distribution, and in transport. The list is long, but I would encourage Dr Bach and all members to familiarise themselves with the Jobs Victoria program. The information is all available on the website. You can click the 'I am an employer' button or the 'I am looking for work' button, and you will find what you are looking for and the support you need.

Dr BACH (Eastern Metropolitan) (12:00): I am very happy for Ciara. However, her recent employment will be cold comfort to the 22 000 young Victorians currently out of work. Despite the extensive suite of programs that the minister boasts about, clearly they are not fixing this big problem caused by the Labor government. Victoria now has the highest youth unemployment rate in the nation. Over the same period, for context, every other state got more young people into work, including 22 700 more in our northern neighbour, New South Wales. If every other state can foster youth employment, what are you doing wrong in Victoria, Minister?

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (12:00): I would encourage Dr Bach to familiarise himself with youth unemployment data over time. What I would indicate and again encourage Dr Bach to observe is the data this time last year, this time the year before or indeed when our government came to office. The Jobs Victoria program represents a threefold increase on our employment programs compared to at any other point in their history, but since 2016 there have been employment programs specifically targeting young people that are out of work. I work closely with Minister Tierney, who of course is overseeing substantial reform and significant investment in the training system. We are making sure that young people have the skills that they need and all of the other types of support that they need—it might be transport, it might be something to wear to a job interview—to get into work. I look forward to improvement— (*Time expired*)

CHILD PROTECTION

Ms MAXWELL (Northern Victoria) (12:02): My question is to the Minister for Workplace Safety and Minister for Early Childhood for the Minister for Child Protection in the other place. Minister, child protection services stopped face-to-face visits with children who were at risk of neglect and abuse during the pandemic. This included contact for two children who later died. The commission was notified of 45 children who died after having contact with child protection. The commission noted that reduced face-to-face contact meant child protection could not adequately assess risks facing children who are significantly vulnerable and that direct support ceased at a critical time. Decisions to cease contact were made individually without consultation with other agencies. Minister, can you confirm that all face-to-face visits have now resumed in full to ensure comprehensive risk assessments can be undertaken and supports put in place to help protect these vulnerable children?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:03): I thank Ms Maxwell for her question for the Minister for Child Protection, and I will certainly refer the question to the minister for a written response in accordance with the standing orders.

Ms MAXWELL (Northern Victoria) (12:03): Thank you, Minister. A section 38 consultation can be initiated where community services and child protection flag a case where there is poor engagement. Can the minister advise whether, given the lack of face-to-face visits during the pandemic, any audit has been undertaken of all cases and how many section 38 consultations are in effect to ensure timely assessments are resumed for those at-risk children?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:03): I thank Ms Maxwell for her supplementary question, and I will seek a written response from the minister.

MINISTERS STATEMENTS: VICTORIAN REGIONAL CHAMBER ALLIANCE

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (12:04): I rise to update the house on the work our government is doing supporting business chambers and local traders groups. Last Wednesday it was a delight to join regional chambers and traders groups from right across the state in Ballarat to launch the Victorian Regional Chamber Alliance. The alliance will provide a collective voice for regional chambers of commerce and business associations. I would like to pay particular credit to my friend Jodie Gillett, the CEO of Commerce Ballarat, for whom this has been a real passion project, an idea that has taken root as a result of the importance of networking and sharing of ideas through the pandemic and that shows such exciting potential and opportunity as we drive an economic recovery that is experienced and enjoyed by people right across the state. I was joined at the launch by my colleagues in the other place the member for Buninyong and the member for Wendouree, who are both terrific advocates for regional businesses.

I want to acknowledge the critical role played by local traders organisations, including those in Melbourne's suburbs and CBD, during the COVID-19 pandemic. Right across the state these groups have provided crucial information to their members on restrictions, vaccine requirements and government support. They have also assisted businesses to adapt their operations to survive, and indeed for some to thrive, in the face of the unprecedented challenges they have been experiencing. Without them, many businesses would not have made it through, and it is so important that we continue to back these groups, these mainstays of our local communities, as we come out the other side of what has been a very challenging time. It is why we created the \$5 million business chamber and local traders program last year. I am very pleased to advise that a second round of the program is now open, with grants available to associations for activities and programs that support locally led initiatives that educate, inform and empower small businesses.

COVID-19

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (12:06): My question is for the Minister for Workplace Safety. Minister, today at the St Basil's inquest they have heard that the Victorian Department of Health did not require aged-care homes to return self-assessments used to identify gaps in infection control procedure. A member of the outreach team that visited St Basil's before the first COVID case was identified last year is under close questioning at that inquiry, with shocking revelations. I therefore ask: given the failures that have been identified, will WorkSafe investigate the Department of Health and its failure under the workplace safety act?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:06): I thank Mr Davis for his question. As I have already indicated, these matters are literally the subject of evidence being heard, as we speak, at a coronial inquest, and it would be completely inappropriate for me to comment on matters that not only are outside of my portfolio in terms of the responsibilities for aged care but are the subject of an important inquest currently underway. All I can do to assist Mr Davis is to reiterate what I said in my answer to Ms Crozier earlier today, which is that the workplace safety regulator, WorkSafe, take employers' duties under the health and safety act extremely seriously. They have literally conducted thousands and thousands of workplace inspections throughout the period of the pandemic, including across the health and care sectors, but it is appropriate that they undertake their enforcement activity as they see fit at arm's length from the government.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (12:08): It is all very well for the minister to try to say, 'Oh, they're over there; they're nothing to do with me'. She is the minister, and questions can be asked of her about the activities of her agency, and I therefore ask: isn't this in fact a regulatory failure that should be investigated by WorkSafe given the terrible, tragic deaths that have occurred under the watch of this government?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:08): Mr Davis, my understanding is that the regulatory responsibility for private aged care in this country rests with the federal government, with the commonwealth of Australia.

ANIMAL WELFARE

Mr MEDDICK (Western Victoria) (12:09): My question is for the Minister for Agriculture in the other place. Last week a devastating fire tore through a shed in Carisbrook. Most reports in the media mentioned that the shed could not be saved, with no mention of what, or rather who, was inside. Inside the shed were tens of thousands of gentle, docile hens. The Farm Transparency Project acted on a tip-off and attended the wreckage, but sadly not a single one was spared. Every single one of these hens, treated as an egg-laying machine, was engulfed in the flames and smoke. Will the minister be undertaking an inquiry into how this fire took place and if it could have been avoided?

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (12:10): Thank you, Mr Meddick, for your question and your ongoing concern for animals. The matter will be referred to the Minister for Agriculture for a response.

Mr MEDDICK (Western Victoria) (12:10): Thank you, Minister. The hens in this shed were part of a barn-laid operation. While not confined to cages, it is still a form of factory farming. What is the government doing to address intensive farming, which is broadly opposed by the public?

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (12:10): Mr Meddick, I am not quite sure whether the supplementary is connected to the substantive, but regardless, I am happy to refer the matter to Minister Mary-Anne Thomas.

MINISTERS STATEMENTS: COVID-19

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:11): On Monday the government announced that kindergartens and long day care centres will be eligible to opt in to the rapid antigen testing scheme in line with schools. We want to help our young children get back to face-to-face learning with their teachers and educators as quickly as possible, and testing is an important tool to do that. Free rapid antigen test kits will be provided to all eligible services. It will reduce both quarantine time and pressure on families, while ensuring early childhood settings are as low risk as possible. Eligible kindergarten and long day care services can opt in to the program to receive at-home test kits for children who have been identified as primary close contacts.

Members interjecting.

The PRESIDENT: I cannot hear the minister. Dr Cumming, please!

Ms STITT: Thank you, President. Test kits will be available to early childhood services subject to outbreaks from this Monday and will be distributed to eligible services ready to be used from next Monday. Service providers will establish a system to collect, record and hold the testing information, and parents and carers will opt in for their children to be part of the scheme. It means that children can return to their early childhood services after seven days of quarantine if they get a negative standard PCR test on day six. I am sure—

Members interjecting.

The PRESIDENT: Order! I do not want to repeat myself and keep repeating the warning. Dr Cumming, please! This side also do not help.

Ms STITT: Thank you, President. It means that children can return to their early childhood services after seven days of quarantine if they get a negative standard PCR test on day six. Children will then move on to seven days of at-home rapid antigen testing. A negative test result is required on the days the child attends their early childhood setting. The quick and easy tests indicate a result for coronavirus

within 15 to 30 minutes, with families required to report the test results to the early childhood service each morning prior to attending.

I know that the early childhood education and care sector have welcomed this announcement, and I am sure they are interested in hearing the details of it, even if others are not. Supplying these test kits is just another way we are supporting the sector to provide COVID-safe environments for children to learn and for educators to work.

WRITTEN RESPONSES

The PRESIDENT (12:14): Regarding questions and answers today: Dr Cumming's question to the Premier, two days for the question and supplementary; Mr Limbrick to police, two days, question and supplementary, Ms Tierney; Ms Maxwell to Ms Stitt, two days for the question and supplementary; and Mr Meddick, for agriculture, Ms Tierney, two days, question and supplementary.

Constituency questions

NORTHERN METROPOLITAN REGION

Mr ONDARCHIE (Northern Metropolitan) (12:14): (1501) My constituency question today is for the Minister for Police. The people of Broadmeadows in my electorate of Northern Metropolitan Region are concerned about antisocial behaviour, illegal dumping of rubbish and graffiti. Recently I invited the Broadmeadows locals to complete my community survey, and I am very thankful to those residents who responded. Broadie is such a diverse and wonderful community. It has a strong manufacturing background, which played a major part in building Melbourne's car industry and supporting our state in the past. The parks are beautiful in the local area. They have been a vital asset to the community during lockdown, so they need to be protected. The question I have for the minister is: will the minister commit to extra police patrols to better deter illegal dumping of rubbish near Valley Park, Riggall Street near Merlynston Creek and Riggall Street at the Yuroke Creek end? The residents of Broadie want a safer and cleaner suburb in which to raise their families.

WESTERN METROPOLITAN REGION

Ms VAGHELA (Western Metropolitan) (12:15): (1502) My constituency question is directed to the Assistant Treasurer, Minister for Regulatory Reform, Minister for Government Services and Minister for Creative Industries, the Honourable Danny Pearson. My question relates to the portfolio responsibility of creative industries. The Andrews Labor government is supporting musicians, bands and music businesses to get back to the stage. Grants of between \$4000 and \$40 000 are available for activities, including recording and releasing new music, presenting music events, marketing and business development. Investment in the music industry is much needed as it will help reignite the famed Victorian music industry. My question to the minister is: can the minister please provide me an update on how residents and musical businesses of the Western Metropolitan Region will benefit from this important initiative?

WESTERN VICTORIA REGION

Mr GRIMLEY (Western Victoria) (12:16): (1503) My question is to the Minister for Regional Development. The Moorabool shire is earmarked for exponential growth in the years to come. Towns like Bacchus Marsh are predicted to have thousands of new residents, and with this brings the need for important infrastructure. The Moorabool shire have planned for this exponential growth and are looking to build a brand new recreational facility, the Moorabool Aquatic and Recreation Centre, or the MARC. Unfortunately the Moorabool shire missed out on funding for stage 1 of the MARC. However, the shire acknowledge the importance of this project and have gone ahead with the build for stage 1 without assistance. Moorabool needs more support, as stage 1A is now entering the pre-build phase, and they are awaiting the outcome of a Regional Development Victoria grant application for \$2.95 million. The entire MARC project will create more than 200 jobs during construction and generate more than \$100 million in economic activity during the life of the project. Minister, will you

carefully consider the current grant application for stage 1A of the MARC to ensure that it is fully funded before construction of stage 1 gets underway?

NORTHERN VICTORIA REGION

Ms LOVELL (Northern Victoria) (12:17): (1504) My question is for the Minister for Health and concerns stage 2 of the redevelopment of Goulburn Valley Health. I have continuously raised the importance of completing the full redevelopment of GV Health and also sought funding commitments from the Labor government, who continue to sit on their hands on this issue. When the minister visited GV Health in January this year he spruiked the government's funding of \$2 million for planning of stage 2 of the redevelopment. This funding was actually announced in May 2019 as part of the 2019–20 state budget. Two and a half years later we still have no idea of the progression of stage 2, and the Goulburn Valley Health community deserve an explanation from the minister on the status of this badly needed infrastructure project. Will the minister provide an immediate update on the status of stage 2 of the Goulburn Valley Health redevelopment and give an undertaking to publicly release the GV Health master plan?

WESTERN METROPOLITAN REGION

Dr CUMMING (Western Metropolitan) (12:18): (1505) My question is to the Minister for Health, and my question is this: how are people who do not own a mobile phone to prove vaccination status in Western Metropolitan Region, and why have you locked out the poor and the vulnerable in Western Metropolitan Region? I met Mr Ian Reid, who lives at Floyd Lodge, which is a Cohealth community health service in Hanmer Street in Williamstown, on the steps of St Mary's church in Cecil Street on 11 November, which was Remembrance Day. He wanted me to buy him a mobile phone as he now cannot get into any of the shops because he has not got a digital passport. He has a speech impediment, he is 88, he is frail and he has no family for help. Minister, why have you locked out the poor and vulnerable? Why can't they continue using paper and pen?

EASTERN METROPOLITAN REGION

Dr BACH (Eastern Metropolitan) (12:19): (1506) I rise to ask a question on behalf of concerned residents of Landale Street, Box Hill, in my electorate. I have asked similar questions previously of the Minister for Health, but as he has not deigned to give me a reply, I will seek to ask again. My question in short is: will he move the testing site on Landale Street, Box Hill, to one of any number of more suitable locations? As I have previously informed the minister, this testing site has led to very significant traffic congestion in Landale Street. More than that, it makes the street unsafe. I have now had credible reports of a number of accidents in the street with cars being damaged. In addition there is a significant amount of medical waste in the street. I have gone there myself, and it does seem to me to be a most inappropriate location for a testing hub. I would urge the minister, please, to respond to the concerns of my local constituents and to move this testing site.

NORTHERN VICTORIA REGION

Mr QUILTY (Northern Victoria) (12:20): (1507) My constituency question is for the Minister for Health. Albury Wodonga Health is in the process of planning a new hospital big enough to service the combined cross-border community. There is a parcel of former railway land situated in the north of Wodonga owned by the state government. The land is near the Bandiana Link Road, providing access from the freeway, making it close to anywhere in the twin cities. This land is the ideal location for a greenfield site for the new hospital as well as a co-located private medical precinct. This is an opportunity for forward planning and securing a parcel of land that will serve the growing needs of Wodonga and the border area for the future. A location for the hospital must be chosen. It is important this land be secured for this purpose now before it is built out or sold off for development. I have long been an advocate for this site. Minister, will you reserve this land for the hospital and start the broad planning and the rollout of the necessary infrastructure to prepare for the construction of the new Wodonga hospital and medical precinct over the next 15 years?

WESTERN METROPOLITAN REGION

Mr FINN (Western Metropolitan) (12:21): (1508) My constituency question is to the Minister for Health. On Wednesday of last week one of my constituents was raided by so-called authorised officers at his surgery in Sunshine. Dr Mark Hobart is a respected and much-loved GP of 30 years. This raid on his surgery has shocked and indeed horrified many locals. They cannot understand why the government would take such action against their family doctor, who they know to be a very good man. What has disgusted them in particular is the seizure of their confidential health records. Minister, do you and the government respect the sanctity of the doctor-patient relationship, and if so, will you ensure that my constituents' medical records are returned immediately from where they were taken and allow Dr Hobart to continue to serve them into the future?

SOUTHERN METROPOLITAN REGION

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (12:22): (1509) My constituency question is for the attention of the Minister for Transport Infrastructure, and it concerns the government's plan for a sky rail at Mentone and Parkdale. The very clear point here is that there was a large demonstration on the weekend. Thousands of people attended on Sunday, including my colleague Ms Staley, who spoke at that rally and listened to what the concerns of people are. In the lead-up to the last election the member for that area promised that there would be no sky rail. He was not there. But my purpose today is to seek for the Minister for Transport Infrastructure to visit the people in that area, and I ask: will she join me and others in a visit to the area where she proposes to build a sky rail, which was ruled out by her and the member for Mordialloc before the last election?

WESTERN VICTORIA REGION

Mrs McARTHUR (Western Victoria) (12:23): (1510) My question is for the Minister for Public Transport, Ben Carroll, and concerns the installation of boom gates at the Lydiard Street level crossing in Ballarat. Yesterday, 534 days after a train smashed through the heritage gates, the crossing finally became usable to traffic. \$10.5 million has been spent on this temporary solution. However, I was in Maryborough yesterday and stood outside a rail depot where it is well understood that a replica set of the heritage gates is in storage. The gates were in Ballarat on the day the train crash happened, I am assured. The next day, I am also told, they were hurriedly and quietly moved to Maryborough. My question to the minister is: why weren't these heritage gates put in immediately, and when will the permanent solution, adhering to Heritage Victoria's demands that the heritage gates be replaced, finally be installed?

NORTHERN METROPOLITAN REGION

Ms PATTEN (Northern Metropolitan) (12:24): (1511) My constituency question is for the Minister for Roads and Road Safety. Safe Access over Bell Street Bridge for Everyone, SABBE, is a community group of school parents who are concerned about the longstanding safety issues in the Bell Street risk zone at the intersections of Bell, Elizabeth and Nicholson streets at the border of Coburg and Preston. In the last week there have been three serious traffic accidents in the area. Pedestrians, including a large number of Coburg High School kids, are at risk every day on and around the Bell Street bridge. Shockingly, the Bell Street bridge over Merri Creek does not meet Australian safety standards. My community would like a plan for this to be rectified. Can the minister please tell us what that plan is?

EASTERN VICTORIA REGION

Ms BATH (Eastern Victoria) (12:25): (1512) My question is for the Premier. The Premier in late 2018 said to the people of Latrobe Valley that there would be 500 new manufacturing jobs, that there would be 2000 electric vehicles rolling off the production line in Latrobe Valley and that Latrobe Valley would become the capital of electric car manufacturing. Last week at the Public Accounts and Estimates Committee my colleague Danny O'Brien questioned the government and the government admitted that it would not go ahead, that it is a dud deal. Latrobe Valley deserves answers, it deserves

transparency and it deserves to know what went wrong. Previously the Premier had said it was commercial in confidence in relation to maintaining a competitive advantage. We know that SEA Electric was paid sufficient and substantial funds to get this project off the ground. However, what the community wants to know is: will that money be returned, and how much was spent in providing a dud deal to the people of Latrobe Valley?

SOUTHERN METROPOLITAN REGION

Ms CROZIER (Southern Metropolitan) (12:26): (1513) My constituency question is to the Minister for Planning, and it concerns the development at 1 Cooloongatta Road in the residential area in Camberwell. Recently I met with concerned residents. I have been speaking with them over the course of many months now about their views on this development, an apartment complex within this area that is being considered, and as they have said, throughout the acquisition process and the redevelopment process of the site their concerns have fallen on deaf ears. There has been no representation whatsoever from the local member, Mr Kennedy. Goodness knows what he does, but he has been absolutely nowhere and has not assisted these concerned residents. On 22 October the council was denied a heritage overlay for the site, and it will see 43 apartments on the existing site. It is a very well known area. But the question I ask is: will the minister meet with these residents to hear their concerns on this important matter?

Petitions

Following petitions presented to house:

BUSH NURSING CENTRES

- Concern about the lack of funding and certainty to be provided to the 15 Bush Nursing
- Centres across Victoria by the Andrews Labor Government
- Notes the significant contribution and support Bush Nursing Centres provide to remote Victorian communities
- In particular notes the enormous role Buchan, Cann Valley, Dargo, Ensay, Gelantipy, Swifts Creek, Bush Nursing Centres provided in the recent devastating bushfires including acting as a relief centre, providing hundreds of meals for firefighters, undertaking welfare checks, and provision of primary and emergency care
- And Calls on the Andrews Labor Government to immediately and properly resource Bush Nursing Centres to recognise an increase in operational costs and demands that Victoria's Bush Nursing Centres that they constantly face.

By Ms BATH (Eastern Victoria) (18 signatures).

Laid on table.

PUBLIC HEALTH AND WELLBEING AMENDMENT (PANDEMIC MANAGEMENT) BILL 2021

The Petition of certain citizens of the State of Victoria draws to the attention of the Legislative Council that the community opposes the Andrews Government's Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021.

The Bill hands enormous power to the Premier of Victoria, possibly perpetuating a pandemic dictatorship. It is undemocratic and a complete tyrannical overreach of political power. It inhibits proper Parliamentary scrutiny, transparency and potentially impacts scheduled state elections.

The Andrews Government has not consulted with the public on its powers.

The community specifically objects to the Bill granting the Premier wide sweeping powers to declare a pandemic despite low case numbers in the state of Victoria and potentially in the absence of cases, issuing pandemic orders for a period of time without the support of state parliament, and having the power to apply pandemic orders to classes of persons who can be identified by their characteristics or attributes, including but not limited to race, gender, religious, political belief or activity.

The petitioners therefore request that the Legislative Council reject the flawed Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021.

By Ms BATH (Eastern Victoria) (11 764 signatures).

Laid on table.

COVID-19 VACCINATION

The Petition of certain citizens of the State of Victoria draws to the attention of the Legislative Council that a grandparent from Sydney was denied her application for travel to Melbourne, despite being fully vaccinated from COVID-19. The reason provided in her application to travel was to care for her daughter who is battling an advanced form of breast cancer and to help her son-in-law care for her two grandchildren.

Many fully COVID-19 vaccinated grandparents in Victoria have grandchildren who live interstate or overseas. They were upset to hear this news and are worried that it could happen to them or their friends.

The petitioners therefore request that the Legislative Council call on the Government to grant travel exemption permits for grandparents who are fully vaccinated against COVID-19 so that they can travel interstate for care-giving purposes.

By Ms CROZIER (Southern Metropolitan) (88 signatures).

Laid on table.

HEATHERTON TRAIN STABLING

The Petition of certain citizens of the State of Victoria draws to the attention of the Legislative Council the proposed train stabling location for the Suburban Rail Loop in Heatherton.

This land has been marked for open space by Parks Victoria for many years. Residents were sent plans from the City of Kingston only recently for a sporting grounds facility. The residents in this area have chosen to live here due to the promised green wedge. The announcement of a train stabling site in Heatherton has completely blindsided residents and the nearby privately-owned dog park community with more than 600 members.

The impacts of the train stabling location on the residents in surrounding streets will be significant and reduce their quality of life. It would also take away the Doggy Play Park which is a safe place for anxious dogs to run safely and owners to be worry free. It is a significant community of itself. There are other suitable land pockets nearby on the alignment of the Suburban Rail Loop, that would not be so costly to nearby residents which must be considered as an alternative for this significant project. The location should be carefully thought through and not rushed.

At the very least, the community should be informed on what other locations were considered for train stabling. Information should be provided on the strengths and weaknesses of each location and the reason this proposed site was chosen. There is precedent of the Government not prioritising various sites in the Kingston green wedge for their intended use as parkland, despite election promises, such as the Alex Fraser site and the Henry St landfill. It's time to honour the promises and commitments made and prioritise the green wedge.

The petitioners therefore request that the Legislative Council call on the Government to be transparent in the decision-making process for the proposed train stabling site in Heatherton, to take into consideration the wishes of the City of Kingston residents and find an alternative location for the train stabling site, even if it is more costly.

By Mr HAYES (Southern Metropolitan) (423 signatures).

Laid on table.

TRAIN NOISE POLLUTION

The Petition of certain citizens of the State of Victoria draws to the attention of the Legislative Council that the noise from train horns is causing harm to neighbours of railways.

Residents and workers near railways are subjected to frequent horn blasts hundreds of times a week and almost always as a matter of routine at any time of the day or night. The horns are supposed to be a low-cost solution to safety, but the true costs are externalised in the form of noise pollution.

The World Health Organization estimates that every year in the western part of Europe, at least one million healthy life years are lost due to traffic-related noise. In Melbourne, the frequent sound of train horns

relentlessly harms the health and wellbeing of communities near railways. Can there be another rail infrastructure to provide safety along railway tracks? Additional rail infrastructure such as basic fencing protection is needed in order to lessen the insistent and excessive train horns that are used 24 hours a day.

The petitioners therefore request that the Legislative Council call on the Government to reduce the noise pollution caused by excessive use of train horns by providing fencing along railway tracks or alternative means for safety.

By Dr RATNAM (Northern Metropolitan) (1523 signatures).

Laid on table.

Bills

ROAD SAFETY AMENDMENT (HOON EVENTS) BILL 2021

Introduction and first reading

Mr GRIMLEY (Western Victoria) (12:30): I move to introduce a bill for an act to amend the Road Safety Act 1986 in relation to events involving hoon driving and for other purposes, and I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Mr GRIMLEY: I move:

That the second reading be made an order of the day for the next day of meeting.

Motion agreed to.

Committees

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 15

Ms WATT (Northern Metropolitan) (12:31): Pursuant to section 35 of the Parliamentary Committees Act 2003, I lay on the table *Alert Digest* No. 15 of 2021 from the Scrutiny of Acts and Regulations Committee, including appendices. I move:

That the report be published.

Motion agreed to.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (12:31): (*By leave*) I think many in the chamber may wish to seek leave to speak. This is a very important report, and the Scrutiny of Acts and Regulations Committee has got a very important role as a watchdog in this chamber to look after human rights and to ensure that bills that come through this Parliament are scrutinised properly. The opposition wrote to the chair of SARC and sought a full public inquiry, with submissions and hearings, on this bill, and the government has decided to use its numbers on that committee to deny that. The key point here is that the chair decided that they would not go ahead with any inquiry and they would not go ahead with any public submissions, and despite the enormous trespassing on human rights of this pandemic bill, the government has chosen not to conduct a full inquiry.

I say SARC should be having that opportunity. I say SARC has dropped the ball here badly. Forcing the bill through the lower house was just appalling. Refusing to have SARC look at the bill before the Assembly had even had the opportunity of SARC's approach is just appalling. I say it is fundamentally undemocratic, and I say that SARC needs to lift its game. It needs to become more active. It needs to become more visible. It needs to become more public. It needs to actually properly inquire into these bills, and it cannot continue to sweep the abuses of this government under the carpet. I say that this committee has lost its way, and on this occasion the committee has failed in its duty.

Ms PATTEN (Northern Metropolitan) (12:33): (*By leave*) As a member of the Scrutiny of Acts and Regulations Committee I take great offence at Mr Davis's description of the work we did. But I would also just like to note that the Liberal members of SARC are rarely there. Mr Smith, certainly we have not seen him for quite some time, and Mr Burgess, I would have to note, was relatively silent on this bill. SARC discussed this bill and scrutinised this bill for 2½ hours. The report reflects that scrutiny, and I would suggest that if the opposition wants to play a role in SARC, turn up.

Papers

DEPARTMENT OF HEALTH

20th Report to Parliament on the State of Emergency

The Clerk: Pursuant to section 198(8B)(b) of the Public Health and Wellbeing Act 2008 and following the transmission of the report on 29 October 2021, I lay on the table a copy of the 20th report to Parliament on the extension of the declaration of the state of emergency.

DEPARTMENT OF TREASURY AND FINANCE

Quarterly Financial Report No. 1

The Clerk: Further, pursuant to section 27D(6)(c) of the Financial Management Act 1994 and following the transmission of the report on 12 November 2021, I lay on the table a copy of the Victorian budget 2021–22 *Quarterly Financial Report No. 1*.

PARLIAMENTARY BUDGET OFFICE

Report 2020–21

Ms TAYLOR (Southern Metropolitan) (12:35): Pursuant to section 28 of the Parliamentary Budget Officer Act 2017, on behalf of the Public Accounts and Estimates Committee, I lay on the table the Parliamentary Budget Office report 2020–21.

PAPERS

Tabled by Clerk:

Conservation, Forests and Lands Act 1987—Variation of the Code of Practice for Timber Production 2014 (No.1/2021).

Crown Land (Reserves) Act 1978—Minister's Order of 25 August 2020 giving approval to the granting of a lease at Wycheproof Public Park Reserve.

Emergency Services and Superannuation Scheme (ESSS)—Actuarial investigation as at 30 June 2021.

Essential Services Commission—Report, 2020–21.

Financial Management Act 1994—

Minister for Planning's report of failure to submit the Surveyors Registration Board of Victoria Report, 2020–21, under section 46(3)(a) of the Act, together with an explanation for the delay.

Minister for Tourism, Sport and Major Events' report of failure to submit the Emerald Tourist Railway Board Report, 2020–21, under section 46(3)(a) of the Act, together with an explanation for the delay.

Interpretation of Legislation Act 1984—Notice under section 32(3) of the Act in relation to Statutory Rule No. 123 (*Gazette No. G42, 21 October 2021*).

Land Tax Act 2005—Treasurer's report of Land Tax Absentee Owner Surcharge Exemptions for 2020–21, under section 3BB of the Act.

Melbourne and Olympic Parks Trust—Report, 2020–21.

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

Alpine Planning Scheme—Amendment C60 (Parts 1 and 2).

Ballarat, Greater Bendigo, Mornington Peninsula, Nillumbik and South Gippsland Planning Schemes—Amendment GC179.

Banyule Planning Scheme—Amendment C163.
Boroondara Planning Scheme—Amendments C308 and C364.
Frankston Planning Scheme—Amendment C151.
Glen Eira Planning Scheme—Amendment C192.
Greater Shepparton Planning Scheme—Amendment C205.
Hepburn Planning Scheme—Amendment C86.
Hume Planning Scheme—Amendment C251.
Knox Planning Scheme—Amendments C180 and C193.
Melbourne Planning Scheme—Amendments C388 and C414.
Moonee Valley Planning Scheme—Amendment C222.
Moreland Planning Scheme—Amendment C180.
Warrnambool Planning Scheme—Amendment C202.
Yarra Ranges Planning Scheme—Amendment C158 (Part 2).

Professional Standards Act 2003—The Institute of Public Accountants Professional Standards Scheme, of 27 October 2021, under section 14 of the Act (*Gazette No. S598, 27 October 2021*).

Statutory Rules under the following Acts of Parliament—

Environment Protection Act 2017—Nos. 131 and 132.
Liquor Control Reform Act 1998—No. 130.
Public Health and Wellbeing Act 2008—No. 129.
Service Victoria Act 2018—No. 133.

Subordinate Legislation Act 1994—

Documents under section 15 in respect of Statutory Rule Nos. 130 to 132, 134 and 137.

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

The Institute of Public Accountants Professional Standards Scheme, of 26 October 2021, under the Professional Standards Act 2003.

Variation of the Code of Practice for Timber Production 2014 (No.1/2021), of 1 November 2021, under the Conservation, Forests and Lands Act 1987.

Victims' Charter Act 2006—Final Report on Improving victims' experience of summary proceedings, under section 21A of the Act.

Victorian Funds Management Corporation (VFMC)—Report, 2020–21 (*in lieu of that tabled on 28 October 2021*).

Victorian Law Reform Commission—Report on Improving the Justice System Response to Sexual Offences, September 2021 (Ordered to be published).

A proclamation of the Governor in Council fixing an operative date in respect of the following act:

Victorian Civil and Administrative Tribunal and Other Acts Amendment (Federal Jurisdiction and Other Matters) Act 2021—Part 3—26 October 2021 (*Gazette No. S596, 26 October 2021*).

Mr Davis: On a point of order, President, regarding the tabling of the VFMC report in lieu of an earlier one, does the Leader of the Government want to explain why that is in lieu? What has occurred here?

The PRESIDENT: Mr Davis, on advice, my understanding is that the minister does not have to respond to that. There is nothing required from the minister to respond.

Mr Davis: So an additional report has been tabled for no reason? What is going on here?

The PRESIDENT: Again, the advice is there was an error in the report. That is why the report has been tabled.

Mr Ondarchie: On a point of order, President, we have only just got the list of papers emailed to us in the last couple of minutes. Before, when we used to get a hard copy, they were available when we arrived at the chamber. I am just wondering, now that we have gone to a more paperless provision, whether we could get them ahead of 2 minutes before the Clerk announces them.

The PRESIDENT: I will take that on notice.

Business of the house

NOTICES

Notices of motion given.

Notices of intention to make a statement given.

GENERAL BUSINESS

Ms PATTEN (Northern Metropolitan) (12:49): I move, by leave:

That precedence be given to the following general business on Wednesday, 17 November 2021:

- (1) the notice of motion given this day by Mr Davis on the Independent Broad-based Anti-corruption Commission's Operation Watts investigation;
- (2) order of the day 41, resumption of debate on a motion on the West Gate Tunnel Project;
- (3) order of the day 2, resumption of debate on the Local Government Amendment (Rates and Charges) Bill 2021;
- (4) the notice of motion given this day by Ms Maxwell on family violence;
- (5) notice of motion 654 standing in my name on loneliness; and
- (6) the notice of motion given this day by Dr Ratnam on pairing arrangements.

Motion agreed to.

Members statements

MUSEUM OF VEHICLE EVOLUTION

Ms LOVELL (Northern Victoria) (12:50): It gives me great pleasure to stand and speak about the grand opening of the new Shepparton Museum of Vehicle Evolution, commonly referred to as MOVE, last weekend. It was wonderful to join with other community members to celebrate the establishment of the largest regional museum of collectibles in Australia. MOVE began as Shepparton's motor and collectibles museum in 2012 and has now evolved into a world-class interactive exhibition space because of the dedication and hard work of so many members of the local community.

MOVE is more than just a car museum. While there are many cars and trucks through the ages on display, MOVE delivers a local flavour, celebrating our many legendary local transport families and recognising the importance of the trucking industry to the Shepparton region throughout the years. MOVE is also home to the Furphy Museum, which conveys the history of the iconic family business so wonderfully, and the Loel Thomson clothing collection, which will also be a major drawcard for visitors to our city. There is also the Farren vintage bicycle collection and the Clayton collection of gramophones, telephones and radio.

I want to wholeheartedly applaud and congratulate the many people who have worked so tirelessly to make MOVE the world-class facility it has become, and I urge all Victorians to visit the museum as soon as they can. It is truly an unforgettable experience.

COVID-19 VACCINATION

Dr CUMMING (Western Metropolitan) (12:51): I have had a young couple write to me in desperation. They bought a mobile food trailer to be able to start their own business. Then the lockdowns prevented them from operating as their trade was mainly for travellers. They moved back

to their home town, they put their business plans on hold and they looked for alternative work. Any work was very short-lived as they have chosen not to be vaccinated. There are no opportunities available for them. They are expecting a child and they have no income, yet there are ongoing overheads with payments on the food trailer, their rent, their food and their utilities. They cannot run their business, a business that they have worked hard for and that they hoped would provide independence and provide for their small family. Now they have nothing because of vaccine mandates and because they want to choose what they do with their own bodies.

This is only one of many stories that people are sharing with me. When will the government wake up and see what they are actually doing to Victorians? When will they scrap vaccine mandates and introduce rapid testing to allow everyone to have a life and earn a living?

COVID-19

Dr BACH (Eastern Metropolitan) (12:53): The member for Brunswick made some odd comments in the *Age* newspaper this morning, denigrating Victorians who have grave concerns about the Andrews Labor government's pandemic lockdown laws. In particular what he said is that those of us on this side of the house are now lining up with a 'crowd'. Well, there is a crowd that is lining up to oppose these oppressive and dangerous laws. Is the crowd he is referring to the one that includes the Law Institute of Victoria and the Victorian Bar, the head of which has said that if the Stasi in East Germany had had these powers, they, along with the communist regime there, would remain in place. Is the crowd that the Greens member in the other place referred to the one that contains 60 eminent barristers who have spoken out against these laws? Is this crowd the one that includes the Ombudsman, who took to the radio this morning to condemn the government's amendments and to say, for example, that on the issue of oversight nothing changes? This is the crowd that members of the opposition line up with and we will continue to line up with to do everything we can to oppose these dangerous lockdown laws.

FREEDOM MANIFESTO

Mr QUILTY (Northern Victoria) (12:55): This week the Liberal Democrats published their *Freedom Manifesto*. The manifesto details 10 policies to save Australia. We want an end to COVID alarmism. It is time to end rule by decree and to return to a society free from mandates and restrictions. We have a plan to implement recall elections, because we should not have to wait four years to eject an out-of-control government that has exceeded its mandate and outstayed its welcome. We want to lower taxes, rein in government spending and reduce government debt. We should not be saddling our children with the burdens of our reckless spending. We aim to make superannuation a voluntary scheme that puts you in control of your own money. We are going to support the creation of new business by relaxing occupational licensing and cutting red tape. We want to empower Victorians with access to cheaper and more reliable energy. We plan to revitalise our education system to allow more choice for parents and freer thought for academics. We will amend the constitution to properly protect the right to free speech and to abolish censorship laws. We will dismantle the surveillance state and end mass surveillance laws, government data intrusion and digital identity requirements.

The Liberal Democrats are the only party that care about freedom. Some parties will talk about protecting freedom and defending human rights, but as we have seen, when things get real only the Liberal Democrats stand up. We will never vote for a reduction in liberty or an increase in taxes. I am proud to call myself a Liberal Democrat.

COVID-19

Mr FINN (Western Metropolitan) (12:56): 'I don't know what half of them are protesting about'. So said Premier Daniel Andrews earlier this year when demonstrations against his regime began on the streets of Melbourne. What a pity he was not out the front of this building last Saturday afternoon. He would have been left in no doubt that he is the subject of their anger, and in particular his attempts to claim all power over just about everything. It was my very great honour to address a crowd of,

according to police estimates, 90 000, all committed to freedom for Victoria. The crowd was huge—it was absolutely huge. In fact I stood on the back of a truck and I could not actually see where the crowd finished. I have not seen a protest that size since the dying days of the Kirner government. Is history repeating itself?

It was also diverse—a word that the Labor Party like to use. There were young, there were old, there were female and male—people from every part of Victoria, from every background, the vaccinated and the unvaccinated, singles and families. Such a magnificent gathering was the people expressing—peacefully—their opposition to the Andrews government and its ongoing attempts to shaft Victorians. Thousands have returned again today, and I invite the Premier to walk down the steps to speak to them. It just might do him a world of good. Indeed it might do us all a world of good.

SAVE OUR SCENE

Ms PATTEN (Northern Metropolitan) (12:58): I rise today to congratulate and thank the Save Our Scene group, who recently secured \$20 million in support to save live music in Victoria and in Northern Metropolitan. I was happy to champion this cause directly to the Minister for Creative Industries and in this house. Live music is what makes Melbourne Melbourne. This package will save our favourite venues and fund new festivals and shows. I would like to thank Simone Ubaldi from the Croxton Park Hotel, who created Save Our Scene. She was a champion advocate with the government, and she is clearly very good at it. But there were many others from venues across Melbourne: Lucie Ribush from Revolver, who designed the campaign, and Ben Thompson from 170 Russell, who coordinated the campaign. I would also like to publicly recognise the following people and groups who helped in the campaign: Liam Alexander, Paris Martine, Sasha Janssen, Bella Kranjek, Jason Moore and Kate Dunn, alongside great support from RRR, PBS, Bolster and Plakkit. Live music will come back stronger than ever.

TRANSPORT INFRASTRUCTURE

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (13:00): I want to talk about the way in which the transport infrastructure portfolio is operating and in particular the concerns I have about the arrogant approach being adopted by the level crossing removal authority and the Major Transport Infrastructure Authority—whether it be in the Heatherton stabling yard with the extraordinary overriding of local communities there and the loss of the chain of parks and green wedge land or whether it be the extraordinary activities that are happening in Mont Albert and Surrey Hills, the extraordinary decisions to ruin local parkland, to tear out trees, to do so to remove one station and to override a local community in the way they are behaving. And this is occurring all around the state. There are an arrogant minister and an arrogant Premier who are pushing and at the same time not listening and not refining projects to get the very best outcome that is possible. I referred just a moment ago in the chamber to the level crossing removals at Mentone and Parkdale. That is a similar case study, with local members making one promise before the election and after the election actually introducing the sky rail. The Minister for Transport Infrastructure made promises before the election, which she has broken cleanly and wrongly, to the people of Parkdale and Mentone.

HOSPITALITY AND AGRICULTURE SECTORS

Mr HAYES (Southern Metropolitan) (13:01): This is now time to enact greater regulation for both hospitality and farm workers. Both these industries are suffering staff shortages, which may be due to their notoriously being known for bad pay, long and unregulated hours, unfair working conditions and reports of exploitation. Wage growth in both industries has been non-existent. Both industries have some of the lowest paid jobs in the labour market and rely on exploiting foreign workers. I strongly support minimum wages for farm workers rather than the per-piece rate they are receiving now, and I also support fairer and more attractive wages for hospitality staff to improve working conditions in this industry. For the first time in a long time, with staff being hard to come by, we are starting to see many employers offering fairer rates of pay, but it is a sorry state of affairs when students and other workers regard getting legal pay entitlements and claiming of their bare minimum rights as cause for

celebration. The current labour crisis gives us an opportunity to reflect on what we can do today to make these industries more attractive to workers. I strongly encourage the government to regulate both these industries and encourage employers to create career pathways to attract local employment.

GOVERNMENT PERFORMANCE

Ms CROZIER (Southern Metropolitan) (13:03): We have heard what those opposite think about the whole process of the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021. Mr Leane just interjected a few moments ago across the chamber, ‘Line up with the lynch mob’, pointing to the people outside. What a disgrace—what a damn disgrace. And what a disgrace the Premier was here—

Mr Leane interjected.

Ms CROZIER: You did so, and do not say you did not. You did so. And the Premier today on radio: all signs of somebody—

Members interjecting.

Ms CROZIER: Oh, you are going to defend yourself now?

Mr Leane: On a point of order, President, it was relative to a woman out there just 10 minutes ago with a microphone calling for Daniel Andrews to hang on the end of a rope, and all the crowd cheered. The point of order is: if Ms Crozier wants to associate herself with that, then she can feel free.

The PRESIDENT: There is no point of order.

Ms CROZIER: That is what is wrong with this government. That is what this government is so arrogant about. It is you in front of IBAC with your corrupt behaviour, with the disgraceful display of robbing taxpayers money—the tens of thousands of taxpayers in the street.

Mr Leane: On a point of order, President, Ms Crozier has been here a long time. She knows if she is going to make an accusation against another member of Parliament she has to do that by a substantive motion. She pointed at me and said ‘you’. If she is going to make that sort of accusation against a member of Parliament, it has to be done by a substantive motion. It cannot be done during an angry 90-second statement.

Ms CROZIER: It was a collective ‘you’—the government, the Andrews government. ‘Those over there’, I said—the government. ‘You’ as in the government, President, not Mr Leane. ‘You’ as in the government being the corrupt ones in front of IBAC.

Dr Cumming: On a point of order, President, this is a members statement. This is not a debate; this is not a motion. I do not understand why—

Members interjecting.

The PRESIDENT: Order! I get your point: it is a members statement. The minister had the right to raise a point of order, and Ms Crozier already clarified the issue.

Ms CROZIER: Thank you, President. Again I say: the Premier’s arrogant dismissal of legitimate concerns and the disingenuous attempts to frame the opposition as being anti-science and not truly caring about Victorians show a man who is truly consumed by power and who will do anything to avoid scrutiny and accountability. He is a man who is absolutely taking this state for granted, for the people who are raising legitimate concerns. He is so consumed by his own hallmarks of being a megalomaniac in terms of what he is trying to do here—as is Mr Leane and everybody else who is trying to paint anyone who opposes what the government is putting forward—and his commentary just demonstrates— *(Time expired)*

The PRESIDENT: While we are on this subject, members are interjecting, but we invite members to interject and at the same time we invite them to raise points of order, and a point of order follows another point of order.

CLIMATE CHANGE

Dr RATNAM (Northern Metropolitan) (13:07): Last week my colleague Ellen Sandell and I had the honour of meeting with the Pacific Australian Women's Association to talk about climate action in the Pacific. We were joined by representatives from Fiji, Vanuatu, PNG and Samoa and the Pacific Australian leaders who are working for climate justice. It was not lost on any of us that we were having this important conversation as the COP26 climate negotiations were underway in Glasgow and not long after Tuvalu's foreign minister, Simon Kofe, delivered his powerful speech knee-deep in the rising ocean and told the world, 'We are sinking'. For these island nations climate change is not some political football they can afford to toss around like in a game; it is life and death, and it is happening now.

We heard about how the global community needs to support these nations to mitigate and prepare for the impacts of climate change, including plans for human mobility and where climate refugees will go when islands become uninhabitable, and of course we talked about the need for much more prevention. We discussed the realities and the extra struggles that women endure in the face of climate change and every disaster.

While Australia went about sabotaging the climate negotiations in Glasgow, these women appealed to us for help because the world refuses to listen. The so-called leaders at COP26 continued to do the bidding of the fossil fuel industry and in the process completely abandoned future generations and the communities who will be the hardest hit as the world warms. In many ways COP26 was bound to fail given the so-called leaders we sent there to negotiate for the future of our planet. But all hope is not lost, because we have the power to elect better leaders. So let us mobilise, organise and fight for our future. Thank you, Pefi and your team, for your inspiring leadership. We are with you in this fight for survival.

Dr Cumming: On a point of order, President, I just want to check your ruling. I was of the understanding that members statements really should be allowed—that 90 seconds—without interruption. Of course others can say something from the floor, but they really should not at any time get up and call a point of order on what is being said.

The PRESIDENT: You can raise a point of order at any time, Dr Cumming. It is up to the house how they handle the issue.

REMEMBRANCE DAY

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education)

Incorporated pursuant to order of Council of 7 September:

I was honoured to attend Portarlington's Remembrance Day ceremony and pleased to have my staff attend services in other beautiful and diverse locations, like the Point Danger memorial wall in Torquay, and in Ballarat, including at the Australian Ex-Prisoners of War Memorial.

11 November specifically marks the end of the First World War in 1918—supposedly the war to end all wars, but of course it did not.

The statistics behind that first Remembrance Day give perfect testimony to the phrase 'Lest we forget'.

Looking at these, you can see that this war was devastating for our nation of just under 5 million people.

Nearly 40 per cent of the age group 18–38 joined up; a quarter of these volunteers were Victorians, with regional people disproportionately represented.

Two of every three became casualties, either killed or wounded.

There would not have been a family unaffected by the human cost of this terrible time, not just during the war but over the rest of their lives.

But as 2021's speakers pointed out, the impacts of conflicts since 1918 continue right to the present day for veterans and their families.

Remembrance Day is now a time for acknowledging the contribution of so many men and women in all of these conflicts.

Last week's services showed again that Australians do not celebrate war, but instead solemnly and quietly remember.

It was great to see young people representing their schools and honouring our veterans with wreaths.

I thank Western Victoria's RSLs and other organisations for their work in supporting veterans past and present.

Lest we forget.

Business of the house

NOTICES OF MOTION

The PRESIDENT (13:09): I advise the house that, pursuant to standing order 6.05, notices of motion 665, 667 and 668 have been withdrawn from notice paper 131. This has been updated in the online publication of the notice paper.

Bills

PUBLIC HEALTH AND WELLBEING AMENDMENT (PANDEMIC MANAGEMENT) BILL 2021

Statement of compatibility

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (13:10): I move:

That the bill be treated as an urgent bill.

In doing so, I would like to make a few remarks to the chamber. Obviously this will be subject to a question before the house, and I am asking members to support this vote in favour of the outcome that this bill be treated as an urgent bill. The Victorian community will benefit from certainty. Our doctors, our nurses and those involved in delivering the public health response deserve certainty. Debating this legislation in a timely manner will provide time for preparations as we approach our next opening up target, 90 per cent fully vaccinated.

We set out Victoria's road map to deliver the national plan, how we can safely reopen whilst also supporting our health system to ensure Victorians can still get the health care they need when they need it. We made a promise to Victorians that hitting vaccination rates would result in significantly getting back to normal. Many parts of Victoria are proudly already over 90 per cent, and those communities should be commended. We are on track to remove density limits; to remove masks in most settings; to have retail, hospital and entertainment back to maximum capacity; and to have major events back. This is because Victorians know that vaccinations are the best way to protect themselves, their family, their friends and to get this state pumping once again.

Of course this legislation should be afforded adequate time to be debated and scrutinised by this chamber. Beginning debate today and continuing later this week will facilitate that. It will allow members time to contribute to the debate and appropriately scrutinise this legislation through the committee stage. As we know, usual practice has a bill, upon being received by the Council, being immediately second read and adjourned to the next day. But on occasion, which is rare but fairly predictable, when the opposition want to make a point of their opposition to a piece of legislation rather than just vote against it, which is of course their right, they want to make sure that there is the theatre, that they can be seen to be opposing a bill at every juncture—I guess to say, 'We really, really, really oppose it'. It is a flawed strategy. The bill has been available for 20 days. I am not sure what an additional two days will deliver to those opposite.

The public already know we are debating this bill this week. I would like to get on with it. There will be real consequences if this bill does not proceed. If it is not passed, there will be significant effects on Victoria's ability to manage and contain COVID-19 within the community. Such measures that will be impacted include the ability to require positive cases to isolate, which is essential to containing the spread of the virus. Mask requirements, particularly in high-risk settings such as public transport and healthcare settings, will be put at risk. The ability to require international arrivals to quarantine, including in hotel quarantine for unvaccinated people or in the event that there is a new variant of concern for arrivals from areas to prevent the spread of that variant, could be at risk. Vaccination requirements, including for healthcare workers, aged-care workers and approved workers, could be at risk. Check-in requirements that will increasingly assist proactive awareness of exposure sites—

Members interjecting.

The PRESIDENT: Order! Dr Cumming, you raised a point of order on interjections during members statements. The government is not helping in the chamber as well, so it is from both sides. No interjections in the house while someone is on their feet, please.

Ms SYMES: Thank you, President. In conclusion, it is not my intention to play games with a pandemic response bill. I consider that to be irresponsible. I am seeking agreement of the house to make this bill urgent so we can move to the second-reading debate forthwith. I propose that the bill be made an urgent bill.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (13:14): This is an extraordinary move and an undemocratic move by the government. They did not need to invoke standing order 14.34, the 'Urgent bills' clause, and it is important to note that this clause has been used very sparingly and with agreement across the chamber. It has been used, as far as I can see—and I asked the clerks to do some research—nine times since 1996, and on those occasions, on each occasion, it has actually been used without a vote. And on this occasion the government is using it to override the normal procedures of the house and to do so completely unreasonably and undemocratically. This is wrongful, what the government is doing—it is actually incendiary—and I think the community can see that the government is determined to ram this bill through.

It is important to see this in the context of what happened in the lower house. On the Monday before the last sitting week we were aware that the bill would be coming forward in that week, but the government had not engaged with the opposition and other parties prior to that point, other than a few select individuals in this chamber. But aside from that, from the time the bill was second read through proper process in the lower house it was then passed within 36 hours. That is a shameful step with such an important bill. We know from the material that Ms Crozier was sent in error that the government has been negotiating with some crossbench MPs for at least six months—at least six months. Now, why did they not engage with the broad community? Why did they not put out an exposure draft of the bill? The faux urgency that is being claimed here is exactly that. The minister says that this will bring the bill forward two days more quickly. Well, that is not an urgent bill in the sense of that clause, and it is not an urgent bill in the sense that that clause has been used historically. This is not an urgent bill in any meaningful sense. It is a bill that actually should have been properly scrutinised.

We have heard about the failure of the Scrutiny of Acts and Regulations Committee to do its proper work. It should have actually conducted a full inquiry across this period. It did not. It chose to close down options, close down the ability for people to provide submissions. The government chose not to engage with the broad community on this bill. The use of this urgency clause is a piece of chicanery. It is wrong, it is undemocratic and it is a piece of decision-making by the government that is a window into their soul with this bill and with many other aspects of their governance across the state—an arrogant Premier, a Premier who is determined to force things through. The use, and misuse, of the state-of-emergency provisions over the last 18 months has been shocking. It has led to bad outcomes for Victoria—the terrible trifecta of the longest lockdown in the world, then the greatest deaths of any

state or territory in Australia, tragically, and the worst economic outcomes in terms of the loss of businesses, the loss of employment. It is no coincidence that Victoria now has the highest unemployment rate in the country.

So the government's approach, its arrogant approach, is typified by this inappropriate use of an urgency provision. The government could not even wait one or two days to deal with this properly. The chamber could have sat on Friday. We could have sat on Saturday. We could have done whatever was required if that is what the government wanted to do, but they should not have truncated the processes in this way.

It is particularly with these difficult bills that process needs to be followed more cautiously. It is particularly with bills that tear away the rights of Victorians, that seek to lock Victorians down, that seek to take Victorians' liberties, that seek to take away the rights and privileges of Victorians. It is particularly those bills where misuse of parliamentary process is most egregious, and I say that this bill should have gone through the normal processes. There is no reason that the government could not have let it lie over for two weeks in the lower house in the normal way and brought it here in a proper timely way. They have had after all more than six months to deal with this bill and bring forward something in this framework of a pandemic-type bill if that is what they wanted to do. The attacks by many of the senior lawyers in this state reflect the fact that this does tear away the rights and privileges of Victorians, and to use egregious powers in the chamber like this, using a raw majority to overrule the chamber, is wrong.

Dr CUMMING (Western Metropolitan) (13:19): I thank the Attorney-General for her reasoning as to why she wishes for this to be an emergency bill, seeing that from last night she wished that we could actually have the debate today and we then could get into the committee stage on Thursday. So I do appreciate the reasons why she feels the need to put it the way that she has today. But unfortunately, due to the way that Daniel Andrews has continually disrespected the vast majority of the crossbench and others in the way of not meeting with us—not to discuss this bill in any way, shape or form—I really do struggle to allow this to be considered in the way that the Attorney would wish.

I lay no blame on the members here in this chamber, but I do actually have concerns with the way that it was pushed through in our lower house, our Assembly, the way that others in the lower house were not allowed to speak. This is a bill that affects every single Victorian, and to say that without having it the way that the government wishes for it to be written we are—another game, Attorney—putting fear into the community that we would not be able to allow people to wear masks or we would not be able to have quarantine is a big fat lie, seeing that the Public Health and Wellbeing Act 2008 already allows for all of those positions.

Ms Symes interjected.

Dr CUMMING: No, Attorney, you actually said that without that—

Ms Symes interjected.

Dr CUMMING: No, sorry, Attorney. If you had actually just spoken to the Victorian public and reasoned with them and recommended masks, they would have actually done it. You do not need to mandate masks; you do not need to mandate vaccines. Nor do you need to mandate and actually have the heavy-handed approach and the very clumsily worded approach within this bill. It is very simple. You have treated this community, Victorians, with such an amount of disrespect. And it is not you, Attorney; it is Daniel Andrews that cannot actually speak to the Victorian public without putting fear into them, without dividing the community and without making it so ridiculous with the digital passport that the poor and the vulnerable cannot actually get around and they cannot actually prove their vaccination status. We know that it is not an outdoor virus, but oh, no, you are going to hobble the events industry by not allowing outdoor events. They all have to be vaccinated, no matter how big the paddock is or no matter how large the beach is. It has been quite ludicrous the way that this government, the Daniel Andrews government, has actually handled this.

Now, you can actually continue on with your propaganda. You are actually dismissing the people who are on the steps of Parliament. You can dismiss whoever you want—

Mr Leane interjected.

Dr CUMMING: Mr Leane, would you like me to take up your interjection again? Because I tell you what, I am not going to be taking any individual rudeness to me from anyone here in the government, and especially the men on the other side, because I will give you the same respect back, Mr Leane—and I have done so in the last three years. But if you think that you can actually disrespect me on my feet and actually say things like I should join the lynch mob—and other things that he has said. I know you might not have heard, Attorney. But I tell you what, Mr Leane—

Mr Leane interjected.

Dr CUMMING: Mr Leane, yes, you just did. No, sorry, you said it to Georgie—another woman. That is okay, Mr Leane. That is fine. Point at Georgie instead. But if you do not actually get the point—

The PRESIDENT: Back to the motion, please, Dr Cumming.

Dr CUMMING: Fine. Mr Leane, I do not mind. You have baited me. I do not mind making my point on the microphone rather than on the floor. Keep dismissing me as someone who does not understand process, who is somehow silly. Go for it. I have had other ministers here who have said that I am crazy. Good luck. Continue on, because the way that you are dismissing me, you are dismissing all of my constituents—800 000. As well as dismissing me you are dismissing all of the other Victorians here. You can keep in your little red bubble. Good luck.

Mr LEANE (Eastern Metropolitan—Minister for Local Government, Minister for Suburban Development, Minister for Veterans) (13:24): I find it really difficult to get a lecture from David Davis about process and democracy in this chamber when—some people might think that I have been here way too long, but I have been here a long time—I was here when Mr Davis was the Leader of the Government and he had 21 votes out of 40. Committee processes are fantastic—I accept that—but I can inform the crossbenchers that dozens and dozens of motions came to this house from non-government MLCs for committee references. Do you know how many got up? There were dozens and dozens and dozens. Do you know how many got up with Mr Davis as the leader? There were three, and I think he knocked one off before it even made it, so there were two. There were two committee references. Mr Davis stopped every committee reference. He stopped any debate. He crunched through everything in here. Every bill he crunched through. Every bill got crunched through. There was no long debate, there was no committee stage—

Ms Crozier: On a point of order, President, Mr Leane is waffling on. We are talking about this pandemic bill and the urgency requirement that the government is putting forward. That is what we are debating, and Mr Leane is going back in history to a very good government. I suggest you bring him back to what is actually occurring today.

The PRESIDENT: I listened to your point of order, and I understand there is some relevance to it. But, Minister Leane, please continue.

Mr LEANE: I was actually responding to the broad-ranging whatever it was when Mr Davis made his contribution that went all over the place, but I will concentrate on the procedural motion and how I cannot for the life of me—Mr Davis, what is he? The potential star candidate for Kew? I mean, he has been here for 20 years. He knows the procedure. He knows—

Mr Finn: On a point of order, President, a form of preselection or anything else—Liberal, Labor, Greens or whatever it may be—has absolutely nothing to do with the matter before the house, and I ask you to bring Mr Leane back to the subject at hand.

The PRESIDENT: Minister, please, back to the motion.

Mr LEANE: Back to the motion, the point is that you would think from contributions from Mr Davis and others that there has only been a global pandemic in Victoria. You would think there has only been a pandemic in Victoria and no other jurisdiction has had to deal with what we do not want to have to deal with. The government wishes there was not a pandemic. The government wishes there was not a deadly virus that needs to be contained. The government wishes there did not have to be restrictions. If the people over there think that our government put restrictions in to make us popular, then I do not understand their mindset whatsoever. In their argument any restrictions, any part of restrictions, that were put in place we did because we are weirdos that enjoy punishing people and we think it will make us popular. It is moronic. Their argument has been moronic constantly. They are just going to keep going on and on.

Dr Cumming interjected.

Mr LEANE: I have got to say, Dr Cumming, your feelings get very hurt when someone interjects against you, but you never stop interjecting. You are an interjecting machine. You never stop. Excuse me if I have ever been discourteous to you, but it is constant. Anyway, no-one is here to listen to a conversation between you and me, Dr Cumming, because it is very boring.

The bottom line is we will be supporting this particular motion of the Leader of the Government because we have to keep dealing with the situation. But the good news is—and everyone will be punching the air—we are not far off 90 per cent double dosed, and there will be no rules. There will be no rules, and you will be broken hearted by that. I know some of you will be broken-hearted when there are no rules because it will kill off 18 months of the moronic garbage that you have been going on with. You can have groups of people yelling and screaming and whatever, but it will not help your cause whatsoever, because one thing we enjoy about the opposition is you are predictable. You are so predictable. You will go back to the African gangs and you will go back to the Safe Schools and all the places that we expect you to go to. You are going back to where we thought you would go to anyway.

We look forward to this debate. We look forward to passing this bill some time this week. There will be plenty of time for debate during the committee stage, and I commend this motion from the Leader of the Government to the house.

Sitting suspended 1.31 pm until 2.04 pm.

Ms CROZIER (Southern Metropolitan) (14:05): I rise just to make a few comments in relation to this motion that has been put to the house by the Attorney-General, using standing order 14.34, ‘Urgent bills’, as we have heard. I note that the Attorney was talking about the opposition playing games. Well, it is really the government that is playing games. This legislation has been discussed with the crossbench since March—probably earlier. I received an email from the minister’s office, directed to one of Mr Meddick’s staff members, and clearly with those three crossbenchers who have been in negotiation this is not an urgent bill. The state of emergency does not expire until 16 December. It is the government that is rushing this important piece of legislation through.

Mr Rich-Phillips: Two sitting weeks.

Ms CROZIER: Two sitting weeks, as Mr Rich-Phillips said. It is the government that is playing games; it is not the opposition. It is a disgrace and an abuse of power, as we have seen throughout this whole debate, with what happened in the last sitting week in the Assembly—the briefings that were to be provided to the opposition and the briefings that were provided to the crossbench, who did not show up to our meeting because they were too busy with the government, getting briefings; and with the briefings that have been provided to the Greens, to the Reason Party and to the Animal Justice Party since March—and all of the shenanigans that have been going on with the government and those select few. This is not an urgent bill the way the government are describing it to be and the way that they are wanting to push it through the house. It is an abuse of power, and I think every Victorian can see exactly what the government is trying to do.

Dr BACH (Eastern Metropolitan) (14:07): I would seek just briefly to augment the comments of Ms Crozier with reference to some public remarks made by the Law Institute of Victoria in a position paper entitled ‘Position paper in response to the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021’. Earlier in the debate, with reference to coalition claims that we have heard with one voice and with much clarity the views of the legal community here in Victoria, there was the claim, ‘No, no, no, you are just referring to the views of 60 QCs’. Well, the Law Institute is the peak body, representing over 20 000 legal practitioners in Victoria, so their views, I believe, are to be respected. They say on page 4 of their position paper, going directly to the arguments of the Attorney-General today, regarding why she feels this bill should be treated as an emergency measure—

Mr Leane interjected.

Dr BACH: I will pick up the interjection. It is not my argument; it is the argument of the Law Institute of Victoria. I will read it to you if you will allow me. They say, going directly to the arguments of the Attorney:

The Bill has ... been introduced at a time when the Victorian population is reaching its ... vaccination rates, and so it is questionable whether these powers are proportionate to the risk posed in the current pandemic, and—

notably—

whether it is justifiable in rushing this legislation through Parliament given the risk to public health is now reduced.

I believe that the law institute is correct. There is no need to ram this legislation through the Parliament. The Victorian Bar, the professional body representing all Victorian barristers, has just released another press release, again arguing that the amendments of the government go nowhere near far enough to address their serious concerns. Therefore Mr Davis and Ms Crozier are right: the arguments of the Attorney are spurious. There is no need and no justification to treat this bill as an emergency measure.

Mr RICH-PHILLIPS (South Eastern Metropolitan) (14:09): I think all Victorians have cause to be concerned when the Attorney-General, the chief law officer of the state, comes in here, as she did this afternoon, and with an argument that, quote, ‘The Victorian community will benefit from certainty’, seeks to sweep aside parliamentary process and ram this legislation through. Mr Davis spoke earlier in his contribution about the way in which this bill was rammed through the Assembly in 36 hours—a bill introduced in one day and slammed through the Parliament the next day—and now the government is seeking to do the same in this place.

I am reminded about the purpose of urgent bills, and I will quote. An urgent bill is ‘one that is needed to fix an urgent problem of governance in the state of Victoria’. That was John Lenders, a former Leader of the Government in Labor governments and Leader of the Opposition in this chamber. Mr Lenders understood the role of an urgent bill: they were used for urgent situations. This is not an urgent situation. We have two sitting weeks to deal with this legislation—two sitting weeks before changes to the current pandemic framework are required. We have seen the Scrutiny of Acts and Regulations Committee fail to hold public hearings into this legislation, fail to provide broad scrutiny of this legislation, as is their wont. We see time and time again SARC does not properly scrutinise legislation in this state; it rubberstamps it for the government. But nonetheless SARC has reported in its digest today that it has written to the Minister for Health with a range of questions. At least half a dozen questions have been put by SARC to the responsible minister. Those questions have not been answered to date, yet the government and the Attorney want to push the bill through, claiming it is urgent, today rather than having those questions from SARC addressed before the house considers the legislation. Even SARC, with its feeble scrutiny of this legislation, has further questions for the government, and those questions should be answered before we proceed to the dispatch of this legislation.

When you look at the ways in which urgent bills have been used before and for what types of things, such as keeping certain people in prison when they are due for release—really urgent matters that needed to be dealt with quickly—every single time, as Mr Davis said, and through my recollection and looking back through *Hansard*, this chamber has sought to declare a bill an urgent bill, it has been done with the unanimous support of the house. Never before have we been in a situation where there has been a contested attempt to make a bill an urgent bill. The house in the past has recognised when bills are genuinely urgent and has agreed to their rapid passage. This is not one of those situations.

This is a highly contested bill with enormous ramifications for the people of Victoria. We have seen how the current pandemic legislation has been used by this government over the last 18 months. There are genuine reasons people are marching in the streets and on the front steps of Parliament. They have genuine fears about the way in which this legislation will be used. It should be given proper scrutiny. This house should do the job that SARC failed to do. This house should do the job the government failed to do. And we know just last night—10.30 last night, I am informed—the government itself foreshadowed amendments to this legislation. So the government knows it has not even got it right, yet it wants to push it through today as an urgent bill. This does not meet the criteria of an urgent bill. It is a bill which needs substantial scrutiny by this house. It needs substantial scrutiny by the Victorian public, and I would urge those members who are concerned about democracy, who are concerned about proper process, to oppose the Leader of the Government's motion for an urgent bill and see this bill dealt with in an appropriate, normal way over the next two sitting weeks.

Mr ATKINSON (Eastern Metropolitan) (14:13): The standing orders, the procedures and processes of this house are in place to protect the rights of all members to contribute to debates and to exercise their responsibilities to the people of Victoria. This is not an urgent bill, this is a matter of convenience. This process is a matter of convenience to resolve the legislation this week. I can understand why the government would want this matter resolved this week and the people of Victoria want this matter resolved this week—(*Time expired*)

Mr ONDARCHIE (Northern Metropolitan) (14:14): I desire to move, by leave:

That the debate on this matter be extended for a further 10 minutes.

Leave refused.

House divided on Ms Symes's motion:

Ayes, 19

Elasmar, Mr
Erdogan, Mr
Gepp, Mr
Kieu, Dr
Leane, Mr
Meddick, Mr
Melhem, Mr

Patten, Ms
Pulford, Ms
Ratnam, Dr
Shing, Ms
Stitt, Ms
Symes, Ms

Tarlamis, Mr
Taylor, Ms
Terpstra, Ms
Tierney, Ms
Vaghela, Ms
Watt, Ms

Noes, 17

Atkinson, Mr
Bach, Dr
Barton, Mr
Bath, Ms
Bourman, Mr
Crozier, Ms

Davis, Mr
Grimley, Mr
Hayes, Mr
Limbrick, Mr
Lovell, Ms
Maxwell, Ms

McArthur, Mrs
O'Donohue, Mr
Ondarchie, Mr
Quilty, Mr
Rich-Phillips, Mr

Motion agreed to.

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (14:21): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021.

In my opinion, the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021, as introduced to the Legislative Council, is compatible with the human rights protected by the Charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill introduces a number of amendments to the *Public Health and Wellbeing Act 2008* to establish a specific regime for the formal declaration and control of pandemics, which are currently dealt with under emergency management powers when a ‘state of emergency’ has been declared. The amendments draw on and refine the current powers in the Act, in light of what the government has learned responding to the COVID-19 pandemic. The new pandemic-specific Part allows for rapid pre-emptive responses of the kind that has been required during the response to COVID-19.

The new Part includes two tiers of compulsory powers, unlike the current emergency management powers which are all able to be exercised by authorised officers. Under the new Part, a broader power is given to the Minister to make ‘pandemic orders’ that are capable of significantly affecting large parts of the community, and a narrower power is given to authorised officers to take action and give directions ‘on the ground’ using various ‘pandemic management powers’ in a way that affects individuals and, in certain limited circumstances, smaller groups.

The bill provides a legal framework that strengthens Victoria’s ability to respond quickly and decisively to emerging and existing pandemics and to diseases that have the potential to cause a pandemic, while at the same time safeguarding the rights of individuals who may be affected by these measures.

The right of everyone to enjoy the highest attainable standard of health is recognised by international human rights law, including article 12 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). Article 12 requires parties to the ICESCR to take steps to achieve the full realisation of this right, including measures necessary for the treatment and control of epidemic diseases. Health is a fundamental human right that is essential for the enjoyment of many of the individual rights protected by the Charter, and in particular the right to life.

International human rights law recognises that a state may have to limit certain rights of individuals in order to address serious threats to the health of the population or individual members of the population. Such measures must be specifically aimed at preventing disease or injury and must not be arbitrary or unreasonable. In addition, the law must provide adequate safeguards and effective remedies against the illegal or abusive imposition or application of limitations on human rights. The bill clearly defines the circumstances in which coercive measures may be taken against individuals who may pose a serious risk to public health.

The objective of the new Part is to protect public health and wellbeing in Victoria by preventing and managing the serious risk to life, public health and wellbeing presented by the outbreak or spread of pandemics and diseases of pandemic potential; supporting proactive and responsive decision-making; ensuring that decisions made and actions taken under the new Part are informed by public health advice, including but not limited to the advice of the Chief Health Officer; promoting transparency and accountability in relation to decisions made and actions taken under the new Part; and safeguarding contact tracing information. The objective provision also confirms Parliament’s intention that limits on human rights should conform to the proportionality and reasonableness requirements imposed by section 7(2) of the Charter. This will ensure that decisions made under the new Part will be compatible with the Charter.

The bill provides a mechanism for the merits of detention decisions to be internally reviewed and does not limit the ability of the Supreme Court to review the lawfulness of detention by way of its *habeas corpus* jurisdiction.

The rapid gathering, synthesis and sharing of information has been a major part of the response to the COVID-19 pandemic. The bill will establish information sharing arrangements to facilitate essential public health measures such as contact tracing. It also protects information that is gathered, including for contact tracing purposes. It will require people to provide contact tracing information and answer other questions under the new Part even where this may incriminate them, although this information cannot then be used against them in the criminal process.

The bill will allow requests for assistance to be made by authorised officers, including to police officers. Those requested to provide assistance in an official capacity will be able to exercise the powers they have under other Victorian laws and police officers can exercise some additional powers when they are assisting.

The bill also:

- introduces a number of consequential amendments to other legislation that reflect the above changes, including amendments having the effect that the pandemic powers are treated in the same manner as the equivalent emergency powers;
- makes amendments to the scheme for the charging of quarantine detention fees, which allow COVID-19 Quarantine Victoria (CQV) to obtain contact details in order to invoice fees, and charge an additional fee for late payment of quarantine fees; and
- introduces amendments to the *Infringements Act 2006* to amend the special circumstances provision.

Human Rights Issues

The bill engages a number of rights which are protected and promoted by the Charter.

This section examines the particular clauses which engage rights, and, to the extent that certain rights may be limited by the bill, whether such limitations are reasonable and can be demonstrably justified in a free and democratic society.

Pandemic orders and pandemic management powers

Proposed section 165AB will provide for the Premier to make a pandemic declaration if satisfied that there is a serious risk to public health arising from a pandemic disease or a disease of pandemic potential. This will not itself limit rights, but it will enliven the pandemic powers. The phrase ‘serious risk to public health’ is already defined in the Act as “a material risk that substantial injury or prejudice to the health of human beings has occurred or may occur having regard to the number of persons likely to be affected; the location, immediacy and seriousness of the threat to the health of persons; the nature, scale and effects of the harm, illness or injury that may develop; the availability and effectiveness of any precaution, safeguard, treatment or other measure to eliminate or reduce the risk to the health of human beings”. The Premier is required to consult with and consider the advice of the Minister and the Chief Health Officer (CHO). This ensures that the decision is well-informed, and that declarations are likely to be made only where necessary on public health grounds, which is an important aspect of proportionality to be considered if rights are limited using the powers enlivened by the declaration. Proposed section 165AG requires that a statement of the reasons for the making of the declaration and a copy of the Minister and the CHO’s advice must be laid before Parliament. This scrutiny is also likely to ensure that declarations are only made where there are sound reasons for doing so.

Unlike a state of emergency declaration, a pandemic declaration can extend for as long as the pandemic lasts—there is no predetermined maximum period of operation. This is consistent with the position in a number of other Australian jurisdictions. Although the existence of a legislative limit on how long a state of emergency could continue for was envisaged as being rights protective, in practice it has imposed an arbitrary time limit on the length of the state of emergency and, in the case of the COVID-19 pandemic, the relevant threat to public health has continued for well beyond that maximum. The pandemic powers will be available to protect public health for so long as, but not longer than, they are necessary. Proposed section 165AE requires that the Premier must revoke a pandemic declaration if they are satisfied that a serious risk to public health no longer exists. In order to ensure declarations are only extended when necessary, proposed section 165AG provides that any extensions are required to be reported to Parliament so that Parliament has oversight, and proposed section 165AF requires that extensions are gazetted, which makes them publicly available. These measures ensure that there is transparency, and the opportunity for public comment and debate, when the time for use of these powers is extended, so that they are not extended for longer than is needed.

Proposed section 165AI provides that the Minister may make a ‘pandemic order’ at any time while a pandemic declaration is in force if they believe that the making of the order is reasonably necessary to protect public health. Proposed section 165AL requires the Minister to consult with the CHO before making such an order. The Act already requires that the CHO must have medical qualifications, which ensures that this decision is informed by advice from a person with suitable health qualifications. Proposed section 165AP requires that before a pandemic order comes into force it must be published on a Pandemic Order Register, which is made available to the public on an Internet site maintained by the Department. The Minister must also ensure the publication of the advice given by the CHO, a statement of reasons and an explanation of the human rights that are protected by the Charter that may be limited by the order and how any limitations are demonstrably justified in accordance with section 7(2) of the Charter. This will provide transparency about why any limits on rights are needed and how they are demonstrably justified, and will ensure that these matters are thoroughly considered before a pandemic order is made. This measure relating to transparency about

human rights also applies when orders are varied or extended. Proposed section 165AQ requires this same material to be tabled in Parliament, which provides a further safeguard and will allow public debate on the justification for the making of such an order.

Another critical safeguard is the ability for the Scrutiny of Acts and Regulation Committee (SARC) to review pandemic orders and make recommendations to Parliament for amendment, suspension or disallowance, including on the basis of any incompatibility with the rights set out in the Charter. If SARC recommends a pandemic order be disallowed in whole, or in part, or there is a failure to comply with the tabling requirements imposed by proposed section 165AQ, the Parliament may consider disallowance of a pandemic order. These safeguards also apply to instruments that extend, vary or revoke pandemic orders. This ensures that Parliament has oversight of pandemic orders, including for compatibility with Charter rights.

Pandemic orders may include a wide range of restrictions on individuals, including detention, restrictions on movement and gatherings, requirements to use personal protective equipment, the prohibition or regulation of activities, the requirement to provide information, the requirement to be medically examined or tested and to destroy or manage disease vectors. These same restrictions may be imposed by authorised officers (including the CHO) under proposed sections 165B and 165BA, which provide for 'pandemic management powers'. Proposed section 165AZ provides that authorised officers can exercise these powers at any time when a pandemic declaration is in force. Proposed section 165AK provides that the Minister's pandemic order can apply to all persons, specified classes of persons or specified persons. In contrast, proposed section 165BA provides that an authorised officer must not generally give a direction using the pandemic management powers that applies to more than one person, except where reasonably necessary to implement or give effect to a pandemic order or where the people are participating or present at a specified event or activity at a specified location or, in the case of directions to restrict or require movement or limit entry, where the people are located in the immediate vicinity of the authorised officer or are present at a particular premises.

Both the Minister's powers in proposed section 165AI and authorised officers' powers in proposed sections 165B and 165BA will impact rights in similar ways. However, the Minister's powers have much broader application, including to groups of people, whereas the powers under proposed sections 165B and 165BA are intended to apply 'on the ground' in the particular circumstances confronting individual authorised officers and generally only with respect to individuals. The restrictions allowed for are similar to those that have been imposed under the current emergency powers in section 200(1) of the Act.

The use of these powers is likely to engage the following rights: equality (section 8); protection from medical treatment without full, free and informed consent (section 10); freedom from forced work (section 11); freedom of movement (section 12); rights to privacy, family and home (section 13); freedom of thought, conscience, religion and belief (section 14); freedom of expression (section 15); peaceful assembly and freedom of association (section 16); protection of families and children (section 17); cultural rights (section 19); property rights (section 20); right to liberty and security of person (section 21); right to humane treatment when deprived of liberty (section 22). The nature and scope of each of these rights is considered below, along with a typical example of how the use of the powers could engage the right. After consideration of each right, I explain why I consider that any potential limits on these rights under the Minister's powers and the powers of authorised officers are reasonable under section 7(2) of the Charter.

Right to equality

Section 8(3) of the Charter relevantly provides that every person is entitled to equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. The purpose of this component of the right to equality is to ensure that all laws and policies are applied equally, and do not have a discriminatory effect. 'Discrimination' under the Charter is defined by reference to the definition in the *Equal Opportunity Act 2010* (EO Act) on the basis of an attribute in section 6 of that Act, which includes age, race, sex, disability and parental status amongst many others.

The use of the powers may potentially amount to either direct or indirect discrimination under the EO Act because of the differential effect that their use may have on certain groups of people. Indirect discrimination occurs where there is a requirement, condition or practice imposed that is the same for everyone but disadvantages a person, or is likely to disadvantage a person, because they have one or more of the protected attributes, and the requirement, condition or practice is not reasonable. Direct discrimination occurs where a person treats a person with an attribute unfavourably because of that attribute.

Proposed section 165AK provides that pandemic orders made by the Minister can apply to specified classes of person, and the class can be identified by a characteristic attributable to them, or by other circumstances relevant to the protection of public health. Some of the characteristics may be attributes protected under the EO Act, such as age and pre-existing medical conditions. It is also possible that vaccination status could be found to be relevantly linked to another protected attribute, so that distinguishing on that basis may discriminate on the basis of an attribute. When using similar powers under the current emergency provisions,

exceptions are being made to vaccination requirements, for example where people have medical contraindications that prevent vaccination. Proposed subsection (4) of this section specifies that a pandemic order may differentiate between people on the basis of attributes protected under the EO Act and that a pandemic order is an enactment for the purposes of section 75(1)(b) of the EO Act. To the extent that the differentiation made in an order would otherwise constitute unlawful discrimination under the EO Act, this provision will limit the right to equality in the Charter. In terms of the nature and extent of any limitation, it is important to note the intention in proposed section 165A(2) that pandemic orders should be demonstrably justified in accordance with section 7(2) of the Charter.

Protection from medical treatment without consent

Section 10(c) of the Charter provides that a person must not be subjected to medical treatment without consent. In its general comment on article 12 of the ICESCR, the United Nations Economic and Social Council stated that the right to health embraces the right to control one's health and body, and includes the right to be free from non-consensual medical treatment. It also observed that article 12 of the ICESCR imposes an obligation on state parties to respect the right to health by refraining from applying coercive medical treatment.

The right not to be subjected to unwanted medical treatment is not, however, an absolute right at international human rights law. It is an accepted principle of international human rights law that it may be legitimate to require a person to undergo medical treatment in exceptional circumstances, including where it is necessary for the prevention and control of infectious diseases.

The Charter itself does not define 'medical treatment', however in *De Bruyn v Victorian Institute of Forensic Mental Health* (2016) 48 VR 647, 707 [159] the Court endorsed using the definition provided under the *Medical Treatment Act 1988*, which provides that medical treatment is the carrying out of an operation; the administering of a drug or other like substance; or any other medical procedure. It is unclear whether compulsory medical testing comes within the definition of 'medical treatment'. The dictionary meaning of 'medical treatment' is 'medical care for an illness or injury', which arguably covers any medical tests required as part of that care. In New Zealand, the taking of a swab to obtain a bodily sample for forensic purposes has been held not to be medical treatment (*Taylor v Attorney-General* [2011] NZHC 824, [32] and [36]); however, the taking of a blood sample for the purposes of determining paternity was considered medical treatment (*Cairns v James* [1992] NZFLR 353, 356 (High Court of New Zealand)).

The powers introduced in this bill could be used to require people to undergo medical testing for an infectious disease, if powers in addition to the existing examination and testing order powers in section 113 are required. The Act already clearly envisages that there will be circumstances in which it will be reasonably necessary to require a person to undergo medical testing in order to ascertain whether they have an infectious disease (see section 113). Where reasonably necessary to protect public health, additional testing powers may be required in a pandemic.

Proposed section 165AI(4) makes it clear that a pandemic order could be made to extend detention for persons refusing to comply with a requirement to undergo a medical test or examination. Where a person agrees to medical tests or examinations in order to avoid further detention, it is unlikely that this consent would be found to be freely given, so the right is also likely to be limited in these circumstances.

Freedom from forced work

Section 11(2) of the Charter recognises that people must not be made to perform forced or compulsory labour. Section 11(3) of the Charter clarifies that 'forced or compulsory labour' does not include work or service that forms part of normal civil obligations. It is possible that orders made by the Minister, or directions given by authorised officers, may require individuals or businesses to undertake activities that could be considered work or service, such as the cleaning requirements that have been imposed on exposure sites during the current pandemic.

The United Nations Human Rights Committee (HRC) has considered the meaning of 'normal civil obligations' in the context of article 8 of the *International Covenant on Civil and Political Rights* (ICCPR). The HRC has expressed the view that to qualify as a normal civil obligation, the labour in question must, at a minimum, not be an exceptional measure; must not possess a punitive purpose or effect; and must be provided for by law in order to serve a legitimate purpose under the ICCPR (see *Faure v Australia*, Communication No. 1036/2001, UN Doc, CCPR/C/85/D/1036/2001 (31 October 2005)). I consider that work or service requirements imposed under pandemic orders or directions given by authorised officers, such as the cleaning requirements that have been imposed on exposure sites during the current pandemic, would likely form part of a person's normal civil obligations during a pandemic.

Freedom of movement

The right to freedom of movement is contained in section 12 and applies generally to a person's movement within Victoria. It applies to persons lawfully within Victoria and is made up of the following components:

the right to move freely within Victoria; the right to enter and leave Victoria; and the right to choose where to live. The right has been described as providing protection from unnecessary restrictions upon a person's freedom of movement. It extends, generally, to movement without impediment throughout the State and a right of access to places and services used by members of the public, subject to compliance with regulations legitimately made in the public interest (*Gerhardy v Brown* (1985) 159 CLR 70, 102). The right is directed at restrictions that fall short of physical detention coming within the right to liberty under section 21 (*Kracke v Mental Health Review Board* (2009) 29 VAR 1, 124 [588]).

Relevantly, the right to freedom of movement will be engaged where a person is: required to move to, or from, a particular place or is prevented from doing the same; subjected to strict surveillance or reporting obligations relating to moving; or directed or ordered where to live. Many of the ways that these powers are likely to be used will limit people's freedom to move about, both indoors and outdoors.

Rights to privacy, family and home

Section 13(a) of the Charter recognises a person's right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The explanatory memorandum to the Charter explained that "the right to privacy is to be interpreted consistently with the existing information and health records framework to the extent that it protects against arbitrary interferences". The right to privacy recognised by section 13 of the Charter goes beyond the right to information privacy and embraces bodily privacy and territorial privacy. Provisions that enable people to be required to undergo a medical examination, test or treatment without consent will therefore engage section 13, as well as section 10(1)(c), of the Charter.

The requirement that any interference with a person's privacy must not be 'unlawful' imports a requirement that the scope of any legislative provision that allows an interference with privacy must specify the circumstances in which an interference may be permitted. The requirement that an interference with privacy must not be arbitrary requires that any limitation on a person's privacy must be reasonable in the circumstances and should be in accordance with the provisions, aims and objectives of the Charter.

'Privacy' is a right of considerable breadth. The fundamental values which the right to privacy expresses are the physical and psychological integrity, individual and social identity, and autonomy and inherent dignity, of the person. It protects the individual's interest in the freedom of their personal and social sphere. Relevantly, this encompasses their right to establish and develop meaningful social relations (*Kracke v Mental Health Review Board* (2009) 29 VAR 1, 131 [619]–[620]). The right to privacy may also incorporate a right to work of some kind and in some circumstances (*ZZ v Secretary, Department of Justice* [2013] VSC 267, [72]–[95]).

The 'family' aspect of section 13(a) is related to section 17(1) of the Charter, which states that families are entitled to protection by society and the State. However, whilst the two rights overlap, they are not coextensive. Section 13(a) is a negative obligation that only prohibits unlawful or arbitrary interferences with family; whereas section 17(1) is a positive obligation on society and the State.

The 'home' aspect of section 13(a) refers to a person's place of residence, regardless of whether they have a legal interest in that residence (*Director of Housing v Sudi* (2010) 33 VAR 139, 146 [32]). What constitutes an interference with this aspect of the right to privacy has been approached in a practical manner and may cover actions that prevent a person from continuing to live in their home (*Director of Housing v Sudi* (2010) 33 VAR 139), as well interferences with the home itself (*PJB v Melbourne Health* (Patrick's Case) (2011) 39 VR 373).

All three aspects of this right may potentially be limited by the use of these powers, which could affect personal autonomy and private relationships, require the disclosure of private information, affect the ability of families to gather, and the ability of people to reside in their own homes if they are quarantined at another location.

Freedom of religion

Section 14 of the Charter provides that every person has the right to freedom of thought, conscience, religion and belief, including the freedom to demonstrate one's religion or belief individually or as part of a community, whether in public or private, through worship, observance, practice and teaching. A person must not be restrained or coerced in a way that limits their freedom to have a belief. The freedom to hold a belief is absolute, however the other aspects of the right are not (*Christian Youth Camps Ltd v Cobaw Community Health Services* (2014) 50 VR 256, 394–5 [537]).

These new powers could be used to limit the size of gatherings and the use of places of worship, which would place limits on the freedom to demonstrate one's religion or belief as part of a community. They may also be used to impose vaccination requirements in order to enjoy certain activities in groups, including religious worship.

Freedom of expression

The right to freedom of expression in section 15(2) of the Charter extends to the freedom to seek, receive and impart information and ideas of all kinds, including orally, in writing, in print, by way of art or in another medium. The right contains an internal limitation in section 15(3)(b), which permits lawful restrictions that are reasonably necessary for the protection of public health, including to deal with a serious threat to the health of the population or to prevent widespread disease. The internal limitation may limit the scope of the right or it may indicate the kind of limits that will be considered reasonable under section 7(2).

The right can be limited by requiring people to provide information (compelled expression), such as disclosing a medical diagnosis or by preventing large gatherings in which expression occurs (such as political protests or artistic events).

Freedom of peaceful assembly and association

Section 16(1) of the Charter provides that every person has the right to peaceful assembly. This provision reflects the right of persons to congregate as a means of participating in public affairs and to pursue common interests or further common purposes. Similarly, section 16(2) of the Charter relevantly provides that every person has the right to freedom of association with others. This right is concerned with allowing people to pursue common interests in formal groups, such as political parties, professional or sporting clubs, non-governmental organisations, trade unions and corporations.

The right to freedom of assembly is not an absolute right at international law. Article 21 of the ICCPR (which provided the model for section 16(1) of the Charter) is subject to a number of permissible limitations, including those which are necessary in a democratic society in the interests of public health.

This right will be limited by prohibitions on gatherings or directions that place limits on who a person can have contact with. The existing emergency powers in the Act have been used to prohibit gatherings of various sizes during the course of the COVID-19 pandemic, which has meant that large gatherings for political protest were unlawful at various times, where necessary to prevent a serious risk to public health.

A limitation on gatherings would not prevent the pursuit of common interests, including political protest, in a manner that does not involve gathering in groups in a way that creates a public health risk. People would still be able to pursue those interests through online forums and could gather in groups again to do so after the relevant threat has passed. In *Appleby v United Kingdom* (2003) 37 Eur Court HR 38, in which a group of protestors was prohibited from campaigning at a local shopping centre about proposed local development plans, the European Court of Human Rights held that there was no violation of the right to peaceful assembly, because the protestors had other means available to them to ensure the effective exercise of their rights, such as media exposure and door knocking. The Supreme Court of Victoria has considered whether the emergency powers in section 200(1) of the Act impermissibly burden the implied freedom of political communication provided for in the Australian Constitution, given that they have been used to prevent people from gathering in large groups, which prevents traditional forms of protest. Niall JA held that the preconditions to the exercise of those powers, in particular that a state of emergency had been declared on the basis of a serious risk to public health, ensured that it did not (*Cotterill v Romanes* [2021] VSC 498, [253]). I consider that the same result is likely to apply under the Charter and where a pandemic declaration has been made on the basis of a serious risk to public health.

Protection of families and children

Section 17(1) of the Charter recognises that families are the fundamental group unit of society and entitles families to protection by the society and the State. Section 17(1) is related to the section 13(a) privacy right, and an act or decision that unlawfully or arbitrarily interferes with a family is also likely to limit that family's entitlement to protection under section 17(1).

The Charter does not define the term 'family'; however, extrinsic materials and judicial consideration confirm that it is to be given a broad interpretation. It at least includes ties between near relatives, with other indicia of familial relationships including cohabitation, economic ties, and a regular and intense relationship. Cultural traditions may be relevant when considering whether a group of persons constitutes a 'family'. In this respect, the cultural right in section 19(2)(c) of the Charter, which states that Aboriginal people must not be denied the right to maintain their kinship ties, is also relevant.

Section 17(2) of the Charter provides that every child has the right, without discrimination, to such protection as is in their best interests and is needed by them by reason of being a child. It recognises the special vulnerability of children, defined in the Charter as persons under 18 years of age. 'Best interests' is a complex concept which must be determined on a case-by-case basis. However, the following elements may be taken into account when assessing the child's best interests: the child's views; the child's identity; preservation of the family environment and maintaining relationships; care, protection and safety of the child; the child's situation of vulnerability; the child's right to health; and the child's right to education (Committee on the

Rights of the Children, *General Comment No 14 (2013) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration* (art 3, para 1), 62nd sess, UN Doc CRC/C/GC/14 (29 May 2013) [52]–[79]).

These rights could be limited where families are prevented from having contact with each other or where children are detained under quarantine restrictions or prevented from attending school when self-isolating because of their own diagnosis or close contact with a diagnosed case. Whilst some aspects of these rights may be limited, other aspects of these rights may be simultaneously promoted, for example by protecting other children from harm.

Cultural rights

Section 19 of the Charter protects the right of all persons with a particular cultural, religious, racial or linguistic background to enjoy their culture, to declare and practise their religion and to use their language, in community with other persons of that background. In particular, section 19(2)(c) of the Charter provides that Aboriginal people must not be denied the right to maintain their kinship ties. The use of the powers to put limits on the size of gatherings may limit the right to enjoy one's culture in community with others, including for important cultural events such as funerals and weddings.

Right to property

Section 20 of the Charter provides that a person must not be deprived of their property other than in accordance with law. There are three elements to this right, and to demonstrate that it has been limited all three must be made out: the interest interfered with must be 'property', which includes all real and personal property interests recognised under the general law; the interference must amount to a 'deprivation' of property, that is, any 'de facto expropriation' by means of a substantial restriction in fact on a person's use or enjoyment of their property (*PJB v Melbourne Health (Patrick's Case)* (2011) 39 VR 373, 396 [89]); and the deprivation must not be 'in accordance with law' (which requires that the law be adequately accessible and formulated with sufficient precision to enable the person to regulate their conduct).

It is possible that orders or directions that prevent certain types of business from operating could restrict the use or enjoyment of property that is used to conduct those businesses. A provision that confers a discretionary power to deprive a person of their property will be consistent with the Charter if the limits of the power are defined and the criteria that govern the exercise of the discretion are specified. I consider that orders and directions are sufficiently well defined to satisfy this requirement so that any interference with property would not limit the rights in section 20.

Right to liberty

Section 21 of the Charter protects the right to liberty. The liberty rights in section 21 reflect aspects of the common law right to personal liberty, which has been described as "the most elementary and important of all common law rights" (*Trobridge v Hardy* (1955) 94 CLR 147, 152). In particular, section 21(2) prohibits a person from being subjected to arbitrary detention, whilst section 21(3) prohibits a person from being deprived of their liberty except on grounds, and in accordance with procedures, established by law. Together, the effect of sections 21(2) and (3) is that the right to liberty may legitimately be constrained only in circumstances where the deprivation of liberty by detention is both lawful, in that it is specifically authorised by law, and not arbitrary, in that it is reasonable or proportionate in all the circumstances.

The scope of the right in section 21 extends beyond detention as part of the criminal justice system to protective or preventative forms of detention, including to prevent the spread of infectious diseases. Whether a particular restriction amounts to a 'deprivation of liberty' for the purpose of the right in section 21 is a question of degree or intensity (*Kracke v Mental Health Review Board* (2009) 29 VAR 1, 140 [664]). Detention or deprivation of liberty does not necessarily require physical restraint; however, the right to liberty is concerned with the physical detention of the individual, and not mere restrictions on freedom of movement (*DPP v Kaba* (2014) 44 VR 526, 558 [110]).

The use of detention notices to require persons who have been exposed to an infectious disease to be detained for a short period of time while testing is carried out; the use of detention notices to require those returning from overseas to quarantine in a designated facility for 14 days; and the requirement for those diagnosed with an infectious disease to remain under self-isolation at home until cleared, may each amount to a deprivation of the right to liberty for the limited period that those restraints apply. Whether these examples involve a deprivation of liberty or merely limit freedom of movement will depend on the precise conditions imposed in each case. The bill will provide that a person is not to be taken to be detained under the new Part merely because a pandemic order or a direction given in the exercise of a pandemic management power requires a person to isolate or quarantine. The question of whether this involves a deprivation of liberty or merely involves limits on freedom of movement will depend on the precise limits imposed in each case, including the circumstances in which a person is allowed to leave the place where they are residing and whether they

are wholly or only partially restricted from leaving that place. In *Loiello v Giles* (2020) 63 VR 1, 58–60 [217]–[221] the Supreme Court of Victoria found that the restrictions on leaving home imposed during ‘lockdown’—including a curfew—did not involve a deprivation of Ms Loiello’s liberty under section 21, but rather involved limits on her freedom of movement.

Proposed sections 165AI(3) and 165BA(1)(b) require that detention must not exceed the period that the Minister or the authorised officer believes is reasonably necessary to eliminate or reduce a serious risk to public health. Proposed section 165BF requires that before people are detained (or if that is not practicable, as soon as is reasonably practicable afterwards) they are given a notice that explains why it is necessary to detain them, sets out any available exemptions and their rights and entitlements to complain or seek a review, and alerts them to the fact that a failure to comply with the detention notice without reasonable excuse is an offence. Proposed section 165BG requires authorised officers to facilitate reasonable requests for communication by detained persons (so people are not held *incommunicado*) and undertake a daily review of whether a person’s continued detention is reasonably necessary to eliminate or reduce a serious risk to public health. Authorised officers are also required to report on the use of these powers (and any failures to undertake a daily review) to the CHO under proposed section 165BH. That section also requires the CHO to advise the Minister in writing of detentions under these powers and provide a brief explanation of why the person is detained. Proposed section 165BI will establish a merits review scheme whereby detention is speedily reviewed by Detention Review Officers and potentially by the CHO under proposed section 165BK. A person can seek review of the following aspects of their detention: the reasons for, the period of, the place in which and the conditions under which, that person is detained. Review can also be sought in relation to “any other matter relating to the detention”. Detention Review Officers are required by proposed section 165BJ to use their best endeavours to decide the application and advise of the outcome within 24 hours (or longer if the application is received after 5.00 pm). Although a Detention Review Officer cannot overturn the original decision on their own initiative, they can refer the matter to the CHO with non-binding recommendations. The CHO can decide to cease, vary or not vary the detention and must provide written reasons for this decision to the detained person. These safeguards are designed to ensure that detention is not arbitrary and does not become arbitrary as a result of a person being detained longer than necessary.

Humane treatment when deprived of liberty

Section 22 of the Charter requires that all persons deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person. The right to humane treatment while deprived of liberty recognises the vulnerability of all persons deprived of their liberty and acknowledges that people who are detained should not be subject to hardship or restraint other than the hardship or restraint that is made necessary by the deprivation of liberty itself (*Certain Children v Minister for Families* (2016) 51 VR 473, 504 [172]–[173]). Section 22(1) mandates “good conduct” towards people who are detained (*Castles v Secretary to the Department of Justice* (2010) 28 VR 141, 167 [99]).

As discussed above, the use of the powers may involve deprivations of liberty. Where the powers are used in this way, the agency responsible for that deprivation must ensure that the needs of those deprived of liberty are provided for so that any such deprivation is humane, in the particular circumstances.

The bill introduces a new power in proposed section 165BM for the Minister to make and publish guidelines and standards in relation to the welfare of persons detained under the new Part. Regard must be had to these when performing functions and exercising powers under the Act, and functions must be exercised in compliance with them to the extent that they are not inconsistent with a pandemic order made by the Minister. This ensures that pandemic orders, which are likely to be tailored to the situation, prevail over pre-existing general guidelines and standards. This provision will promote respect for the right to humane treatment when deprived of liberty, as well the safeguards discussed above in the context of the right to liberty.

Reasonableness of limits on rights

Although a number of Charter rights are engaged or limited by the clauses discussed above, it is my view that in each case the limits are reasonable and demonstrably justified under section 7(2) of the Charter. That is because these powers are essential components of a scheme to effectively manage pandemics in Victoria, which aims to save lives and prevent grave illness.

Powers of a similar kind already exist in the Act, and I do not consider that Charter rights will be limited to a greater extent than is already allowed for under the existing provisions. This new Part tailors the powers to what is necessary to manage a pandemic and provides greater detail about how they can be used. This promotes the requirement in section 7(2) of the Charter that any limits on rights must be “under law” and that it should be foreseeable how the law will and can limit rights.

To the extent that only the Minister will be able to exercise the pandemic powers in respect of large groups (such as the entire State) the new Part will provide greater safeguards than the existing emergency provisions which allow all powers to be exercised by authorised officers. Having such significant decisions exercised at

the senior level, and by the Minister after taking advice from the CHO who must be a medically qualified person, will ensure thorough public health consideration when pandemic orders are made.

The new powers have been designed to ensure that any limitations on Charter rights are no more restrictive than is reasonably necessary to address the specific pandemic response needed at the time. Existing safeguards that apply to the equivalent powers already in the Act have been carried over and additional safeguards have also been built into the use of the powers. This will ensure that any limits on rights are minimised when the powers are used. The legislative intent for the powers to be exercised compatibly with the Charter is also made expressly clear in proposed section 165A, which states Parliament's intention that in the administration of the new Part any limits on Charter rights should be demonstrably justified under section 7(2) of the Charter. This will guide decision makers when exercising the powers.

Additional, overarching, safeguards have also been introduced, such as the establishment of the Independent Pandemic Management Advisory Committee, which will provide advice to the Minister about the exercise of powers under this new Part. The Committee, taken as a whole, will have a range of skills, knowledge and experience encompassing public health, infectious diseases, primary care, emergency care, critical care, law, human rights, the interests and needs of traditional owners and Aboriginal Victorians, and the interests and needs of vulnerable communities. Proposed section 165CF provides that the Committee can make non-binding recommendations to the Minister and report to the Minister, and proposed section 165CG requires that these reports are tabled in Parliament. This will allow for transparency and public debate with respect to the performance of functions and the exercise of powers under this new Part.

Requirement to provide information

Proposed section 212A requires a person to provide information that has been required under or for the purposes of Part 8A, notwithstanding that the information might incriminate the person or may make the person liable to a penalty. This power is needed so that contact tracing and other vital time-sensitive information can be obtained to assist in investigation and enforcement activities that contribute to the public health response to a pandemic. The section provides a direct use immunity to that person, which prevents that information from being used in any process that may make the person liable to a criminal penalty, other than for the provision of false or misleading information.

Section 25(2)(k) of the Charter recognises that people charged with criminal offences are entitled not to be compelled to testify against themselves or to confess guilt. The right against self-incrimination is an important aspect of the right to a fair trial in section 24(1) of the Charter. However, the right is limited to testimony being used against a person in criminal proceedings and does not preclude requirements that information be provided nor that such information may be used in other contexts. Provision for a direct use immunity will prevent the evidence itself being used against a person in criminal proceedings, although in the absence of an indirect use immunity the right may still be limited because it allows the use of derivative evidence which may not have been obtained but for the answers given by the person under compulsion.

The direct use immunity in proposed section 212A provides significant protection to the right not to be compelled to testify against yourself in section 25(2)(k) of the Charter, however the section does not prevent the derivative use of that information against a person, such as where that evidence is used as the basis for further investigation, which may uncover evidence about further offences. The derivative use of compelled testimony has been held to limit the rights in sections 24(1) and 25(2)(k) of the Charter (*Re Application Under Major Crimes (Investigative Powers) Act 2004* (2009) 24 VR 415).

Nevertheless, for the reasons that follow I consider that the ability to use evidence that is indirectly derived from compulsory questioning under Part 8A of the Act is a reasonable and justified limit on the privilege against self-incrimination and is also compatible with the right to a fair hearing.

The central aspect of the privilege against self-incrimination is protected by the direct use immunity provided in proposed section 212A and is therefore not disturbed by the bill. Further, in the *Major Crimes* case the Supreme Court recognised that the derivative use of answers given in an examination could be abrogated by statute (at [43]) and that some limitation on this right could be justified under the Charter (at [144]).

Providing a derivative use immunity would undermine the ability to prosecute persons responsible for offences that have serious life-threatening public health implications, where they have initially come to attention through the contact tracing process, for example where it is identified through the contact tracing process that a person caught an infectious disease from another person as a result of them breaching a pandemic order. This is the primary way in which most infringements of pandemic orders and directions given by authorised officers will be uncovered and would effectively preclude any prosecution of these offences, no matter how egregious the behaviour. This would rob this vitally important regulatory scheme of the important deterrent effects that high profile prosecutions can have.

I consider that allowing derivative evidence to be used is necessary to ensure breaches of pandemic orders and directions given by authorised officers can be investigated and prosecuted. The admission of derivative evidence obtained as a consequence of answers given under Part 8A would not result in an unfair trial. The law has long recognised that the privilege against self-incrimination may be limited by statute and the admission of such evidence does not render a trial unfair and I consider the same will apply under section 24(1) of the Charter.

One of the concerns that the privilege against self-incrimination protects against is the risk of unreliable testimony obtained through improper questioning techniques, including torture. These concerns do not arise from the use of evidence derived from questioning by authorised officers under Part 8A, because a person cannot be physically compelled to answer questions under these powers.

New offence provisions

The bill creates three new summary offences in sections 165BN, 165BO and 165CC. Sections 165BN(2) and 165BO(2) both contain “reasonable excuse” provisions and section 165CD creates a permitted purpose exception.

Section 25 of the Charter protects a number of rights that apply to a person who has been charged with a criminal offence. Section 25(1) protects the right of a person charged with a criminal offence to be presumed innocent until proved guilty according to law. It requires the prosecution to prove the guilt of an accused beyond reasonable doubt.

Provisions that merely place an evidential burden on the defendant (that is, the burden of showing that there is sufficient evidence to raise an issue) with respect to any available exception or defence are consistent with section 25(1) of the Charter (and the right to a fair hearing in section 24(1) of the Charter) because the prosecution still bears the legal burden of disproving that matter beyond reasonable doubt.

Section 72 of the *Criminal Procedure Act 2009* applies to summary hearings and provides that where an Act creates an excuse, an accused who wishes to rely upon it bears an evidential burden (and not a legal burden) in relation to that excuse. A person accused of any of these new offences would not bear the legal burden of proving that an excuse applied. Reasonable excuse provisions are generally interpreted as imposing only an evidential burden, and not a legal burden, on an accused with respect to the excuse. For that reason they are not considered to limit the right to the presumption of innocence in section 25(1) of the Charter.

Similarly, section 130 of the *Magistrates’ Court Act 1989* applies to summary offences that provide exceptions, exemptions, provisos, excuses or qualifications, and only requires the defendant to point to evidence that suggests a reasonable possibility of the existence of facts that, if they existed, would establish the exception, exemption, proviso, excuse or qualification. The burden remains on the prosecution to disprove those facts beyond reasonable doubt.

Information sharing and protection

Issues have arisen during the COVID-19 pandemic with information holders being reluctant to release important information to the Department of Health in a timely manner because of concerns about breaching the *Privacy and Data Protection Act 2014* (PDPA) and/or the *Health Records Act 2001* (HRA). Proposed section 165BR of the Act will authorise the Secretary and the CHO to collect, hold, manage, use, disclose or transfer information if this is reasonably necessary for the performance of functions or the exercise of powers under Part 8A or for achieving its objectives. Proposed section 165BS will clarify that the provision of personal information or health information required to be provided under Part 8A is taken to be authorised by the PDPA and the HRA.

The sharing of health and other private information about a person engages the right to privacy in section 13(a) of the Charter, although it will not be in an unlawful or arbitrary manner, because it is appropriately regulated and will only be used when needed to address the pandemic, which is a sufficiently important objective. To the extent that proposed section 165BS will clarify the application of the existing exceptions in the PDPA and the HRA, it does not impose any additional limits on that right. Any limits on the right to privacy are necessary for public health purposes and are demonstrably justified on that basis.

The bill also introduces a safeguard for information about individuals to the extent that it forms part of a system established for contact tracing purposes. This takes the form of the offence provision in proposed section 165CC, which provides that a person commits an offence if they use or disclose contact tracing information about an individual other than for an authorised purpose, such as a public health purpose. This provision promotes the right to privacy in section 13(a) and the equality and non-discrimination rights in section 8 by preventing contact tracing information being used other than for its intended purposes.

The right to privacy is also engaged by the power given to CQV in proposed section 258A to obtain the contact details of a person liable to pay fees from a prescribed body, where reasonable attempts to obtain that information, including from that person directly, have been unsuccessful. There is a limit on the uses to which

CQV can put that information, which requires that the relevant purpose be permitted by law. I consider that any limit on the right to privacy under these provisions will be lawful, and not arbitrary because of the clearly defined circumstances in which it can be obtained and used, and because those uses are likely to be proportionate to the limited invasion of privacy involved.

Certain instruments are not legislative instruments

The bill will provide that certain instruments, such as a pandemic declaration, a pandemic order and a direction made in the exercise of a pandemic management power, are not legislative instruments. Under section 12D of the *Subordinate Legislation Act 1994*, proposed legislative instruments must be accompanied by a human rights certificate certifying whether the instrument does or does not limit any Charter rights and, if it does, setting out the factors referred to in section 7(2) of the Charter justifying the limitation. Although this requirement would no longer apply to these instruments, the bill includes a requirement in proposed section 165AP(2) that pandemic orders be accompanied by an explanation of the human rights that may be limited and why such limitations are reasonable and justified for the purposes of section 7(2) of the Charter. This explanation would therefore address the same information that would be included in a human rights certificate if the pandemic order were a legislative instrument.

An explanation of human rights that may be limited is not required in the bill for the exercise of the pandemic management powers by authorised officers, which are intended to operate ‘on the ground’ and are less likely to be considered legislative instruments in any event. It is necessary to provide a report to Parliament upon the making of a pandemic declaration (proposed section 165AG) but there is no specific requirement that this report address the human rights issues required by a human rights certificate. However such a declaration will not itself limit Charter rights, rather it enlivens powers which themselves could potentially limit rights. When those powers are exercised by the making of specific pandemic orders by the Minister, it will be clearer how rights may be limited, and those matters will be addressed in the explanation required by proposed section 165AP(2). In addition, as set out above, there is a role for SARC to scrutinise pandemic orders, including on the basis of any incompatibility with Charter rights. Further, if SARC recommends a pandemic order be disallowed in whole, or in part, or there is a failure to comply with proposed section 165AQ, the Parliament may consider disallowance of a pandemic order in whole or in part.

I consider that under these provisions there will still be an explanation of the impact on Charter rights, and the justification for any impact, at the appropriate time—namely when pandemic orders are made by the Minister as well as scrutiny of pandemic orders by SARC and oversight by Parliament.

Assistance powers

Proposed section 165BC will provide for requests for assistance to be made, in the same way as can occur under the existing emergency powers. Section 227A will allow persons requested for assistance under this new power or under the existing assistance powers to use the powers they have under any other Victorian laws, unless the request is made in a personal capacity. Whilst it cannot be anticipated what those powers may involve, the requirement that this remains subject to any limitations that apply in relation to the exercise of the powers under the other law will ensure that existing safeguards and limitations are carried over, which will prevent the unlawful or arbitrary use of those powers.

Proposed section 227B provides for police officers to, upon request, assist authorised officers in relation to the exercise of the authorised officer’s powers under the Act. Where reasonably necessary, this assistance may take the form of: compelling the provision of information, including identity; and using reasonable force. Police may also provide assistance by effecting warrantless entry into premises, but only where reasonably necessary and where an authorised officer has specifically requested this form of assistance. Given their training and functions, there are circumstances in which it will be preferable and necessary for police officers, rather than authorised officers, to exercise these powers. The exercise of these powers could limit the rights to privacy and home in section 13(a) of the Charter, the right to freedom of movement in section 12 of the Charter, and the right to liberty and security in section 21 of the Charter.

I do not consider the right to humane treatment in section 22(1) of the Charter would be limited by the use of ‘reasonable force’, because by definition force of this kind must be proportionate and necessary in the circumstances. Further, proposed section 227B(3) expressly prevents police from using reasonable force to require a person to undertake an examination, test, pharmacological treatment or prophylaxis. This prevents the use of force by police in circumstances that could potentially deteriorate into a breach of the right to humane treatment when deprived of liberty in section 22(1), or into a breach of the right not to be treated in a cruel, inhuman or degrading way in section 10(b) of the Charter or of the medical treatment right in section 10(c).

I consider that these assistance powers are appropriately circumscribed to ensure that rights will not be limited unreasonably, including because existing safeguards are maintained.

Waiver of infringements

The bill will amend the definition of special circumstances in the *Infringements Act 2006*, which is one of the grounds on which a fine can be reviewed. In response to community feedback that the previous test was too difficult to satisfy and to implement a recommendation by the Fines Reform Advisory Board, the amendment will make the test for the existing categories of special circumstances more flexible and create a new, narrow category for very severe, long-term conditions that make it impracticable for a person to deal with their fines.

The bill will also create a concessional penalty scheme for infringement fines issued for certain offences under the *Public Health and Wellbeing Act 2008* relating to the COVID-19 pandemic.

These amendments promote the right to equality in section 8 of the Charter by increasing the extent to which the fines system can recognise and respond to fine recipients whose circumstances mean they cannot or should not be compelled to pay their fines.

Consequential amendments

The bill will make consequential amendments to the *Children, Youth and Families Act 2005*, the *Corrections Act 1986*, *Court Security Act 1980*, *Evidence (Miscellaneous Provisions) Act 1958*, *Occupational Health and Safety Act 2004*, *Planning and Environment Act 1987*, *Public Administration Act 2004*, *Victoria Police Act 2013*. These amendments have the effect that the pandemic powers are treated the same as the equivalent emergency powers that are currently being used to address the circumstances that these new powers will be used in. Although rights are limited by these provisions, it is in the same manner as is currently provided for in the Act, but targeted to pandemic diseases. For that reason I do not consider that these amendments will limit rights further than they are currently limited.

Most of these consequential amendments relate to temporary provisions that were introduced specifically to deal with the COVID-19 pandemic and were assessed for Charter compatibility in a previous Statement of Compatibility. The limits on rights involved were considered to be reasonable limits for the purposes of section 7(2) of the Charter. I agree with that assessment. These consequential amendments do not extend the time during which these temporary amendments will remain in place.

Jaclyn Symes MLC

Attorney-General

Minister for Emergency Services

Second reading

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (14:21): I move:

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

House divided on motion:*Ayes, 19*

Elasmar, Mr
Erdogan, Mr
Gepp, Mr
Kieu, Dr
Leane, Mr
Meddick, Mr
Melhem, Mr

Patten, Ms
Pulford, Ms
Ratnam, Dr
Shing, Ms
Stitt, Ms
Symes, Ms

Tarlamis, Mr
Taylor, Ms
Terpstra, Ms
Tierney, Ms
Vaghela, Ms
Watt, Ms

Noes, 18

Atkinson, Mr
Bach, Dr
Barton, Mr
Bath, Ms
Bourman, Mr
Crozier, Ms

Cumming, Dr
Davis, Mr
Grimley, Mr
Hayes, Mr
Limbrick, Mr
Lovell, Ms

Maxwell, Ms
McArthur, Mrs
O'Donohue, Mr
Ondarchie, Mr
Quilty, Mr
Rich-Phillips, Mr

Motion agreed to.

Ms SYMES: I move:

That the bill be now read a second time.

Incorporated speech as follows:

Introduction

A critical and central role of all governments is to promote and protect the public health and wellbeing of their citizens. This Bill enables the Victorian Government to fulfil that role to continue to protect Victorians from dangerous pandemic diseases. First and foremost, this Bill is about saving Victorian lives during pandemics. It is also about promoting and protecting the social, economic and mental welfare of Victorians to the greatest extent possible.

The Bill makes major reforms to the *Public Health and Wellbeing Act 2008*. It creates a targeted regulatory framework that supports transparent and accountable Government action to keep Victorians safe during pandemics—both through the ongoing management of the COVID-19 pandemic in Victoria, and in the event of future pandemics affecting our State.

It is the first legislation of its kind—laws specifically designed to assist in the reduction and management of public health risk posed by pandemics—in Australia. The new regulatory framework in this Bill is built on many lessons from the management of the COVID-19 pandemic in Victoria, Australia and around the world over almost two years.

The emergency framework under the *Public Health and Wellbeing Act 2008* has served our State well in managing the grave risks to public health and life posed by the COVID-19 pandemic. Powers enlivened by the State of Emergency have been critical in assisting Victoria to overcome the “second wave” of COVID-19 in 2020, thereby avoiding the large-scale transmission of the virus—and resulting substantial loss of life—seen in most other countries around the world.

More recently, the State of Emergency framework has supported Victoria’s first actions towards implementing the National Plan to transition Australia’s national COVID-19 response. With the expiration of the State of Emergency approaching, this Bill will provide a fit-for-purpose framework which will facilitate the critical management of COVID-19 and the safe transition to the next stages of the National Plan, allowing Victoria to open-up carefully and optimistically.

The need for new, pandemic-specific legislation

The *Public Health and Wellbeing Act 2008* sets limits on the permitted total duration of state of emergency declarations. It has been amended multiple times over the course of the pandemic to extend this maximum duration limit and enable continued action to manage the serious risk posed by COVID-19. The current State of Emergency cannot be extended beyond 15 December 2021. With all epidemiological evidence indicating that the threat and unpredictability of COVID-19, while declining, will remain in our community for some time, new legislation is essential.

As the pandemic persisted through 2021, Members of Parliament and many others from various sections of the community have rightly questioned the appropriateness of continuing to rely on the State of Emergency framework. The suitability of some aspects of the current regulatory scheme for managing the kinds of risk posed by pandemics, which may persist for longer than other kinds of emergency, has also been questioned.

When agreeing to the most recent extension to the State of Emergency, Parliament requested that specific legislation be developed to support the response to COVID-19 outbreaks and to any future pandemic diseases. This Bill delivers on that request. It fills the gap that will be left by the expiry of the State of Emergency scheme, ensuring that Victoria can continue to implement crucial public health measures needed to prevent illness, hospitalisation and loss of life from pandemic diseases, both now and into the future.

However, rather than simply replacing the State of Emergency powers that expire on 15 December 2021, this Bill implements the lessons Victoria has learned to significantly improve the regulatory framework available to keep Victorians safe in the event of future pandemics.

Decisions about how to respond to public health risks from pandemic diseases can, as we have seen over the course of the COVID-19 pandemic, have far-reaching consequences. Inevitably, COVID-19 will not be the last pandemic faced by Victoria. The experience of responding to COVID-19, together with insights shared by the Victorian community and its leaders, have clearly demonstrated the need for pandemic management decisions to be transparent and accountable, proactive, protective of human rights, and guided above all else by the imperative of minimising risks to public health and the right to life. The Bill supports and promotes these key principles for effective Government action in a pandemic.

Key features of the Bill

The Bill inserts a new Part 8A into the *Public Health and Wellbeing Act 2008*. Among the key features of the new Part are:

- The Premier is responsible for making a pandemic declaration, which is the trigger that enlivens the powers contained in Part 8A.
- The Minister may make Pandemic Orders setting out public health measures and restrictions to protect public health in relation to a pandemic disease or disease of pandemic potential, and the Minister is required to publish a statement of reasons for making those orders.
- Pandemic Orders may include measures the Minister believes are reasonably necessary to protect public health. The use of detention powers under the new Part will be subject to strict safeguards and review rights.
- Both the Premier and the Minister will be required to seek and consider the advice of the Chief Health Officer in making a pandemic declaration or a pandemic order, and the advice of the Chief Health Officer must be made available to Parliament and the public.
- Public health considerations will be of primary importance in making Pandemic Orders. The Minister may also take into account other matters, including social and economic considerations in making a pandemic order.
- The new Part recognises the importance of human rights protected by Victoria's Charter of Human Rights and Responsibilities. The Minister will be required to publish an explanation of any Charter rights that are or may be limited by a pandemic order.
- An Independent Pandemic Management Advisory Committee will be established to provide advice to the Minister in relation to exercise of powers under the new Part.
- Authorised Officers will have a suite of pandemic management powers under the new Part to assist in protecting public health, including powers to support the implementation of Pandemic Orders.
- Provisions to better support information-sharing to protect public health during pandemics, and strong safeguards to ensure the protection of contact tracing information.
- New offences and penalties for breaches of Pandemic Orders and other requirements, including an aggravated offence to deter the most serious conduct recognising the serious risks to public health that may result from non-compliance.
- New measures to promote fairness for vulnerable and at-risk communities, including a concessional infringement scheme and a published compliance and enforcement policy that will address the impacts of enforcement on these communities.

The COVID-19 pandemic

COVID-19 is a highly infectious disease caused by the Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) virus. The virus first emerged in Wuhan in China in December 2019, and swiftly spread across China and then around the world. The World Health Organisation declared a Public Health Emergency of International Concern on 30 January 2020, and by March 2020 had declared COVID-19 to be a global pandemic.

Millions of people around the world have died as a result of COVID-19. The global community's understanding of how transmission occurs, and how it is best prevented and treated, has evolved alongside the pandemic. Some patients experience mild symptoms akin to the common cold, but for others, the impact of the virus can be life-threatening. A significant fraction of people who contract COVID-19 experience such severe respiratory systems that they ultimately require the support of ventilators in a hospital setting.

In Victoria and around the world, governments have sought to contain the pandemic and keep their communities safe by limiting opportunities for transmission to occur. Often, this has involved drawing on legislative powers that have significant impacts on the liberties of their citizens.

The first case of COVID-19 in Australia was in Victoria and was confirmed on 26 January 2020. It quickly became apparent from the swift growth in the number of COVID-19 cases in Victoria and across the country, and from incoming reports of mass, serious illness around the world, that COVID-19 posed a very serious risk both to the health of the Australian community, and to the ability of our hospitals to keep people safe in the event of an unchecked spread of the virus. To combat this risk and keep our communities safe, the Victorian Government declared a State of Emergency under the *Public Health and Wellbeing Act 2008*, thereby enlivening a suite of powers under the Act to respond to serious risks to public health posed by a pandemic. This includes the power of the Chief Health Officer to make public health directions, which have underpinned Victoria's COVID-19 response.

The impact of this global pandemic on our communities has been enormous. Tens of thousands of people have been infected by COVID-19 in Victoria, and tragically, hundreds have died. Without the robust set of public health measures implemented by the Chief Health Officer and the Victorian Government, it is almost certain that many thousands more would have perished as we have seen in a number of other countries. It must be acknowledged, however, that these measures have come at their own, different cost. The pandemic has affected all of us. The physical, mental and social health of Victorians, as well as our livelihoods and our liberties, have been affected as we continue to deal with this extraordinary event.

Victoria's COVID-19 response

I would like to acknowledge all levels of government, communities, business leaders, our educational institutions, public health leaders, human rights and legal experts, First Nations people, faith leaders and many, many more Victorians that have come together for the common cause of keeping the community safe from the COVID-19 pandemic, and have worked tirelessly to learn, plan and research how to effectively manage and respond to it.

The Victorian Government's response has included the development and operation of an efficient and effective contact tracing system to track the spread of the virus and warn potentially infected people, rapid outbreak management responses, support for critical technological infrastructure such as the QR code check-in system, and strategies to assist frontline health services to mitigate the risks of COVID-19. Public health and policy experts, led by the Chief and Deputy Chief Health Officers, have worked around the clock to understand and respond to the constantly evolving epidemiological profile of the virus.

I would like to take this opportunity to once again thank every Victorian for your resilience, for the ongoing sacrifices you have made and for the actions you have taken every day to limit the spread of this virus and to save lives. We have made extraordinary progress through our collective efforts as a community, by accepting the need for unprecedented actions to limit the spread of COVID-19 and the critical importance of attaining very high levels of vaccination rates, to slow chains of infection and to prevent further loss of life.

The development of the Bill

Almost two years into the defining health crisis of our age, the situation in Victoria and around the world is more hopeful but remains fragile. The emergence of new variants of concern, which have changed the transmission and health risk profile of COVID-19 over time, raises the serious possibility that the virus could persist indefinitely in some form. The changing nature of this deadly virus makes our challenge even harder. The Victorian Government continues to adapt its response, guided always by public health advice and our fundamental purpose and responsibility: keeping Victorians safe.

This Bill is the crucial next step in the evolution of our COVID-19 response. It will provide our State with a contemporary, fit-for-purpose regulatory scheme with the right powers and checks and balances to protect our community from the dangers posed by pandemic diseases, while recognising and upholding the human rights, accountability and proportionality imperatives that are so important to our democracy.

The right to life is the most fundamental of the rights protected by our Victorian Charter of Human Rights and Responsibilities. Our core responsibility is to protect the lives of our citizens in ways that uphold both the right to life and, to the greatest extent possible, all the other vital rights and liberties protected under the Charter.

Knowledge shared by community leaders has been crucial to the design of this Bill. The Government has engaged extensively with some of the most trusted leaders in public health, administrative law, human rights and policy-making. Our work has been assisted by an Expert Reference Group comprising a senior public health physician from the Burnet Institute, a senior barrister with expertise in administrative law and a senior executive from the Department of Health.

The community leaders and experts who took part in this process were clear that the public health measures Victoria has relied on to date have been effective in suppressing the virus that has ravaged so much of our global community. They also highlighted some problems that have emerged in implementing these measures. They raised concerns about aspects of the current legislative framework and difficulties in communicating the purpose and impact of these measures to the public. There were calls for greater transparency, more effective public communication, and more nuanced measures that better recognise the disproportionate impact these measures can have on at-risk communities.

I would like to take this opportunity to thank every person and organisation that has taken the time to participate in this policy process and contribute to this critical work. Your contributions have greatly assisted the design of the new regulatory scheme.

The pandemic management model presented to members today also takes inspiration from legislative approaches in other jurisdictions that have effectively managed the COVID-19 pandemic, including New Zealand and are informed by the powers we have relied on successfully under the State of Emergency during the COVID-19 pandemic.

The new framework contains a series of targeted reforms and improvements to address policy and operational risks that have emerged over the course of the pandemic.

Overview of the new regulatory framework to help keep Victorians safe in pandemics

The new regulatory scheme to support our State's response to COVID-19 and to future pandemic diseases that may arise in Victoria is contained in a new Part to be inserted by the Bill into the *Public Health and Wellbeing Act 2008*.

As we have seen in Victoria and around the world over the course of the COVID-19 pandemic, the public health measures necessary to keep the community safe in a pandemic can be extremely restrictive and impact on almost all aspects of our daily lives. In our democracy, elected officials represent—and are accountable to—their community. It is therefore most appropriate that our most senior elected officials, who are accountable to Parliament and have responsibilities to all Victorians, will hold the power to declare a pandemic and introduce restrictions through Pandemic Orders.

By providing the Minister, an elected official, with the ability to make Pandemic Orders, the Bill makes clear that the Government is ultimately responsible for pandemic decisions. However, it remains crucial that pandemic decision-making is informed, first and foremost, by public health considerations. Accordingly, these elected decision-makers will be required to seek and consider the advice of the Chief Health Officer as Victoria's most senior public health advisor.

I would like to turn now to consider the provisions of the Bill.

Objectives to guide pandemic decision-making

The Bill includes specific objectives for the new pandemic Part to help guide decision-making during pandemics. The core objective of the new Part is to protect public health and wellbeing in Victoria by establishing a regulatory framework for preventing and managing the serious risk to life, public health and wellbeing presented by the outbreak and spread of pandemics and diseases with pandemic potential.

The objectives recognise the need to support the proactive and responsive decision-making required to respond effectively to pandemics that has served Victoria well in its response to the COVID-19. The principles that underpin all decision-making under the Act continue to apply to the new Part, but the Part's objectives draw on the principles that support proactive and responsive decision-making, such as proportionality, the precautionary principle, and the primacy of prevention.

The new Part ensures the primacy of public health advice in decision-making and acknowledges the critical role of the Chief Health Officer in providing expert advice to government on public health matters. The objectives also reinforce the need for transparency and accountability in relation to decisions made and things done under the new Part.

The new Part also seeks to ensure the contact tracing information collected during pandemics is properly safeguarded, and to promote fairness in the enforcement of certain offences through a concessional infringements scheme.

The Bill also expressly affirms the existing responsibility incumbent on all government decision-makers in Victoria to consider the Charter of Human Rights and Responsibilities when making decisions and exercising powers, and to ensure that any limitations on rights protected under the Charter that arise from those decisions or exercises of power are demonstrably justifiable.

A pandemic declaration will activate the pandemic powers

The powers provided by the new regulatory framework are only available under controlled circumstances: when the Premier has made a pandemic declaration. The Premier can only make a declaration if satisfied that there is a serious risk to public health arising from a pandemic disease, or a disease with the potential to become a pandemic.

Importantly, the Premier must consult with the Chief Health Officer and the Minister and consider their advice before making the declaration. This requirement ensures that public health considerations remain front and centre in any decision to declare a pandemic and enliven the pandemic powers in the new Part, and that declarations are made only where necessary on public health grounds.

The Premier's pivotal role is a crucial policy element of the new model. It recognises that the most senior elected government official should make the significant decision to make a pandemic declaration. Providing for a pandemic declaration to be made by the Premier is similar to the Premier's power to declare a state of disaster under Victoria's emergency management legislation.

A pandemic declaration must specify the disease to which it relates and the pandemic management area, which may be throughout Victoria or in a specified area or areas. The declaration may be in force for an initial period of up to four weeks. A declaration may then be renewed for up to three months at a time, with no limit on the

number of renewals or the total time period. This recognises that pandemics may continue for long periods of time and may require the retention of crucial public health measures for as long as is reasonably necessary to protect public health and lives generally. It acknowledges that pandemics do not have a neat “start” and “finish” and that a serious threat may remain even as the severity of pandemic conditions reduces globally.

Balanced against this is the requirement that the Premier must revoke the declaration as soon as they are satisfied that the circumstances giving rise to the declaration are no longer a serious risk to public health. This obligation is an important check in the new regulatory system which seeks to ensure that restrictions—and access to pandemic powers—are not maintained beyond what is required to respond to the serious risk to public health.

The Bill promotes transparency and accountability by requiring the Premier to report to Parliament on the pandemic each time a declaration is made, varied or renewed. This is one of several major new mechanisms introduced in the Bill to increase transparency in government decision-making during a pandemic.

The Minister may make Pandemic Orders

The principal decision-maker in the new framework is the Minister. The Minister may make Pandemic Orders setting out the requirements and obligations the Minister believes are reasonably necessary to protect public health.

Public health expertise remains the central consideration in developing a pandemic response and formulating pandemic restrictions. The Minister may only make a pandemic order after considering the advice of the Chief Health Officer. This model recognises the significant trust placed in the role of the Chief Health Officer by the Victorian community over the course of the COVID-19 response, and ensures the Chief Health Officer’s input remains central to future pandemic decision-making. This is also an important part of ensuring that any limitations on human rights that might be caused by Pandemic Orders are specifically aimed at, and proportionate to, addressing serious threats to the health of Victorians, and are in accordance with the Charter.

The risk profile, geography and movement of the COVID-19 pandemic has evolved constantly since Victoria’s first outbreak, and the State’s ability to adapt to these changes has been vital to mounting a successful response. The broad powers available under the current State of Emergency framework have allowed the Victorian Government to implement public health measures swiftly and effectively.

The State of Emergency framework provides for the Chief Health Officer and other Authorised Officers to exercise emergency powers, including the power to give directions they consider reasonably necessary to protect public health. Directions made in reliance on this power have formed the regulatory backbone of Victoria’s efforts to limit the spread of COVID-19. Directions have been made to restrict activities that increase the risk of transmission of the virus through the community. For example, at various stages of the COVID-19 pandemic, the Chief Health Officer’s directions have restricted gatherings, limited reasons for leaving home, and required non-essential businesses and services to cease operating. Though these restrictions have undeniably had a significant impact on the social, mental and economic welfare of our community, they have also clearly prevented and reduced much illness and loss of life.

A Pandemic Order may include any requirement that the Minister believes is reasonably necessary to protect public health. This is intended to be a broad and general power, given the unpredictable nature of pandemics means that the public health measures required to respond effectively in every case cannot be specified exhaustively.

However, to provide greater clarity on the powers that are likely to be needed during pandemics, the new Part sets out a non-exhaustive list of matters in relation to which Pandemic Orders can be made: for example, orders to restrict movement, to require the use of face coverings, or to require persons to be subject to detention or quarantine requirements. These matters draw heavily on the experience of Victoria’s COVID-19 response, as well as advice from epidemiologists and public health experts. This ensures that the scheme is sufficiently flexible to respond to the evolving COVID-19 pandemic and to support measures that may be required in any future pandemics, while still contingent on the overarching requirement that any measure is reasonably necessary to protect public health.

Developing Pandemic Orders

The new Part provides for a range of matters to be taken into account when making a Pandemic Order.

While preservation of public health and protecting lives remains the primary consideration, the COVID-19 experience has shown that the duration and complexity of pandemics, as well as the significant impact a pandemic and its management have on the Victorian community, mean that decision-making in a pandemic context will necessarily touch on a broad range of matters, including matters affecting social, economic and mental wellbeing.

Accordingly, the Bill enables the Minister to consider any other factor deemed relevant in making a pandemic order, including social and economic matters. Importantly, the new Part also provides for the establishment of an independent advisory committee, intended to comprise a diverse array of experts and community representatives, to advise the Minister in relation to decisions and actions under the new Part—including the nature and impacts of Pandemic Orders. I will discuss the new Independent Pandemic Management Advisory Committee in more detail shortly.

The new Part allows the Minister to consult any person considered appropriate before making a Pandemic Order, enabling the Minister to seek out a broad range of advice including specialist advice. This recognises the wide-ranging impacts pandemic decision-making can have on Victorians, and seeks to support the Minister to make holistic and informed decisions.

Transparent and accountable decision-making

Victorians whose lives and livelihoods may be significantly impacted by Pandemic Orders deserve to understand the reasoning behind them.

The Bill requires the Minister to publish, and table in Parliament, a statement of reasons for any Pandemic Order and a record of the advice the Chief Health Officer provided in relation to the making of that Order. This is a new requirement not contained in the current State of Emergency framework. The statement of reasons will provide a holistic understanding of the rationale for decisions, including the public health considerations justifying the decision, significantly increasing the transparency and accountability of pandemic decision-making. It reflects the serious implications of decisions in a pandemic context and responds to the justified concerns raised by organisations consulted on the Bill, and will also help to communicate the necessity and rationale for Pandemic Orders to the community.

The Minister must also publish an explanation of the human rights that are protected by Victoria's Charter of Human Rights and Responsibilities that are or may be limited by the order, and how any such limitations are demonstrably justifiable. This major reform to Victoria's pandemic management framework is a proactive mechanism to share the Minister's explanation with the public, providing transparency about the impacts on human rights of Pandemic Orders, and how those impacts are justified.

A final key reform that further embeds democratic processes into pandemic decision-making is that, under the new Part, the Scrutiny of Acts and Regulations Committee can review Pandemic Orders, and report to Parliament on Orders that, in the Committee's consideration, appear to lack legal authority within the terms of the Act or are incompatible with human rights as protected under the Charter. The Committee can recommend in its report that any such Order should be disallowed, in whole or in part, and if such a recommendation is made, both Houses of Parliament would need to pass a resolution to effect such a disallowance.

This is a critical reform that brings the major instrument through which pandemic decisions are implemented, the Pandemic Order, into the remit of one of our State's fundamental mechanisms for ensuring the legality and accountability of decisions made by Government.

Independent Pandemic Management Advisory Committee

Another major reform introduced in the Bill is the establishment of an Independent Pandemic Management Advisory Committee to review and provide advice in relation to Pandemic Orders.

The Committee's role is to review and provide advice to the Minister on the exercise of powers under the new Part, including the Minister's power to make Pandemic Orders. The Minister can request the Committee to provide advice on a particular matter, but the Committee can also initiate its own reviews.

The Committee will comprise experts and leaders from across the community, including epidemiologists and public health experts, front-line healthcare workers, human rights and legal advisors, representatives from culturally and linguistically diverse communities and First Nations leaders. The Bill sets out the minimum skills required for the Committee but does not otherwise limit membership in any way. A range of other experts, for example those representing business and industry or specific health sectors such as mental health, are likely to also be appointed. With experts in relevant fields and representatives from Victoria's diverse communities, the Committee will provide an independent and holistic view on the nature and effects of Pandemic Orders affecting the Victorian community.

The Committee will be appointed by the Minister and its reports and recommendations will be tabled in Parliament. While the Committee's recommendations are not binding, this reporting mechanism ensures that Parliament and the public, as well as the Minister, are informed about the key issues arising from the making of Pandemic Orders.

Role of Authorised Officers

Authorised Officers have played a critical role in Victoria's response to the COVID-19 pandemic and will continue to perform key functions under the new Part. Under the new Part, the broader power for the Minister

to make Pandemic Orders will be supported by powers for Authorised Officers to take action and give directions 'on the ground' using certain pandemic management powers.

The Bill provides for the Chief Health Officer to authorise Authorised Officers to exercise the pandemic management powers. These new powers are additional to existing powers already available under the Act, including the public health risk powers and general compliance and enforcement powers.

There are two categories of pandemic management powers under the new Part. Pandemic management order powers are powers that relate to Pandemic Orders. Authorised Officers may take actions and give directions to implement or give effect to Pandemic Orders made by the Minister. This includes giving directions to ensure persons comply with Pandemic Orders. An authorised officer may also detain persons in accordance with a Pandemic Order that requires persons to be detained.

Authorised Officers also have separate powers to take actions or give directions that they believe are reasonably necessary to protect public health. The types of directions that may be given are similar to restrictions that may be imposed under a Pandemic Order (for example, restrictions on movement or requirements to provide information). This provides a residual power for Authorised Officers to impose reasonably necessary requirements to protect public health where these are not already regulated under a Pandemic Order. A direction given by an authorised officer must not be inconsistent with a Pandemic Order. Recognising that Pandemic Orders are the key instrument through which population-scale requirements may be imposed under the new Part, Authorised Officers will usually only be able to give directions applying to one person, apart from in certain, limited circumstances.

Temporary amendments to the Act have enabled broader classes of persons to be appointed as Authorised Officers under the Act (for example, police officers, Worksafe inspectors, and health service providers) to exercise a limited suite of public health powers to support the response to COVID-19. The new Part recognises this important surge capacity by providing for these officers to be appointed, in a pandemic context, to respond to changing demands.

We have also ensured that appointments of health service staff as Authorised Officers are able to continue beyond a pandemic and that delegations to health service staff are enabled on an ongoing basis. This reform is critical to the ongoing operation of our Local Public Health Units, which are now embedded as a pivotal part of the public health response.

The Bill also provides that Authorised Officers may be assisted in the exercise of powers under the new Part, and makes amendments to clarify the types of assistance that may be provided.

Legal protections for key officers

As we have seen over the course of COVID-19, determining and implementing the response, to a pandemic, demands that those responsible make extraordinarily difficult decisions. These decisions can have far-reaching impacts and can give rise to legal challenge.

In emergency situations such as pandemics, it is critical that officials are able to act quickly and decisively to respond to the circumstances confronting them. Delays in decision-making, or the influence of considerations beyond how best to manage the emergency situation, can have catastrophic consequences. In the pandemic context, these potential consequences include rampant spread of a dangerous illness and, ultimately, severe illness and loss of life.

In select instances, our legal system recognises that it may be appropriate to shield people responsible for exercising powers under emergency management legislation from the threat of personal liability for consequences arising from the good faith performance of their duties, in order to support the best possible emergency decision-making and avoid potentially disastrous delays.

The Bill introduces statutory immunities for the Chief Health Officer and the Chief Health Officers' delegates, Authorised Officers and Detention Review Officers, applicable only to decisions and actions taken in good faith under the new Part and to powers under Part 10 of the Act.

The Chief Health Officer's advice lies at the core of pandemic decision-making through the obligations on the Premier and the Minister to consider their advice when considering whether to declare a pandemic or issue a Pandemic Order. Authorised Officers and Detention Review Officers also carry crucial responsibilities under the new Part for the on-the-ground operationalisation of pandemic management decisions and review mechanisms. For an effective pandemic response that keeps Victorians safe, all three classes of officeholder must be able to exercise their important functions with the best public health outcomes in mind, and without fear of legal proceedings. These immunities will also help to ensure that the best people are supported to take on and remain in extremely important, difficult and demanding roles.

The immunity provisions in the Bill provide that these officers are not personally liable for acts or omissions made in good faith in the exercise of their powers and functions, or in the reasonable belief that the act or

omission was done in the exercise of those powers or functions. They can still be investigated and held liable for any improper conduct in office. Similar statutory immunities are common in public health and emergency legislation across most Australian States and Territories as well as the Commonwealth.

It is critical in a democracy that actions undertaken on behalf of the State and in reliance on legislative powers are subject to oversight by the courts. Therefore, the liability that would attach to the Chief Health Officer and other officeholders but for the immunity provisions is instead held by the State.

Compliance and enforcement

The purpose of the Bill is to provide a targeted framework for the management of pandemics. It is first and foremost public health legislation, and the enforcement framework it contains must reflect this public health focus. Compliance and enforcement activities taken under the Act should reflect the fact that education and clear communication are critical to keeping the community safe.

To ensure greater transparency in the way compliance and enforcement activities are undertaken in relation to the COVID-19 pandemic, the Bill requires the Secretary to develop and publish a compliance and enforcement policy in relation to COVID-19 that sets out principles and guidance for managing non-compliance with COVID-19 restrictions and requirements. The policy will support balanced, consistent and health-focused enforcement by all workforces involved in the compliance and enforcement aspects of our continued response to COVID-19 activities, including the Police. Importantly, the policy will be required to set out guidance on how persons involved in compliance and enforcement in relation to the COVID-19 pandemic are to consider the impacts of the performance of those functions on vulnerable persons and communities.

Fines reform

The Bill also introduces significant reforms to the fines system to mitigate its impact on the most at-risk members of our community.

The *Infringements Act 2006* and the wider fines system in Victoria have been under review through the Fines Reform project. The Fines Reform Advisory Board, responsible for providing independent advice to the Attorney-General on the Fines Reform project, has made a series of recommendations on how to make Victoria's infringements system fairer and more effective. Work is underway to progress these recommendations, many of which require further consultation.

However, given the central role that infringements have played and are likely to continue to play in the enforcement of the remaining, essential COVID-19 restrictions, it is vital that some of these reforms are introduced as soon as possible. Accordingly, this Bill implements one of the Board's core recommendations, and takes important steps towards acquitting another.

The Bill broadens the "special circumstances" test, the pathway provided in the *Infringements Act 2006* and *Fines Reform Act 2014* to remove, in appropriate circumstances, vulnerable and disadvantaged people from the infringements system. First, the Bill changes the definition of "special circumstances" so that people will only need to show that their challenging circumstances contributed to, rather than directly caused, their significantly reduced capacity to understand or control the conduct which led to their fine.

Second, the Bill introduces a new, very narrow category to the "special circumstances" test that will apply to people who may not be able to establish the required causal link between their condition and their offending, but who can show that they have a long-term, severe condition that makes it impracticable for them to pay or otherwise deal with their fine. This new category is intended to capture people whose circumstances are particularly severe and disabling or incapacitating, and not fine recipients who are able to pay their fines or deal with them through alternative pathways, such as a work and development permit.

The Bill also includes a new concessional fines scheme to create fairer penalty options for people experiencing financial hardship, progressing another key recommendation made by the Fines Reform Board. Under this new scheme, eligible people who receive pandemic-related infringements under the Act will be able to apply to the Director of Fines Victoria to have their fine amount reduced. Eligibility criteria will be prescribed in regulations, but will relate to recognised indicators of financial hardship—such as holding a concession card issued by Centrelink or the Commonwealth Department of Veterans' Affairs. This approach is consistent with concession schemes for vehicle registration costs and municipal council rates.

I want to thank the Attorney-General and her department for their advocacy and collaboration in respect of these important reforms.

Nevertheless, some instances of non-compliance with pandemic restrictions will require a more conventional enforcement approach, such as breaches that have or could have catastrophic consequences, are intentional, or are especially culpable in other ways. The Bill introduces a new aggravated offence to deal with the most serious breaches.

Offences including a new aggravated offence for egregious and dangerous breaches

The Bill is designed to ensure that the legislative framework for offences and penalties for breaches of pandemic restrictions is fair and proportionate.

The Bill includes a general offence (similar to the existing offence for breaches of emergency directions) for a refusal or failure to comply with a Pandemic Order or a direction given, or requirement imposed, by an Authorised Officer. The maximum penalties for this offence are 120 penalty units for a person or 600 penalty units for a body corporate (the same as the penalties for the equivalent offence for breaches of emergency directions). Fines can also be imposed by infringement notice. Changes made to the Act and the Regulations last year support a graduated infringement scheme, with lower fine amounts for children under 18 years of age.

Some instances of non-compliance with pandemic restrictions will require stronger deterrence, such as breaches that have or could have catastrophic consequences, are intentional, or are especially culpable in other ways.

The Bill introduces an aggravated offence to capture the most serious and high-risk instances of non-compliance with pandemic requirements.

The new offence will cover situations where a person refuses or fails to comply with a Pandemic Order or other requirement, and knows or ought to have known that their non-compliance is likely to cause a serious risk to the health of another individual. This could include, for example: a person deliberately breaching a quarantine or detention requirement or knowing they are COVID-19 positive, deliberately facilitating or engaging in events that have the potential to result in serious risks to health such as large gatherings; or a business deliberately trading or offering services in breach of an order, particularly where there is an increased risk due to either the health status of a person (for example, the person is COVID-19 positive, has travelled interstate, has escaped detention, has attended an unlawful dance party or has delivered a service in a vulnerable setting such as an aged care facility). It is not intended to be used routinely, for example, to manage face covering breaches, manage peaceful protests, or punish people and businesses that have not understood the rules despite best efforts.

The maximum penalty for an individual for this offence is 500 penalty units for a person or imprisonment up to 2 years. For a body corporate, the maximum penalty is the greater of either 2,500 penalty units or a fine of up to three times the assessed commercial benefit gained as a result of the non-compliance. This commercial benefit penalty is a well-known measure in numbers of State and Commonwealth laws and is designed to deter businesses from breaching pandemic measures to make profits.

This reform has two key objectives. First, it responds to concerns that the single offence scheme under the State of Emergency provisions was too blunt a tool, and risked a situation where both minor, accidental instances of non-compliance, and serious, deliberate and high-risk contraventions would be treated in the same way. Second, it recognises that in a pandemic situation, some contraventions can have potentially catastrophic consequences, including severe illness and loss of life. Given the gravity of the risks involved, and considering the way behaviour that endangers life and safety is treated by Victorian law in other circumstances, the seriousness of deliberate non-compliance with respect to pandemic restrictions warrants a more punitive and deterrent enforcement approach.

Importantly, the aggravated offence is intended to be used rarely, only for the most egregious pandemic related breaches, and not for minor to moderate breaches that are less likely to cause a serious risk to health and carry lower moral culpability.

On balance, the Bill creates a more nuanced and proportionate framework to support the enforcement of crucial public safety measures.

Detention powers

Pandemics are, by their nature, highly infectious diseases. Requiring people to be detained is often an unavoidable pandemic management tool, whether used to prevent the entry of pandemic diseases into Victoria or to curtail the spread of outbreaks.

Detaining people is a very serious action. It impinges on fundamental rights and liberties, and these must be balanced against threats to equally fundamental rights to life and health. As with any limitation on human rights, any detention effected by the State must be demonstrably justified in a free and democratic society, and it must not be arbitrary.

The new Bill provides powers for people to be detained, as detention can be an essential element of a pandemic response. A person can only be detained for the period that is reasonably necessary to eliminate or reduce a serious risk to public health.

There are two kinds of detention power under the new Bill.

The first is the pandemic management power available to Authorised Officers to detain persons in accordance with Pandemic Orders. For example, a Pandemic Order may require persons arriving internationally in

Victoria to be detained to manage the serious public health risks arising from a pandemic disease. The Minister must believe that any such Pandemic Order is reasonably necessary to protect public health, and must not require a period of detention longer than that the Minister believes reasonably necessary to eliminate or reduce a serious risk to public health.

The second is the pandemic management power available to Authorised Officers to detain a person for the period that the authorised officer considers is reasonably necessary to reduce or eliminate a serious risk to public health. This power can be used to detain a person in situations that may not yet be covered a Pandemic Order, but detention is reasonably necessary to reduce the spread of a pandemic disease—for example, a new and rapid outbreak in a location previously unaffected by a pandemic disease and that is not yet the subject of a Pandemic Order.

In addition to the requirements for detention to be reasonably necessary to protect public health, there are a number of important safeguards that apply to detention under the new Part, and which are designed to ensure that detention effected through the exercise of pandemic management powers is justified and not arbitrary.

Before a person is detained, or in circumstances when the period of detention is extended (for example, because they refused to take a COVID-19 test), the person must be given an explanation for their detention (which may be given by a written notice), including an explanation that a refusal or failure to comply is an offence, information about the detention exemptions that may apply to their situation, and information about their rights in detention, including the entitlement to apply for a review.

Any Authorised Officer responsible for the detention of a person must as soon as practicable report to the Chief Health Officer on the details of the detention, who must then report to the Minister.

These reporting and information requirements recognise and replicate the strengths of the current detention arrangements. They will ensure that people are informed about the reasons and rights associated with their detention.

An additional safeguard introduced by the Bill provides that the Minister may make and publish guidelines and standards relating to the welfare of people in pandemic detention, after consulting with the Chief Health Officer. The Government is committed to preparing such standards in relation to Victoria's COVID-19 quarantine program and this work is underway. By preparing and publishing these detention welfare standards, the Government is responding to community concerns about the impacts of detention and the need for clear standards and guidance in relation to detention.

While people entering Victoria's quarantine system are already provided with information about their period in detention, and there is equivalent information available online, these guidelines and standards will assist in ensuring that information provided to people being detained is consistent and appropriate and meets acceptable standards. The published guidelines and standards are likely to include factors that have been vital in preserving the welfare of people in COVID-19 quarantine, such as access to medical, psychological and physical support, contact with other persons, and appropriate accommodation conditions.

The existing Detention Review Scheme will continue to apply under the new framework. This scheme provides an efficient, accessible and effective mechanism for people to request a review of matters such as the reasons, duration or location of their detention.

Quarantine fees

While mandatory quarantine continues to play a crucial role in reducing the transmission of COVID-19 in Victoria, a quarantine fee scheme remains necessary to recover part of the cost and support the effective operation of our quarantine facilities, both now and into the future.

The Bill provides for the current quarantine fee scheme to continue past its current repeal date of 31 December 2021 and makes some changes to improve the efficiency and effectiveness of the scheme.

When COVID-19 Quarantine Victoria (CQV) is unable to obtain basic personal contact information from travellers entering quarantine, the Bill authorises CQV to collect that information from certain organisations (to be prescribed in regulations) and use it to generate or pursue an invoice for mandatory quarantine, or where otherwise authorised by law.

The Bill provides that liability for fees can be transferred to a traveller's employer or other third party, upon that party's acceptance, including where the traveller's quarantine occurs in the course of employment or is otherwise sponsored.

To improve CQV's ability to recover unpaid quarantine fees, and to serve as an incentive for timely repayment, CQV will be able to impose an additional fee on quarantine payments that remain outstanding following a reminder notice. The fee (to be prescribed in regulations) will be proportionate to costs incurred by the State in recovering the fee. CQV will also be able to waive fees on its own initiative, without an application from the traveller, in exceptional circumstances.

The mandatory quarantine regime in Victoria is undergoing significant change, including the introduction of home-based quarantine and the operationalisation of the Victorian Quarantine Hub. It is intended the fee scheme will be repealed by a future Parliament when the scheme is no longer considered a necessary measure in response to the COVID-19 pandemic. This means that the first set of regulations made after the passage of the Bill will be excluded from the formal consultation and regulatory impact assessment processes under the *Subordinate Legislation Act 1994*.

Sharing and collecting information

The ability to collect and share time-critical information is an important component of the public health response to a pandemic, particularly when tracking the spread of an outbreak through contact tracing. The sharing of this information between individuals and organisations in fast-moving pandemic events is critical and it can be the difference between controlled and uncontrolled outbreaks, and between low levels of illness and widespread loss of life.

The Bill sets out powers for information sharing in a pandemic context, including specific powers to collect and share information and strict safeguards around when and how contact tracing information can be used. The new Part provides specific powers for the Secretary and Chief Health Officer to collect, store, use or disclose information to respond to a pandemic.

The Minister may also require information to be provided under a pandemic order, and Authorised Officers will have separate powers to require the provision of information, in addition to other existing information gathering powers under the Act.

In order to facilitate time critical sharing and use of information during a pandemic, the Bill introduces a power for the Minister to apply to the Victorian Information Commissioner for a Pandemic Information Determination. A Pandemic Information Determination allows for sharing information in circumstances that would not be permitted by the Information Privacy Principles in the *Privacy Data Protection Act 2014* and the Health Privacy Principles in the *Health Records Act 2001*. A Pandemic Information Determination can be made if Victoria's Information Commissioner is satisfied that the public interest in sharing or using personal or health information outweighs compliance with the Information Privacy Principles and Health Privacy Principles. This reform strikes an important balance between enabling urgent and time critical information sharing and use, while ensuring that this can only occur in line with a decision of the Information Commissioner.

Under the new Part, Authorised Officers will also have specific powers to require individuals to provide information or documents. These powers may be used when it is critical to have accurate and reliable information, including to support outbreak management through contact tracing. Individuals must provide information regardless of whether it would implicate them in wrongdoing. However, information provided in such circumstances will not be admissible as evidence in criminal proceedings, except for prosecutions relating to the provision of false or misleading information.

Safeguards to protect contact tracing information

The Bill includes stringent restrictions on the use and disclosure of information collected for the purposes of contact tracing. The safeguards in the new framework are expected to be the strongest in any Australian jurisdiction, and form vital protections around the right to privacy held by all Victorians and protected under the Charter.

Access to accurate information provided by Victorians has been critical to contact tracing efforts during COVID-19 outbreaks. Accurate and timely information enables faster tracing and reduces the spread of the disease, thereby preventing illness and saving lives. The community has placed enormous faith in our contact tracing system, providing information freely and voluntarily in almost all cases, with the knowledge that it will be used for the purpose it is collected, and that purpose only.

This is a relationship between the Victorian Government and the Victorian community that is based on trust. The new Part honours that trust by significantly strengthening existing protections to ensure that information voluntarily supplied as part of the contact tracing process, such as in contact tracing interviews, or through QR codes and manual check-ins, can only be used for public health purposes, with a small number of narrow exceptions.

Under the Bill, it is an offence to use or disclose contact tracing information for a purpose other than a public health purpose, or in the performance of functions or exercise of powers under the new Part, other than in very limited exceptions. The only circumstances in which information can be shared for another purpose are when the person who provided it consents to its disclosure, when its use is for the purpose of preventing self-harm to the person or an imminent threat to the life, health, safety or welfare of others, and for use in investigating or prosecuting either the unauthorised use of contact tracing information or the provision of false or misleading information.

Mandatory review of new Pandemic Part

Responding to COVID-19 has been a learning experience for governments around the world, and our understanding of the best pathway to manage both COVID-19 and future pandemics continues to evolve. As a final safeguard to ensure that the legislation underpinning Victoria's pandemic response framework is as effective as it can be, a statutory review of the operation and effectiveness of the new regulatory framework will be mandated, to begin within two years of the new Part commencing. The review report will be published and tabled in Parliament.

Implementation

A smooth transition to the new regulatory framework is critical to ensuring that Victoria can continue implementing the National Plan to transition Australia's COVID-19 response. As we continue to open up safely and with appropriate measures in place, we need to have a framework in place that ensures there are no interruptions to the Government's capacity to undertake essential activities if needed—such as the quarantine program, contact tracing and some targeted restrictions that keep our community safe.

The Government has undertaken extensive planning and preparation for the implementation of the new Part, and for the on-the-ground implications of transitioning to the new framework.

During consultations on the Bill, stakeholders pointed out that the requirements outlined in the public health directions can be technical, complex and difficult for people to understand. The need for timely publication of detailed orders was stressed by stakeholders. The Government has taken the opportunity provided by the transition to the new framework to ensure that the new Pandemic Orders are as clearly drafted as possible and put online and made accessible to the public as soon as they are drafted.

Operational teams are preparing training and guidance materials for Authorised Officers to support the Bill's measures to ensure proportionate compliance.

In addition, work is underway to prepare the new policies and guidelines required under the new Part in relation to compliance and enforcement and detention.

Finally, information materials such as factsheets and guides are also being prepared to help explain the key features of the Bill, particularly those measures that impose new obligations on government and individuals.

Conclusion

The global spread of COVID-19 has taken an enormous toll around the world. In Victoria, through the extraordinary efforts of our public health system and our community as a whole, and the imposition of crucial public health measures, we have prevented the pandemic from overwhelming our healthcare system. We have avoided the extremely high levels of illness and loss of life experienced elsewhere.

Victorians have sacrificed so much to protect their families, friends and the whole community—and, as a result have saved countless lives. With the majority of Victorians now fully vaccinated through the safe and effective COVID-19 vaccination program, and having taken the necessary steps to protect ourselves, our family, our friends and the entire community, I am proud to say Victoria is heading towards being one of the most vaccinated jurisdictions in the world.

The vaccination milestones we've already achieved mark a new and hopeful path for the whole State—they are a step to getting Victorians closer to doing the things they love.

It is undeniable, however, that COVID-19 continues to present a real and serious risk to the public health and safety of all Victorians, including in the form of potential strain on our public healthcare system. While COVID-19 remains present in our community, and indeed while it persists around the world and we resume international travel, this risk will remain.

The scale and nature of the risk will continue to change and, it is hoped, become even less grave in coming months as treatment programs are improved and the steady roll-out of COVID-19 vaccines continues to build immunity among Victorians. As the risk changes, the public health measures needed to manage the risk have already begun to change. What will not change is the need for the best possible pandemic management response to keep Victorians safe, underpinned by a robust legislative framework.

This Bill is critical to the effective management of Victoria's response to COVID-19 and to the future health and wellbeing of all Victorians. Victoria's current State of Emergency, and the suite of powers it supports to manage the pandemic and keep Victorians safe, expires on 15 December 2021 and cannot be used again for managing COVID-19.

The State plainly requires a proper legal basis for managing both the COVID-19 pandemic and future pandemics. Without a new legislative framework, the Chief Health Officer and so many others involved in the pandemic response will not be able to do their jobs and keep Victorians safe. The Parliament simply cannot permit this to happen.

The House is well aware that Victoria is still subject to the devastating impact of the COVID-19 pandemic. With an increasingly connected global population, along with changing climate conditions around the world, comes a growing risk of new and existing infectious and dangerous diseases spreading to Victoria. As a State and a community, Victoria has shown itself to be well up to the task of acting quickly, responsibly and proportionately to protect our people when dangerous pandemics strike.

This Bill draws on critical lessons about how to best protect the health and interests of the communities we serve in times of severe public health crisis. The Bill is the key to our ability to keep responding and adapting to the changing face of COVID-19. It will also ensure that our laws are as well prepared as can be for future pandemic events.

I commend the Bill to the House.

The PRESIDENT: Prior to calling the next speaker, an urgent bill motion has passed pursuant to standing order 14.34. The purpose of this motion is that the next stage following the tabling of the statement of compatibility and the minister's second-reading speech take place forthwith rather than being adjourned to a future date. In other words, leave is no longer required for the second-reading debate to take place forthwith. Therefore, when I call the next speaker, they cannot move to adjourn the debate but must instead make their second-reading contribution.

Mr Davis: On a point of order, President, we have just had a bill declared an urgent bill, yet in the Scrutiny of Acts and Regulations Committee report that was tabled today there is no public inquiry and it does not have material in response by the minister.

Members interjecting.

Mr Davis: No, this is a serious point. The committee has indicated it will write—

The PRESIDENT: Mr Davis, you know very well that is not a point of order. I called you as the next speaker, so you are the next speaker.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (14:29): I make the point quite clearly that this is a shocking bill. It is a bill that has been conceived poorly by the government. It is a bill with a bad process behind it. It is a bill that seeks greater powers and greater control over Victorians. Senior legal figures, the Law Institute of Victoria, the Victorian Bar Council and others have made the point very clearly that this bill is flawed. I am going to step my way through some of the aspects of their contributions because I think these eminent bodies have made a very serious set of points.

The law institute in its 10 November 2021 statement made it clear that it does not support the bill in its current form. The law institute went further. It said there is a place for a development of a legal framework for emergency powers, but it said that the law institute:

... is of the firm view that the Bill in its current form does not sufficiently protect the rights of Victorians. In a number of important ways, the Bill falls short of achieving its stated objectives ...

The Bill places a significant amount of power in the hands of the Premier and the Minister to declare a pandemic and to make pandemic orders, respectively. The LIV calls for independent oversight and scrutiny to ensure that legal 'protections' are justifiable, transparent and do not unduly limit human rights.

The position paper sets out the law institute's specific concerns, and they are summarised in the introduction to the paper:

A pandemic declaration can be in place for an indefinite period ... and very wide powers ... conferred ...

Many powers appear to be an unnecessary infringement on democratic rights and freedoms, with little oversight offered by a truly independent body;

There appears to be no quantifiable timeframe ...

The process for review of detention does not provide for an independent external merits review;

Further concerns include the use of punitive and coercive approaches ... and

The protections relating to information gathered for public health purposes do not go far enough and the provisions relating to the use or disclosure of contact tracing information for other ‘permitted purposes’ should be carefully reconsidered.

They make recommendations about strengthening the oversight, perhaps by empowering the Ombudsman. The Ombudsman has spoken today, and she has made it very clear that this bill does not have adequate checks, does not have adequate controls, even with the proposals that the government has announced in the last few hours about how it wants to modify this. ‘To resource and adequately empower the Scrutiny of Acts and Regulations Committee’ is another recommendation they make, and ‘To amend section 165AK(4) so that it is more targeted and specific’. And the absurd introduction of the concept of attributes being there in that section was a major mistake by the government. I understand that they have now stepped back from that major mistake. Further recommendation are:

... to expressly provide that those empowered by the Bill are required to properly consider and act compatibly with human rights ...

The Bill should provide for an accessible external merits review of all decisions relating to detention and that VCAT be given jurisdiction.

I note that our amendments do that. And:

To increase the likelihood of public confidence and compliance—there should not be a ‘law enforcement’ emphasis behind the creation of lockdown laws. Terms of imprisonment should not apply in respect of matters arising from the Bill—

in the way they are because they—

... are excessive in the context of breach of pandemic laws.

These are all legitimate points made by the law institute.

I note the importance of the contribution of the barristers, too—the 60 barristers who came out and spoke so publicly and so clearly about the weaknesses of the bill. I say that the community should be listening to senior barristers of this type, senior barristers who are able to make a proper contribution and to do so in a way that actually strengthens the understanding of this bill in the community.

In turning to the bar council’s recommendations, the bar council provided a submission to both the Department of Health and an expert group. This is very late in the piece. In early November they are finally being given some ability to talk. The bar council’s submission addresses both the intent of the bill and specific sections and recommends a number of amendments. The bar council:

... emphasises that the rule of law, the sovereignty of Parliament and the checks and balances of our democratic ... system ... must be respected, even in times of emergency or crisis.

‘Even in times of emergency or crisis’ are important words. These are the times when there is a weakening of our democratic traditions. These are the times where the checks and balances are overridden. These are the times where the risk to democracy is at its greatest, and I say we need to be extremely cautious with these matters. It may be convenient for government to have the broadest and most flexible powers.

However, the rule of law cannot bow to convenience ...

says the bar council. And:

Legislation which seeks to plan for the future must do so consistently with a respect for well-tested checks and balances of our legal system.

We have seen so much over the last 18 months in this state as the government has repeatedly, again and again, overridden the checks and balances and the long democratic tradition, the thousand-year history of democratic voting and parliamentary democracy. The idea that the king’s officers, in old-fashioned parlance—that is, people employed by the Crown—would be directing the Parliament and directing where people can go and what people can do within this Parliament is a direct repudiation of

the Bill of Rights. It is a direct repudiation of article 9 and the respect that is required and a direct repudiation of the protections of MPs going about their work in a proper way.

It must be recognised, under ‘Parliamentary oversight’ at number 7 in the bar council’s contribution, that:

... the Minister’s powers to make pandemic orders are extraordinarily broad.

The bar council believes:

... the Bill provides grossly insufficient Parliamentary supervision over the Minister’s exercise of that power.

The bill introduces a disallowance power, but it is a pathetic disallowance power. It requires SARC’s input. It requires both chambers to vote to disallow. This is something that will never, ever happen, and I say that the disallowance power is an incredibly important check and the disallowance power is a way in which the Parliament and the people through the Parliament can actually in a serious way block some of the extreme activities of government. Our amendments will seek to ensure that disallowance can in the normal way under the subordinate legislation provide that either house on its own approach can actually disallow a regulation—in effect, in this case, an order.

The power to disallow a pandemic order is conditional, as the bar council said, on the Scrutiny of Acts and Regulations Committee recommending disallowance—on SARC reporting a failure to table the order in Parliament. I say it is inappropriate for SARC to be appointed gatekeeper, which can shield the minister’s exercise of power from ordinary processes of parliamentary scrutiny. That is what the bar council said, and I agree. ‘The disallowance provision to be by both houses of Parliament is an unacceptable departure from the ordinary process’, said the bar council.

Ms Terpstra: You’re making it up.

Mr DAVIS: Well, I am not making it up. It is at 8.2 in the bar council’s submission. Ms Terpstra, you may want to override Westminster tradition, but I do not.

Ms Terpstra: On a point of order, Acting President, Mr Davis is aggressively pointing in this chamber, and I ask that he stop.

Mr DAVIS: On the point of order, Acting President, I have faced an incessant barrage from Ms Terpstra for 5 minutes non-stop, just yakking and yelling out constantly. Now, I say that she can actually—

The ACTING PRESIDENT (Ms Patten): Thank you, Mr Davis. I take your point.

Ms Terpstra: On the point of order, Acting President, as I said before, Mr Davis was aggressively pointing and being hostile and aggressive toward me in this chamber, and I ask that he desist with that behaviour and debate this in the manner which befits this Parliament.

The ACTING PRESIDENT (Ms Patten): Thank you, Ms Terpstra. I think the score is one-all. Let us try and keep today calm. It is going to be a long day. I am sure you are on the speakers list, Ms Terpstra.

Mr DAVIS: I proceed with the bar council’s submission here. The bar council recommends as a minimum that the bill be amended to ensure that the Parliament has the power ‘to disallow a pandemic order, in whole or part’ and that that ‘is not conditional on the recommendation of SARC or any other body’. Our amendments seek to do that. They recommend that ‘disallowance be by passing a motion in either house of Parliament’, and our amendment seeks to do that. They said:

There is protection for persons who are alleged to have failed to comply with a pandemic order that is subsequently disallowed.

That is an important point. ‘Breadth of power to make pandemic orders’ is the next section that the bar council document deals with, and it makes a series of points. The bar council recommends that the bill be amended so that:

- the Minister’s power to make pandemic orders be limited to specific actions (such as restricting movement or activities, or mandating the wearing of protective equipment)

Any catch-all power—a power that says ‘any’—is too much. Once a pandemic declaration is made the minister has very broad power to make ‘any order’. I asked a group of barristers what ‘any order’ means. It means exactly what it says: any order whatsoever. That is how broad the government has sought its power to be. The power is constrained only by the minister’s subjective belief that the order is ‘reasonably necessary to protect public health’. The bar council goes on:

- any “catch-all” power to make any other orders be limited in time unless approved by both Houses ...
- the Minister’s ability to make orders be conditional on the Minister being reasonably satisfied that
 - a) the order is necessary to reduce or eliminate the serious risk to ... health ...

I say all these are reasonable:

- b) the order is proportionate to the harm and inconvenience that the order is likely to cause
- c) The order is consistent with the principles in ss 5 to 10 of the *Public Health and Wellbeing Act 2008*
- d) the Minister comply with s 38 of the *Charter of Human Rights and Responsibilities*.

These are all reasonable requests from the bar council. These are eminent lawyers, eminent barristers who have good understanding of our traditions and our laws. I say the government still has not listened to them.

The Ombudsman’s words today should resonate in everyone’s ears, the Ombudsman’s words that basically say the checks and balances are not up to scratch even with the government’s proposed amendments.

Mr Leane interjected.

Mr DAVIS: You should go and listen, Mr Leane, to what the Ombudsman said.

Mr Leane interjected.

Mr DAVIS: No. I am just telling you that it does not go far enough, and that is what the Ombudsman said today. You should go and listen to the Ombudsman on the radio as she laid out these points. It is very clear that the government has not listened to the community sufficiently.

The amendments that we will seek to move seek to make sure that there is an explicit reference to the principles of the Public Health and Wellbeing Act 2008—accountability, proportionality, collaboration, prevention and precaution—in pandemic declarations and orders. We seek to ensure that extensions to the pandemic declarations cannot be for more than one month, and they must come back to Parliament each month as time goes forward. That is a very reasonable provision. It is a very reasonable check, a very reasonable balance to put in the situation. We have said that those extensions should also require a special majority—a 60 per cent majority—to ensure that, as we have seen today, the government does not use a bare majority to crunch things through, to force things through when that is not the broad view in the Victorian community.

We have said there must be briefings, and we have experience with the government and their failure to provide proper briefings. I have been to a number of these briefings with Ms Crozier, and the government has not followed up with information, the government has refused to provide information. I have asked the chief health officer personally and directly to provide me with copies of the briefings that he has in his possession that he has signed to support some of the orders, and he has refused to. No-one should say this is just the government blocking the release of the health briefings; the chief

health officer himself has refused. He even refused at a parliamentary committee hearing to provide the health briefings requested to that committee.

Our amendments will also seek to remove the ability to make orders on the basis of personal attributes, including political activity, sexuality, religion, age et cetera.

Mr Leane interjected.

Mr DAVIS: Well, that is what is in the bill.

Mr Leane: On a point of order, Acting President, I usually do not interrupt Mr Davis when he is misleading the house because I would be interrupting him continually, but I think the basis of the statement around the types of classifications that he mentioned is completely incorrect. It goes to the bill, where it talks about specified classes of person. That is a legal term; in the current statute books there are 730-plus instances where it talks about particular classes of person. The reason why I am making this point of order is that I think it is very important people do not conflate this bill for reasons of—

The ACTING PRESIDENT (Ms Patten): Mr Leane, you will certainly have your time to make that contribution.

Mr Leane: I just think for the safety of the MPs and the ones that have been threatened because of certain vitriol and misinformation—

The ACTING PRESIDENT (Ms Patten): Mr Leane, thank you.

Ms Crozier: On a point of order, Acting President, Mr Leane's commentary is completely out of line. We are having this important debate, and I would ask you, if he is going to carry on like that, to bring him back—

The ACTING PRESIDENT (Ms Patten): Thank you, Ms Crozier. I just did.

Mr DAVIS: Thank you, Acting President. Of course it is not a point of order; of course it is nonsense. The misinformation coming out of the government is just extraordinary. They know they have made big mistakes, they know they are trampling on human rights, they know they are doing the wrong thing and they know what they are doing is simply reprehensible and cannot stand justification in its current form in any way.

The amendments that we will move will also require the written advice in relation to human rights impact to be tabled under any health order, require a written copy of that formal advice on which a health order is based to be publicly released, suspend the pandemic orders for which written public advice is not provided and require the chief health officer's advice relating to pandemic declarations to be tabled in Parliament. That includes the retrospective orders that were made historically—and the advice has never, ever been released. The formal written advice has never once been released, and the government continues to fight at VCAT the release of the formal written advice. It is in defiance of the house through the motions that have been moved here. It is an arrogant, overweening government, a government that is actually so drunk on its own power, so furious in its own belief and self-belief, that it is prepared to override all good governance.

I say too that we need to ensure that we restore measures relating to scrutiny and suspension and disallowance of pandemic orders. We need to add a right of appeal to VCAT for any person impacted by a pandemic order. Of course there should be a right of appeal; of course there should. The law institute and the bar council have both made that point very strongly. The law institute's suggestion that VCAT be tasked with that role is something that we have picked up in our amendments. We also want to make sure that we block pandemic orders that interfere in the ordinary and full operation of the Victorian Parliament, the absurd mix of orders from a range of different health bureaucrats, salaried health bureaucrats, in the department—under the control of the Secretary of the Department of Health and the minister of the department and not able to exercise independent judgement. It was frankly a

very concerning development that they sought to order the Parliament around. We want to enable either chamber, as I say, to disallow orders. We want to also ensure that warrantless entry into residential premises by authorised officers is not allowed, and the government will need to get a warrant under our amendments. We think that is quite important.

We will also seek to establish a parliamentary committee, which would be a subcommittee of PAEC, the Public Accounts and Estimates Committee, with a non-government majority that would actually be in a position to oversight any such series of orders under the pandemic legislation. We think that that is reasonable. In other states and jurisdictions—New Zealand, for example—there have been such committees, and even in New South Wales; a Green chairs the one, I think, in New South Wales. This is not what we have had in Victoria. We have actually had a very weak set of arrangements in this state, a very, very weak set of arrangements that have not put us in a position where we can go forward.

I want to also return to the issue of SARC. Let me be clear again: the lower house did not have the benefit of the Scrutiny of Acts and Regulations Committee information or report. It was crunched through in just two days, 36 hours, and the SARC report is still incomplete. The SARC has written to the minister and said:

The Committee will write to the Minister seeking further information as to whether or not:

- the pandemic orders and pandemic management powers that may be made or exercised after the Premier makes a pandemic declaration ... are limited to the areas where the pandemic declaration applies ...
- pandemic orders made under new sub-section 165AI(1) must, so far as is possible to do so consistently with their or that sub-section's purpose, be interpreted in a way that is compatible with Charter rights.

We need to hear this from the Minister for Health. It said that they want to know whether or not:

- it is unlawful for the Minister for Health to make pandemic orders ... in a way that is incompatible with a Charter right or fails to give proper consideration to a Charter right.

The list is quite long of matters that are still in dispute and still unclear. We have no such letter from the minister, no such information from the minister, and why are we proceeding when there is no haste in this? This could have been dealt with sensibly, practically over a long period of time. As I said earlier on, the government has had more than six months to deal with this.

But let us understand the context of where we are here. This is a situation where the COVID-19 pandemic has had a very severe impact on Victoria. The state government has mismanaged the whole process with the COVID-19 pandemic. We have got the terrible trifecta, the worst of all outcomes in this state—the worst of all outcomes. On one hand we had the longest lockdowns of any jurisdiction in the world. That had an amazingly negative consequence on our businesses and our kids. At the same time, in Australia, we actually had the worst death rate by far. We have even heard today about St Basil's and about how the state government failed to get infection control up to scratch—a responsibility of the state government—and we have heard today how the state government's failure in that respect is actually at the core of some of the failings under this pandemic.

Ms Crozier: That is why we need a royal commission.

Mr DAVIS: That is exactly what I was trying to say, Ms Crozier. There does need to be a royal commission that needs to examine the management and mismanagement of this pandemic by Daniel Andrews and his government, but it needs to also examine the damage done to our children, the damage done to businesses, the damage done to families because of the unnecessary and sharp pandemic rules that have been put in place week after week, month after month—decisions that have been made capriciously by this government, decisions that have been made arbitrarily by this government, decisions that have been made in spite of medical evidence. We have still never seen the evidence for the curfew—that extraordinary decision to make a curfew for the whole of the state and just lock down the state with a sharp, harsh curfew. What an outrageous decision. And who was consulted? The Chief Commissioner of Police did not support it. Who actually came up with the curfew? It was Andrews, and it was in his office, in the bunker—that is what they call his office. They

call it the bunker, and people in the public health division of the Department of Health, who I occasionally talk to—

Mr Leane: On a point of order, Acting President, similar to the previous point of order, I think people would be best speaking to what is actually in the bill, particularly in this debate, given that by going outside the bill and actually making up what is in the bill a number of MLCs—

Mr Davis interjected.

Mr Leane: have been threatened by this vitriol. There are a number of MPs who have been threatened with being hung today, and I think that we need to be very careful in misleading the house on what is in this bill.

The ACTING PRESIDENT (Ms Patten): Mr Leane, this is not a point of order. As lead speaker, Mr Davis does have the opportunity to go very broadly, which he is doing. However, Mr Davis, I did hear your comments towards Mr Leane, and I would ask you to withdraw.

Mr DAVIS: I withdraw that he is a clown. I have to say across the bureaucracy there is a reference to the bunker, which is the Premier's office over at 1 Treasury Place, and orders come out of there that bypass the public health division. The public health division is often doing catch-up as it seeks to backfill with support.

Let me just say it is very clear that the bunker has got a lot of this wrong. A lot of the failures under this pandemic are directly and personally the fault of Daniel Andrews because of his overreach, because of his control of the whole system and because of his overriding of good advice from departments and good advice from experts. The reason we have never seen many of the health orders is that they do not bear scrutiny. The reason we have not seen many of the health orders is that they had to be built and made up as the government went forward from a press conference to orders later in the day or the next day. That is the way it has often occurred, and that is why it is very important that with things like the curfew we see the full information behind those decisions.

On this bill I say very clearly: this bill does not have the checks, does not have the balances and does not have the controls there to enable us to be confident that this bill will not be misused. All of the evidence is that this is a lockdown bill, a bill that is going to be used by Daniel Andrews again and again to lock down Victorians. Our recovery, our rebuild as a state, is actually dependent on certainty and predictability. It is not dependent on further lockdowns with this overreach legislation, this legislation that strips away the rights from Victorians, strips away power from communities and weakens the Parliament in a whole series of other ways.

I say that we actually need a proper review of this area of legislation. This could have occurred through the last six months. The government chose not to do that. They chose to talk to just three MPs and not to talk to the broad crossbench or the opposition or indeed broadly enough, and the response of senior lawyers is enough to make people understand that the government has got this fundamentally wrong. It is a piece of legislation that is driven by an arrogant Premier. It is driven by a person who wants to take more power for himself. It is driven by a desire to control, a desire to keep the state locked down, and to do this for some of the basest of motives. These are political motives. The Premier seeks to divide the state. He seeks to create division. He seeks to cause damage through his misunderstanding of the impact of these laws and these approaches that he has adopted through this whole period. I have to say that I am persuaded by the information that has been presented to us by the senior lawyers. I am persuaded by the information that I have seen.

Acting President, if I could ask the clerks to distribute my amendments, that would be much appreciated.

The ACTING PRESIDENT (Ms Patten): I am afraid they are not quite complete, Mr Davis.

Mr DAVIS: That can happen shortly then, can it?

The ACTING PRESIDENT (Ms Patten): Maybe with the next speaker.

Mr DAVIS: I am happy to do that as required. But they are close, are they? Very good. We indeed indicate that we will look at the other amendments that are being brought forward by Dr Cumming, by some of the other independents and indeed by the government. We will look closely at all of those pieces of proposed amendment. We will look at them fairly and come up with sensible responses to each and every one of them.

Mr GRIMLEY (Western Victoria) (14:59): I rise to speak on the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021. To start this speech in the words of pandemic law supporter Ms Patten, the Acting President, on 3AW recently, ‘the devil will be in the detail’—and indeed it is. I would like to say at the outset that Derryn Hinch’s Justice Party agrees that throughout this pandemic we have needed to take unprecedented steps in order to keep people safe from what we know is a dangerous virus. We only have to look at the ICUs in our state and across Australia currently to figure that out. However, there are measures that have been taken that go well beyond this goal and encroach on the freedoms that we have fought extremely hard for and which have been taken away unnecessarily. Our disappointment that three crossbench MPs would try to sell this bill as ‘not another state of emergency’ is frankly misleading. Mr Meddick even stated on Facebook, and I quote:

It is not an extended State of Emergency. It removes the requirement for Victoria to be in a State of Emergency for a pandemic ever again.

Dr Ratnam said, and I quote:

These new laws mean that there will be no more state of emergency for COVID.

This bill is absolutely a legislated state of emergency for pandemics. It allows the government the same powers as conferred by the state of emergency, and for Ms Patten, Mr Meddick and Dr Ratnam to state otherwise to justify their support for this bill is just simply wrong. It is the same stuff as a state of emergency, just gift-wrapped, akin to putting lipstick on a pig.

I will talk more about these three crossbenchers later, but I just wanted to touch on some of those statements and also some statements that Mr Meddick raised recently on radio in relation to this bill, some comments made last week on the ABC. Firstly, Mr Meddick has agreed that this bill is flawed, saying that it should be improved and even stating he has been asking the government to improve it. In fact he has asked for additional oversight mechanisms in the bill, and this would contrast his immediate support of the bill. He even stated on Facebook, and I quote:

... I will be supporting the bill when it comes to our house.

The house amendments do not bring in additional oversight apart from finally ensuring that the bill complies with human rights and that making a pandemic is reasonable. Mr Meddick also claimed that once a pandemic disease ceases to be a pandemic disease the pandemic declaration will be revoked. This is false, given that the definition of ‘pandemic’ is quite literally that a pandemic declaration can be enacted where only a disease of pandemic potential exists in the world, a point that I will make later on.

However, in my debate of this bill I would like to start as I always do with most bills these days and talk about the lack of consultation. I said it a few weeks ago, and I will say it now: our party was never consulted on this bill, nor were we afforded that opportunity. We received a 30-minute briefing by the health minister’s advisers the week before last, but unlike three crossbenchers, we never knew about the ins and outs of the bill until the media reported it. A government minister said in the other place that the government only consulted people who put up their hand and said, ‘Yes, we want to work with the government; we want to work through the challenges of this bill’. But it was not until Ms Crozier was accidentally sent an email about the existence of the planning for this bill back in March, I am led to believe—or thereabouts—that we found out what was happening. If that mistake had not been made, we would never have known about it. We would have welcomed consultation on this bill, but because we did not support the first two state-of-emergency extensions, we were never afforded that opportunity. This needs to be put on the public record: that once we disagreed with the

government's position we were struck out of negotiations and consultations. In fact in a *Guardian* article recently, on 15 November, Minister Foley stated, and I quote:

We're working through all these issues with crossbenchers who have chosen to engage constructively.

Well, how on earth could other crossbenchers engage constructively when we were not even engaged in the very first place?

On this note, I would like to give a shout-out to the *Age* for posting the bill online so I could look at it at the same time as others in the community. Why I was in a position to have to read the bill from the media rather than the Parliament or the government, I am not too sure. This was incredibly disrespectful to those MPs who are tasked with voting on this important bill and shows arrogance and disrespect to elected members of Parliament. Like I said the day after hearing about the bill briefing being undertaken by Mr Meddick, Ms Patten and Dr Ratnam, apparently we are not part of the cool-kids-in-school group. Pushing the bill through shows us that on this occasion the government has not afforded other parties the consideration of adequate parliamentary oversight and scrutiny, and this is what this chamber is for. We had three sitting weeks left when the bill was introduced in the other place, and so there was ample time for debate if they had chosen to adjourn for the week—a poor decision.

Lastly on this lack of consultation, it is not only MPs who are annoyed about the lack of consultation on the bill. Notably the Victorian Bar Council have said the 'appalling' bill, in their words, caught out the government in a lie. The president of the association, Christopher Blanden, QC, said he was offended that the bar was referred to as an organisation that was part of the, and I quote, 'expert reference group', when they only had a 45-minute online meeting about the bill in June. Although the broad issue of the declaration of pandemics was raised in the meeting, the bar said that there was no further contact, so their concerns were never resolved. They further said, and I quote:

The Victorian Bar was never provided with a draft Bill. Two members of the Victorian Bar Council were registered to attend a 1 hour 'consultation workshop'—

in September 2021.

This workshop was cancelled at short notice and never rescheduled.

Apparently this is consultation. I have to say that this bill is somewhat of an improvement on what we have now. These state-of-emergency powers caught us all by surprise in March last year when we had severe restrictions placed on our lives that we did not know were even possible. I think we all understood that some things had to change: large gatherings and events needed to be reduced and density limits were needed to some extent, as was mask wearing in high-risk settings. But this happened all over the world. In places where there were few restrictions, like Brazil, we were seeing mass graves being plotted, which was just absolutely gut-wrenching. But then things got ridiculous. Hotel quarantine was botched. Decisions were made with no health advice whatsoever. Curfews and playgrounds—does that ring any bells? We did not get the 4000 beds that were promised about 18 months ago and that would have assisted us in opening up sooner. No wonder public trust has diminished significantly in the last few years.

Speaking of not getting what was promised, why are our schools still waiting to get the air purifiers they were told that they would get in order to reduce the risk of contracting the infectious disease? Why the delay on these important tools against COVID, especially within an area where children are at risk, are continuing to get the virus and are at times incredibly sick? Why do we have air purifiers here in this place? We have got a few of them. This is a massive open area and yet we have got air purifiers here. Why do we have them here and not in schools? I just do not understand it. It is disgraceful. It is a slap in the face for schools, teachers and students. We have been and remain so very proud of the work that they have done in these incredibly trying and unprecedented times. I am very tempted to grab a few of these air purifiers from here, put them in the back of my car and deliver them to schools myself. If it was not so serious it would be an absolute joke.

This bill comes at a time when people are sick and tired of governments interfering in their lives. They want some accountability placed on individuals to make their own choices rather than the government giving them an ultimatum of ‘You get the jab or you lose your job’ or ‘You get the jab or you don’t step foot into retail until at least the end of 2022’. When will it end?

Onto the specifics of the bill: firstly, the definition of ‘pandemic’ is so loose and so broad. A pandemic can be declared when somewhere in the world there is a disease floating around that our health department deem to have pandemic potential. Whilst the precautionary principle could be applied, we have to consider that by invoking a pandemic declaration the government has the power to make unfettered pandemic orders on the Victorian community. The oversight here, according to the government, is that the chief health officer needs to provide advice that the disease has pandemic potential or that there is indeed a pandemic, but we need to remember that the CHO is a government-appointed bureaucrat.

Given the definition of ‘pandemic’ is so broad, it also raises the question around the length of time a pandemic can be declared, which the bill says is three months at a time. We could literally have a pandemic declaration that allows restrictions on our lives as long as COVID exists somewhere in the world. It does not matter if 99 per cent of us are vaccinated and there are zero deaths; just having this option available to any government is extremely worrying.

Secondly, the health advice that is frequently cited in the legislation. I think it is great that the government have finally succumbed to the realisation that the Victorian people need reasons for being locked in their homes and not being able to do things like play at the park or travel more than 5 kilometres from home and having to wear a mask out when playing golf or fishing. We need reasons. I could not have summed it up better than Shannon Deery’s recent post in the *Herald Sun*, titled ‘What don’t they want us to know?’. Basically he questioned the authenticity of any health advice we are going to see under this legislation if at the same time the Department of Health are fighting tooth and nail not to release advice that they have used to base the February lockdown on. They are fighting so hard not to have to release the advice, citing the reason that it would jeopardise the trust between public officials and ministers. Further, it would reveal, and I quote, ‘high-level deliberative processes of government’. Deery says, and I quote:

Something smells.

If the government is so committed to releasing future advice—to the point it is making it illegal not to do so—then why not start now?

I absolutely agree. He further states, and I quote:

... how are we to trust that the future advice—

under this bill—

will be the whole of the advice relied on?

This is exactly my point. I welcome the parts of the bill that will finally force the government to tell us the reasons behind all of its pandemic powers, but I do not hold my breath that this advice will be authentic or the whole truth. Why am I perhaps cynical? Well, the government is not only not releasing health advice relied upon in February but it has also not released advice and human rights charter assessments to this place as resolved by the chamber on a number of occasions. Everyone has asked for the advice for two years now, and we have received doughnuts.

Lastly, we also have concerns about detention, which Ms Maxwell will talk about later. My greatest concern with this part of the bill is that where you are falsely detained there is no ramification, penalty or punishment for the bureaucrat who put you there. Talk about a lack of accountability. There is also no definition of ‘detention’ except for the fact that it is not necessarily isolation or quarantine, as outlined in new section 165BE, so what is detention? As you can see, there are a plethora of issues with the bill.

Before I conclude, I want to remind all of those who are watching that Mr Meddick, Ms Patten and Dr Ratnam have, according to these crossbenchers themselves, been working to improve the bill with the government since its introduction. Ms Patten has agreed to support amendments, and Mr Meddick has admitted on radio that there are flaws in the bill in relation to detention, the three-month unlimited extensions and so on. This is despite their support for the bill when it first came out. This morning the three have come out saying they will support the bill with all the new changes they have been able to secure. Well, in our opinion the government's house amendments do not go far enough. They are the absolute minimum and all but completely ignore suggestions by our prominent legal bodies, including the Victorian Bar association and the Law Institute of Victoria. Yet it is clear that the community are paying very close attention to the voting on this bill, as we all are, given that this will almost certainly be enacted mid-December this year for who knows how long. After all, this is probably one of the most important bills MPs have voted on in the last number of decades.

On this, to say we have been inundated with emails in the past weeks would be an understatement. And no, they are not campaign emails with the same words and narrative. They are mainly individually scribed by community members with legitimate concerns. I was going to print them all out, but I thought, 'What a waste of paper', so I did not. We have been elected by the people to represent members of our constituency. The people have well and truly spoken. It is imperative that we give our constituents a voice rather than prioritising our own political agenda. To those who have contacted my office, in particular those from the Western Victoria Region, I thank you for sharing your concerns about this bill with my office.

Lastly, I want to put on record how disappointed I am that we have been presented with such a flawed bill to the extent that we have over 90 amendments—and those are just the ones that I know about writing this. This bill will take us a few days of our precious time in Parliament to debate. What this means is that we lose time to debate things around victims of crime, our legal system—which is in a shambles—mental health and so much more. Rest assured we will continue to fight for these areas. To conclude, Derryn Hinch's Justice Party has made its position very clear: we do not and will not support this bill.

Ms SHING (Eastern Victoria) (15:12): I want to talk with the time that I have available today about the very human impact of this pandemic not just in Victoria, not just in Australia but around the world. In the last nearly 24 months we have had our resilience, our stamina and our endurance tested like never before. We have, not just here in Victoria or in Australia or indeed in our neighbouring jurisdictions but around the world, been denied for the very best of all intentions the opportunities to see our loved ones, to connect in ways which we had previously taken for granted and in fact to enjoy the things which make life worth living—the celebrations, the commemorations, the opportunities to come together in grief or in joy. Our stamina has been stretched to breaking point, but it has not broken. Our grief has been something which has loomed large alongside frustration and anger to the point where we have almost no resilience, and yet we prevail. We have prevailed, we continue to prevail and we will continue working alongside our fellow Victorians, alongside those from other states and territories and alongside neighbouring countries and indeed the rest of the world as we reopen our borders to do the things that are reasonably necessary and go no further than the things which are reasonably necessary to manage the health, social and economic risks associated with COVID.

COVID is a global issue for alarm, for tragedy and for loss. What we have seen, however, is that the people have, to repeat Mr Grimley's words back to him, well and truly spoken. In Victoria today, as I look at the daily vaccination numbers, which have become part and parcel of the way in which we check social media, we have just under 4.8 million vaccinations that have been administered through state hubs. This is in addition to those vaccinations which have been administered through our extensive pharmacy and GP networks. We have a vaccination rate of 87 per cent, and where we were slated to achieve the vaccination number—that magical number—of 90 per cent fully vaccinated proportion of the population aged 12 and over on 24 November, that will in fact be brought forward, and the reason that that will be brought forward, to our great credit, in tribute to our stamina and our

endurance and the fact that we are prevailing, is that the overwhelming majority of Victorians have come forward to be vaccinated. They have done the right thing in the context of restrictions, including curfews and including limitations on the way in which we work, the way in which we connect and the way in which we consume, to make sure that wherever possible they have been able to be part of the government response, which has tackled COVID and which sees our daily case numbers beginning to fall.

I want in the time that I have available today to acknowledge the ongoing work of people across just about every sector and industry that you can imagine, from healthcare workers and people in care and allied health through to staff, teachers, parents, those who have been involved in the remote learning operations over the course of the last year, those who have continued to make community opportunities to participate available to Victorians in need, those who have reached out to be the very best of community and to demonstrate kindness and connection to those who have needed it most and those people who have been behind the scenes quietly and diligently and tirelessly working to make sure that the burden and the pain of this pandemic, the restrictions that we have endured and the limitations on our movements have been to the best extent possible minimised or indeed offset. Thank you.

This bill is about making sure that, when and as we contemplate public health bushfires of the likes we have and continue to grapple with, there is now an opportunity to have the right public health response in place. It is all too easy for this issue of enormous magnitude to become a political football, to become a lightning rod for the malcontent, the discontent, the disenfranchised, the angry and the grieving. There is inherent in what we do as a Parliament and what is inherent in democracy the right to protest. The right to protest is something which I would challenge any member of this Parliament or indeed any Parliament around Australia to deny. The right to freedom of protest, the right to peaceful assembly and the right to freedom of association and freedom of expression are rights which are in and of themselves sacrosanct in the democracy that we live in and that we enjoy.

What I do want to say, however, is that lawful protest, whilst an absolutely central part of the way in which people can participate in democracy and indeed in parliamentary democracy, ought not to be overshadowed and eclipsed by the vile, violent, incendiary, threatening, intimidating and indeed in many cases illegal actions of a few. We have seen over the course of recent months thousands of emails to our inboxes, thousands of requests for conversations with our constituents and indeed a multitude of different views put forward in relation to not just the pandemic response, not just emergency declarations and the extension of those declarations, not just public health orders and the public health advice issued by the chief health officer, not just the law and order responses, not just the changes to workforce but the way in which we contemplate our responses to public health bushfires such as pandemics into the future.

It is necessary and it is appropriate that Victoria, in line with other jurisdictions, creates a framework which contemplates the reality of outbreaks, of pandemics and of the sorts of challenges to public health which end in such tragedy of the magnitude we have seen and we have mourned around Victoria, around Australia and indeed around the world. What I want to identify, though, is that it is crucial that any framework has the necessary checks and balances in it, the necessary levels of transparency and accountability in it that engender a degree of public confidence and that in fact provide a necessary level of information, of detail and of accountability, including to the Parliament and including to the Scrutiny of Acts and Regulations Committee, that will in fact deliver a better model for the way in which we manage pandemics and outbreaks into the future. The clarifications which are in fact to be delivered by way of government amendments today fix a number of the ambiguities that were quite rightly, in my view, the subject of concerns expressed by a range of people in this house and indeed a range of stakeholders in the broader community, making sure that when we move the responsibility for issuing those health orders to the Minister for Health, when we move the responsibility for declaration of a pandemic to the Premier, the duties and the obligations which they are required to discharge and to meet are undertaken on reasonable grounds.

The requirement of reasonableness is in fact something which is embedded in those amendments which will be circulated shortly, which were circulated to all members of this house last night; without exception all members last night received the substance of these amendments. These amendments speak to the way in which the upper house as a house of review should conduct itself. The very fact that we have seen a bill which is in fact going to be changed, refined and improved by way of the proposed amendments which the government will put is testament to the very model of democracy working as it should, that very model of democracy which enables people to lawfully protest, which in fact facilitates the protection of right to freedom of expression in the context of the charter of human rights and all that it upholds. The amendments we will see and which will be circulated when they become available following completion by a table office assessment process will, it is my great hope, give a sense of comfort to those in this chamber around the levels of scrutiny, of transparency and of accountability which should in fact be a driving force behind legislative change of this nature.

I want to, in the time I have left, speak very briefly to the impact of this public debate on the people at the heart of it. I speak in particular of crossbenchers in this place who have been subjected to some of the most vile and violent conduct that has been seen in this state around development of legislation. This has become personal. This has become a debate and a discussion which has caused fear, which has caused people to second-guess their security and which has in fact, for people who are not elected—people who are staff, people who are here to assist with the process of democracy—caused enormous alarm not just for themselves but for their families. It has to stop. It has to stop because we do not want to diminish the really important contributions that are made by protesters every day. It is a tiny, vocal, angry minority that diminishes the efforts of those who have gathered, those who have written, those who have contacted our offices to have a view on these matters.

What I want to do is also call out the level of encouragement provided in the name of political participation by the Leader of the Opposition in the other place. On 9 October Matthew Guy said:

As a general principle, I think [public health orders] should be ticked off by a minister or the Premier.

How far we have come that in fact this is the opposite of what Mr Guy now claims. Last week in Parliament Mr Guy also said it was time to move on from everything associated with the pandemic, and yet now what we hear is Mr Guy and his colleagues not only being prepared to condemn those who would advance amendments to make this a better bill, to better reflect the importance of transparency and accountability, but being prepared to go to the front steps, to condemn on the one hand ‘stupid’ protest activity, to use Mr Guy’s own choice of words, whilst also being in the same vicinity as people wielding signs, standing by gallows and screaming into cameras slogans, threats and incitements which urge indeed others to join in the vilest of all possible public commentary. It falls to us as a Parliament to be better than that. It falls to us as a Parliament to carefully consider all amendments which are put and to carefully consider the way in which we as an upper house conduct ourselves in the course of this debate. The process by which this bill has been developed has been an enormously taxing one. I send my love and respect and best wishes to everyone who has been, for better or for worse, in the firing line of the development of this legislation.

As Victorians, we have prevailed. We will continue to prevail. This bill provides the certainty, the security, the transparency and the accountability that all Victorians deserve. It provides a measure of scrutiny and a measure of integrity which is a higher bar than in any other jurisdiction in Australia. It demonstrates that in fact we as a government have listened and have worked with and have refined to the best interests of stakeholders the content of legislation which is debated and indeed hopefully passed in this place. I would seek that the amendments now be circulated, and I commend the bill to the house.

Government amendments circulated by Ms SHING pursuant to standing orders.

Ms CROZIER (Southern Metropolitan) (15:28): ‘Where no counsel is the people fall but in the multitude of counsellors there is safety’. That is the motto in the vestibule of this Parliament. I would hope that those within government and those crossbenchers that are voting for this bill today in support

of what the government is proposing remember that, because this bill is flawed. It is flawed, and as we have seen, the last amendments—27 of them—that came through late last night by the government demonstrate just how flawed this bill is.

I have just listened to Ms Shing, who quite disgracefully misinterpreted the Leader of the Opposition with her inference about what he was supporting and where he was and who virtually said that he was with some people who were doing and saying some vile things. He has repeatedly said he does not condone that violence—none of us do. What he also said is, ‘You don’t tar everyone with the same brush’. Not all of those people who have been in the streets raising their voices with concerns about this pandemic legislation should be absolutely maligned, like was just done by Ms Shing, in terms of painting everyone in that way. I think that is shameful, absolutely shameful, but it is also shameful that you have been subject to and a number of my colleagues and I have also been subject to some fairly serious threats over the course of the years.

Nevertheless, let us turn back to what this is about. This piece of legislation that we are debating today is about the people. I want to go back to 5 March, because on 5 March I received an email from the Minister for Health’s office, and it said:

Hey Andy & Georgie,

I hope you’re both going to get a chance to have a bit of a break this long weekend after what was a very big week!

I just wanted to email to lock in a placeholder for the 3 and 6 month briefings on the standalone pandemic legislation proposed earlier in the week.

The crossbench were dealing with the government back in March. To say that they were not is clearly not the truth, because here it is and the dates are given. I responded—well, my office responded—saying, ‘Thank you very much. I appreciate that’, and a response came back:

My apologies—the invite was supposed to go to Andy’s Chief of Staff who is also named Georgie.

Thanks for bringing it to my attention and please disregard.

The government was disregarding the opposition wanting to understand this very important piece of legislation. When I asked the minister in a briefing two weeks following that—it was around 19 March, and my staff sat in on that briefing—about the briefings that the crossbench were given and why the opposition was not afforded the same courtesy, he said:

The government underwent a process to develop the Bills in an appropriate manner.

... the Opposition put itself outside the process when it voted against the SOE extension.

The government is working collaboratively with the crossbench.

What a disgrace that he pits one group of people against another. The other crossbenchers were also disregarded in this process because they took a stance on the state of emergency. They were also penalised by this government, this government who will do that—it will pit people against one another. They have divided people constantly throughout this entire pandemic. They want to say that they are working and saving people, but they are pitting people against one another. You would not get 60 000 or 90 000 people or however many there were protesting—there were streets full on Saturday—if they did not feel there was something wrong with this legislation. And there is, because there are a number of very eminent people, individuals and groups who say the same thing: this pandemic legislation is flawed. They include the Victorian Bar, the eminent senior counsel and Queen’s Counsel, the Law Institute of Victoria, Liberty Victoria, the Human Rights Law Centre, the Centre for Public Integrity, the Victorian Equal Opportunity and Human Rights Commission, other legal organisations and members of the legal community. I have had many of them write to me, ‘Thank you for giving your views, understanding’, looking at the legislation and giving their views about why this legislation is so dangerous—and other commentators and members of the public. And today the Ombudsman came out and said the government’s amendments do not go far enough.

Again, all of these people are in the public domain. They are there speaking about why this legislation is not only dangerous, it is extreme. The powers are too great. There is no oversight. There are no checks and balances. As I said, the motto in the vestibule says it all. You know, the crossbench and the government will say, ‘Well, the checks and balances are there, based on New South Wales and New Zealand’. Well, those committees are not the same as what is proposed in this legislation or the Scrutiny of Acts and Regulations Committee, SARC, a committee that is chaired by the government and has a majority of government members. That is not an oversight committee that is the same as New Zealand’s, where they have 11 members, six of which are from the opposition party, on it. New South Wales’s is chaired by the Greens; I think it is deputy chaired by the Shooters, Fishers and Farmers.

Ms Patten interjected.

Ms CROZIER: Ms Patten, you have voted with the government the whole way along. And I want to say when I brought into the house a private members bill in June, earlier this year, for greater transparency and accountability—a private members bill for the chief health officer to provide that information—it was the Reason Party, Animal Justice and the Greens who voted with the government not to have that degree of accountability and transparency. We know why: because they were dealing with the government on this very legislation, doing the deals.

I go back to those people that have wanted to say that this bill is flawed. They have got concerns, and you can go back and have a look at the concerns that they raised. I will make some points because I do not have a lot of time to speak on this bill and I have got so much to say. There is the open letter that has been provided by eminent QCs and more that have come online:

The minister can make a pandemic order while a “pandemic declaration” made by the Premier is in force.

If you look at new section 165AB(3), you see the words:

The Premier may make a pandemic declaration whether or not, at the time the declaration is made—

- (a) the pandemic disease is present in Victoria; or
 - (b) the disease is a disease of pandemic potential that is present in Victoria—
- as the case requires.

These are extraordinary powers that he can declare. And as we have said, as we know, there do not have to be any cases in Victoria; there can be low cases or no cases. The disease does not even have to be within the borders of Australia. This is a government which has given itself some extraordinary powers.

I have been asking for greater accountability and transparency. I have been arguing that for 20 months because this government has failed to provide that transparency and accountability. And now they are saying, ‘We’re doing it. This is what you asked for. This bill is what you wanted’. Yes, we do want accountability and transparency, but I am still waiting for all of the orders and for all of the decisions and for the advice provided over the last 20 months. This disgraceful government will not provide this Parliament with that information. As Mr Davis has said, he is at VCAT fighting for those orders to be released, to have that degree of accountability and transparency. If they are so willing to do that, then why not provide all of the information for all that has gone on in the last 20 months? This state has been the most affected of any in Australia—the harshest of restrictions, the worst outcomes. Melbourne: the longest locked down city in the world.

We have had the harshest of restrictions, as I said. Is it any wonder there are so many people concerned about the human rights elements that this bill infringes upon and why there is not the proper accountability, the checks and balances, required by the Parliament—that should be required by the Parliament? Ms Shing just said, ‘This is what a house of review does’. Yes, it is, but we had that debate earlier and the government said this is an urgent bill. They are ramming it through. They rammed it through in the last sitting week. It was first read on 26 October, it was second read on the 27th and it was guillotined the next day—36 hours. On stakeholder engagement, when I asked the government

who they have been engaged with, who are the stakeholders, they gave me two names. I am still waiting for the rest of the names.

This is a government that will do anything to look like they are leading the way and to be the first to have pandemic-specific legislation. You can see the marketing and the PR and the spin and all the garbage that goes with it. With this government, that is what they want. They want to lead Australia, but what they have done is given Victoria a very flawed bill, and that is evident, as I said, by the very late-night amendments that we received last night. Why can't the community have time to digest those amendments that were presented at 10.30, to the opposition, last night?

Mr Ondarchie: It is ramming it though.

Ms CROZIER: It is ramming it through, as Mr Ondarchie said. That is what they will do. They are not giving the legal fraternity or others—the general community—the respect and the time for them to consider this. That is partly why this is so dangerous: because the community has lost trust in this government. They can see what has happened over the last 20 months. They wanted the government to get it right, but the government has not—they have failed. They have failed every single Victorian in the way they have treated Victorians with utter contempt. We saw it in this house last year; we are seeing it in this house again today. Victorians deserve better than this. They deserve a government that is open and transparent. If they were really serious about accountability and transparency, then they would provide all of that information that we have been requesting for the last 20 months, not try to cover it up with this bill—this bill that is flawed. They have not got it right. As one of the QCs said, if they are rushing it through like this it is sure to have problems. Well, we know it has got problems, because of what we have seen and what they are trying to fix up. They are trying to paper over the mistakes that they have made.

What they are saying is they have done the deals with the crossbench. The crossbench have said, 'Yes, we've done the deal with the government', so they have done the deal with the government. I hope that the government does not go on about the people who have expressed an opinion on this and who have been in the street, who have in their thousands written to me. They have written to me and they have written to my colleagues and they have written to every member in this house about their concerns—and in a very respectful and polite way, I might say.

For the government to disregard the voice of Victorians shows that the government is so arrogant, so disregarding of the concerns about what this legislation will do. It will lock Victorians down again. It was designed for that. The intent is there. The bill is written like that. It was designed, as we have seen, to look at characteristics and attributes. And now the government knows that that is on the nose, so they are changing that. But this is the intent of what the government wanted to do—so many mistakes, so many flaws, a shocking bill, a bill that should never have been presented to the house in the way it has been.

I see the advisers over there nodding their heads. This is a government that has absolutely brought a bill into this Parliament—

Ms Taylor: On a point of order, Acting President, making inferences about advisers and their opinions—about what they think or feel about the bill—is ridiculous.

The ACTING PRESIDENT (Mr Melhem): Ms Crozier, I will give you a few more seconds, but making reference to advisers and other staff is not appropriate. I remind all members to refrain from involving advisers and staff in their contributions. Ms Crozier, I will give you 10 seconds because of the point of order.

Ms CROZIER: Thank you, Acting President. I say again: this bill should never have come into this Parliament in the way it did. There are tens of thousands of Victorians—hundreds of thousands of Victorians—who are so concerned about it, and we are too. We will not be supporting this flawed piece of legislation.

Ms PATTEN (Northern Metropolitan) (15:44): I am pleased to rise to speak on this legislation. Let us just remember—and let us be really clear—that if our government and this Parliament had done nothing about COVID, then our health system would have been overwhelmed and thousands of Victorians would have died, gasping for air, many of them doctors and nurses, many of them friends or family. I have no doubt that everyone in this chamber probably knows someone who has had COVID, is experiencing the effects of long COVID or is immunocompromised and is frightened by COVID. I have no doubt we all know someone. We all have constituents who are in that circumstance. Doing nothing seems to be what everybody is calling for, because they did not want the state-of-emergency legislation. That was not suitable, so doing nothing seems to be what they are suggesting: ‘Let the disease run wild; let’s do nothing’. It is not acceptable here. It is not acceptable anywhere in Australia. It is not acceptable anywhere in the world.

The ultimate human right is to protect life, and that is what this bill is doing. If you disagree with this proposition, I would really consider how you are representing your constituency, your half a million constituents. There are half a million at least in your electorates and you are saying, ‘We do not believe that we should protect the right of life’.

Mr Finn interjected.

Ms PATTEN: I thought that would get you, Mr Finn. We have got to manage this pandemic. We have got to curtail the spread of disease. That leaves us with two options. We declare a new state of emergency, which those on the other side—those that are opposing the bill today—vehemently opposed. My colleagues on the crossbench who are opposing the bill today, who have publicly stated they are opposing the bill today, publicly opposed the state of emergency. And a number of the reasons were, ‘We don’t see the health advice’, ‘Where’s the human rights assessment?’, ‘Why isn’t the Premier in charge of this?’, ‘Why isn’t the health minister in charge of this?’, ‘Why are they hiding behind the chief health officer?’. These were all the options. So today we have two choices: we can support this legislation or we can try and get through another state of emergency. Now, if March is anything to go by, that is not going to be easy. That is not going to be easy. I went on the record. I am actually in a very difficult spot because I went on the record in March and said I would not support another extension of a state of emergency. I said that in March, and I said that we needed specific legislation to deal with pandemics.

Mr Ondarchie interjected.

Ms PATTEN: In fact, Mr Ondarchie, you can check my op-ed in the *Age*. You can check my op-ed in the *Herald Sun*, where I said we needed pandemic-specific legislation, because otherwise we are dealing with state-of-emergency legislation that is designed to deal with floods. It is designed to deal with fires. It is not designed to deal with global pandemics. While we are dealing with COVID now, every single medical researcher is telling us this is not our last pandemic and we do not even know what the next pandemic is going to look like. So here we are with new pandemic legislation that is specific to pandemics, that enhances transparency, that enhances oversight, that has greater checks and balances, that improves on what we have used in that state-of-emergency framework. But this framework is just for pandemics.

Now, Liberty Victoria, the Human Rights Law Centre, the Centre for Public Integrity, the Law Institute of Victoria and many other expert organisations said we needed specific legislation. In fact I remember Mr Davis calling me, asking me to meet with the Centre for Public Integrity because they would explain to me why the state of emergency was not appropriate for pandemics and they would explain to me why we needed specific legislation for pandemics. And do you know what? They did. And that is why, in March, I said we need specific legislation. And I do not think the government were particularly happy with it, but they agreed. They agreed, and with my colleagues Mr Meddick and Dr Ratnam they also agreed that we could be part of that process of developing that legislation. So, yes, I do not think it is any big secret if Ms Crozier may have seen us. We were on the record in March. I remember standing at a press conference saying that I would be working with the minister to help

develop and be consulted in this. I then spoke to Liberty Victoria. I then spoke to the LIV. I then spoke to the Centre for Public Integrity, which had been the pin-up for the opposition in the state of emergency.

Now, I note that the opposition has been silent about the position of the Centre for Public Integrity, and I can tell you they are actually supportive of this. Also, I will later in my contribution talk about the amendments that we have negotiated over the last two weeks with the government in light of the recommendations from the Centre for Public Integrity, from the Law Institute of Victoria, from the Victorian Bar, from Liberty Victoria, from the Human Rights Law Centre. I take that back. I did not have an opportunity to speak to the Victorian Bar, but I did have an opportunity to speak to the Law Institute of Victoria. I did speak to the Human Rights Law Centre. I did speak to the Centre for Public Integrity. I did speak to Liberty Victoria.

I just have to say that the misinformation that has been spread prior to today, but also today from Mr Grimley, from Mr Davis—I mean, they should know better. They probably should have asked for another briefing because they obviously do not understand this legislation. They do not understand this bill. They do not understand what it is doing. And I have to say that this is politically motivated. I think it is shameful. I am embarrassed for you, because to fan misinformation out there—

Mr Ondarchie interjected.

Ms PATTEN: Mr Ondarchie, I will take that point up. I said it could be improved. I said that and I said the devil will be in the detail when I went on 3AW, which was quoted, I might add, by Mr Grimley. And there are many amendments to it that I have improved it on. It is legislation that tries to find that delicate balance between human rights and protection of human life. Now, as I said—

Mr Ondarchie interjected.

Ms PATTEN: Please, Mr Ondarchie, you are just verballing me. It is actually not the case. I would encourage you to go back and listen to that interview where I stated that I had not read the legislation and the devil would be in the detail and I would be looking for amendments. So, okay. But I would encourage you to go back and listen to it, if you are so interested to do that.

What we have seen is an incitement of violence. We have seen fanning the fear of Victorians, and yes, Victorians are fearful. We do not have much left in our tank. This has been tough. We do not want to see any lockdowns. We do not want to see any more restrictions on our freedoms. I do not either. I watch every morning the vaccination rate because I know when we get to that 90 per cent that is when we can remove all of our restrictions. That is the national framework. That is not just Victoria.

I know that when I get the opportunity to get to the emails actually from my constituents and not from the people who email me from Queensland and New South Wales and Western Australia and everywhere else outside Northern Metropolitan, when I get the opportunity to actually speak to my constituents, I am trying to help them with their issues of mental health. I am trying to help them with their issues of housing or employment. That is what my job is doing and that is what I am trying to do. I want to go back to prepandemic. I would love to pretend it never happened, but by refusing to support state-of-emergency legislation and now refusing to support pandemic legislation, what are you going to do? These laws only exist for situations where carrying on as normal puts us at risk. If we did not have these laws of this type, there would be no way of curtailing the spread of COVID or any future pandemics. People will die as a result of that, and I certainly believe that. I heard one of the other speakers talk about Brazil, where we saw thousands. We were seeing mass graves. We are lucky. Australia is lucky. We have done extremely well. But let us remember that if we did not have these laws there would be no way—I repeat, no way—to curtail this. So we have got this binary choice: we look at how we have to restrict people's rights to protect human life or we do not restrict human rights and we let people die. No jurisdiction in Australia or in the commonwealth has done that.

Every state in Australia has declared a state of emergency, and I know that many of the people who are opposing this legislation today are well aware that the state-of-emergency legislation in every other jurisdiction does not provide for assessments of human rights, does not provide for the publication of the health orders, does not provide for a Scrutiny of Acts and Regulations Committee (SARC) to assess the orders, does not provide for an independent advisory committee to scrutinise and look at the legislation. No other jurisdiction does that. I think we are interested to note that Premier Perrottet used today to announce that he will be extending the New South Wales state of emergency to 2023, because every other jurisdiction has very little oversight.

Mr Ondarchie interjected.

Ms PATTEN: Mr Ondarchie, I am not even taking up your interjection. Mr Ondarchie has had a moment to provide a contribution. He does not need to—

Mr Ondarchie interjected.

The ACTING PRESIDENT (Mr Melhem): Order! Mr Ondarchie, let us stop interjecting and let us have it all through the Chair. Ms Patten to continue, without any assistance from anyone.

Ms PATTEN: If I could go to the point Liberty Victoria made, I think they put it quite eloquently:

... restrictions on human rights may be required to avoid a serious risk to public health (which is compatible with the right to life and the right to health).

We have learned over the last two years that our state-of-emergency laws are not fit for purpose. Our state-of-emergency framework lacks transparency and vests powers in health officials to make decisions outside their remit that affect the whole state. We know that COVID, while it affects our physical health, also affects so many other parts of our lives, and yet we have to rely on the chief health officer to make those assessments and make those rules. And the legislation does not require any reasons for that; they have to put out their declaration, and there is a lot of information in that, but not the health advice. It lacks that transparency. That is why in March I called for pandemic-specific legislation, and I was very open and vocal about that—and I know Dr Ratnam and Mr Meddick were also. So while Ms Crozier thinks it is surprising, it is not. It is not surprising.

As we know and as I will repeat, the pandemic legislation provides for greater separation of powers in the decision-making process; makes important transparency improvements, including full publication of the chief health officer advice; improves parliamentary oversight via the Scrutiny of Acts and Regulations Committee; provides for an independent advisory committee; and allows Parliament to disallow health orders in certain circumstances. But importantly, the buck stops with the elected officials, who are responsible to all Victorians at the polling booth.

I think it would be worth noting what happens in other jurisdictions. Here, under this new legislation, orders are signed by elected officials. Okay, that happens in other jurisdictions. Powers are separated between elected officials—no, that will only happen in Victoria—where the Premier will make the declaration but the Minister for Health will be required to make the orders. Parliament may disallow health orders in certain circumstances. Actually, nowhere can that happen, with the exception, if this bill passes, of Victoria. The full health advice must be published. No other jurisdiction is required to do that, and certainly Premier Perrottet, when he just announced a state of emergency in New South Wales until 2023, did not have to put any advice out there. He could just say, ‘I’m doing that’. Victoria is the only state with an independent pandemic advisory committee.

Dr Bach: Parliamentary oversight?

Ms PATTEN: For parliamentary committee oversight, we have SARC. It was interesting to hear Ms Crozier talking about the wonderful oversight committee that the New South Wales Parliament has—that upper house crossbench committee that the Liberal Party of New South Wales refused to be part of. In fact they opposed the motion to establish that committee. So here we have a very different view. And let us remember, as an upper house we can establish that same committee if we feel that is

necessary. We established an inquiry into contact tracing and testing just last year. We have that power to do that if we think it is necessary. I think that is certainly something that this house has, because this is the house of review.

So the health minister has to publish everything, and if he does not agree with the chief health officer's advice, he has to publish why. There is an independent advisory committee of experts to provide frank and public oversight. The bill empowers the Scrutiny of Acts and Regulations Committee to ensure that these orders are consistent with the charter of human rights. The transparency rules are the checks and balances that we need, and I would have to say that, in looking at the comparisons of other jurisdictions, which I did over this time in consulting around what would pandemic legislation look like—I looked at Denmark, I looked at New South Wales, I looked at New Zealand, I looked at the other states around Australia—you could see all of the gaps. They were all of the gaps, I might add, that the opponents of the state of emergency were articulating.

The amendments have been circulated, so we know that many of the concerns that were raised by the Centre for Public Integrity, the concerns that were raised by Liberty Victoria, the concerns that were raised by the Human Rights Law Centre have been addressed in those amendments—things like the extraordinary fines and charges for aggravated offences under this legislation. They have been halved under the amendments, and I think that is commensurate with other states. I would note that conduct endangering life actually has 10 years jail, so when you are talking about an aggravated offence of endangering people with a virus, I think we are hitting the right mark about this.

I think it was incredibly disingenuous of Mr Davis to start listing certain attributes that may have been captured by this legislation when he knows that is not the case, when he knows that attributes are pertaining to protection of life, pertaining to keeping us safe from a pandemic. But I am pleased that the amendments go further to provide clarity on that issue—that it may be about aged care, it may be about children, it may be about a range of people, but it is not, as some people have been trying to attest, things like religion or political beliefs. All of these protections are enshrined.

The power of detention—and this is my final point—I understand. I noted everybody supporting a terrorism bill two weeks ago that provided extraordinary powers of detention, but everyone was silent on that. But we have actually seen since March some considerable changes to this one. We have seen over 200—I think it is 260 or 300—assessments of detention orders, and about a quarter of them have been varied. So I will watch with interest that area. I understand and I appreciate that under the new amendments this legislation will be reviewed within two years, and I will speak more about that during the committee process.

In summary, this has been an incredibly difficult time. I thank all of the health workers that have been incredibly supportive of our push for pandemic-specific legislation. I am very grateful for the health experts and the public health experts that have supported us in trying to find the right balance, because it is a delicate balance between protecting human rights and protecting human life. And I believe that while I think I have never seen a perfect piece of legislation, we should not let the perfect get in the way of the good, and I support this legislation.

Sitting suspended 4.05 pm until 4.20 pm.

Mr FINN (Western Metropolitan) (16:20): I rise to speak on the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021, the pandemic bill as it has been referred to the length and breadth of the state over recent times. I have to commend Ms Patten. She almost kept a straight face there for a while, and I think given what she was saying that was a damn good effort, because if I was coming out with the nonsense that she was coming out with, I certainly would not have been able to keep a straight face in the manner that she almost did. It reminds me of the last time we debated the state of emergency towards the end of last year when Ms Patten gave the immortal quote, 'This is not about lockdowns'. That was before lockdowns 3, 4, 5 and 6, before the Premier made Melbourne the most locked down city on the face of the earth. Look, I do not wish to be too harsh on Ms Patten,

but when we come to this subject I think we can take what she says with a grain of salt, and that is certainly what I intend to do.

What I also intend to do is to quote Henry Wadsworth Longfellow from the *Masque of Pandora*—and that is not entirely inappropriate, the *Masque of Pandora*—from 1875. The quote is: ‘Whom the Gods would destroy they first make mad’. I reckon there is a fair chance he was looking into the future and thinking about Daniel Andrews when he wrote those words. Does he seriously think people are going to cop this? Does he seriously think that Victorians are going to wear what he is trying to pull here today? Does he seriously think that Victorians are mad? I tell you what, if he does, he is the mad one—if indeed he does. The Premier has his lapdogs on the crossbench, and fair enough, that is all very well, but people in the streets, in the suburbs, in country Victoria, will not wear this. They will not wear this.

I was at a rally on Saturday where there were some 90 000 people according to Victoria Police. And if you had been there, you might have estimated a few more because it was, as I said this morning, the most massive crowd I have seen at a demonstration since the anti-Kirner-government demonstrations of 1992. We know what happened at the end of 1992, so it may well be that history is repeating itself. We can certainly hope so.

But let me tell you, the people that were in the streets in such enormous numbers on Saturday are not going to wear what this government is trying to pull here, what this Premier is trying to pull. The people out the front now are not going to wear it. It is quite extraordinary that here on a Tuesday you have got people who are prepared to sleep, to camp overnight, on the steps of Parliament in a vigil against this legislation, such is their commitment. Let us face it, the majority of people in this state, and indeed in this country, do not have a great involvement in politics, nor do they have a great interest in politics. But I tell you what, what Daniel Andrews has done, what this government has done, is give the people of this state a reason to have an interest in politics and a reason to get involved in politics, and that is what is happening. Every cloud has a silver lining, and that is the silver lining—the number of people who are getting involved in politics now because they want to get rid of this Premier, they want to get rid of this government, and I say good on them. Those people will be there again all night tonight, I understand, and I wish them well. I hope it does not rain as it did on us on Saturday. I commend them. I commend them for their commitment. I commend them for taking a stand in support of freedom in this state, because God knows, somebody has to—so well done to them.

Now, there is no doubt that the Premier has way too much power in this state already. Already he has way, way too much power, but if this bill is passed, he will have control of just about everything. There is not much that he will not be able to control. And he will be able to call lockdowns at—

Ms Terpstra: On a point of order, Acting President, I would like to understand what Mr Finn is trying to say when he says the Premier will have—

Mr Ondarchie interjected.

Ms Terpstra: Excuse me, can I finish? Could Mr Finn please explain what—

Members interjecting.

The ACTING PRESIDENT (Mr Bourman): Order! Everyone, can I just hear the point of order in silence, please.

Ms Terpstra: What part of the bill is he referring to when he says the Premier has uncontrolled power?

The ACTING PRESIDENT (Mr Bourman): That is not actually a point of order. But, Mr Finn—

Ms Terpstra: It is misleading the house.

Mr FINN: It is not misleading the house, and you know damn well it is not misleading the house, because that is what this legislation is about. It is giving a megalomaniac more power; that is what it is about. And there is no question about that.

Mr Leane: On a point of order, Acting President, Mr Finn referred to the Premier as a megalomaniac, and I think he needs to withdraw that and maybe get closer to the bill. I am sure he has no idea what is in it, but he should have a crack.

The ACTING PRESIDENT (Mr Bourman): Mr Finn, can I get you to withdraw the ‘megalomaniac’ comment without—

Mr FINN: Look, I am happy to withdraw the word ‘megalomaniac’ with reference to the Premier, but I invite Mr Leane to go down the steps of this place and take a straw poll and see what the people down there think of that word—and I tell you what, there would be a few others that they would throw around as well.

This bill is purely a matter of trust, and you have got to ask: why would the people of Victoria put their trust in Daniel Andrews? After everything he has done to this state over the past two years, after everything he has done to the people of this state over the past two years, why would anybody trust him when he says, ‘Oh, no, I’m not going to lock you down’? Remember earlier this year—we were all very excited when he came back from his accident; we were all very excited. On the first day he said, ‘There’s going to be no more lockdowns’. Within a week he had us back in lockdown, and he has rarely had us out since. Why would anybody believe him? Why would anybody trust him? This bloke—one day I am going to introduce him to the truth, and they will both get a shock. It will be quite stunning for both of them.

Now, what has happened over the past two years has happened of course before this legislation has gone into law. God knows what will happen to us once the Premier—and I nearly said something else—has the sort of power, the sort of total control, that he wants under this legislation. On Wednesday of last week seven authorised officers—and don’t you love that word; it is a bit like ‘authorised workers’, very Stalinist Russia; you have got to be authorised to do this, authorised by the government to do that—raided the medical surgery of one of my constituents, Dr Mark Hobart. I know Dr Hobart not well, but I know that he is a very well respected GP in the Sunshine community. I know that he has been serving the people of Sunshine for 30 years, and there are many, many hundreds if not thousands of people in the Sunshine area who rely upon him for their medical needs. It is stunning that you have a situation where a doctor’s surgery can be raided by these authorised officers, where confidential medical information can be taken by these people—and God knows where they have put it; God knows what they are doing with it. But the fact of the matter is that there are potentially thousands of people in my electorate, thousands of my constituents in the Sunshine area, whose medical files are wandering around somewhere—we do not know where—all as a result of the power of these authorised officers.

If that can happen now, what is going to happen when this legislation—if indeed this legislation—is actually passed? What is going to happen? It is just extraordinary to even contemplate. If Daniel Andrews is sending blokes in jackboots into medical surgeries to raid people’s medical files now, what is he going to do with the legislation next week or the week after? What is he going to do?

Mr Leane: On a point of order, Acting President, Mr Finn needs to withdraw that Daniel Andrews has been sending authorised officers with jackboots into premises. It is actually quite offensive.

Mr Ondarchie: On the point of order, Acting President, Mr Leane has absolute ability to debate this as part of the second-reading debate, so I would invite him to do that rather than continue to interject on Mr Finn and tie up his time.

The ACTING PRESIDENT (Mr Bourman): Mr Finn, can you withdraw the ‘jackboot’ comment, please.

Mr FINN: Are you aware of what they were wearing, Acting President? Okay, the thonged authorised officers. They were wearing thongs. Are you happy with that? Next you will be talking to Ms Shing about walking down Bourke Street.

The ACTING PRESIDENT (Mr Bourman): Mr Finn, withdraw the comment, please.

Mr FINN: I withdraw. What an extraordinary thing, when you cannot use the word ‘jackboot’ in the Parliament of Victoria—just extraordinary.

Many people have used the word over the past 18 months, two years, ‘unprecedented’. I am absolutely sick to death of the word ‘unprecedented’. Everywhere you go you hear it—‘unprecedented’. But here we have a Premier and a government who are seeking unprecedented power for itself and indeed for himself. And I tell you what: given his record over the past two years, he does not deserve it. The damage that he has caused this state is indeed unprecedented. He does not deserve the power that he seeks. And if you do not want to believe me, ask the Victorian Bar Council, ask the Ombudsman, ask the Victorian Equal Opportunity and Human Rights Commission, ask the 60 QCs who have come out condemning this legislation. Sixty QCs—how the hell does anybody get 60 QCs to agree on anything? That is unprecedented. It is just absolutely extraordinary.

On the matter of trust, the Victorian people see this crowd over the road here and they remember the red shirts riots. They remember the refusal of members opposite to cooperate with the police. They remember the quarantine inquiry where nobody remembered anything. And now the Premier is saying, ‘Trust me’. Well, I tell you what: they will not, and I do not blame them one little bit. The people are marching in the streets not because they are some sort of right-wing Neo-Nazi or white supremacist or something; they are ordinary Victorians who are frustrated, who are angry and who have been ignored by Daniel Andrews for far too long, and they have had enough. They are being pushed to breaking point. They are being pushed to a position where they are doing things that they have never done before.

The overwhelming majority of people who were out the front there on Saturday had never marched before. They had never been at a protest before—never. But that is something that we have come to accept, that that is now apparently a way of life. Why would anybody trust the Premier when he will not release the public health advice that he uses to lock us down, to lock down our businesses, to put us out of work and to have medical apartheid in this state? Why would anybody trust Daniel Andrews when he will not tell us the medical health advice that he based his curfew on, when he locked us in our homes all night? Why would anybody trust him? It is just extraordinary. This bill is appalling and this bill should be defeated. I will vote to kill the bill.

Ms TAYLOR (Southern Metropolitan) (16:35): When I think of the Victorian community I think of a very caring and considerate and compassionate community that care about others, that not only care for themselves but care about the people in their streets, the people in their schools, the people in their churches, synagogues, wherever you go to worship or not worship. I think that we are a very compassionate community, and I actually think that is why Victorians have worked so hard and have been so committed through one of the most difficult periods in our lifetime. It goes without saying that the pandemic is not exclusive to Victoria. It is worldwide.

Dr Bach interjected.

Ms TAYLOR: It is a worldwide pandemic by nature, and I think even Dr Bach himself has made the statement that the pandemic in itself is inherently a global event, so to speak.

Victorians know that being caring and considerate enables us to share roads, to share pools, to share pathways, hospitals, bridges, community centres and halls, and deep down this is enabled through that fundamental understanding between each other that by showing that respect, showing that kindness, we are all the better for it. So it has been deeply disappointing through this debate to see a few—I think it is a select few—who have decided that they are happy to share all the benefits of a community, a

wonderful community like we have here in Victoria, but they do not want to show the same care and respect for others when it comes to experiencing the plight of a pandemic and the dreadful consequences that can prevail when appropriate measures are not put in place in a timely manner. We have seen millions of people succumb to COVID-19 across the globe, hence our authorities here have taken prudent and very difficult measures in order to make sure that we inhibit the risk, mitigate the risk, of people suffering and dying or having long COVID, which has been discussed in this chamber, as a result of this pandemic.

We know also that it does take cooperation to overcome a highly, highly contagious disease. Unfortunately every man for himself—or every person for themselves if I take away the gender—does not work when you are trying to overcome the challenges that have been posed by a pandemic. But I am very comforted by the fact that Victorians have stepped up to the plate and they have taken on board on the whole—the overwhelming majority have taken on board—some of these most difficult measures. That includes all of us here, and I am not feeling sorry for myself as an MP, let me make that absolutely clear, but I do understand that we have done many more Zooms than I ever imagined in my lifetime. I am glad that I had the capacity to do that. I feel fortunate that I was able to do that and still keep that connection with community.

But we can see the incredible uptake of the vaccinations in Victoria. I think it was already mentioned today. These stats are probably slightly out of date because I just looked at the ABC website, and I will quote it for *Hansard* as well, and I believe it is yesterday's data: 92.69 per cent first dose in Victoria and then second dose we have got 87.34 per cent. I am happy to be corrected on that because we are pushing.

A member interjected.

Ms TAYLOR: Yes, I think it has gone up. I think it is even better, and I am happy to correct that for *Hansard* as well. We are getting so close to that 90 per cent double dose, and I say this with the utmost respect. I have to say I was tremendously relieved when my own relatives got themselves vaccinated as well, so I feel safe for them and I feel safe for the community. I do not know about you, but I have been watching those statistics every week to make sure that in local government areas in my area people are getting on board and doing all that they can to get the protection they need to mitigate the risk of getting COVID-19 and spreading COVID-19.

And fundamentally we know—and I think this has been discussed many times in this chamber—that the measures that have been put in place have been put in place to restrict the movement and the spread of the disease. This furphy around power and abuse of power—I find it really disturbing because it is distorting the premise upon which those rules have been put in place, and we all know that. Those members over there know that, but they have obstructed every step of the way. So I am not surprised that they are doing everything they can to be obstructive here today, rather than cooperating on something that impacts everyone in our community. It would be lovely to see a more cohesive approach on this very serious issue. And to suggest that it is not urgent! It is absolutely, as has been discussed, very important that we have an appropriate framework in place, because we cannot just hope that another pandemic never occurs. Hope is not going to get us there, and it would be a disrespect to the community to say, 'Look, we're just banking on not having another pandemic. So we'll just hope, and good luck with that. Off you go'. We cannot take that approach, because fundamentally—and it was actually really healthy to reflect on this, even personally as an MP—a critical and central role of all governments is to promote and protect the public health and wellbeing of their citizens, and this bill enables the Victorian government to fulfil that role, to continue to protect Victorians from dangerous pandemic diseases. This is within our remit.

It is appropriate to take appropriate and reasonable measures, and I know my learned colleague Ms Shing mentioned that underpinning this is the premise of reasonable measures in order to protect the Victorian community, because fundamentally the bill is about saving Victorian lives during

pandemics. It is also about promoting and protecting the social, economic and mental welfare of Victorians to the greatest extent possible.

Now, there have been many issues raised today, but one that I did want to acquit was that issue regarding the range of transparency and accountability measures being introduced, because these will act, contrary to what has been pushed out in the chamber by the opposition, as a strong check and balance on government's use of pandemic powers. Rest assured that is just as important to me as it is—and as it should be indeed—to everybody in this chamber and the broader Victorian community. Public health orders will be made by the Minister for Health, who is accountable to the Parliament. Public health advice on the pandemic orders will be tabled in Parliament. A new independent advisory committee will review the public health orders and report to Parliament. And amongst the amendments that are being proposed the bill will enable the Scrutiny of Acts and Regulations Committee, SARC, to consider any pandemic order when it is made, not only once it is tabled in Parliament. The minister will be required to publish an explanation of any—

Members interjecting.

Ms TAYLOR: Pardon me, but I cannot hear myself think, and if those opposite—

The ACTING PRESIDENT (Mr Bourman): Order! Ms Taylor is entitled to be heard in silence.

Ms TAYLOR: Thank you. The minister will be required to publish an explanation of any charter rights that are or may be limited by a pandemic order.

Now, get this: there is no other Australian state or territory equivalent legislation requiring this level of transparency and accountability. I am going to repeat that, because it has been actually verging on insulting here today hearing some of the assertions that have been raised about the governance elements of this legislation: there is no other Australian state or territory equivalent legislation requiring this level of transparency and accountability.

I note—and I believe this issue has been raised here today—that the Perrottet government has approved plans to extend the state's extraordinary COVID-19 emergency powers until March 2023. We can make a comparison. I want to put a very important caveat here: in making that statement I make no judgement of New South Wales on any matter whatsoever. They are perfectly entitled to run as they see fit for their state, but I am just saying, for those opposite, it is actually galling, the degree to which they are questioning the governance measures that we have in place, the checks and balances we have in place, when we compare to other jurisdictions in Australia.

For instance, the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021: orders signed by elected officials, in Victoria yes, in New South Wales yes—okay, there is a comparator; declaration of a pandemic must be based on advice by the chief health officer and Minister for Health, yes in Victoria, no in New South Wales; declaration of a pandemic must be made before the Minister for Health can make orders, yes in Victoria, no in New South Wales; power to make declaration and ability to make orders held by separate elected officials, yes in Victoria, no in New South Wales; Parliament may disallow health orders in certain substances, yes in Victoria, no in New South Wales; full health advice is published, yes in Victoria, no in New South Wales; human rights assessments are released, yes in Victoria, no in New South Wales; independent pandemic advisory committee, which I already alluded to, yes in Victoria, no in New South Wales; and ongoing COVID-19 specific parliamentary committee oversight, yes in Victoria, no in New South Wales.

I do want to reiterate that I am not in any way judging New South Wales, but what I am saying is that we need to look at the bar that is being set in Victoria. I am satisfied and I know that our government is satisfied that it is a high bar—a very high bar—and if you make an accurate comparison, rather than some of the extraordinary assertions that have been made by those opposite, then you will see that this pandemic legislation is fit and appropriate. We are not simply going to sit on our hands and do nothing, because as I have been saying from the outset of my discussion here today, I think the Victorian people

deserve that respect. They deserve to understand and to know exactly what legislation and what protections are being put in place in the event there is a future pandemic, noting that we are not through the pandemic here yet. But can I say further: we are almost at 90 per cent double dosed and we know, contrary to what is being asserted over there, that we are clearly not in lockdown and we are rapidly progressing back to a lifestyle that we have not had for some time because of the pandemic.

Finally, one thing that I do want to say, and I say this with dismay: I have been extraordinarily disappointed by some of the behaviour that I have seen, which has been can we say almost endorsed or encouraged—incited perhaps. I fully endorse people's right to protest. I have been to many a protest in my life, I should say. I have protested on tackling climate change, for instance, on a national level and the need to do so, just as an example, and for workers rights.

Mr Gepp interjected.

Ms TAYLOR: We might need them again—yes, exactly. Workers rights and other issues—I have done so peacefully, and I say I am very lucky that I have always been at peaceful rallies. I have never seen nooses, I have never seen gallows and I have never seen that kind of intimidating threat that 'If you don't do what we want, you might be hanged' or other inferences that have been thrown about. We have seen children in the presence of this behaviour, and I wonder what signal is being sent. I can only think that as Victorians we are all better than this. We are much better than this, and anyone who stands by that behaviour owes an apology to the Victorian community because we are very much better than that. It is heartbreaking to see, and it dishonours the premise of what protest and public protest is all about. As I say, I vindicate absolutely the right of human beings to safely protest, but to conduct some of the behaviour that we have seen and in front of children is horrifying, and I do not know how anyone could possibly endorse that behaviour. I can only say that it is important that when we are transacting something as serious as this we remember that we are human beings and that we need to show respect to each other and that we do live in a very caring and kind and compassionate community, and may that compassion and that kindness prevail.

Mr BARTON (Eastern Metropolitan) (16:49): I rise to speak on the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021. I will not be supporting this bill today because I have a different view to the government and others. Everybody in this place has a right to a view, and I would just like to address firstly the appalling, the disgusting and the vile threats made against my friends and colleagues because they have expressed a different view. Everyone in this place should denounce this behaviour.

It has been reported that the government decided that those who voted against the previous state-of-emergency (SOE) declarations were not to be given a seat at the table for the drafting of this pandemic legislation. I was certainly not contacted to gauge the opinion of my constituents or my stakeholders. This sounds a little precious to me. I say to the government, and it is not the first time: you do not have to act on what I say but you should at least give me the professional courtesy of listening. My constituents and the tens of thousands of people who have contacted my office in the last two years have been denied a voice. They have a right to be heard.

The price the Victorian people have paid is immense. We have had over 1000 people die here in Victoria. The financial impact of COVID-19 will be felt for another decade. Enormous harm has been done to the mental health of many Victorians, and tens of thousands of families are feeling disenfranchised. For the past 18 months Victorians have suffered. To say otherwise would be denying an absolute truth. This is not the time for using a big stick for compliance. This is the time for a light touch. This is a time for healing.

I have not been convinced by the government that this bill is needed right now. We are coming out of this pandemic. This bill is not the be-all and end-all. I do not accept the urgency. In fact I think the Law Institute of Victoria suggests that we let the SOE lapse and work through this bill and get a result.

Dr Bach: Extremists.

Mr BARTON: They are. The bill specifically allows for pandemic declarations to be made even if the rate of community transmission of the disease in Victoria is low and, I quote, ‘there have been no cases of the disease in Victoria for a period of time’. What is a ‘period of time’—a week, a month, a year? This is a conveniently broad definition, and I believe there should be limiting factors at play here. It is feasible that a pandemic declaration could only be made if there have been cases in Australia in the past one or two months. To have this completely open-ended leaves us having to rely on faith that future leaders will not exploit this vague legislation. This is not good enough.

New section 165AB provides that a pandemic declaration can be made even when the pandemic disease or a disease of pandemic potential is not present in Victoria. It appears that there are almost no requirements for a pandemic declaration to be made. This would not be so worrying if it were not for the fact that the pandemic declaration provides the Minister for Health with unlimited power to introduce any pandemic order they see necessary. New section 165A outlines the pandemic orders, but it makes a non-exhaustive list, essentially enabling the minister to introduce any action that they see fit as a pandemic order. This is far too broad.

It is my view that we know the measures that must be taken in a pandemic; we have just lived through one for 18 months. These health measures should be identified clearly in the legislation and not be left open-ended for any action to be justified by a pandemic declaration—a declaration, I may remind you, that also does not need to meet any requirements or standards to be introduced. If the government want to expand the list of defined pandemic orders, they should have to bring this to Parliament, where those elected by Victoria can determine if the pandemic order is relevant, is an acceptable use of power and balances human rights. Anything less opens up the possibility for any excessive measure to be taken in the name of the pandemic.

Victorians have done everything this government has asked of them. They got vaccinated, they made sacrifices and they did it for our community. Victoria is now shooting towards a 90 per cent double-vaccination rate. Six months ago this was merely a dream. Victorians do need hope. In my view we need an independent oversight such as a former judge who would thoroughly investigate what Victorians need in terms of emergency powers, what we have done previously and what we can do better in the future.

Looking at this bill today, there is work to be done. No wonder the government has rushed this through, choosing only to consult and negotiate with three of my colleagues. I am almost glad that they ignored me, because I would not want to hang my hat on this one. It is not a comfort to know that key stakeholders, industries and organisations were also not consulted on the creation of this bill. It is disappointing. We can see it all over this bill—a disregard for the price Victorians have paid these past two years. The government should only be doing what is absolutely necessary to ensure the health and safety of our community. That is their role, and that is what they have been elected to do.

There has been much said on both sides about the publishing of the health advice. New sections 165AG, 165AP and 165AQ outline requirements for the government to table pandemic declaration reports, pandemic orders, chief health officer advice and documents relating to the pandemic order. If you read to the last clause in each of these sections, you will realise that this is mere virtue signalling. If the government fails to table these reports, documents and advice or just chooses not to, the pandemic declaration remains in place, as do any of the pandemic orders that come with it. The check and balance chosen here, if you can call it that, is that the Scrutiny of Acts and Regulations Committee may report on this failure to report and move to disallow the pandemic declaration. The Victorian public are not stupid, and we should not be treating them as such. We know these committees more often than not have a government majority and are chaired by the government. In the laws of probability answer me this: why would a committee dominated by the government vote to disallow a pandemic declaration made by the government? This is no check or balance.

Last year my crossbench colleagues and I were successful in limiting areas of overreach in the COVID-19 Omnibus (Emergency Measures) Act 2020. Specifically we had human rights concerns

over who could become an authorised officer and enforce pandemic measures. When a pandemic declaration is in force the secretary can appoint anyone to be an authorised officer as long as the secretary considers that person appropriate based on their skills, attributes or experience. Could this be any broader? I am absolutely against creating a second-tier police force. This bill creates the possibility of having authorised officers who are unqualified, are untrained and have no experience in ordering, detaining, arresting and searching those suspected of undermining a pandemic order.

We know that specific cohorts of vulnerable Victorians, such as First Nations people, are already overpoliced. Unfortunately these authorised officers are also provided with immunity from any actions if they are based on the reasonable belief that the act or omission was in exercise of a pandemic order. Who will be held accountable for any misuse of power by these authorised officers? I see no complaints-handling mechanism in this bill. I would like to see an independent statutory agency given the responsibility to review the application of a pandemic order to individual circumstances. There must be stronger checks and balances.

Moving onto the pandemic management advisory committee, this has been held up as a vehicle for transparency and accountability. Well, you only have to look at the title to see it has absolutely no power to hold the Minister for Health to account. My first concern is that the health minister chooses who will be members of that committee and the terms and conditions of their appointment. This is far from being independent. My second concern is that the committee is only required to be established within 30 days of the first extension of the pandemic declaration. This means the committee may only be established months into a pandemic declaration. I would argue any meaningful accountability mechanism would be established from the outset. My third concern is that, while the chief health officer must be consulted on the appointment of a member to the committee, this is by no means a transparent process. The chief health officer's advice in respect to appointments is not required to be tabled or acted on.

My fourth and final concern is that the committee is given no power. They are able to make non-binding recommendations to the minister via reports. This means nothing. Essentially the committee is hand-picked by the minister to provide non-binding advice to the minister, and this is meant to be a check and balance. I do not think so.

We need to remove the political angst from this debate. Many have played the political card, spreading misinformation and causing undue stress, fear and harm. An independent inquiry into the emergency powers during a pandemic is the most appropriate and fair avenue for this discussion to take place. It is not about blame; it is about acknowledging that not everything went as well as it could have or should have. Let us kick this bill out, let us do it properly and let us move forward with a bit of hope. I will finish up by saying this: I know what it is like to have your struggles, your experience and your opinions ignored. That is why I will not support this bill today.

Dr BACH (Eastern Metropolitan) (17:01): This is a dangerous and anti-democratic measure. I will oppose it today, and my colleagues across the Liberal and National parties will oppose it. We have heard today much from our political opponents about the spread of misinformation and fear. As I said earlier today, I line up, and I will line up in my comments today, with bodies like the Law Institute of Victoria, with bodies like the Victorian Bar Council and with the 60 eminent barristers, QCs in fact, who have all condemned the Andrews Labor government's pandemic lockdown laws.

But there are those who spread misinformation and fear. In this debate earlier today Ms Patten said we must ram this bill through the house as an emergency measure because if we do not, quote, 'People will die'. Then she went on to say that if this bill is not passed, we only need to look to other countries where there have been mass graves—talk about fear! The Victorian people are scared witless. However, at this moment there is no need to be scared witless by the government and some of its lackeys elsewhere because, as the law institute said, due to the outstanding work of Victorians and our very high vaccination rates there is simply no need to ram laws like this through the Parliament.

I quote from their submission to government that condemns these laws. The law institute, in questioning whether these powers are proportionate to the risk posed in the current pandemic, asked whether it is justifiable to rush this legislation through Parliament given the risk to public health is now reduced. As Mr Barton said in his contribution, no less a body than the law institute, for goodness sake, says that there would be no problem whatsoever with carrying on necessary restrictions if in fact this legislation were defeated. And it should be defeated, because this legislation will give quite extraordinary and unprecedented power to one man, Premier Daniel Andrews, in the making of pandemic legislation. Even if there is no pandemic here in Victoria, even if there is no pandemic in Australia, this legislation will give unlimited power to the health minister to make any pandemic order. That is not my term; that is the term of 60 eminent Victorian QCs who have written a devastating open letter about this legislation—unlimited power.

What this legislation will effectively do is allow the Premier, Mr Andrews, and his government to lock Victorians down. The government says, 'We're reaching vaccination thresholds. Why on earth would we want to do that? Trust us'. Well, we have been here before. Last year we debated in this place the government's lengthy extension of state-of-emergency powers, and you might recall those of us sitting on this side of the house questioned the need to do that with so little oversight and scrutiny and said that this would lead to ongoing lockdowns. Do you remember the outcry from the government and some of its boosters in the commentariat? 'Of course that's not what would occur'. But what happened? We saw playgrounds closed. We saw schools shut in parts of the state with no COVID and no COVID transmission and in parts of the state where there had never been any COVID transmission.

We saw disgraceful scenes, like a pregnant woman being dragged from her home in pyjamas in handcuffs in front of her own children. We saw fines for hundreds of children as young as 10 for mask infringements. This is how the Andrews Labor government has used these powers in the past; this is how the Andrews Labor government will use these powers in future. My very strong view about this government—in fact my very strong view about any government—is that when you want to judge it you should not just listen to what it says but you need to look at what it does. It is a fact that Premier Andrews has never seen a lockdown power that he has not liked the look of. It is a fact that he has never seen a lockdown power that he has never wanted to use. Why would the government be ramming this bill through the Parliament as an emergency measure if it never wanted to use these powers? It is the fundamental question. It is a question that nobody opposite can answer. They say, as Ms Patten said, 'But we're going to have mass graves if this bill does not pass'. Seriously? 'People will die'—haven't they seen our vaccination rates? Our hospitals are almost free of COVID patients, praise the Lord. It is a great thing. No-one will die if this legislation does not pass. It is a ridiculous and hyperbolic proposition designed to scare Victorians witless. It is the only argument in the arsenal of those opposite.

I say again that what we should do in this place and what all Victorians should do is to judge the Andrews Labor government, as we should judge any government, on what it does and not what it says. Over the course of this pandemic the Andrews Labor government has said, for example, as it said on 1 April last year, that it would quickly—the word used by the Premier, 'quickly'—establish 4000 new ICU beds. Today around 500 of these beds are online. The other 3500 are mysteriously missing. The government said in the midst of our devastating second wave that contact tracing here in Victoria was the 'gold standard', but then a parliamentary committee that I was a part of found that people died because of this government's contact-tracing failures and that in the midst of that second wave officials in the Department of Health were still using paper, pens and fax machines despite the fact that they had been offered a best practice electronic solution that they had knocked back six months before. 'Gold standard' is what Daniel Andrews said. The government said that we would not spend 2021 bouncing in and out of lockdown. Well, that claim fact-checks a little better. 2021 has almost been one long lockdown here in Victoria. We know what the Andrews government likes to do when it gets its hands on powers like these. That is one of the reasons why I am so opposed to this legislation.

But this legislation will not just allow the government to lock us down, as they are so wont to do. It will also empower the Premier, as I have said, to declare a pandemic if there is none. It will vest unlimited power in the health minister to make pandemic orders—that is not my word, it is the word of the bar association. And then, quite shamefully, in the initial legislation it would allow the government to discriminate between Victorians based on characteristics and attributes. There has been some discussion about this clause in the debate today, and I think Ms Patten again said it was shameful for that to be brought up and shameful for those of us on this side of the house to say that that would give the government the power to discriminate between people based upon political affiliation, sexuality or religion. Well, that is exactly the view of 60 eminent QCs who have written an open letter to the government on exactly this matter.

Now, the government has been dragged kicking and screaming to a less bad position when it comes to the treatment of different characteristics and attributes, but let it be known by all Victorians that the government's clear intention was to give itself the power to discriminate in the making of pandemic orders, this unlimited power that the government was to give itself, based upon who Victorians love, how and what they worship and who they vote for. That is a shameful and disgraceful thing.

Governments do not give themselves powers that they do not intend to use. The Andrews Labor government has never seen a pandemic power that it has not wanted to use. As the Shadow Attorney-General I am particularly interested in the concerns of the legal community, and the legal community has spoken almost with one voice against these laws.

I have referred to the comments of the Ombudsman earlier today speaking out against the amendments, arguing, despite the comments of those opposite about oversight, that there is no proper oversight of these laws. The legal community, through 60 QCs, through the law institute but also through quite incredible comments from the bar association, has condemned these laws. The head of the bar association, an august and prudent body, has gone so far as to say that had the Stasi, the East German secret police under the communists, had powers like these, well then the communists would remain in power today. That was an incredible intervention from the head of the bar association, and yet of course what those opposite seek to do is to say that only crazies oppose this bill.

There have been some appalling incidents recently involving threats of violence against public figures and nooses being brought to protests. It is absolutely unacceptable. I condemn action like that in the strongest possible form. I have been sickened in the past to see serious threats made against figures on this side of the house, like Mr Guy, from figures on the far left. I am sickened today to have seen some incidents like that, and I condemn them. The opposition to this bill nonetheless is mainstream.

The legal community have spoken with great clarity, and some of the things they have said are instructive for members of the house as they seek to come to a determination about how they will vote on this bill. Sixty top QCs have said that this legislation will allow rule by decree for the foreseeable future. Again I would underscore they say quite correctly that this gives, quote, 'unlimited' power to the government in the making of pandemic orders. They are particularly concerned about the government's emphasis on different characteristics and attributes. It is quite bizarre and chilling. The Parliament's ability to control ministerial powers under this legislation is, quote, 'very limited or non-existent'. Again, this was the point underscored by the Ombudsman today.

So I would ask a further question: who do you trust? Do you trust the Andrews Labor government, which has lied to us time and time and time again through the period of this pandemic, or do you trust the Ombudsman, the Law Institute of Victoria, the bar association and Victoria's legal communities? I could go on. Ultimately what these 60 top barristers say is that this legislation would, and I quote directly:

... entrench rule by decree as a long-term norm.

I quote:

... this is antithetical to basic democratic principles and should not be allowed to happen.

It most certainly should not. In order to seek to ensure that that does not happen, Mr Davis, the Leader of the Opposition in this house, will move a series of amendments, and perhaps I could ask if they could be distributed to members of the house now.

Opposition amendments circulated by Dr BACH pursuant to standing orders.

Dr BACH: In conclusion, we must not be diverted. Victorians must not be diverted from focusing directly on the content of this bill by the government's attempt to focus instead entirely on a small number of incidents, unacceptable incidents that I condemn, that have occurred at public protests. The millions of Victorians who oppose this bill—and in doing so join with the Ombudsman and the law institute, with our legal community more broadly and with the bar association—are not a lynch mob, as Minister Leane disgracefully called them earlier today. These people are not deplorables; these are everyday Victorians who are intelligent enough to see through the lies of the Andrews Labor government. If the Andrews Labor government does not intend to lock us down again, does not intend to use these extraordinary and unprecedented powers, why is it ramming them through both houses of Parliament? 'Why?' is the question I would leave you with.

Mr LIMBRICK (South Eastern Metropolitan) (17:15): For a representative of the Liberal Democrats whose whole political belief system centres around personal freedom and whose first impulse is to help people where I can, the last 18 months have been a horror show. My staff and I have been taking phone calls and reading thousands of emails. I have attended many protests to listen to people's stories and sometimes to witness their awful treatment. Thousands of desperate people have told us about having their lives upended, of family businesses going under, of underprivileged kids dropping out of school, of single mothers trying to find help for their withdrawn and socially isolated children, of kids being locked out of playgrounds and of Australians abandoned overseas.

Even after my office was destroyed by vandals and when we were banished from Parliament I am proud to say that we never stopped listening. I only wish the same could be said about the government. They have not only stopped listening, they speak the language of division. They call Victorians conspiracy theorists, COVID deniers and the far right and tell them that they will be left behind. And so it all comes down to this: legislation that seems to pretend that the suffering of these Victorians never happened, legislation that will enable the division of our society, legislation that will empower the government to take away the rights of people that refuse to comply with medical procedures that the government dictates.

Many people have asked me if this legislation will pass, and it is hard to offer them hope. Earlier this year the Liberal Democrats put forward an amendment that would give people under the lockdowns the right to have fresh air and exercise, just as the Ombudsman recommended in her report into the public housing towers lockdown. It was voted down, so it is hard to be optimistic about changing the mind of this government. But the funny thing is that whatever happens here today there really is hope. I always knew that Victorians were decent people who would stand up not only for themselves but for others, and last Saturday we all saw it—tens of thousands of people taking to the streets, being watched by hundreds of thousands more on live streams, people who can think for themselves and do not swallow everything that is told to them at a daily presser. And now the world is also watching. I have spoken to British people and Americans and Germans who cannot believe how COVID-zero mania made Victoria lose its mind.

Maybe the government will win the vote on this bill, maybe they will think they have had a win, but allow me to provide a broader perspective. Do we think that if this passes today and the legislation is applied those 50 000 or so people who marched on Saturday will just shrug their shoulders and say, 'Oh well, we tried'? I doubt it. The giant has awoken. More likely this will just be the start of longer term division, and people will either not comply or leave. But to take an even broader view, throughout history pandemics have come and gone. In a few years I guess this one will be gone as well. Many of us will no longer know or care who is vaccinated, but I can tell you one thing for sure: nobody forgets being bullied. The people who told me their stories will never forget how they were treated. Anyone

who stands up here today to vote for this will not be able to have a conversation with a Victorian about politics without the possibility that they are speaking to somebody that was left behind.

But I believe Victorians are good people. They look after each other and they do not want to leave other people behind. That is why I believe in the long run freedom will inevitably return. So many Victorians have woken up to how important it is to protect our freedoms. I, for one, one among tens of thousands, will continue to do exactly that. The Liberal Democrats will oppose this bill.

Ms LOVELL (Northern Victoria) (17:19): I rise to speak on the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021. A long time ago Solomon wrote:

Where no counsel is the people fall but in the multitude of counsellors there is safety.

Solomon was the son of David and the king of Israel from 970 to 931 BC. As you will gather from those dates, this proverb was written almost 3000 years ago, and it is still relevant today. It forms part of the Old Testament of the Bible as Proverbs 11:14, and it is so relevant to a modern democracy and in modern parliaments that it is inscribed in the tiles of the vestibule here in the Parliament of Victoria. We walk over it every day, and yet it seems that the current Premier and his ministry have failed to heed the wisdom of this extremely wise proverb. Three thousand years ago Solomon encapsulated in this short proverb the very reason modern parliaments are made up of elected representatives, elected to make collective decisions on behalf of the people. Yet it seems this Premier, the Labor representatives and some members of the crossbench think that one person—the Premier—without any need for consultation with other elected representatives, not even the cabinet, knows best when our state is facing a pandemic, even if there are no cases here in Victoria or even in Australia, and that all power to declare health orders to lock down or detain Victorians based on their attributes, characteristics or circumstances, which could mean age, gender, sexual orientation, race, religious or political beliefs, physical features or even their participation in an event, would also be vested in one person, the Minister for Health.

This is by far the worst piece of legislation I have seen come before the Parliament in the 19 years that I have been a member in this place. There is nothing democratic about this bill. In fact it goes against everything that I hold dear about living in a democratic society. It gives the Premier and the health minister unfettered powers over the lives of all Victorians, and I do not believe that any politician, no matter who they are or which party they represent, should ever be given so much power.

Not only is this the worst bill that I have seen in my time in this chamber, but it is also the bill that has attracted the most rage from members of the community and criticism from the legal sector. Over the years I have seen some big changes and controversial legislation that have attracted significant community engagement, emails and phone calls—abortion law reform and voluntary euthanasia, to name just two—but never have I seen a bill that has attracted as many emails, phone calls and sustained community protests as this one, nor have I ever seen so many people who are willing to march in the streets on numerous occasions and camp out on the steps of Parliament for days because they are so enraged and offended about a single piece of legislation.

This morning's Mark Knight cartoon encapsulates the government's attitude towards anyone who disagrees with them. The Premier's standard response is to belittle anyone who dares to question him and to dismiss them as conspiracy theorists, extremists and troublemakers. Not only is that insulting to the people of Victoria and extremely arrogant on behalf of the Premier, but it also ignores the list of eminent lawyers and others who have lined up to speak out on the overreach of this legislation. The list of those concerned about this legislation includes the president of the Victorian Bar, the Law Institute of Victoria and 60 QCs and SCs who have written an open letter to the Premier—these are some of our top legal experts in our state—and of course the Victorian Equal Opportunity and Human Rights Commission. Surely such eminent legal experts expressing their concern must have rung alarm bells for the Premier, the Attorney-General and other ministers, but also for the backbenchers in the Labor Party and those members on the crossbench that are supporting this legislation.

So why are people so enraged? Well, the bill that the government has put before this Parliament is a serious overreach by this government to control the lives of Victorians. This bill would enable the Premier to declare a pandemic in Victoria that would trigger public health orders even if there were no cases in Victoria or even Australia. There may be a pandemic in Iceland or Romania, and the Premier could use that as an opportunity to impose severe restrictions on the lives of Victorians. The Premier's declaration would then enable the health minister to make public health orders based on your personal attributes, characteristics or circumstances. These could include age, gender, sexual orientation, race, religious beliefs, political affiliation, physical features or even your participation in an event.

Under this legislation the Premier could declare an unlimited state of emergency without any consideration of the impact of lockdowns, restrictions and penalties on equal opportunity legislation or human rights laws. A Victorian could face a \$21 809 fine for merely failing to wear a face mask, or a business could receive a \$109 044 fine for serving a customer who failed to check in properly. The Premier would be given the power to bypass the usual accountability measures of cabinet and parliamentary approval processes.

This legislation is not about streamlining state-of-emergency powers; these proposed laws are about making it easier for the state government to control people's lives. This legislation excludes parliamentary oversight of the decisions made by the Premier and health minister when it comes to making a pandemic declaration or health order. Then, when you look at the proposed oversight committee, the so-called independent pandemic management committee, you will find that not only is it a committee whose members are appointed by the government but the Premier and the health minister are not bound to follow any of the advice that they receive from the committee. The government can hand-pick a group of yes persons, and if they still do not like the advice they get, they can just ignore it. That is not oversight. Neither would a government-majority committee of Parliament give adequate oversight. Equally, anyone detained in Victoria should have the opportunity to have that detention reviewed by an independent court, but this legislation denies Victorians that most basic right of our justice system.

I am a great believer that we should learn from history to avoid repeating the mistakes of the past. A constituent of my colleague David Southwick, the member for Caulfield, wrote to Mr Southwick. The constituent's name is Stephen Tusak, and he is a member of the Jewish community. Mr Tusak wrote:

My parents lived through Nazi Germany 1938 to 1945, it started the same way.

...

My parents came to freedom in Australia in 1948 specifically to escape this vile arrogance which led to the genocide we all know of.

This statement by Mr Tusak inspired me to do some research to find out what he meant, and whilst I do not—I repeat, I do not—compare any member of the government or any member of the Victorian Parliament with the personalities Mr Tusak is referring to, I do think that we should consider the legislation that enabled the events in Germany to occur.

The Enabling Act 1933, whose official title translates into English as the 'Law to remedy the distress of people and Reich', was a law to give the German cabinet and, most importantly, the Chancellor the powers to make and enforce laws without the involvement of the Reichstag, the German parliament, and with no need to consult the Weimar president, Paul von Hindenburg. Critically, the Enabling Act allowed the Chancellor to bypass the system of checks and balances in government, and these laws could explicitly violate individual rights that were prescribed in the Weimar constitution. This bill was passed to enable the German government to respond to the destruction by fire of the Reichstag, the parliament building. The bill enabled the Chancellor, Adolf Hitler, to convince President Paul von Hindenburg to enact the Reichstag Fire Decree. The decree abolished most civil liberties, including the rights to speak, assemble, protest and due process. Using the decree, the Nazis declared a state of emergency and began to arrest, intimidate and purge their political enemies. Communists

and labour union leaders were the first to be arrested and interned in the first Nazi concentration camps. After clearing the political arena of anyone willing to challenge him, Hitler submitted a proposal to the Reichstag that would immediately grant all legislative powers to the cabinet.

Again I repeat: I do not compare any Victorian member of Parliament to the personalities involved in German history. But I do think we should reflect on the similarities of some of the provisions in these two bills. This bill specifically talks about characteristics and attributes. It specifically talks about race, religion, sexual preference and political views. It specifically singles people out. We cannot go down this path, and we should not go down this path. We should never let a bad episode of history repeat itself. We must learn from history, and we must also recognise that whilst the current government assure us that this is not how they intend to use these powers, and we accept that, none of us know who may inherit these powers in the future or how a future government may use these powers.

The government has proposed house amendments that at the start of the debate we had still not seen and we have not had time to do extensive consultation on. Once again it is a case of ‘Trust us, we’re the government’. However, the president of the Bar Council, Roisin Annesley, QC, has seen those amendments and has issued a press release to say that the amendments ‘do not go far enough to protect the rule of law’. Ms Annesley said:

The proposed amendments largely address low priority issues and not the most fundamental problems with the Bill.

The Ombudsman has also joined Ms Annesley in saying that the government’s amendments do not go far enough. Mr Davis has suggested amendments that will address some of the most egregious problems, and I encourage members of the crossbench and the government to support Mr Davis’s amendments. However, in my view this bill is so flawed that no amount of amendment can save it. This bill should be withdrawn and the government should work with all members of Parliament to come up with a pandemic management scheme that is open, transparent and most of all fair to all Victorians.

Mr HAYES (Southern Metropolitan) (17:31): Throughout this pandemic the government has relied on the state-of-emergency legislation to impose restrictions on Victorians and to implement legally enforceable rules pertaining to mask wearing, quarantine, self-isolation and a raft of other health measures. Now, every time the government came into this place seeking an extension to the state of emergency I asked for pandemic-specific legislation which set reasonable boundaries and required parliamentary oversight to mitigate abuse of power. So what has the government done? Well, they have gone away and with the help of a few crossbenchers drafted an unprecedented piece of legislation akin to firing a nuclear missile to kill a cockroach, and I use that as a loose analogy because the pandemic is obviously not a cockroach. It is a much bigger threat than a cockroach.

The pandemic has significantly changed our way of life, but that is no excuse for a government to ride roughshod over people’s lives and create an intimidating regime that will be an ongoing threat to civil liberties and the freedom of Victorians in the future, especially now as we edge closer to having a fully vaccinated population. I was one who called for a specific health bill rather than continually extending the broad powers of the state-of-emergency legislation, and I do congratulate the government for doing just that. There are many improvements in this bill over what was in the state-of-emergency bill, especially in the area of transparency and accountability. However, the extraordinary powers of the state of emergency were only intended to be exercised for six months at a time, although they were extended twice by this Parliament. But this bill will entrench rule by decree without a time limit as a long-term normal state of affairs—in other words, a continuing state of emergency. This is not consistent with a functioning democracy and should not be allowed. We have had 18 months of experience with the pandemic, and we know what kind of powers are needed and could be specifically legislated to be in force for a specific amount of time, and they should be subject to disallowance by Parliament.

Now, I will not highlight every technical component in this bill, because others have already done so and probably will continue to do so. I want to keep this relatively brief to give other members a chance to speak. Suffice it to say there are some serious issues. Let us start with the fines. Individuals and businesses in breach of public health orders could face \$90 000 and \$450 000 fines respectively. In an upcoming amendment we are told that these fines have been halved now by the government, responding belatedly to consultation, but they are still very significant fines. Individuals can still be jailed for two years if they are deemed to have breached an order designed to keep the public or another individual safe. The bill confers enormous powers on the executive. The minister can make any order—any order—detaining people or requiring medical examination of them. The right of review or appeal is extremely limited—limited to departmental officers, I believe.

Detainees should have the right to a review in a court or at least at VCAT. It does confer enormous powers on the so-called authorised officers to arrest and detain people, and it does not say for how long—so quite a bit of a worrying position in an ongoing bill. I always believe with policing and law enforcement that the punishment should fit the crime, and that is why I find it a concern that my son or daughter—or any Victorian for that matter—could be plunged into financial ruin or go to jail because, in regard to any order, they ‘ought to know that the failure to comply is likely to cause a serious risk to the health of another individual’, and that is a quote.

As we know, the bill also authorises the minister to make orders which can discriminate persons or classes of persons, and I am glad to be told that in the government’s overnight amendments they have clarified this to refer to a person’s vaccination status rather than by reference to the Equal Opportunity Act 2010. As has been pointed out, referring to the latter can go as far as to include persons on the basis of their political beliefs or activities.

As members of Parliament our role is to listen to the community and to listen to our constituents and make decisions on their behalf in their best interests. I have been listening to the community and listening to the 8000-odd emails and hundreds of phone calls my office has received, all of which have been vehemently opposed to this bill. I have also listened to the Victorian Bar, the professional association for more than 2200 Victorian barristers, which has sounded its concern over the extraordinarily broad powers granted to the minister and lack of an overall time limit on the pandemic declarations. As they eloquently put it:

The overriding concern is that the Bill, if passed, may allow the Victorian government effectively to rule the State of Victoria by decree for the foreseeable future, without proper Parliamentary oversight or the usual checks and balances on executive power.

They add further that there are no real checks and balances in the legislation. There is no oversight at all by Parliament.

Now, I do not share some members’ faith and Ms Patten’s faith in particular in the Scrutiny of Acts and Regulations Committee, even acting on the advice of the new expert advisory committee, which I welcome, for SARC to refer matters to Parliament to be disallowed, as it is and always is a government-controlled committee. And in the unlikely event that SARC, as a government-controlled committee, recommended disallowance, such a disallowance would have to be a disallowance by both houses of Parliament, not either house. Now, as we know, that would not happen. It would not get through the government-controlled lower house. It would be impossible for a disallowance to take place. It seems we have a government hell-bent on avoiding parliamentary oversight and disallowance at all costs, and this bill is no different to the previous states of emergency in that.

Now, as Ms Lovell pointed to, the newly appointed president of the Victorian Bar, Roisin Annesley, QC, said:

... the Victorian Government’s proposed amendments to the Pandemic Management Bill do not go far enough to protect the rule of law.

“The proposed amendments largely address low priority issues and not the most fundamental problems with the Bill,” she said.

“The major issues include the lack of effective parliamentary control over the Minister’s pandemic orders and the lack of provision for an independent review of authorised officers exercise of power.”

Now, the government and the crossbenchers will have to forgive me for listening to these QCs, the law institute and the community over politicians with vested interests. These are genuine legal professionals. They could not by any stretch of the imagination be labelled as anti-vaxxers. As a matter of fact I have spoken to many, many people concerned about this bill. In this bill the minister, instead of the chief health officer, will have the power to implement border closures, lockdowns, masks, vaccination mandates and the like, with virtually no real limit on time. This should require unconditional parliamentary oversight and disallowance, but it does not. Parliamentary oversight is essential to a functioning democracy, but the government in this bill seeks to kill vital aspects of democracy.

I would like to put on record that we do need pandemic-specific legislation, but it needs to be measured and reasonable. This bill is still well over the top, and I cannot support it. I do appreciate and support the government allowing more accountability for its decisions rather than saddling us with decisions made by unelected bureaucrats, but unfortunately that positive component is far outweighed by the appalling negatives.

To sum up, as we are all aware, the government has drafted this bill in secret with three crossbenchers, and it appears that they will be working with the government to steamroll this bill through, but it is a dangerous bill, and it urgently needs to go back to the drawing board. Those who support this bill in its current state are recklessly putting Victoria’s future civil liberties in danger. I urge those three crossbenchers and members of the government to fix this bill. Do not just allow it to be steamrolled through and let future Victorians suffer the consequences.

Mrs McARTHUR (Western Victoria) (17:41): I rise today to speak on the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021. Power corrupts. ‘Absolute power corrupts absolutely’, said Lord Acton in 1887. Those opposite are supporting yet another grab for power by this Premier. How can those opposite sincerely and truthfully state their support for this legislation? According to former Labor member for Melbourne Ports Michael Danby, who spoke to Chris Kenny late last month, it is because members of the Victorian ALP are frightened that their preselections will be affected if they speak out against the bill. How could those opposite in good conscience vote for legislation to give more power to a man that they are too scared to defy? To those opposite I say: you can oppose this bill. You can vote against it. You should vote against it, and if you do not, thousands of Victorians will remember your name and the decision you have made.

Victorians have sacrificed so much over the past 18 months. Families have been kept separated by arbitrary state border closures and hopelessly inadequate hotel quarantine in Victoria for those wishing to return to Victoria. Business owners have had their doors shut and their income halted. Workers have lost their jobs, some have lost them permanently. Young people have missed out on some of the best years of their lives. Elderly people have been locked up in fear, kept away from their grandchildren and deprived of social interaction. Some have simply given up on life under isolation, which is just so sad. Rural Victorians have been lumped in with ridiculous mandates and perpetually changing rules despite being hundreds of kilometres from a viral threat to their health. Curfews have been imposed on innocent Victorians as if they were the worst criminals in the state. Children have had critical years of education and social development disregarded, and some have even taken their own lives. They have even been banned from playgrounds. I have heard examples of, when the ban was introduced, parents of children being chased from playgrounds by the constabulary.

Just weeks ago the Premier announced that these hardships would be relived. Victorians were told we would open up and begin to live alongside this virus, yet here we are debating and being asked to vote on more legislation that will only enable perpetual suffering. You have heard that a catalogue of legal

professionals and eminent jurists oppose this legislation. Are they all wrong? The Victorian Bar said the bill:

... authorises extreme limitations of basic liberties of all Victorians and confers enormous powers on the executive.

Sixty QCs said:

... the Bill, if passed, may allow the Victorian government effectively to rule the State of Victoria by decree for the foreseeable future, without proper Parliamentary oversight or the usual checks and balances on executive power.

‘Listen to the experts’, we were always told—but just never the legal experts, the economic experts, the mental health experts and the education experts that they do not agree with. We should also listen to the Victorian people, over 40 000 of whom have contacted me about the legislation. Louise from Geelong recounted:

Enough is enough. We need to live with this. I ... strongly disagree with the gross overreach of the government with their blanket mandates—this is abhorrent to witness.

Travis from Ballarat said:

Please put and end to the destruction of our state, economy, the lives of millions of Victorians and most importantly our minds that are in such distress as we look at a future with no hope of recovery.

Liz from Edenhope said:

Enough is enough. This madness and deprivation of family life, restrictions and segregation among people has got to stop.

These are just a handful of the thousands of messages and correspondence I have received. I would like to thank all those who have written to me and no doubt to every other MP in this place.

On the particular provisions of the bill, I look forward to the Attorney-General explaining the effect of many of them during the committee stage. I hope that comprehensive and sincere answers are provided, particularly given the thousands of Victorians who will no doubt be watching the debate. I could not help but find dark humour in the reading of the bill’s first clause, to amend the Public Health and Wellbeing Act 2008 in relation to the ‘effective management of pandemics’; that is certainly something we have not seen in this state over the past 18 months. I would be glad that they have made this concession, were such a terrifyingly authoritarian bill not being presented as its panacea.

Under clause 4 the expansive definition of ‘serious risk to public health’ includes circumstances in which there have been no cases of the disease in Victoria for a period of time. Who knows how long ‘a period of time’ will be construed? This definition elicits the true nature of this bill. No presently subsisting disease in the state is necessary for the exercise of its powers. This is not a pandemic management bill, it is a power maintenance bill.

The extensions to the state-of-emergency declarations have encountered significant resistance and rebuke from the Victorian community, but under the existing legislation, at least strictly legally, the minister is required to make such declarations on the advice of the chief health officer and after consultation with the minister and the emergency management commissioner. Now the Premier will need only to consult with and consider the advice of the minister and chief health officer when making such a declaration—‘consider’ it. Daniel Andrews has persistently argued that he has only ever acted on the advice of public health experts. Then why is he making it legal to no longer do so? Under this new legislation he is only required to consult and consider their advice. It does not matter what their advice is. Every man and woman in his cabinet and the whole 300 000-person-large public service may advise against a declaration; one man unilaterally can defy that and declare it anyway. Poor Mr Crisp, by the way; the emergency management commissioner’s advice is apparently no longer required—not necessary. Perhaps this is the reprisal for testifying that he had regularly briefed Minister Neville about the setting up of hotel quarantine last year, a statement he has bizarrely been forced to

retract. Under proposed section 165AB(4)(b) the Premier does not even have to be correct about the nature of the disease when making a declaration that affects millions of people's lives.

The legislation is littered with numerous caveats, such as the proposed section to ensure that even if the Premier breaches procedural, statutory conditions there is no consequence or invalidation for such a decision. The Premier is required to give reasons for his decisions, such as under proposed section 165AG(1)(a). The Labor Party are trying to tell us this is and sell this as a transparency measure as well as those which require the publication of health advice. No requirements are made however as to the nature, length or content of these documents. Does the Labor Party seriously believe that Victorians will be duped into thinking that this government will turn over and release in full all the relevant information, particularly given the last 18 months of obfuscation and obscurity? The Labor Party have nothing but contempt for the intelligence and interests of the Victorian people.

I could go on. There are too many appalling components of this legislation to squeeze into this speech. There are the pandemic orders that can be reinstated by the minister even after being suspended. There is the absolute joke of supposed parliamentary oversight, which is impossible to satisfy. There is arbitrary detention, insanely broad powers to make pandemic orders, the abrogation of the right against self-incrimination, discrimination against protected attributes and a complete lack of consultation to name just a few. There is the supposed parliamentary oversight by the Scrutiny of Acts and Regulations Committee. What a joke. The Victorian Ombudsman put it perfectly:

It does seem unlikely that a parliamentary committee that is effectively controlled by the government of the day is going to act against the wishes of the government of the day.

She got it right. I would add to those comments by suggesting that not only is it unlikely, it is virtually inconceivable given their completely uniform positions and Bolshevik-like tacit prohibition on party criticism. Labor like to ridicule the Liberal Party when our members supposedly 'go rogue', as they have said, by having a difference of opinion to their official party stance—something so foreign to the ALP—when in actual fact this is a testament to our devotion to freedom of speech and diversity of opinion.

Tonight members opposite have a chance to make history and defy the wishes of their party leader, who they all know only wants more power for himself. When tens of thousands of Victorians came out and exercised their inalienable right of freedom of assembly the Labor Party called them far-right conspiracy theorists and anti-vaxxers. When appalling displays of threats of violence appeared at the protests the Labor Party felt nothing but delight and relief. Now, as we have seen over recent days, they feel they can arrogantly disregard the views of tens of thousands of other Victorians who have serious, legitimate and heartfelt concerns about the direction of the state under their government because of their 'guilt by association' mantra.

The Labor Party have marketed this atrocious legislation by claiming it is important for future pandemics. Future pandemics, I ask you! Surely they do not seriously think that Victorians will be duped into believing that the second the Premier is able to he will not declare a pandemic under these laws and commence exercising his new-found unlimited power. He said as much today in the other place. 'It is not over', he said. So much for opening up. So much for certainty. So much for hope. The only people who can now give Victorians hope are the members of this chamber. Only the members of the crossbench and those in the Labor Party can give Victorians hope by joining with the opposition in voting against this extraordinary legislation. In the Legislative Assembly today members of the Greens voted with the opposition against the government business program—listen to this—because there was a lack of consultation. Meanwhile, earlier today Dr Ratnam voted with the government to ensure there was no consultation on this piece of legislation. Despite this you can still give Victorians hope, Dr Ratnam, by doing as your party colleagues did and voting against the government. So can you, Mr Meddick and Ms Patten. I implore the members opposite and all those on the crossbench to vote down this terrible historic legislation. It is a disgrace, and we should never have had it brought before this house. It should be condemned outright by all those opposite.

I implore the three crossbenchers, who we have learned have been negotiating with the government since March to put this legislation through: what have you been doing? What do you think and care about the people of Victoria? You obviously care nothing. I urge you to rethink your position, Mr Meddick, Dr Ratnam and Ms Patten. Please, for the people of Victoria, for the sake of all Victorians, think again about how you vote later today.

Mr RICH-PHILLIPS (South Eastern Metropolitan) (17:55): I move:

That debate be adjourned until the Scrutiny of Acts and Regulations Committee, pursuant to section 33 of the Parliamentary Committees Act 2003, have inquired into, considered and reported by Tuesday, 30 November 2021, on this bill and that as part of their investigation the committee must seek public submissions and hold public hearings.

Ms Pulford: On a point of order, Deputy President, Mr Rich-Phillips has the call for a contribution on the second-reading debate. He seems to be seeking to move a motion, which he does not have leave for and has not sought leave for, so I would suggest that Mr Rich-Phillips is out of order.

The DEPUTY PRESIDENT: I am advised by the clerks that he can move to adjourn the debate.

Mr RICH-PHILLIPS: Thank you, Deputy President. I move this motion to adjourn the debate to allow the Scrutiny of Acts and Regulations Committee to undertake appropriate review of this bill. We have heard through the course of the debate today that SARC has not appropriately discharged its responsibilities with respect to this legislation. In fact SARC has not had the opportunity to fully consider this legislation.

We know this legislation has enormous ramifications for the people of Victoria. We have seen how existing legislation has been used to the detriment of the people of Victoria over the last 18 months. This bill in many respects goes beyond that legislation with broader powers in the hands of the Premier and the Minister for Health, and it is appropriate that it be subject to full scrutiny.

The bill, as we heard, was crunched through the Legislative Assembly in just 36 hours—36 hours from it being introduced to being passed through the Assembly and coming to this place. In the period since the bill passed the Legislative Assembly no public hearings have been held. We know there is now on the public record evidence and opinions from the Law Institute of Victoria, from the Victorian Bar Council, from the Ombudsman and even from the Victorian Equal Opportunity and Human Rights Commission, which I might add has been a lapdog for the last 18 months but has finally found its voice. All these bodies have raised concerns about the constitution of this bill and the way in which it will operate. They have not had the opportunity to properly ventilate those concerns in a forum such as SARC, through public hearings, through a public mechanism which would allow those concerns to be ventilated, to be tested and to be properly reported to this house.

The motion I have just moved would provide an opportunity for SARC to undertake such a review, to hold public hearings as this motion would require and to report back to this house prior to the next sitting week. That would allow this bill then to be the subject of further debate in the continuation of the second reading and consideration in committee of the whole with the benefit of a report from SARC.

We know that SARC has already undertaken a superficial review of the bill. It has tabled its *Alert Digest* No. 15 today, and in that *Alert Digest* it is evident that there are a number of questions that the executive staff of SARC have raised with the Minister for Health. These questions go to the very operation of the bill. They go to the scope of the orders which can be made under this bill, and they are questions which properly should be answered before this house proceeds to vote on this bill.

The adjournment motion I have moved and the mechanism requiring SARC to hold hearings and investigate will allow for those answers to be obtained from the Minister for Health. Indeed it will allow the Minister for Health to give evidence at that SARC inquiry, it will allow the Attorney-General to give direct evidence and it will allow the Premier to give direct evidence as to the operation of this

bill so that this house could have an assurance and the people of Victoria could have an assurance as to how the government intends to use these onerous provisions and the way in which they will interact with the framework we already have within the Public Health and Wellbeing Act 2008.

So I commend this motion to the house. This short adjournment of the bill and this short inquiry are an important step to provide accountability and an important step to provide oversight. They may go some way to addressing the public concerns about this legislation and I think are a very necessary step with what has been a very controversial bill.

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (18:01): I move:

That the question be now put.

The DEPUTY PRESIDENT: Pursuant to standing order 12.25 Ms Pulford has sought to move for the closure of debate. Standing order 12.25(2) requires that six other members must rise in their places to support the motion. I ask those members who wish to do so to now rise in their places to indicate their support.

Required number of members having risen:

The DEPUTY PRESIDENT: There being at least six members who support the closure motion, I will put the question forthwith without amendment or debate.

House divided on Ms Pulford's motion:

Ayes, 19

Elasmar, Mr
Erdogan, Mr
Gepp, Mr
Kieu, Dr
Leane, Mr
Meddick, Mr
Melhem, Mr

Patten, Ms
Pulford, Ms
Ratnam, Dr
Shing, Ms
Stitt, Ms
Symes, Ms

Tarlamis, Mr
Taylor, Ms
Terpstra, Ms
Tierney, Ms
Vaghela, Ms
Watt, Ms

Noes, 18

Atkinson, Mr
Bach, Dr
Barton, Mr
Bath, Ms
Bourman, Mr
Crozier, Ms

Cumming, Dr
Davis, Mr
Finn, Mr
Grimley, Mr
Hayes, Mr
Limbrick, Mr

Lovell, Ms
Maxwell, Ms
McArthur, Mrs
Ondarchie, Mr
Quilty, Mr
Rich-Phillips, Mr

Motion agreed to.

House divided on Mr Rich-Phillip's motion:

Ayes, 18

Atkinson, Mr
Bach, Dr
Barton, Mr
Bath, Ms
Bourman, Mr
Crozier, Ms

Cumming, Dr
Davis, Mr
Finn, Mr
Grimley, Mr
Hayes, Mr
Limbrick, Mr

Lovell, Ms
Maxwell, Ms
McArthur, Mrs
Ondarchie, Mr
Quilty, Mr
Rich-Phillips, Mr

Noes, 19

Elasmar, Mr
 Erdogan, Mr
 Gepp, Mr
 Kieu, Dr
 Leane, Mr
 Meddick, Mr
 Melhem, Mr

Patten, Ms
 Pulford, Ms
 Ratnam, Dr
 Shing, Ms
 Stitt, Ms
 Symes, Ms

Tarlamis, Mr
 Taylor, Ms
 Terpstra, Ms
 Tierney, Ms
 Vaghela, Ms
 Watt, Ms

Motion negatived.

Mr RICH-PHILLIPS (South Eastern Metropolitan) (18:12): I rise to oppose the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021. For the last 18 months we have been involved in a global pandemic, but over the last 18 months one of the most extreme responses we have seen to that pandemic anywhere in the world has been here in Victoria.

We have suffered through the longest lockdown in the world. We have seen our citizens locked in their houses for 23 hours a day. We have had a curfew imposed, one of the few cities in the world with a curfew—no justification, and unjustifiable. We had parts of Victoria where the closest COVID case was hundreds of kilometres away locked down for 23 hours a day. We had children banned from playgrounds, as Mrs McArthur said. We had people locked out of their workplaces, and they still are in many cases because we now have a two-tiered society thanks to this government. We had citizens arrested over Facebook posts. And we saw just last month rubber bullets and tear gas on the streets of Melbourne. If you had asked a year ago which city in the Southern Hemisphere would have rubber bullets and tear gas on its streets, not many people would have said Melbourne, but here we are. Lives have been destroyed, families have been destroyed, livelihoods have been destroyed, jobs and businesses have been lost, and for what? The last lockdown we suffered in Melbourne, lockdown 6, was supposed to last seven days. It lasted for 11 weeks. When it started we had six cases a day; when it finished we had 2200 cases a day. That is what this government's pandemic measures achieved—lock the city down for 11 weeks, and cases went from six a day to 2200 a day.

We have had more cases in total than any other state in Australia, we have had more deaths than any other state in Australia and the government which has delivered this debacle now wants new and additional powers to manage a pandemic. So is it any wonder that there is enormous concern among the Victorian population? There is enormous anger among the Victorian population. We have seen over the last two weeks email inboxes flooded with emails, thousands of emails of concern from citizens around the state, thousands of emails of concern from citizens within our own electorates. We have seen the marches in Melbourne of 90 000, 100 000 people. We have seen the vigil on the front steps of this Parliament for the last 24 hours. There is enormous anger and there is enormous concern about the way in which this government has mismanaged the pandemic over the last 18 months and the powers it is now seeking to seize through the bill before the house.

We heard over the course of this debate—and we have heard from some of the members of the government prior to this debate raising concerns—about the methods of some of the protesters and the symbols and placards of some of the protesters. I would say to those members of the government: rather than worrying about the symbols being used by the protesters, why don't you actually focus on why they are protesting, why people are angry and why they do not trust this government?

It is worth noting that the regime we have endured for the last 18 months—the restrictions, the lockdowns, the confinements to home, people being locked out of their jobs, the mandates of vaccines—have all been done under the existing Public Health and Wellbeing Act 2008. Part 8 of the current Public Health and Wellbeing Act deals with 'Management and control of infectious diseases, micro-organisms and medical conditions'. It is a section which has a number of principles as to how it should be used—for example, section 111, 'Principles':

The following principles apply to the management and control of infectious diseases—

and the first one, and perhaps the most critical one for this debate—

the spread of an infectious disease should be prevented or minimised with the minimum restriction on the rights of any person ...

That is the key principle, the first principle articulated around the use of part 8, the current pandemic framework. Aligned with that we also have some more general principles in the Public Health and Wellbeing Act, set out at section 5, ‘Principle of evidence based decision-making’:

Decisions as to—

- (a) the most effective use of resources to promote and protect public health and wellbeing; and
 - (b) the most effective and efficient public health and wellbeing interventions—
- should be based on evidence available in the circumstances that is relevant and reliable.

In section 8, ‘Principle of accountability’:

- (1) Persons who are engaged in the administration of this Act should as far as is practicable ensure that decisions are transparent, systematic and appropriate.
- (2) Members of the public should therefore be given—
 - (a) access to reliable information in appropriate forms to facilitate a good understanding of public health issues; and
 - (b) opportunities to participate in policy and program development.

In section 9, ‘Principle of proportionality’:

Decisions made and actions taken in the administration of this Act—

- (a) should be proportionate to the public health risk sought to be prevented, minimised or controlled; and
- (b) should not be made or taken in an arbitrary manner.

Now, those are the principles which should have guided the actions of this government over the last 18 months, and I do not think there are too many people in the chamber here, too many people on the front steps of Parliament today and too many people in the broader Victorian population who would believe that any of those principles have been adhered to by this government in its use of the pandemic powers over the last 18 months. Yet what we are being presented with today is a bill which does not even require those principles to be adhered to.

The new section 8A, which will be the new special pandemic section inserted into the Public Health and Wellbeing Act, does not articulate any guiding principles at all. There is no requirement for proportionality in that section. There is no requirement for evidence-based decision-making. There is certainly no requirement for accountability. So we have seen the government effectively ignore the existing principles, ignore the existing requirements under the current provisions, and now it is asking for new provisions that do not even require those principles to be in place in that section at all.

It is worth noting that in the bill we are dealing with today the new section it seeks to insert into the Public Health and Wellbeing Act, part 8A, does not replace the existing framework. It is in addition to the existing suite of powers, so all the powers the government has used over the last 18 months, the general provisions in part 8, will continue to be there. And now we will have an additional suite of powers—extra powers, an extra framework—which the government says it will use in relation to pandemics, a set of powers which do not require adherence to the principles set out in section 111, which have been ignored, and the other sections of principles which have been ignored.

New part 8A sets out in division 3 the new orders that the Minister for Health, following a declaration by the Premier, will be entitled to make. I will give an overview of those without reading them all. Subsection 2 talks about the types of orders:

Without limiting subsection (1), a pandemic order may include, but is not limited to, an order—

- (a) that requires persons to be detained in a pandemic management area for the period specified in the order—
...
- (c) that restricts movement in a pandemic management area ...
- (d) that requires movement in, into or from a pandemic management area ...
- (e) that prevents or limits entry to a pandemic management area ...
- (f) that prohibits or regulates gatherings whether public or private in a pandemic management area ...
- (g) that requires the use of personal protective equipment in a pandemic management area ...
- (h) that prohibits or regulates the carrying on of activities, businesses or undertakings in a pandemic management area ...
- (i) that requires the provision of information—

and I will come to this later—

- (including information about the identity of any person), the production of documents or the keeping of records; or
- (j) that requires the medical examination or testing of persons in a pandemic management area or as a condition of entry to a pandemic management area; or
- (j) that requires the quarantining, destruction or ... management of disease vectors in a pandemic management area ...

which relates to animal aspects. That is just a flavour of the types of orders that can be made under this new bill, orders that can be made without the constraint of the principles that are set down in section 111 of the existing part 8. New part 8A will operate without those guiding principles— notwithstanding the fact they have been ignored by this government anyway—but we are told that this is fine because the Scrutiny of Acts and Regulations Committee will provide oversight. Well, we have seen over the last 18 months the failure of SARC to provide any meaningful oversight at all. As this house knows, SARC is a government-controlled, government-dominated committee. There are seven members of Parliament on SARC, with five effectively from the government, so the suggestion that SARC would in any way scrutinise the actions of the executive government is farcical. We have not seen them do it to date. They are not about to start with this bill.

The government has run out and said, ‘Orders under the new provisions will be able to be disallowed by Parliament’. What the government does not talk about is the fine print that says orders can only be disallowed if SARC recommends it. And we know that SARC is not going to recommend it because it is a creature of the government, wholly controlled by the government. As Mr Hayes said, even if SARC was to recommend a disallowance, it would require both houses for disallowance, so the house controlled by the government would need to recommend the disallowance of orders made by the government. And one thing we have seen with this government is a complete lack of independent thought by any members on the government benches, so the prospect of the government or any member of the government actually acting independently—acting in the interests of the people of Victoria rather than the interests of the government—and recommending the disallowance of an order is non-existent.

We have seen over the course of the last 18 months a reluctance of this house to scrutinise and hold the government to account. We have had opportunities through the course of the last 18 months as legislation has come before this house, as motions have been moved in this house, to actually hold the government to account as to how it has used the pandemic powers it already has, and this house has failed. We have seen repeatedly the gang of three vote with the government to oppose scrutiny, whether it is requiring documents to be delivered—not just ordered but actually delivered—whether it is imposing accountability mechanisms in the amending legislation we have had on pandemics on the way through or whether it is having the house sit so it can scrutinise the government. Consistently the gang of three have voted with the government to block those scrutiny measures. This house has

failed in its duty to scrutinise the government because of the actions of those members, and the suggestion now that we can rely on SARC, a government-controlled committee, is even more farcical.

The bill contains a huge number of very controversial provisions which we will go through in great detail in committee, one of which is the abrogation of the right against self-incrimination. The current Public Health and Wellbeing Act very clearly states that the right against self-incrimination is not overridden by it. It actually has a note that says, for the avoidance of doubt, even though there are requirements to produce information under the current act, the right against self-incrimination is not overridden. This bill reverses that. This bill intentionally overrides the right against self-incrimination, not because it makes people safe but because it is administratively convenient. We increasingly see legislation that comes to this place drafted by the public sector, rubberstamped by the government, which is for the convenience of public administration, not in the interests of the public or in the interests of the rights of the people of Victoria.

The government says, 'Trust us', and they say to the backbench, 'Trust us. We're a good government. We're good ministers. We'll use this responsibly'. But this is not just about this government. This is about governments in the future, governments in 15 years, 20 years, 30 years time, long after we have all left this Parliament. These powers will be gifted to governments of the future, and while those opposite will say, 'Oh, we'll use them responsibly', and they will have told their backbench they will use them responsibly, whether the public believes it or not, this is not about us. This is about a framework which will be in place for future governments and future members of Parliament that have not even been elected, so the notion of 'trust us' is not good enough. This needs proper scrutiny and should be opposed.

Sitting suspended 6.28 pm until 7.34 pm.

Dr RATNAM (Northern Metropolitan) (19:34): I rise to speak on the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021. We all have our stories of the COVID pandemic—of people we know getting sick, of people dying, of people who lost their jobs or their business, of people who have lost their homes, of kids' schooling interrupted and of people missing funerals of loved ones or not seeing their families for years. My little daughter has spent her whole life so far in a pandemic. Our lives individually and collectively have been turned upside down. The experiences of multiple lockdowns in Melbourne are seared in our collective consciousness. It has been the toughest couple of years many in our community will have gone through. It is also important to acknowledge that the impacts of the pandemic were not equally felt.

The pandemic exposed a number of systemic inequalities in our society. The insecure nature of work put many workers in a particularly vulnerable position, in terms of both increased risk of getting sick and also of course to losing work. Multicultural communities were often on the front lines, yet governments were very slow in providing accurate and timely translated materials, providing assertive outreach and listening to and understanding the unique challenges they experienced in the face of a pandemic and restrictions.

We saw the second wave of COVID sweep through aged-care homes, with hundreds of deaths, while the delta strain threatened the viability of our health system. The extraordinary way Victorians have gone out to be vaccinated means we have hopefully put the worst of the COVID-19 pandemic behind us, with restrictions continuing to ease. However, it is important to note that disabled people and those with weakened immune systems will continue to need to be protected by the sort of collective action that Victorians displayed during this pandemic—staying home when sick, wearing masks and getting vaccinated.

The Greens have not agreed with every decision the government has made during the pandemic. We have advocated strongly for more support for renters, workers, people on income support, different industries and businesses. We shared the horror of many at the way the government handled the public housing lockdown and advocated for stranded Victorians to be allowed home. Through it all as a

society we have had to navigate some truly important questions, including how to balance the collective public health of our community with the curtailment of some individual rights. That tension is at the heart of the debate today as we continue to face a global pandemic.

Before I get to the details of the bill and the important provisions the Greens are pleased to have helped secure, I want us to remember why we are debating this. We are still in the middle of a major global public health crisis. Victorians are still getting sick in their thousands. Our hospitals are full of people with COVID, and over 400 Victorians have died just in the last wave.

Up until now the government has relied on the state-of-emergency powers to manage this crisis. I think there is general agreement that continuing to rely on the state-of-emergency powers is not the preferred option for ongoing management of the pandemic. So my Greens colleagues and I took up the opportunity, alongside Ms Patten and Mr Meddick, to put ideas to the government about what should be in pandemic-specific legislation. We were guided by the need to improve the transparency, accountability and fairness of the legal framework for managing the balance between public health and human rights as we deal with keeping people safe in the midst of a public health crisis. We have been in close contact with human rights groups and legal groups—groups that deal with genuine human rights issues all the time, not just when convenient—and put a number of proposals to the government about what should be in this bill. Many of those proposals are now in the legislation. Further, once the bill was tabled and we were all able to see it, we once again worked with human rights and legal groups to propose amendments, many of which the government will be putting to the chamber in the course of the debate.

For the last two years we have been in a position of trusting the chief health officer and the government that the restrictions put in place were necessary and proportionate. We have been extremely fortunate in Victoria to have had an excellent chief health officer in Brett Sutton, but we have not been able to see the health advice underpinning the restrictions. It is really important that the community knows why a government is making the decisions it is making, and the more significant the decision, the more important transparency is. This bill delivers this with all pandemic orders. The reasons for the orders, the health advice the orders are based on and the human rights assessments are all to be made public and tabled in Parliament. Amendments to be moved by the government this week reduce the time frame for making this information public from 14 to seven days. The sooner we all know, the better.

The Greens put on the table early the need for independent oversight of pandemic orders to sit alongside parliamentary oversight. As we know, confronting the pandemic has required public health directions that are far reaching. The independent advisory committee will include experts on public health, epidemiology and human rights, and people able to advise on the impacts of the public health orders on the community. The committee will have the right to review any pandemic orders it wants, and its advice will be made public. The independent advisory committee will help ensure public confidence that the decisions being made are proportionate and necessary. And if they are not, then the pressure will be on the government to change them. The committee will operate as a vital means for the community to be able to hold the government to account for the decisions it is making that affect us all.

As I alluded to earlier, the pandemic has brought to the surface many of the inequalities our society faces, and during the course of the pandemic we have seen a disproportionate number of people from disadvantaged backgrounds fined under COVID directions. Many of them are just unable to pay the significant fines, leaving them with unfair debt. The fines system under the current laws does not support good public health outcomes. A fairer fines system was a crucial element that the Greens sought to secure in our negotiations. Passing almost unnoticed in the commentary on this bill is a revolutionary criminal justice reform: a lower rate of fines for people on benefits. For the first time in Victoria rich and poor will not all be paying the same-sized fine, something which never made sense to us. The bill also contains an expansion of the special-circumstances test that will mean people facing disadvantage can have their fines removed. This reform will apply to all fines, not just COVID fines. We also negotiated a halving of the fines in the bill, noting the original fines were much too high. I

want to thank the Attorney-General in particular for being open and willing to pursue these important reforms.

The Greens have also been pushing the government for months to protect QR code data and other contact-tracing data. In the new pandemic legislation such information can only be accessed for public health purposes. The police cannot have access to such data for any criminal investigations. This reform is about giving everyone in the community confidence to keep using the check-in system for our collective safety.

Now turning to the more controversial aspects of the bill, the declaring of a pandemic and the making of pandemic orders, one of the concerns raised by legal and human rights groups was that there was not an objective threshold for the Premier to meet in declaring a pandemic. We fixed that yesterday, with the government agreeing to move an amendment to include the objective test of reasonableness into the relevant provisions. This is important for a few reasons, but one is that it will make it easier for the declarations to be challenged in court if the need arises. It is important that public health experts continue to be at the heart of our pandemic decision-making, and they will be under this bill. While the Minister for Health will be making the orders, they will do so based on the advice of the chief health officer, which will be public, and these orders will also be reviewed by an independent panel of public health experts, epidemiologists and human rights experts. We do support the notion that the person exercising such extraordinary powers in a democracy should be accountable to the Parliament and the people. This is not the case under the state-of-emergency powers.

Two further amendments I want to specifically mention are: the clarification that the charter of human rights is intended to apply to all decisions and actions taken in accordance with this bill—this is entrenching human rights in the management of pandemics to a much greater degree than would exist without this bill; and, following on from that, amendments to deal with the genuine concerns raised about orders applying to people in relation to protected attributes—we are very glad the government will be clarifying this provision and removing references to the Equal Opportunity Act 2010. Equally, we are pleased the government has committed to protect the right to safely protest in the compliance and enforcement guidelines made under the bill.

We do, however, remain concerned with some aspects of the bill. We would have liked to have seen a process for independent merits review of detention, as called for by the Ombudsman. We will continue to advocate for this, and the review of this legislation will provide another opportunity to convince the government of the need for this reform. Further, we have remained concerned about the impact of the pandemic on renters and the risks of homelessness. The eviction moratorium was important, but it should have been reintroduced for the delta lockdown. And indeed ongoing protection from eviction and rent increases for those impacted by COVID is something we continue to fight for. But the reality is there are more checks and balances in this bill than the current status quo and indeed any other similar legislation across the country.

I want to thank the government, and in particular the health minister and Attorney-General, for the constructive way they have engaged with us over the last few months; my crossbench colleagues Fiona Patten and Andy Meddick; and my Greens colleague Tim Reid. I also want to recognise the work of the Human Rights Law Centre, the community legal centre sector and the groups advocating for fines reform, Liberty Victoria, the Centre for Public Integrity and all others who have helped us push the government for the important accountability, transparency and fairness measures in the bill.

Finally, I wish to make some comments on the campaign against this bill. Many of the emails I have received in the past few weeks have demonstrated, I think, a very genuine fear, and I understand that people are scared. We have all just been through a very difficult and uncertain time, and that uncertainty is not yet over. The pandemic is not over, the economic consequences of the pandemic are not over and neither are the social or community impacts. But what I have also noticed is that almost every email or phone call or social media message has contained some form of misinformation,

conspiracy theory—whether it is an anti-vax conspiracy theory or something else—or some form of gross misrepresentation of the legislation we are debating.

This campaign to oppose this bill has been a campaign to deliberately and maliciously take advantage of people's fears and uncertainties and whip them up to a genuinely heightened state of terror quite disconnected from the reality of what is actually happening in Victoria now and indeed the reality of this bill. The misinformation campaign has reminded me of that game Whac-A-Mole. As soon as one is addressed, three more pop up, each more disconnected from what is actually in the bill than the last.

Of course not everyone protesting this bill is a member of the far right, but we are being naive if we do not recognise that the far-right actors and Trumpian populists have been instrumental in organising the protests and circulating lies about this bill. The pandemic has undoubtedly provided a breeding ground for conspiracy theorists and Trump-like populists to weaponise that fear. It is a politics of division that thrives in these uncertain times. What we should be doing is meeting those fears and worries and looking at how we rebuild from this traumatic event. Brett Sutton was right yesterday speaking about the need for a recovery period. But it is no surprise that the Liberal Party has thrown its lot in with the conspiracy theorists and the divisive politics of the Trumpian right. They have consistently sought to undermine a public health response to a global pandemic and have no hope to offer, only fear—a return to form for the latest Leader of the Opposition.

We are hearing a lot about democracy in this debate, and right now we have a choice about what sort of democracy we want. How resilient is it to fear campaigns whipped up by the far right? How much do we believe that the truth is important in the debates and disagreements that we have? Should nooses and threats of violence have a place in our democracy? From what I am seeing, our democracy is vulnerable. It is vulnerable because people in this place are prepared not just to be bullied and cowed by the far right and anti-democratic populism but indeed to legitimise and amplify it. It was completely irresponsible for members of this chamber not to condemn that threat on our lives when those gallows and the three hanging nooses were dragged through the city streets over the weekend as they spoke at those rallies. Everyone has the right to protest, but no-one has the right to threaten or intimidate others. Any elected representative who sees those acts and refuses to speak out is aiding and abetting this violence, and it makes you unfit to hold a position of leadership.

We have seen those same people decry that these proposed pandemic laws are a gross violation of our human rights, and they oppose these laws because they do not meet their threshold for the protection of human rights. They even claim that it is others who are selective about when they speak up for human rights. But where are those so-called freedom fighters and human rights champions when 46 men continue to be detained at the Park Hotel for being refugees? Nowhere. Where are they when hundreds of asylum seekers are shipped off to prison islands on Nauru and Manus Island indefinitely? Nowhere. Where are they when tens of thousands of Victorians are denied the right to housing and end up homeless? Nowhere. Where are they when children as young as 10 are imprisoned in this country and when hundreds of women and First Peoples are kept on remand without charge? Nowhere.

What has been sorely missing from those who oppose the public health measures is the acknowledgement that we live in a society, in a community, with other people, and that means we also have a right to health and a responsibility to care for each other, especially those who may be at greater risk, in this case in the face of pandemic. Perhaps what I have found most disturbing about the campaign against this bill is the misleading rhetoric that has been deliberately designed to make people scared. There are people on the steps of this Parliament tonight who genuinely believe, because they have been misled by organised forces, including people in this chamber, that we are on the verge of a dictatorship in Victoria. But as one of the few people in this chamber who has actually lived through civil unrest and oppressive regimes, I can tell you this is not it. But what is happening and what I am scared about is if the threats and the targeting and the hanging nooses in the street continue to be legitimised and amplified, then our community in Victoria is at risk. History has shown us what happens if we do not recognise and respond to this threat, so we must name it, we must denounce it and we must now focus on how we help our community heal, recover and come together.

Now the MPs in this chamber are faced with a choice: to pass the pandemic bill with amendments, to extend the state of emergency or to do neither. Since the pandemic bill grants similar public powers to the current state of emergency but with important measures that significantly improve transparency, accountability and human rights protections, I will be voting for this bill. It is certainly better than having no public health powers at all. Whether the next threat will be a new coronavirus variant that beats the vaccine or an entirely new organism, our governments need power to control pandemics when they strike. Victoria was potentially one vote away from having no ability to counter the deadly delta wave earlier this year. My vote again will be for protecting the public health of all Victorians, this time under a vastly improved legal framework.

Mr O'DONOHUE (Eastern Victoria) (19:52): I am pleased to speak on this bill, the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021, and I am pleased to follow Dr Ratnam and her contribution and perhaps address some of the issues that she has raised. But coming where I am, let me reflect on some of the contributions made by other members.

Ms Crozier in her contribution cited the words in the vestibule, and aren't they poignant as the chamber contemplates handing significant power, centralised significant power, to the Minister for Health or the Premier in the hands of the executive. Fundamentally what those words say or what they mean is: there is protection with the dispersal of power amongst many people. That is a cornerstone of democracy, it is a cornerstone of our system of government and it is a way to keep a check and balance on the use of power and to stop the misuse of power, regardless of who is in government, by having many people at the table to help make decisions.

What this bill is doing is contemplating—and what Dr Ratnam is advocating for—a centralisation of power to a minister, to the Premier, to the executive, at a time when we have seen over the last 20 to 30 years a significant accretion of power to executive government by forces beyond this Parliament as a result of technology change and as a result of a whole range of issues. What we have seen under the Andrews Labor government is an acceleration of that centralisation of power. You can see it in many ways: the largest private office in Australia, bigger than Scott Morrison's private office. The Premier's private office runs this government ruthlessly, sidestepping, where necessary, ministers, as former Minister Mikakos talked about and as we have seen with the cabinet-controlled committee that was set up during the first lockdown, which basically sidestepped Parliament and put some senior bureaucrats, senior ministers and political staff in a centralised control body making all the decisions during the pandemic. And yet some members of the crossbench are happy to hand more power to the minister and the Premier.

During a time of crisis, during a time of uncertainty and stress, as this pandemic has been, we should be relying on the institutions that keep us safe, that keep a check on power, more than ever. Of course ministers need the power to make decisions in the interests of the health and safety of the community, but there must be proper protection, proper oversight and a proper function for Parliament and the scrutiny of the Parliament. Mr Rich-Phillips at some length spoke about the role of the Scrutiny of Acts and Regulations Committee, and that has been a matter of debate as well. But again, we have seen throughout the last two years, throughout this pandemic, that SARC simply has not been up to the job of providing the sort of scrutiny and analysis and having that scrutiny and analysis listened to and addressed by government. So with a government-controlled committee in a government with huge numbers, particularly in the Assembly, the role of SARC is diminished enormously, and comparisons with other jurisdictions simply are almost irrelevant because of those facts.

Then as I was sitting in my office listening to other speakers it occurred to me that the process that sees us here tonight is very similar to the process that saw the Let Us Speak campaign rise up against the Andrews government, where legislation was rushed into the lower house and presumably the caucus had waved through whatever bill was put in front of them and was assured by ministers 'Oh, it's all fine; there's nothing to worry about. Just push it through, push it through, push it through' until there was an outcry from survivors of sexual assault and their families, and because of the actions of courageous advocates that brought such public attention and embarrassment to the government they

were forced to apologise and back down. After being defeated on the floor of this chamber the Premier had to apologise.

This legislation, while completely on a completely different topic, has a very similar feel. The caucus has clearly just waved through the party room whatever has been put in front of it. The bill has been rushed into the lower house, passed the next day and then we come into this place and, despite the objections of eminent, senior, respected people, we are told by the Leader of the Government and those on the crossbench that support the government that this is an urgent bill. What a load of nonsense. Yes, these issues need to be addressed, but Parliament is sitting in two weeks. There is nothing that prevents this bill being adjourned.

Issues have been raised by stakeholders. The government can ignore the opposition; they listen to who they want to listen to when it comes to members of the Legislative Council—that has been made very clear, including from the email that Ms Crozier read into *Hansard* illuminating that some members of this place have been in a six-month dialogue with government while others knew nothing about it until they read it in the paper.

There is no reason why this bill could not be further considered later this week and in the final sitting week of the year, because there are serious concerns from major important stakeholders—that Dr Ratnam may dismiss—such as the Victorian Bar Council and the Law Institute of Victoria and Deborah Glass, the Ombudsman, that want to see further change. For the Ombudsman to be doing radio and to be on the news grabs expressing her concern—I do not profess to know the Ombudsman well, but I am sure she does that reluctantly and only out of a sense of public duty to highlight these failings. And what does the government do when an independent statutory office holder does that? It ploughs on. It does a deal with three crossbench members and it seeks to plough on. Tania Wolff, the president of the Law Institute of Victoria, as Dr Bach has said, has issued a subsequent media release in light of the changes that have been foreshadowed saying there is still more that needs to be fixed, that still more changes should be made and that those changes should be considered before the bill has passed. Similarly the new president of the bar council has also expressed similar concerns that this bill is still wrong, that it deals with some lower level issues and does not deal with the fundamental concerns about this bill.

Between the last sitting week and this sitting week I have seen a lot of commentary about the Premier and his love of centralised power, but this is not about the Premier. As Mr Rich-Phillips said, this is about enacting legislation that will allow some future leader—Premier, minister—who may not even be in this place to exercise enormous power with very little oversight and very little scrutiny. Is that what we want to do as a Parliament—to handball such power, such centralised control with such little oversight? I support the position of the coalition that this bill should be opposed until the issues that have been identified by these very important stakeholders and by members of the community are addressed. There is no reason why we need to be rushing this bill through today and why it should be dealt with as an urgent bill. It is creating another bad and dangerous precedent for the expediency and to suit the political timetable of the Labor Party. This bill should be scrutinised properly and reviewed properly, and the issues and concerns expressed by highly respected apolitical statutory office holders, peak bodies and others should be addressed and fixed. Until that occurs, this bill should not pass.

Mr QUILTY (Northern Victoria) (20:02): The Liberal Democrats wholeheartedly reject this terrible bill. The Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021 is nothing more than an extended power grab that has been sold with misinformation. Since the declaration of the state of emergency in March 2020 we have called for a democratic response to the ongoing pandemic. The existing state-of-emergency legislation gives the government six months to prepare legislation that is put before the Parliament so that we can democratically consider the response—in this case, the largest government response to any situation in decades. At the six-month mark the government's state-of-emergency powers were set to expire, and this legislation was nowhere in sight. The government told us that in the heat of the crisis they just did not have the resources to spare for drafting legal alternatives. They told us that they needed more time to get the

bill ready. How could such a complex set of powers possibly be drafted in such a short window—only six months—and then the same thing at the 12-month mark? There still had not been enough time for specific legislation to be drafted. They sought another nine months on top of that. So now, at the end of 20 months, we have just learned what we had always expected. The government had forgotten to do their homework, like a uni student getting multiple extensions on their assignment and then not doing it, and this revealed a frightening fact: the government is just not very competent—powerful but not competent. The government had not started drafting this legislation. It never intended to consult the Parliament on how to deal with the pandemic. It always intended to only rely on emergency powers to deal with the pandemic indefinitely.

For over a year this government misled us about the bill that we are now debating. This is not specific legislation to deal with this pandemic. It is a wide-reaching, open-ended extension of the emergency powers. After slapping it together at the last minute with minimal consultation and with the absolute minimum of public exposure the government pushed up a series of amendments last night at 10.30 pm to be debated today.

This bill is not a complicated piece of legislation. Almost all of the power in this bill comes down to a single new section: new section 165AI. In simple English this new section reads, ‘The minister may make any order that they believe is necessary’. It took the government almost 20 months to write a blank cheque. This is not a bill that takes 20 months to write. It is not a bill that takes even six months to write. This would be bad enough as a response to the COVID-19 pandemic, but what has been put in front of us is more than that. There is no limitation to the powers established in this bill. The limitations are only to be used in relation to the COVID-19 pandemic. There is no expiry date and no sunset provision. These powers are permanent. They will pass from government to government forever. So even if you are one of that dwindling band of Victorians that would trust this government with these powers, this government will not be in power forever. Who knows what the future holds? If we were to believe the Greens, 50 000 far-right extremists marched through the streets of Melbourne on Saturday. Putting aside that this is a blatant lie defaming so many ordinary Victorians who care only for freedom and democracy—put it aside; take it on faith—we cannot know what parties and what extremist philosophies will hold power in the future. The only way to protect the people of Victoria is to deny extraordinary powers to governments both now and in the future.

And what are the new powers? The government already have an enormous amount of power under the state of emergency. They have six months of nearly limitless power at their fingertips. What more power could the government possibly need? Can anyone say that over the past 20 months the problem we have had with the pandemic response has been a lack of government power? What have they wanted to do that they have not been able to do? This government implemented mask mandates, curfews, stay-at-home orders, quarantine orders, border closures and vaccine mandates. They used violence to suppress protests and issued millions of dollars in fines. And now they are coming to us saying that they wish they could have done more. What more? What possible reason could there be to need more power?

The government says that it has no intention of misusing this power. I am so, so pleased to hear it. That makes it all all right then. No, that is not how this works. The government told us back in March 2020 that they were going to use these powers carefully and return our freedoms to us as soon as possible. I must sadly admit that at that time I believed them. I have had many, many months to regret that misjudgement. Fool us once, shame on you. Fool us twice, shame on us. I do not trust this government with these powers, but I also do not trust any government now or any time in the future with these powers. The truth is that we have no idea who will wield new section 165AI in the future. The intentions of this government will not protect us from the actions of a future one.

We have heard tonight that we only have two choices: pass this bill or declare a new state of emergency. No. Putting aside that the second option would be clearly illegal, we have a third option: stop the state of emergency. End the heavy-handed enforcement of health directives, trust the population to behave sensibly and let us get on with our lives. The pandemic has become endemic.

We are now learning to live with the virus. We do not need to give the government the power to continue to enforce the immoral vaccine mandates. We do not need an extension of emergency powers for this pandemic, and we have plenty of time to put in place powers for the future, for the next pandemic, without rushing bills like this through the Parliament.

The government has included mock transparency measures to make the bill more media friendly. There are three pantomime accountability mechanisms in the bill. The government must say why it is doing what it is doing, the government-controlled Scrutiny of Acts and Regulations Committee may choose to allow the Parliament to disallow a pandemic order, and the government-appointed advisory panel will write reports—and that is it. That is the sum of all the protection against unlimited, indefinite government power. There are no consequences if powers are abused and no mechanisms that allow Parliament to prevent the abuse of these powers. If the government had any real desire to be transparent, they would not have spent the last 20 months working as hard as they could to avoid releasing any real information about what they were doing or why they did it.

Victoria's legal experts have sounded the alarm against this legislation. The Victorian Bar and the Law Institute of Victoria have penned letters criticising the bill. They recommend allowing either house of Parliament to disallow a pandemic order without needing to seek approval from a government-controlled committee, and they recommend that declarations and orders be time limited until approved by both houses of Parliament. Both of these are important changes that my private members bill, the Emergency Powers Safeguards Legislation Amendment Bill 2021, from earlier in the year would have facilitated. Their list of recommendations goes on: objective tests instead of subjective ones, weaker arrest powers, protections against arbitrary indefinite detention, protection of the right to remain silent and more.

We have spent 20 months watching our rights being taken away, justified by the advice from medical experts. Well, the legal and human rights experts have been loud and clear: this bill would give government an unprecedented amount of power with little oversight and no legal avenues of resistance. This is a quote from an open letter from the Victorian law institute:

It is one thing to allow temporary rule by decree to deal with an unforeseen and extraordinary emergency in circumstances of extreme urgency. It is something else altogether to entrench rule by decree as a long-term norm. In our view, this is antithetical to basic democratic principles and should not be allowed to happen.

Now, I cannot let this pass without reflecting for a moment on the Greens. I think it would be fair to say I am not a fan of the Greens, very much not a fan, and I have held that view for a very long time. However, during all of that time, and especially up until recently when I have been in the Parliament, I have thought that they at least held one redeeming feature: an unwavering commitment to the defence of human rights and parliamentary process—yeah, no. It turns out to be not the case. In the dystopian nightmare of the last 20 months, when so many Victorians, through pain and misery, have had a political awakening, looking for answers as to how and why the government could do this to them, where were the Greens? Enabling the crackdowns, cheering on the brutal suppression of protesters by paramilitary forces, applauding the health directives that hit hardest on minority groups, on migrants, on the underclasses.

It turns out the Greens only really stand for the interests of their inner-city, middle-class voter base. Where are they indeed? Astonishing hypocrisy, though I should, I suppose, not be astonished. When presented with an opportunity to reach out to the disenfranchised, to build bridges to groups that have not supported them in the past, instead they have opted to label the protesters far-right extremists, an approach that the protesters have heard and understood, including so many former Greens voters and supporters who were marching in the crowd of 50 000 on Saturday and former Reason Party members and supporters and even former Animal Justice Party members and supporters. The gross misinformation about this bill comes from the Greens and their friends.

The Liberal Democrats strongly oppose this bill. We would not trust any government with the powers in this bill on principle. We do not trust this government with these powers, based on the practices of

the last 20 months. We do not need this legislation. Instead we need to return to freedom and to democracy.

Ms BATH (Eastern Victoria) (20:15): The Greek philosopher Plato said, ‘He who does not desire power is fit to hold it’. The Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021 is an unparalleled power grab by the Andrews government, and Victorians are gravely concerned about these draconian laws. Now, if you believe some from the other side, if you believe some who are going to vote for this bill, they would say that Victorians are dumb. They would say that Victorians cannot understand and are influenced by some force that says we reach into them and we say, ‘This is all scary; it’s all taboo’. And I do not believe that. I believe Victorians are savvy, are smart and can make up their own minds, and we will hear in my speech some of the very wise Victorians and the concerns that they have for this bill.

Why does Daniel Andrews want this unfettered power? Last week it was 170 years since the Legislative Council came into being, a house of scrutiny and democracy. This bill is turning that democracy on its head. The Nationals will oppose this bill. We apparently see that house amendments have come in at the 11th hour, last night, and we have been told, ‘Just take this sandwich and swallow it’. Well, Victorians are not swallowing it.

The bill reaches down and puts a stranglehold on the liberties of Victorians, including rural and regional Victorians in my Eastern Victoria regional electorate. And they have done it tough. We have had lockdowns, we have had school closures, we have had businesses close, we have had very stressed people, we have had dislocation and families separated, we have had job losses and anxiety and the mental health of our people has been shredded. We oppose this flawed overreach of democracy.

The Victorian Bar Council—I refer to them in my contribution because they are learned, they are knowledgeable. They are not fools. They interpret the law, and they have some grave concerns, even with the 11th-hour tweaking and amendments by the government. The bill, and I quote:

... authorises extreme limitations of ... liberties of ... Victorians and confers enormous powers on the executive.

Replacing the current state-of-emergency laws, it removes the fundamental rights on which our democracy and our state are built. The Minister for Health and the Premier can make any order that they see being in the interests of public health. This is oppressive in the extreme, and it removes the judicial system of having that particular oversight and strips away Victorians’ right to judicial appeal. When we are in government in a year’s time, we will repeal this bill—the Nationals and the Liberals.

The legislation hands the Premier and the Minister for Health power to rule by decree. This bill allows the government to declare a pandemic and instruct orders of lockdown within the state even if there is no presence of a disease in Victoria. Victorians will be ruled not by the Parliament and not by the executive government but by two specific individuals—the Premier and his or her chosen minister. These wide-reaching powers can make any order, any order that they believe is reasonably necessary to protect public health. This is open, and it is subject to interpretation and will. The bill bestows the power to incarcerate Victorians with no right of appeal through the courts. If this bill is enacted, it will permanently entrench—and I go to the bar council again, and I quote:

... an effectively unlimited power to rule the state by decree, for effectively an indefinite period, and without effective judicial or parliamentary oversight.

Now, the penalties are \$90 000 for individuals for not wearing a mask or following directions. ‘But wait’, the government says, ‘we’ve brought in some house amendments. It’s okay; it’s only \$45 000 per person for Victorians’. Lucky Victorians. But wait, \$45 000 is half the average annual wage of an Australian. So you can just whack on \$45 000. Who can afford such a magnitude of cost? The Attorney-General says, ‘We’ll give you certainty’. This bill should be conveying a very limited

time period for unforeseen emergencies, but what it does is entrench a method for dealing with a pandemic for extended, extended and extended periods of time. The bar says again, and I quote:

... the rule of law, the sovereignty of Parliament and the checks and balances of our democratic Westminster system of government must be respected, even in times of emergency or crisis. While broad emergency powers that circumscribe ordinary checks and balances of our democracy may be justified to deal with an unforeseen crisis in the short term, they are not appropriate for the management of risks over extended periods.

Christopher Blanden, QC, said:

This represents the biggest challenge to the rule of law that this State has faced in decades.

A recent letter signed by 60 eminent QCs, including the Black Saturday 2009 Victorian Bushfires Royal Commission's Jack Rush, QC, refers to the government ruling the state 'by decree'. The Law Institute of Victoria says the bill, and I quote, 'does not sufficiently protect the rights of Victorians'. And Liberty Victoria has similar views. Even the Victorian equal opportunity and human rights commissioner, Ro Allen, has weighed into the debate. She is concerned about designated time frames, the lack of safeguards and the need to adhere to the Charter of Human Rights and Responsibilities Act 2006.

Today I tabled a petition where we had almost 12 000 signatures in about as many days. Twelve thousand people voiced their concern through an e-petition in Parliament, calling on the government to reject the bill. We have seen other petitions. We have seen people demonstrating, largely safely and largely respectfully. That is the way to go in this place, that is the way to go in our democracy and that is the way to go in Victoria. I call on the protests to continue respectfully. The Nationals condemn anyone who makes threats to or intimidates our citizens—that includes MPs, that includes journalists. It also includes those people who live and work on livestock farms, where their home is also their farm. We condemn violence of any sort.

The one key thing that many people—those thousands upon thousands of people who have written to me and contacted my office, rung the office—are quite generally afraid of is that this bill descends into the dark hole of an Orwellian *1984* via this ability to take attributes, as defined by the Equal Opportunity Act 2010, and for the government to be able to section them out and make pandemic orders specifically on them. Now, these are not based on a personal health risk profile. It can be based on a person's race, religion, political belief, industrial activity or personal association with others. Again: but wait! The government has come in with some amendments at the last hour and said, 'No, no. It'll be all right. We'll fix this. We'll fix it. Just trust us'. Well, I think Victorians are getting very low on trust for this Andrews government. And it is not just this government. This legislation is ongoing. This legislation is our children's children's children's pandemic response by a government unknown. We see that there have been, as I said, thousands of emails, and I thank the people for sharing their views. As I said, I think they are savvy.

Again, let me go back to the Victorian Bar Council—learned, learned people. They say, again concerned about the charter of human rights, that the bill, quote:

... must comply with the obligations under s 38 of the *Charter* to give proper consideration to human rights and to act accordingly and that failure to do so will constitute jurisdictional error.

Now, I believe that this government has just thrown caution to the wind. They are incredibly arrogant, and they will do what is their will.

In terms of oversight, transparency and scrutiny, this bill is sadly lacking; it is wandering around out there all on its own. We have heard about the Scrutiny of Acts and Regulations Committee. I was on that for the 58th Parliament. It is controlled by those in government. It is always chaired by those in government. At the moment there is a Labor chair and Labor hold the balance of power. So when the government says, 'Don't worry, we've got it covered', well, they have got it covered from a talking piece. Victorians have been told that the oversight for this bill is like in New South Wales and it is like the best of New South Wales and the best of New Zealand. Well, the New South Wales and New Zealand legislation both contain cross-party parliamentary oversight specifically designed to examine

pandemic orders. There is a non-government majority. There are safeguards that this bill does not contain.

The panel appointed by the government by its nature brings into question its independence. It is hand-picked by the Premier to advise the Premier. Again, the QC William Partlett, an associate professor at Melbourne Law School, said:

... the bill rejects a key parliamentary safeguard that is used in NSW and NZ.

Also I have a grave concern around the detention review officer. You can be put in jail, you can be put away, and who is looking at that? It is not the judiciary system. It is a detention review officer. The Premier and the minister are in effect both the jailer and the judge, and we have members of the Andrews government blindly following their leader. The Ombudsman, Deborah Glass, has gone and spoken on radio this morning, and her concerns are around her and her office not being able to have oversight—that she will not be able to have oversight of the Premier and the minister. ‘I cannot review decisions by ministers’, she said, and her concerns are raised.

Once upon a time, when I was a girl, there was a builder in our town of Fish Creek. His name was Charlie Vagi. In the 1950s he escaped under gunfire from a repressive regime in Europe. He said he was forever grateful for being in this place, in this town, in Australia, because he cherished democracy more than ever. I shudder to think what Charlie Vagi would be thinking of this legislation.

Tinkering with the bill will only tinker with the bill. It will not fix its fundamental flaws. I will go back to where I started. I return to here: ‘He who does not desire power is fit to hold it’. The Premier is drunk on power. It is a power grab of unparalleled precedence in our state. When this Parliament was built many, many years ago, the proverb inscribed on the vestibule floor was very carefully chosen. It says:

Where no counsel is the people fall but in the multitude of counsellors there is safety.

We need to create safety, within this bill, that is not there. My great-great-great-grandfather was a member of the Legislative Council in the 1870s. He was in this place when our state as we know it was created. This is not the Victoria he envisaged. It is not the Victoria I want to be and live in. It is not the Victoria I want my children and grandchildren to live in. We need to oppose this bill. I call on the members of the crossbench to oppose this bill. I understand that they have done deals with the government. It is a sad state of affairs when they have swallowed the pink pill along with the government members and bought the Premier’s key drivers in this. The Premier and his minister will become the law in this state—unprecedented power. Many, many learned people have made those comments, and I think we should be listening to them.

The Nationals oppose this bill. We will debate this in the committee of the whole, we will debate it clause by clause. This bill must be defeated. It does not merit passing.

Mr BOURMAN (Eastern Victoria) (20:30): I am struggling to figure out what really to say about this. I am not supporting the bill. That should be no surprise to anyone that bothers to follow my social media. But most of what I would say has been covered before. The government needed to do something, I guess, about the way pandemics are managed, because the last big pandemic was after the First World War. But I am pretty satisfied that this is not it, and I am going to say that there is a fair chunk of the population that says this is not it. I will get to my amendment later, but there have been some amendments proposed by the government. I am still contemplating them. I mean, this could be polishing something, but I am not really sure exactly how it is going to work, and the—

Mr Finn: What are you polishing?

Mr BOURMAN: I will leave that for you to work out, Mr Finn. The opposition have put a fairly large raft of amendments, which again might just be a bit of polish. But the guts of my amendment is that we need to go back and consult a bit more with people. There are three crossbenchers that I am aware of that were consulted. Clearly I was not one of them.

Mr Ondarchie interjected.

Mr BOURMAN: I'm afraid I wasn't, Mr Ondarchie. That is called democracy, I guess. But this is a very, very interesting bill, and it is not a normal bill. Hence why my amendment is a reasoned amendment. In fact I might get that circulated. I move:

That all the words after 'That' be omitted and replaced with the words 'this bill be withdrawn until representatives from every party and Independent members in the Legislative Council have been fully consulted on the contents of the bill.'.

Mr BOURMAN: The guts of my reasoned amendment is that we gut the whole bill, we go back and representatives from each party and the Independent members in the Legislative Council are fully consulted on the contents of this bill. That is not briefed, that is consulted.

I would suggest that everyone in this chamber, at least to some degree, says, 'We do need to change the way we handled the last pandemic'. We can blame whoever we like, but improvements need to be made. I know it is called politics, but in the end not everyone was consulted, and I think that is a shame, and that is the guts of what I want to do. The guts of this whole thing is that we go back and consult and we try and find something. Surely there must be middle ground that we can all find, and if not, we can find something that is a little less contentious. I do note that the government has put up a large swathe of amendments—at whose behest I do not know. I am still contemplating them. We have not had a great amount of time to think, but it is clear that I am not going to support this bill.

But I might also make a comment that some of the activities outside this chamber regarding members of this chamber are a little bit above and beyond. I am all for the stoush in the house and all that sort of stuff, but there was some stuff that was going on that I think people need to rethink—gallows and things like that. That is not on. I am more than happy to have the fights in here. I am more than happy to go at everyone. I am more than happy to work with people that are unhappy, but there is a limit. I think some people just need to take a breath. It is clear the government has got its majority and people are going to have to live with this. They talk about un-Australian. Gallows are a very un-Australian thing to do for a politician. Whilst I clearly do not support this bill or the government's amendments—I am still contemplating Mr Davis's amendments—I think we all need to take a breath.

At some point in time the government will be the opposition and the opposition will be the government, and they can fix it. Hopefully we do not have another pandemic for another 100 years and we have time to tune this. But in the end I do not think the government has handled this to a large amount of people's satisfaction, and I will not be supporting the bill.

Mr Davis: On a point of order, Acting President, can I just note with my amendments—this has obviously been a complex, moving process—there has been a small error. The clerks have brought this to our attention. It has been found and communicated to the Office of the Chief Parliamentary Counsel. The advice of the clerks is to change it online, and the version that is down here has also been changed. It is a simple typo. Amendment 17 of my amendments says 'clause 12'; it should say 'clause 17'.

The ACTING PRESIDENT (Mr Melhem): Thank you. That will be noted.

Mr ONDARCHIE (Northern Metropolitan) (20:35): I move:

That debate on this bill be adjourned.

I note that the New South Wales Premier, Dominic Perrottet, has just this afternoon dumped health minister Brad Hazzard's bill seeking to expand the COVID—

The ACTING PRESIDENT (Mr Melhem): Order! Adjourned until when?

Mr ONDARCHIE: Well, I am just doing that now.

The ACTING PRESIDENT (Mr Melhem): You need to tell us until when.

Mr ONDARCHIE: I am going to tell you that, Acting President. I note that the New South Wales Premier has just dumped health minister Brad Hazzard's bill seeking to expand the COVID-19 powers in New South Wales into 2023 as the government has consulted with the New South Wales government and more broadly to rework the legislation over summer. I call on the Victorian government to follow the New South Wales example by revisiting this pandemic bill in the coming weeks.

The ACTING PRESIDENT (Mr Melhem): There is no end date.

Mr ONDARCHIE: Until December 2021. I should note that this bill was somewhat rushed into the Parliament today, and we over recent weeks have not had the opportunity, following on from what Mr Bourman said in his contribution to the second-reading debate, to pause, to check, to revisit and to make sure this is right. My motion today reflects what the New South Wales government have done and also reminds the chamber that the government of New South Wales are an example. I use that as an example today to say, 'Let's follow the example and take a pause on this to stop and consult widely, consult very widely, not just with other members of Parliament but the broader community'. On the amendments that the government will look to pursue today we have not had an opportunity to consult with our communities at all. So if the government are truly about transparency, about consultation and about making sure they get this right, then they should allow this house and its members to consult widely with the broader community.

That is why I look to do what Mr Perrottet has done, where he said he is going to rework the proposed legislation over summer and take the time to consult and say, 'Okay, I think we can do this better' and not rush it through the New South Wales Parliament. The opposition says today: can we just pause this for a moment to give us a chance to consult with our communities, not just immediately with the other MPs but with our broader communities, our constituents, and to say, 'What do you think about this'? I move my motion accordingly:

That debate on this bill be adjourned until 1 December 2021.

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (20:38): It is very predictable from Mr Ondarchie. However, I do not support his arguments. Pursuant to standing order 12.25(1), I move:

That the question be now put.

The ACTING PRESIDENT (Mr Melhem): Pursuant to standing order 12.25, Ms Symes has sought to move for the closure of the debate. Standing order 12.25(2) requires that six members rise in their place to support the motion, and I have six members. I ask those members who wish to do so now to rise.

Required number of members having risen:

The ACTING PRESIDENT (Mr Melhem): We have got more than six members. There being at least six members who support the closure motion, I will put the motion forthwith without amendment or debate.

House divided on Ms Symes's motion:

Ayes, 19

Elasmar, Mr
Erdogan, Mr
Gepp, Mr
Kieu, Dr
Leane, Mr
Meddick, Mr
Melhem, Mr

Patten, Ms
Pulford, Ms
Ratnam, Dr
Shing, Ms
Stitt, Ms
Symes, Ms

Tarlamis, Mr
Taylor, Ms
Terpstra, Ms
Tierney, Ms
Vaghela, Ms
Watt, Ms

Noes, 18

Atkinson, Mr
Bach, Dr
Barton, Mr
Bath, Ms
Bourman, Mr
Crozier, Ms

Cumming, Dr
Davis, Mr
Finn, Mr
Grimley, Mr
Hayes, Mr
Limbrick, Mr

Lovell, Ms
Maxwell, Ms
McArthur, Mrs
Ondarchie, Mr
Quilty, Mr
Rich-Phillips, Mr

Motion agreed to.

House divided on Mr Ondarchie's motion:

Ayes, 18

Atkinson, Mr
Bach, Dr
Barton, Mr
Bath, Ms
Bourman, Mr
Crozier, Ms

Cumming, Dr
Davis, Mr
Finn, Mr
Grimley, Mr
Hayes, Mr
Limbrick, Mr

Lovell, Ms
Maxwell, Ms
McArthur, Mrs
Ondarchie, Mr
Quilty, Mr
Rich-Phillips, Mr

Noes, 19

Elasmar, Mr
Erdogan, Mr
Gepp, Mr
Kieu, Dr
Leane, Mr
Meddick, Mr
Melhem, Mr

Patten, Ms
Pulford, Ms
Ratnam, Dr
Shing, Ms
Stitt, Ms
Symes, Ms

Tarlamis, Mr
Taylor, Ms
Terpstra, Ms
Tierney, Ms
Vaghela, Ms
Watt, Ms

Motion negatived.

Mr ONDARCHIE (Northern Metropolitan) (20:49): I rise tonight to speak to the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021. I will start by saying that I am adamantly opposed to this bill—opposed with every bone in my not unsubstantially sized body. I always have been and always will be opposed to legislation that is rushed through this place, that is poorly worded and that frankly will leave Victorians worse off tomorrow than they are today. Victorians of all political persuasions only want two things from their government: to either help them or to get out of their way.

This government lives by a different motto, claiming to help them while putting every possible hurdle in their way. I really thought this place, specifically those opposite, would be able to come up with a decent bill to bring to this place in the 610 days since the state of emergency was first declared—610 days. Instead we get this half-cooked bill with little or no consultation that has red flags on it from start through to finish. They claimed this morning this is urgent. They claim we have to do this quickly. We started this process 610 days ago, and then we get some lame dog-ate-my-homework excuse this morning as to why they have to rush it through.

Since the first state of emergency was called we have spent over 262 days here in lockdown, more than anywhere else in the world, and in my electorate the local areas of places like Hume and Melbourne were locked down even more. Over 1000 businesses have gone into liquidation and many small businesses have shut their doors or moved interstate, some never to reopen. I would invite members to go for a walk down Bourke Street to have a look for themselves, but when that has been suggested it has been rejected by members in this house. Victoria had a net migration loss of 42 000 people. For the first time in a long time we have gone into the negative, and thousands of people have contacted my office, not just on this bill or others like it but with issues coping with isolation, dealing with the department, which has not been responsive, and the need for just a general chat about how they are feeling.

Anyone who is in this house that has been in touch with their community would say that Victorians have been through absolute hell, but while every Victorian has done everything they can it seems this government cannot even produce an adequate bill for debate. People are hurt. People are suffering. Mental health, depression and, sadly, suicide, have grown in this state. People have lost their jobs. Families are hurting, whatever ‘families’ means. Singles were kept in bubbles and not able to see people. Students were not able to go to school. I make the point that little children who started in prep last year during lockdown are in grade 2 next year. Students who made their first transition to year 7 in secondary school, a year they would have quite looked forward to for gaining a bit more independence in their life, started year 7, were locked down to homeschooling, spent most of this year doing exactly the same thing and are in year 9 next year. People are hurting.

It is not just me that has reflected on this bill. Others have. I will talk about the eminent people in Victoria who have reflected on this bill. Indeed the Ombudsman herself has reflected. But before I talk about what the Ombudsman has said directly, let me remind the house about this: on 4 July 2020 about 3000 residents of nine inner-Melbourne public housing towers were detained by the state. They received no advance notice or explanation of the direction to stay inside their often crowded high-rise homes without outside space. The images of distress amongst those families were beamed right across the world from Melbourne, Australia. Around 11.00 am on 4 July senior officials dealing with the public health emergency agreed intervention was needed for those towers. They discussed the structure and the need for community engagement, security and provision of support for residents. That was 11.00 am. Several officials said they expected the intervention would not occur until midnight the following day, some 36 hours later. But at 4 o’clock that afternoon—4.08 exactly—the Premier of Victoria announced the lockdown effective immediately. He locked down those high-rise towers with armed police and fences around them, but not a word—not a word—from government MPs about that.

Mr Finn: Or the Greens.

Mr ONDARCHIE: Or the Greens. Most of the residents found out when they saw uniformed police officers surrounding their building. The deputy chief health officer who was acting as the CHO on the day told the Ombudsman that although she signed the directions the timing was not on her advice. She was given less than 15 minutes to consider the terms of several lengthy documents and the human rights implications. In the Ombudsman’s report into what happened it said this in finding 70:

... the reasons for imposing a lockdown on 4 July 2020—with just a few hours’ planning—remained unclear to the investigation. Such an immediate response was not specifically recommended by the Deputy CHO, who, like other senior DHHS officers, originally anticipated the public health intervention commencing after at least 24 hours’ ...

would have occurred. And I tell you, if this bill gets passed, we are going to see more of the same. One person, the Premier of Victoria, will be making all the decisions to do whatever he wants to whoever he wants whenever he wants. We cannot accept that. That happens in countries many of our multicultural communities have fled to come to Melbourne to get away from. This government and the Greens and Ms Patten are saying this is a good thing to do. Not in modern-day Victoria: we should never accept that. Many people have referred to this bill as a power grab, and I think that gives the government far too much credit. The bill is equivalent to cramming at the very last minute to make a deadline. It is a disgrace, because it misses the mark on so many levels and has evoked so many emotions in Victorians.

While those opposite shake their heads, they fail to comprehend that they have lied to us again and again and again about lockdowns, about reopening, about mandates and about just about everything else they have done. And, finally, they have got the audacity to propose this rubbish to our Parliament—a power grab that has been described by legal professionals and constitutional lawyers as Stasi-like. This bill gives too much power for any government to wield, not just this one. I have to say: if we were in government, we should not have these exact powers either. We should not give

unfettered control to one single person. That happens in some countries across the globe that we deplore. I know in the last sitting of the Parliament I referred to the Premier as Kim Jong Dan. I will not do that today. But I tell you what, these sorts of actions reflect some of that thinking. I would like to say that, should we win government, we will repeal this terrible legislation that has come before the house today, if it does become law.

It is a bit hard for those on the government benches to comprehend what this is doing to the people. It provides the government in this state the power to detain citizens, to treat silence as guilt and to prevent people challenging detention in court and provides no independent oversight. But it is all right. We can appeal to a public servant, apparently, and see how that goes. Well, it is not all right. God help us. I am sure everyone wants the legal application looked at by Ms Patten, because she is more of an expert apparently than the QCs. She has called people naive if they do not support this bill. Well, apparently Ms Patten is more qualified than the eminent QCs who have spoken against this.

We know people do not trust this government, and we could talk about that all day. If the time allowed me, I would. But this policy and this bill are fundamentally bad. Forget politics, forget your views on lockdowns and forget your views on this Premier; this bill is bad for a Labor government, a Liberal government or any form of government in this state. It is a bad bill for Victoria; it is as simple as that. If this bill were any good, where are the government speakers lining up to speak on this today? Well, they are not there. They are not lining up in droves to speak in support, because I suspect deep, deep down they do not actually like this bill at all. But they are nervous to contradict Chairman Dan, save they lose their parliamentary secretary role or their ministerial role. They do not want to dare conflict with the chairman.

This bill has got no sunset clause, which means it can just go on forever. It says it will have parliamentary scrutiny because it will be looked at by the Scrutiny of Acts and Regulations Committee, but we know that SARC is going to be stacked with government representatives. There is no independent scrutiny for detention powers. It is not me that is saying it is bad, it is the legal experts, the people who devote their whole lives to and spend every day practising law. I could reel them off—the 60 QCs, the Ombudsman et cetera, et cetera.

The whole basis of this bill today is that the government says, ‘Oh, just trust us. We’ll be right’. This is a government where the Premier said, ‘We don’t want to spend 2021 bouncing in and out of lockdowns’. Well, he has done that exact thing. The government just want us to trust them, and Victorians do not and I do not. When they are asked, when they are held to account in inquiries, they roll out the standard response, ‘I don’t recall. I don’t know who did it. Somebody must’ve done it, but we don’t know who’. To quote a phrase often used in morning radio, I think that is bulltish.

And I say to those opposite and the trio of Labor-lite ghouls on the crossbench: how dare you support this? Ms Patten said in her contribution today she wished she had more time to read the emails from her constituents about this. Isn’t that one of your first priorities—to listen to what your constituents say? Because I can tell you I have had thousands upon thousands upon thousands of emails telling me we should not support this pandemic bill. Do you know how many emails I have had saying we should support the pandemic bill? None.

Mr Finn: I’ve had one.

Mr ONDARCHIE: Mr Finn has had one. I have had none. So I would say to Ms Patten and Dr Ratnam: if you are truly supportive of your constituents, who are the same constituents as mine, you should be listening to them. They are saying do not vote for this. Those who are against it include, for example, Dr Ratnam’s colleague Dr Read, the member for Brunswick in the lower house, who said this:

These powers are a little bit like giving the government a car, but we cannot tell the government exactly how it is going to drive it.

Dr Read, a Green in the lower house, said he is uncertain about this bill, yet Dr Ratnam from the Greens has come in today and is saying that she will support this bill. She should be listening to her constituents. I have spoken with a lot of people about this. Ms Patten at one stage in the last fortnight said this bill gets the balance right, and now today there is a whole series of amendments, so clearly it was unbalanced.

I just want to touch on one thing. I have talked to a lot of people. I spoke to people in the street, in my local shopping centre, by phone and by email and I spoke to some people out front today. I want to make this point: I completely abhor and condemn people who make personal threats against members of Parliament. Gallows, signs—that sort of thing is totally unacceptable. Do not conflate the fact that there is a small group of people doing this with the greater message from the people out there who are living a peaceful life and just sending a message, who I spoke to today. I do not support that, and I know because I have been, and my family have been, subject to threats. I know this; I know what it is like. But I say to Dr Ratnam, who said anybody who supports that should not be in a leadership position, that her federal colleague Adam Bandt was at a rally where they burnt an effigy of a former federal minister. If the Greens are saying someone should not be in leadership because they support personal attacks on members of Parliament, Mr Bandt should resign, and Dr Ratnam should condemn that.

I do not support personal attacks on people—I do not support them—but I say this, as the Victorian Bar has said today: the amendments for what was apparently a really good bill in the lower house but needs to be substantially amended now fall well short and do not go far enough to protect the rule of law. I stand with my Liberal-National colleagues. I stand with most of the sensible crossbenchers here—not the ones who have done a deal since March this year with the government—and bitterly, on behalf of my constituents, because I have consulted widely, oppose this bill.

Mr ATKINSON (Eastern Metropolitan) (21:04): I do not intend to canvass the same issues that have been raised by many other speakers, but I certainly concur with many of the remarks that have been made and particularly with some of the presentation that was made by Mr Rich-Phillips in this debate, which I think certainly went to some of the key issues.

I indicate that I am taking a slightly different view of this legislation to everyone else, and the view that I take is this: I find it extraordinary that we are looking at pandemic legislation which is supposedly crafted for management of a future pandemic when we have not analysed the scorecard of how we went in managing this pandemic. The Liberal Party has actually indicated that if it were to win the election next year it would hold a royal commission into the pandemic, and I think that that is probably a sensible policy to take to the electorate and a sensible initiative. However, to me, to a large extent a royal commission at that point in time would be like looking in the rear vision mirror and then trying to establish what you had done wrong and certainly putting in place recommendations for the future—no doubt also participating in some sort of blame game activities, perhaps, albeit that the people who are appointed to conduct those royal commissions usually act with great integrity and do great service to our state.

What I would wish to see, really, now, is an urgent review of where we are at now and not just what we are doing in the Victorian government, not just the mistakes that have been made, because I am not interested in just going back and blaming people and tackling mistakes. I think we should also be cognisant of the things that we have done right, of the good things that happened, and I think that we should be looking not just at what we have done in Victoria but indeed at what the other states have done and what they got right and what they got wrong. We should be looking at what the federal government has done and we should be looking at some of the international experience, because there are so many areas in this pandemic that we really need to understand much, much better, including data interpretation, the decision-making processes that have led to which vaccines we were to take and when we were to take them and what other treatments might have been ruled in or ruled out in terms of combating this virus.

It concerns me that there are some 10 000 people, reported today in the press, that in fact are starting to look at adverse incident claims from the vaccines. In the scheme of things, where we have millions of people vaccinated, yes, it is a small number, but those people have suffered. And if you are one of those people who have suffered, it is no compensation that you are one of a few. The reality is that we do need to understand how we got to that position. I personally am not at all convinced that we should be looking at vaccinating young children under 12 years of age, but we need to look at that process. We need a proper review of it. We need to look at those things that we have done in terms of the lockdowns.

One of the key things in terms of this whole process and what the government says in terms of the 'trust us' issue is: how do we do that? How can the public have confidence—let alone the members of Parliament—when in fact the very information upon which so many decisions have been made has not been shared with the Parliament, let alone the public? Dr Ratnam referred to what a good chief health officer (CHO) we had in her contribution. I do not know whether he is or not, because I cannot see the information that substantiates the decisions he has made, conveyed and implemented. At every step the government has refused to release that information, and it seems to me that so much of the management of this entire pandemic process has been done as a silo exercise—that it has been focused entirely on the virus but has not considered the ramifications of the measures that have been taken in terms of mental health, business collapses and the stress that that has put on so many families. It is stress that we have not even seen flush through the system yet because people who have lost small businesses are in real danger of losing their houses as well because that is how they funded their participation in those small businesses.

We have seen multicultural communities that are frayed at the edges, that have been put under such pressure. We have lost some of that magic that we had in Victoria in our multicultural communities because of the way we have mismanaged this pandemic in many ways. And that is not to say that there have not also been some good things done along the way, as I readily concede.

Half of the problem to me is that this whole exercise has been done by a very small group of people, essentially the Premier—and the CHO, there is no doubt about it, is a working part of the Premier's influence—and a very small group of cabinet ministers. I mean, in terms of the management of this pandemic, not even the whole cabinet was taken into confidence, let alone the backbench, let alone the Parliament, let alone the people of Victoria. And that is outrageous. And it is why there have been mistakes made that might not have been made had there been a greater debate, a greater sharing of information, more hands to the pumps.

Now we see this legislation come before us, and it clearly is inadequate in so many respects. Ms Patten and Mr Meddick are both transactional politicians. I get why they support the government in this exercise, because essentially it is quid pro quo: 'We'll support the government, we'll make sure that you get this through, as long as you look after our pet projects'. I am a little bit more disappointed in Dr Ratnam, because from my experience the Greens have actually provided greater scrutiny of government over the long haul.

Mr Ondarchie: Mr Barber did.

Mr ATKINSON: Certainly Mr Barber did in the last Parliament. But so too has Dr Ratnam in most cases, and yet she has fallen at this time on this legislation. I understand the concerns that she had about a whole range of people, including the homeless, including refugees, including people who had lost their jobs or were in circumstances where they have been really stressed, really damaged by this process. Mind you, I would suggest that she might extend her thinking to those people who have suffered from mental health issues, to those students that Mr Ondarchie talked about whose education has been disrupted. I understand the groups that she has been concerned about, but the reality is that this legislation gives them no confidence, gives them no succour. This legislation is as bad for those groups that she highlighted as for anyone else, and in large measure that is because of the failure of scrutiny of this government under this legislation as proposed.

When the Ombudsman comes out and talks about it, yes, there is reason for concern. When the legal fraternity and so many organisations that are concerned with human rights and with liberty and with the function of our society and those who are disadvantaged in our society come out and express concern about the legislation, then surely this government, on its boasts, would have thought to take notice. And yet it has not.

To talk about fines of \$45 000—I mean, that is a higher penalty than if you went and held up a 7-Eleven with a gun. I mean, it is extraordinarily disproportionate. And yet people on the government benches are prepared to say, ‘Oh, yeah, that’s okay. We’re prepared to say it is okay’. And the claim was, ‘Well, hey, Liberals, you got what you wanted. The CHO is not making the decision anymore. Now it’s the Premier and the Minister for Health’. Well, as Mr Somyurek indicated at the IBAC hearings last week, the health minister is only there by virtue of patronage and can be replaced at any point in time if the Premier is not happy. So in fact you have a situation where the Premier is the key person in this, and this Premier has not been prepared to share information, to actually engage the community. He dismisses everybody, and they are prepared to run that same distraction that in fact was run, as again we saw in the IBAC hearings, of, ‘Well, if we get criticism of what we’re doing, just play the racist card’. Well, here, if we get criticism of what we are doing, we play the right-wing card. You know, this is a nonsense.

We are all in this together as Victorians, and at the moment there is no trust and confidence in this legislation, and there is no reason for it to be rushed through. In fact the very process that has brought us to this debate today is part of a truncated process that is avoiding scrutiny, that is avoiding consultation, even with the backbench. This is a product of backroom deals, and we all know that backroom deals do not deliver good government. We all know that there is a penalty to be paid for that transactional politics and that in fact the only way to really arrive at a proper management structure for pandemics in the future is to engage in a full and proper debate, and I say that that should be after a full and proper review of the pandemic management that we have had in Victoria and more broadly in the past 19 months.

Dr CUMMING (Western Metropolitan) (21:18): I stand to speak on the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021. Where do I start with this bill? If I said everything I wanted to on this bill and covered everything that was wrong with it, it would take far more than my allocated time of 30 minutes. I, like a number of other members, expected a bill specifically for the management of a pandemic, rather than amendments to the Public Health and Wellbeing Act 2008. In his second-reading speech the Minister for Health said that the bill created a regulatory framework, and I will quote:

... that supports transparent and accountable Government action to keep Victorians safe during pandemics ...

This bill does not do that. It creates a framework of the unholy trinity made up of the Premier, the Minister for Health and the chief health officer. It says that there is going to be a separation of powers. The Scrutiny of Acts and Regulations Committee will somehow be involved in disallowance—I want to just laugh out loud.

According to this bill the Premier can make a pandemic declaration even when it is not the case that there is disease in Victoria or even Australia, as long as he sees that it has, quote, ‘pandemic potential’. This bill contains a definition of ‘pandemic disease’, and let me quote:

For the purposes of this Act, an infectious disease is a *pandemic disease* at a particular time if, at that time, there is a pandemic outbreak of that infectious disease.

Now, that is laughable: a definition that uses the word ‘pandemic’ to define what one is. It is like saying that the definition of ‘running’ is ‘walking at a running pace’. For the information of the government, who apparently does not know, the World Health Organization declares when an infectious disease is a pandemic, rather than the Premier, and the definition of ‘pandemic’ and who declares a pandemic is on the federal health direct website. Members of the government might find it

enlightening reading. After the Premier makes a pandemic declaration, he can extend that declaration endlessly without any oversight by the Parliament, even when there are no cases.

Now, over the last 18 months there have been constant requests for the health advice to be published, and none has been forthcoming. We were promised briefings by the chief health officer, and besides a few quick 30-minute briefings with questions, we have not had one for months—since July, to be exact. We do not know if all of the directives, the mandates and the orders we have been given have been based on health advice. We do not know. Does this bill give us a framework that is based on health advice? I do not believe that it does. Now, this government does not seem to realise that they have lost the trust of a lot of Victorians and of a lot of the members of this house, and this bill does nothing to bring that back. It does not release the health advice at the time of making the orders, but days later, and we are meant to believe that this advice is not being rewritten to match the orders. Why isn't it released at the same time as the orders? That is my question. But even more worrying is that this government has ignored the normal structures put in place to manage a crisis or a disaster: structures that are used by Emergency Management Victoria and by corporate business, structures that use a team of experts to provide the advice—a team of experts from a wide range of disciplines. Has this government learned nothing from the last 18 months?

They may wish to blame the federal government for a flawed vaccine rollout, but the truth is they did not run proper education programs. They did not use GPs and pharmacists until a couple of months ago. They did not tap into the resources of local government and multicultural communities until just of late. They did not use a place-based approach. They could have tapped into the expertise and resources of local government over 18 months ago, if not longer. Local governments know their communities. They know their leaders, they are incredible resources and they are an arm of the state. Instead of using council facilities for testing and vaccinations, they set up tents and drive-through hubs. Council buildings sat unused, and many council staff had no work. It was an incredible waste of resources, and I want to touch on that. In my area at Highpoint they set up pop-up tents in the car park—and then the people who were tested walked into Highpoint—rather than using the council facilities. At that time, when we had an outbreak in Maidstone, they only rang Maribyrnong City Council and requested they open up the community facility to use the toilet, rather than actually all of the community facilities across the whole of Victoria. You could have been using them. You could have thrown that money, and that money would have lasted 20 to 30 years, at upgrading toilets, upgrading facilities. But no—pop-up tents, pop-up facilities. And 12 months ago when we debated the state of emergency I raised that in the Public Health and Wellbeing Act there is a clear section on councils—but nothing.

Mr Ondarchie: No response?

Dr CUMMING: No. Well, obviously, we have not been spoken to at all. They did not manage our hospitals and the emergency services properly, they certainly did not manage quarantine properly and they did not run good multicultural education campaigns when I demanded them from the start. Instead they used a big stick and mandates. They gave us endless lockdowns, the longest of any city in the world. They locked us up in our homes for over 20 hours a day because of their incompetence. They closed our schools, they closed our playgrounds, they closed our places of worship. They stopped us from seeing our family and friends. They stopped us from celebrating marriages, they stopped us from farewelling the people that we lost. They stopped us from dining out and having a drink in a pub, in the street, in a park. They made us wear masks outside when nobody was around. They made us get vaccinated—mandated rather than, as around the world, no mandates. They created a divided community who will still be locked out from many of these things for months to come, if not years if this government gets re-elected.

They spent \$172 million on PPE that was not fit for purpose—\$172 million. Could you imagine in local government how you could have spent that? They paid an organisation chaired by a former Labor minister \$770 000 to manage the Working for Victoria program without a competitive tender. They overpaid \$14 million in the first round of the business support package. They contracted a senior exec

to the health department for a year, paying them \$595 000 a year with only one quote. That is \$250 000 more than what was quoted in the job description and \$230 000 more than the relevant public service pay band. They lacked effective fraud controls—and you might laugh about the effective fraud controls at this time, but the community is not laughing at the money that you have wasted. In some of the government departments and in their response to COVID they have left the Victorian taxpayers exposed to waste and corruption.

There is nothing in this bill—nothing—that will stop them from doing the same things over and over again. If anything, it grants them the power to do even more. Their attitude to this bill and to me and to other people on this crossbench has been disrespectful, personal and wrong. It is appalling, and it shows the same contempt they have for every Victorian. The way you show contempt to me is showing contempt to every single person in Western Metropolitan Region. You are giggling, you are laughing—

Members interjecting.

Dr CUMMING: Go for it. Go step outside. If you wish to continue, go step outside. For this Parliament and its financial management, the first we heard of this bill was late in the afternoon on Monday, 25 October. Why I know this is it is the day after my birthday. They offered their three pet crossbenchers a briefing then as well as the opposition.

A member: What about you?

Dr CUMMING: Not me. I am only a doctor of Chinese medicine and, you know, trained for a pandemic when I wear my army uniform. I am also horrified if the report in the media on the weekend is correct and the government is in talks with the three crossbenchers on amendments to this bill and has not spoken to us. They certainly have not asked me. I have a long list of improvements that can be made. I was sent their amendments at 9.36 pm last night. Would you normally be in bed?

Mr Ondarchie: They said they'd been talking to you since March.

Dr CUMMING: Oh, well, not me. And at 9.29 this morning I received an invitation to attend a briefing on the amendments, along with the remaining crossbenchers. Aren't we lucky? That is at the eleventh hour. That is not even 12 hours.

Mr Ondarchie: It's not consultation.

Dr CUMMING: It isn't, is it—at 9.30 at night, when most people are asleep. And then you get up in the morning and you are meant to jump into a briefing. That is wonderful. I appreciate it. But at least they can tick a box and say that they sent me the amendments and tick a box and say they briefed us. The briefing was held an hour later. That just shows the attitude of this government to the opposition and the crossbenchers, and I have still not been offered or received a briefing on the legislation itself.

A member interjected.

Dr CUMMING: Go on, keep choking. We first saw the bill when it went to the Assembly, and we had less than three weeks to read this bill—to read what is the worst piece of legislation that I have ever seen in my 25 years. It contains nothing less than a drastic overreach of powers by an already power-mad Premier. It contains the ability to target people on the basis of their characteristics, their attitudes or their circumstances and then exempts the government from the Equal Opportunity Act 2010. It breaches our human rights. There are pandemic orders and pandemic management powers and pandemic management order powers and pandemic management general powers. That is an awful lot of powers, and far too much power is delegated to authorised officers. You would need a whiteboard or a PowerPoint presentation to work it out.

Now, let me be blunt: this bill does not provide transparency or accountability. It says that the Scrutiny of Acts and Regulations Committee will have the oversight—a committee that is already controlled

by the government. I am embarrassed by a lot of these committees and who chairs them. I am embarrassed that some of the members of this house think that it is acceptable, especially since they did not grant leave for the committee to examine the bill before it came into this house, as requested by the opposition, and since the committee initially refused to examine the bill. I think that we should just delete the whole section relating to SARC and insert some oversight by Parliament.

Then there is an Independent Pandemic Management Advisory Committee. Currently we have a toothless tiger without any real powers. Now, an Independent Pandemic Management Advisory Committee is a group that should contain the expertise: health care, human rights, local government, doctors, pharmacists, multicultural, legal, businesses—the list could go on, but these would be experts in their fields. This is a group that knows how our community would be affected. This would be a group made up of independent experts that should be advising the minister. This is a group that should be making the recommendations.

While I will oppose this bill with every fibre in my body, I will also be putting up amendments. Now, I am putting up amendments so the government can see what a good emergency management framework really looks like. Could you please circulate my amendments.

Independent amendments circulated by Dr CUMMING pursuant to standing orders.

Dr CUMMING: I will explain them in detail if the bill makes it to the committee stage, which I hope it will not, but they include a workable definition of ‘pandemic’, a requirement that the disease must be present in Victoria before making a declaration, that the declaration can only be extended up to a maximum of 12 months and every extension must be approved by the Parliament, that Parliament must continue to sit throughout the declaration, that the membership of the advisory group is expanded and that they are responsible for advice and recommendations to the minister, that changes are made to be published of the health advice and in most cases immediately released, and the removal of SARC to provide oversight.

Now, 60 QCs have problems with the bill. One of the ones I know is a big Tory ALP. The Law Institute of Victoria has problems with this bill. They have published a 24-page position paper with 32 recommendations. Even the Ombudsman has come out today saying that there is a need for greater transparency than what this bill provides. Her office has been able to provide independent review of detention orders but would no longer be able to do that under this bill. She said, and I will quote:

... I will no longer be able to do that under this legislation because the decision-making will move from the chief health officer to the Premier or Minister for Health, and I don't review decisions by ministers.

This bill needs to go back and be rewritten. Their amendments are not enough. They are simply a half-hearted attempt to say that they have listened to what Victorians have said. If they really listened to the voices of Victorians—to all the independent voices—they would have been making a lot more amendments or scrapping the bill together. I will be opposing this bill.

But I would like to also just touch on some of the contributions that were made by others today, and I can make a guess at some of the ones that will go after me. It is not right that three of the crossbenchers have been targeted, and some of that targeting during this debate is wrong. I have gone to these protests, and the vast majority are peaceful. I must say that any time I have ever seen someone who was doing the wrong thing I have actually gone up to them and requested that they change their behaviour, that they be compassionate and use their heart. I can understand why a lot of people are angry: they have lost their businesses, they feel desperate, they do not know what to do. Because the information has not been given and the government has not been transparent with the health advice, there has been many a time when people have filled that gap, which has been sad.

I take great offence at this government and the words that have been directed towards the protesters, such as ‘Neo-Nazis’. Why do I take great offence? I am part of that. My mother is German; my family were protecting Jews in their village. During this time the government took aim at the Jewish

community but then in the same breath happily called others Neo-Nazis. I have heard this here. Mr Meddick here has also used the term. You directed it at me today, talking about—

Mr Meddick interjected.

Dr CUMMING: Well, Mr Meddick, I will—

Mr Meddick interjected.

Dr CUMMING: Mr Meddick, who is here today, even during this pandemic, on Anzac Day—I was walking out on the steps of Parliament House to support the Royal Commission into Defence and Veteran Suicide—came marching past me and told me that he was leaving because there were Neo-Nazis out there. I walked out there—

Mr Meddick interjected.

Dr CUMMING: Go on, Mr Meddick, please. I will absolutely take this up, because you actually just saw a bunch of leather jackets—

Ms Terpstra: On a point of order, President, I am sorry, but I am not sure what this has got to do with the bill, and I would ask that the member come back to debating the point of the bill.

Mr Finn: On the point of order, President, I think the point that Dr Cumming is making is very relevant to many of the points that have been made by a number of speakers in this debate in the chamber today and indeed in the media publicly, and I think it is perfectly reasonable for Dr Cumming to respond in the manner that she has.

Ms Terpstra: On a further point of order, President, there was no point of order there; it was debating the point of order.

The PRESIDENT: My understanding is that Ms Terpstra's point of order was about your debate about the bill, not the conversation between you and Mr Meddick. I understand, Mr Finn, that she took that because of the bill and the interjection, but I ask Dr Cumming to come back to the bill.

Dr CUMMING: I will, because Mr Meddick actually saw the Vietnam veterans that were outside. All he saw was leather jackets, but if he actually had gone out there and spoken to the Vietnam veterans that were there—

Mr Meddick: On a point of order, President, Dr Cumming is making an outrageous accusation. She is claiming that I saw Vietnam veterans in leather jackets and thought they were Neo-Nazis on that day. That is not what the case was. That is a misrepresentation, and it needs to be withdrawn. I saw a known Neo-Nazi reporter out there with his Neo-Nazi mate, and that is who I spoke to her about. I would like her to withdraw that comment.

The PRESIDENT: Mr Meddick, thank you for raising the point of order. If you took it as an accusation, I ask Dr Cumming to withdraw her comment.

Dr CUMMING: President, he did say it to me in front of my gay friend, so I have a witness. He called them Neo-Nazis. He goes, 'I'm not standing out there with them. I am going inside, they are'—

The PRESIDENT: Dr Cumming, when I ask for something, can you please not get involved in debate? I have asked you to withdraw, and I expect you to withdraw.

Dr CUMMING: I will move on.

The PRESIDENT: Now you have withdrawn, you can come back to the bill.

Dr CUMMING: Thank you. I appreciate that. I guess I can make another point about others in protests being called Neo-Nazis. This is not about the point that we were just discussing, President; this is about another time when Craig Cole was walking from Williamstown to Torquay. He saw tents

and he called them Neo-Nazis as well. So it is not the first time that someone either here on the crossbench or in the government has called us names, and I find it really offensive. Even Dr Ratnam earlier today was talking about the nooses; I have seen that during the Extinction Rebellion about climate change. They were burning prams, they were burning effigies of people—

The PRESIDENT: Come back to the bill, please, Dr Cumming.

Dr CUMMING: I will. Thank you, President. But I find it unusual. Throughout this pandemic the government has used propaganda towards me and others, and it is all in *Hansard*: from ‘tin foil hats’ to ‘Trump supporters’ to—what other language have you used towards me and others?—‘conspiracy theorists’, when it has simply been about being pro-choice, no mandates, treating the Victorian community as adults, showing them the actual health advice, not acting like you know something better than somebody else, respecting your unions and respecting the workers’ voices and what they actually have to say rather than saying that even your union members are baby Nazis or painting them with that brush when they are just hardworking Victorians.

Ms Stitt: On a point of order, President, I think that Dr Cumming is attributing comments to government members that have simply never been said in this place, and I would ask you to ask her to withdraw them. I think she is actually confusing comments made by people who are not members of this Parliament.

Mr Ondarchie: On the point of order, President, the minister knows better than this. She can deal with this by way of her own substantive contribution or do it by way of substantive motion.

The PRESIDENT: It is not a point of order. I think Dr Cumming was just debating the issue.

Dr CUMMING: Thank you, President. I will take that point, and I will say it was the federal ALP rather than this Victorian government. So if you are not connected with Bill Shorten, I apologise. But that is okay. If you are distancing yourself from Bill Shorten, I understand that. There are others here who have picked on my family but then come into this chamber and are upset. Now, I do not support anyone picking on anybody’s family or making anyone’s family unsafe, but I will not have any of my staff accused at any stage or time of actually jumping on anyone’s social media or having done anything to the crossbenchers here. (*Time expired*)

Mr MEDDICK (Western Victoria) (21:48): In the words of Brian Taylor: yowza! From the outset, I want to do three things before I address this important bill. Firstly, I want to thank my team—all of them—for what they have had to watch, what they have had to endure, over this legislation: the vitriol, the rancour, the vile abuse and threats and phone calls. They did not sign up for that, and neither did my family. I will say no more about that because I do not want to give people that do not deserve it any more attention, other than to say to my team and family and the many thousands of people who wrote letters of support to my family and my party: thank you. It seems not enough, but it is all I have got left in the tank.

Secondly, I want to thank my colleagues Ms Patten and Dr Ratnam for their level-headed approach through all of this. They have been the subject of some of the most disgusting, frightening misogynistic abuse, as has my chief of staff, Georgie Purcell, an extraordinary young woman who has not deserved the abuse and accusations that have come her way. To my friend Gary Hall and his husband, Michael: I am so sorry. The sort of stuff that has been levelled at you—in all honesty I did not think Victorians were capable of it, the sort of vitriol we have not seen since Tony Abbott attacked Julia Gillard.

Let us bring it back. Let us remember the images of Tony Abbott standing under a sign that said ‘Ditch the witch. Kill Julia Gillard’. That was on the signs. That was him. That was the stuff that he was endorsing. That is what I am talking about. I have found myself as worried for their personal safety as I am for my own family. I will address the behaviour of some in detail shortly. Let me just add, if this level of bile was directed at Ms Crozier, at Ms Bath, at my ennemie digne Mrs McArthur, I would

defend them in a heartbeat. All women are at the mercy of acts of ratbagery committed by men, and none of them should have to endure it.

Thirdly, it would be remiss of me not to address why we are even here in this situation at all, something that in all the commotion, the emotion, the lies and the hatred everyone wants to ignore. We are in this predicament because we continue, even after over 5 million deaths, to fail to even acknowledge what has caused us to be here. We use its descriptive. We apply the best available minds and scientific processes to combat it. We mention it daily, hourly, but we have lost what it truly is. We are in this predicament because of a zoonotic disease. We are in this terrible space because we continue, even in the face of our own failings and mass mortality, to recognise that we did this. We are here because we exploit animals. These diseases are born of the Petri dish that is industrialised agriculture and habitat destruction. But in our collective stupidity, instead of dealing with the cause, we fight and cause social disruption over how to handle the symptoms.

Right in the middle of lockdowns and restrictions we were sent another warning about where that can lead, in my own electorate. Whilst we were looking over here, over there nature once again shouted out for attention, our attention, to stop doing what causes it. We had an outbreak of not one, not two but three different strains of highly virulent avian influenza in factory-farmed chicken sheds in my electorate—hundreds of thousands of souls crammed into cages to satisfy the human stomach at the risk of our own lives. One strain even made the jump to emus, again in our arrogance being farmed, with thousands of adults and thousands of chicks having to be killed to quell that outbreak.

I have spoken in this chamber before about the looming threat of a pandemic due to our reliance on the consumption of animals, and I know there have been the usual jokes that every vegan has heard ad nauseum. But let me just say this: when you next sit down to eat your animal of choice, as you lift that fork to your mouth, please take a moment, one moment, and ask yourself this: ‘Are my actions at this moment contributing to the suffering of animals and to the spread of disease?’.

I have all but given up trying to talk to people who have no desire to change. But you need to realise that exploiting animals in this way kills people. Remember that. Animals plus exploitation equals zoonotic disease, equals pandemics. Now, I do not intend to cover in this address all aspects of this bill, at least in detail. That has been done at length already from all sides, whether you agree with it or whether you do not. There is no point going back over that ground and raking those hot coals. But in broad terms, it answers the problems that were continually raised in this chamber and in public of the failings of dealing with a worldwide killer pandemic using state-of-emergency legislation as the framework.

Many here have spent the last 18 months or more complaining that the chief health officer should not have the power to make orders and restrictions, that those powers should reside with the Minister for Health and Premier. Well, now they will. During debate in this place in September, the Shadow Minister for Health said, ‘We want those extended powers removed from the chief health officer, from a bureaucrat; we think that is an overreach in power’—in this chamber. Even the Leader of the Opposition on 9 October stood in front of the cameras and stated that the power to declare and manage a pandemic should reside with the Premier and the health minister. This bill does what the opposition called for, but not content with getting what they wanted their song changes tune.

I want to take a moment to thank Professor Brett Sutton and Jeroen Weimar, two public officials who have handled themselves with compassion, with dignity and respect and with a degree of professionalism throughout this awful time that we can all seek to emulate—all of us. This state owes them a debt of gratitude, and I for one am grateful. The opposition and others called for more oversight. It is happening. Independence and transparency—they are happening too. Greater respect for human rights, flexibility in where and how an area is managed—the list goes on.

I want to take up just for one moment: I heard what Dr Bach said about the Ombudsman, that I do recall; I think it was him, so forgive me if it was not—somebody from the opposition mentioned the commissioner for human rights.

Dr Bach: It was not me, but whatever.

Mr MEDDICK: Well, I know the commissioner well. I know Ro Allen extremely well.

A member: Here we go.

Mr MEDDICK: Here we go what? I received a text message from her stating that she was misrepresented—surprise, surprise—by the *Herald Sun* and that she supports the legislation, so there is a clarification for you.

The opposition and others have called for more oversight. It is happening. Independence and transparency—they are happening too. Greater respect for human rights, flexibility in where and how an area is managed—the list goes on. That is because Ms Patten, Dr Ratnam and I did listen. While those that made the choice to politicise public safety by stoking the flames of hate went on a little tour of indulging conspiracy theorists, Neo-Nazis, Trumpist morons and those that believe in lizard people, we went about our jobs. We met the experts. We put our and your concerns to the government, and based upon more input from all sides, we pushed the issues and through open, honest and respectful dialogue changed a good bill into a better one.

I want to take a moment, though, to acknowledge my crossbench colleagues. Though they might not support this bill, they did not engage in the disgusting behaviour that others have. Your dignity and your respect are seen.

Business interrupted pursuant to standing orders.

Ms STITT: Pursuant to standing order 4.08, I declare the sitting to be extended by up to 1 hour.

Dr Cumming: On a point of order, President, Mr Meddick actually said that there were people on the crossbench that had ‘disgusting behaviour’. I would like him to withdraw that remark.

The PRESIDENT: I know a lot of people will try their point of order, but I am sorry, Dr Cumming, it is not a point of order.

Mr MEDDICK: To repeat myself, your dignity and your respect are seen. They are noted, they are appreciated, because, you see, that is what responsible politicians do. They do not indulge in dog whistling. They do not indulge in incitement.

As I said, my colleagues have spoken about the finer points of this bill from all sides, whether they agree with it or whether they do not, but I want you all inside this house and outside to know that I am proud to have had a major input into the crafting of this bill, to have made suggestions that have been taken up and to have suggested amendments that have been made—quietly, calmly, without hysteria and tantrums, like an adult.

I want to take a few moments to discuss recent events and how I am astounded at how they are a direct and frightening example of life imitating art. You see, I am a huge fan of Ben Elton, as an entertainer but more particularly as an author. In November 2007 he released his then latest literary effort, *Blind Faith*, a work of fiction then but what now in 2021 is a commentary on current events and a warning of what is just around the corner. The book describes a world where climate change has resulted in sea levels rising to such a degree that whole nations have been lost—exactly what is being experienced in the South Pacific right now. Billions have perished and disease runs rampant. That is the easy bit. Humanity has changed to become a society where the cult of self is what matters, bodily autonomy at the expense of collective good, all ruled over by a groupthink of worshipping not a god, as some in this chamber do, but ‘the love’, an interpretation of an omnipotent being who speaks to your local confessor, who decrees that vaccines and medicine are the work of heretics and science is the devil.

The small pockets of people who cling to reality are sought out, brutalised and publicly executed to appease the mob, all led by a group of high priest figures who whip them into a frenzy for their own political ends. It sounds like what we have seen here of late, doesn't it?

Mr Finn: On a point of order, President, I do not doubt that the book is a damn good read by the sound of it, but what the hell has it got to do with the bill? This is a piece of fiction that Mr Meddick is quoting. I am not sure why he is quoting it at the minute, but it does not seem to me to have anything to do with the bill at all.

Dr Cumming: On the point of order, President, is the point being made that vaccines are tested on animals?

The PRESIDENT: There is no point of order.

Mr MEDDICK: I will clarify for Mr Finn. Thank you, President. The point was being made in the last sentence I had while you were about to make your point of order—that it sounds like what we are seeing here of late out the front and everywhere else, doesn't it, because those in this chamber who chose to appear to the baying mob parading the hangman's noose, chanting cries to kill human beings, have incited and fuelled hate in this community. And let me be clear: you do not have to use words of hate. It is not what you say that matters. Just by turning up, by standing on that podium and them seeing you there, you legitimised their hate, their violence, their racism and their misogyny.

Members interjecting.

Mr MEDDICK: When you stood with them, when you walked with them, that is the standard you accepted. And no matter how much you deny it—

Members interjecting.

The PRESIDENT: Thank you, Dr Cumming.

Mr MEDDICK: your words of denial mean nothing. President, colleagues, comrades—

Members interjecting.

The PRESIDENT: Order! You know those interjections are not acceptable in the chamber, and it is an invitation for Mr Meddick as well, so please. Mr Meddick, please continue.

Mr MEDDICK: Thank you, President. President, colleagues, comrades, I have worked on this bill in a collaborative way. I have questioned the minister and others with genuine concern when I did not think it was right. I shut out the baying hounds of hysteria to do my job, and I will continue to as we move through the committee stage of this bill. I have a large number of questions to ask, because that is my contribution as well to the proper examination of this bill. I hope the answers will satisfy not only me but also those who have genuine concerns. That, after all, is my job, and I will do it with as much dignity and rational process as I am able. I hope with all my heart that is enough. To my friends, those who have stayed and those who have gone, I hope that is enough for you. And I commend this bill to the house.

Ms MAXWELL (Northern Victoria) (22:07): I rise to speak on the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021. I would like to thank my colleague, Mr Grimley, for his speech, which reaffirms many of my constituents' thoughts on this bill. When we debated the Public Health and Wellbeing Amendment (State of Emergency Extension) Bill 2021 in this Parliament 14 months ago I said it was one of the most important pieces of legislation we would ever consider, and I said that because it was about how government should be allowed to function and operate in a democracy. Our role is to scrutinise the extent to which it is appropriate for governments and public officials to seek to impose their own will over the rights, freedoms and liberties of citizens.

As we publicly declared two weeks ago, Derryn Hinch's Justice Party will not be supporting this bill. The thousands and thousands of constituents who I have engaged with over the last 18 months, who

have contacted me about this specific bill and have provided feedback about the restrictions imposed over the last 20 months—border issues, problems accessing health services, unemployment, financial losses, poor mental health and missing education—understand that we need a public health response. However, they also want those approaches to be proportionate and to allow broader considerations to other impacts.

While this bill shifts some of the powers given under the state of emergency from the chief health officer across to the minister, it still accumulates substantial power in the hands of a chosen few. Ms Patten talks about human rights and says that this is what this bill is doing. There is only one side of human rights that she is conveniently addressing here. What about those who have been and will continue to be affected by these laws—those who have lost their jobs, their lives, their livelihoods? Those people do not count today, according to Ms Patten’s speech. Those people who could not sit with a dying child or parent, those who could not seek medical attention for their cancer when the state of emergency was legislated—no, no mention of the impact that they have experienced.

The powers in this bill make it even easier for the government of the day to repeat the pattern of restrictions we have seen in force over the last 18 months. It gives little assurance there will be any change from the strategy that gave us the title of the most locked down region in the world. I have repeatedly raised in this Parliament that these restrictions were imposed time and again on places without cases of COVID-19, places like Corryong, which only contracted its first COVID case in October this year, where children were forced out of school to remote learning, many of them in places with little or no internet. Businesses were closed, tourism shut and people mandated to wear masks in public places, even when they were alone—even when they were walking in a paddock on their own. Instead of pursuing ways to proportionately manage restrictions and apply some balance against the risk in our regional areas, these places without cases were forced to live under much of the same blanket restrictions as those living in metropolitan regions.

Echoing the concerns of Liberty Victoria, people have been deeply frustrated that neither the health advice nor other analysis that underpins these restrictions has ever been made public. This information should be made public, whether the government is legally obliged to or not. I know the government will say that if this bill is passed they will now provide this information, but my question is: why hasn’t it been made public through the ongoing lockdowns that we have all endured across Victoria?

Following the passage of this bill it is highly likely, if not a guarantee, that this government will make a pandemic declaration immediately, even with 90 per cent of the population fully vaccinated, the curve flattened and the risk reduced as much as possible through vaccination rates. This could go on for years, even though the government says we are now living with COVID. Granted, the minister now will have to publish the health advice. But we do not really know how detailed this will be, and it does not have to be published at the same time the declaration is made. Further, if the government fails to publish the health advice, the orders are not rescinded. They stay. Liberty Victoria makes a very solid point that the responsible person should report to Parliament on any order made under the Public Health and Wellbeing Act 2008, not just pandemic orders, because all such matters are of public concern and we are here to serve them, not the other way around.

The focus on detention and punitive measures in the bill is also of concern to us. We cannot support a public health response that focuses on detention, exclusion, policing and fines, whether that relates to warrantless entries, extensive mandates for vaccines, curfews or border closures—and we have seen plenty of those. The detention review processes are limited to the department reviewing itself and provide little or no apparent means for other orders to be challenged. Through this pandemic we saw thousands of people excluded from entering their home state and returning to their private place of residence, some for months, and there seems to be no provision for them to have their matter reviewed. The role of the Scrutiny of Acts and Regulations Committee (SARC) in scrutinising orders is an improvement to the current situation. However, this does not happen on every order, only when they consider it necessary. The independent committee does not require representation of small business, education or mental health or an explicit understanding of regional and rural areas.

The initial state of emergency was declared on 16 March 2020 for the purpose of flattening the curve of hospitalisation and to prepare our health system. I can understand that preparing the health system for a pandemic disease is no easy feat, but I cannot understand that when our health system has been operating close to full capacity there was little means available to expand and prepare it to respond. Fixing this will be vital to supporting our health workforce in the future and ensuring we do not have to lock down citizens for 18 months instead.

I cannot speak on this bill without expressing my disappointment that three crossbenchers were actively brought into the fold of the government to participate in the development of this legislation, to the express exclusion of others. I have worked cooperatively and collaboratively with this government on important matters, including supporting victims of crime, the initiation of the Victorian Law Reform Commission review into stalking, the Better Regulation Victoria review of tobacco regulation and even last sitting week adding female-specific cancers to the list of presumptive rights for our firefighters.

For the government to push this through the Legislative Assembly as it did, to skip the scrutiny of SARC and to skip public consultation or the release of an exposure draft is an opportunity lost to allow the people we serve to have their voice. These issues were raised by the president of the Victorian Bar. The government is asking the public to trust it, but it has already compromised this trust through the lack of transparency and due diligence by which this legislation was developed. I know this legislation will pass, but I hope the government chooses very sparingly to use it.

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (22:15): I will take some opportunity to sum up on this bill and hopefully acquit a few issues that have been raised ahead of the committee stage on Thursday. I have certainly taken note that many members have commenced their contributions with quotes, and I might do the same. The bill was not unexpected. It was foreshadowed by the government in public statements, including during the debate in this place on the extension of the state of emergency, and in March this year I said:

... the government has committed to developing COVID-specific legislation. In seeking the nine-month extension the Victorian government has committed to ... working on legislation that will ensure Victoria has access to the essential powers we need to manage the pandemic without having to extend what has become quite an inflammatory term, the state of emergency.

The bill does exactly what we said it would. The ability to respond to an emergency and protect the health and safety of its citizens is an essential function of government. The bill is designed to enable the government to do this to respond to a pandemic that, on the advice of the chief health officer (CHO), poses a serious risk to public health. I also note that during the debate in March on the extension of the state of emergency Mr Davis made some important comments, and I would like to echo them here today:

... the community want to see a more systematic process, they want to see a calmer process, they want to see a process where there is more consultation and they want to see a transparent process.

The public debate and commentary around this bill have been far from calm. It has been hyperbolic, it has been inflammatory and it has sought to undermine the confidence that Victorians have in the democratic process that this place and our government are committed to uphold. These powers are not, as the loud and misleading voices have sought to claim, unprecedented. In fact, if you look at what has happened over the last 20 months, these are very precedented. As we have seen here in Victoria and interstate and internationally, this is not unprecedented anymore. These same powers are in use in New South Wales and South Australia, both without the transparency and accountability that this bill would provide.

It is important to note that the government had three options. We could have sought to extend the state of emergency yet again and left the powers and provisions in the act enacted over a decade ago as they currently are, without the transparency and accountability that we have proposed. We could have let

the state of emergency expire, which would have left the government without any power to make orders to protect Victorians from the continuing risk of the pandemic. Or the government could do what we are doing now: take the immense, tough lessons of the last 20 months and introduce new fit-for-purpose legislation for pandemic emergencies. I am proud that we have taken the latter route. The bill strengthens the accountability, transparency and scrutiny of our pandemic response in a way that sets a new standard.

The state-of-emergency powers have been essential for preventing COVID in the past 20 months. It has not been easy, but it certainly has saved lives. Victorians have sacrificed so much to protect their families, friends and their whole communities. We have all lived how these powers can be used, but now we are at the turning point in this pandemic and we are just days away from reaching 90 per cent of the Victorian population having two doses of vaccine. As we move into this new phase there are still some critical things that we will need to continue to keep Victorians safe, and without this legislation, I must note, we would be unable to maintain vaccination requirements that have helped in increasing vaccination rates. The requirements, of course, are particularly important for high-risk settings, such as schools and educational settings, in which young children are not able to be vaccinated; healthcare workers, who are more likely to come into contact with the virus; and aged-care and disability care workers, who support some of the most vulnerable in our community. Additionally, we still need to be able to limit the spread of the virus when people are confirmed as positive and require them to isolate and get tested until they no longer pose a risk of further spreading. We will continue to require the wearing of masks, particularly in high-risk settings, as appropriate. As international travel increases, we need to be able to reduce the risk of the virus arriving and spreading in our communities, particularly as we know this will pose a particular risk to those people who are unvaccinated. As we have seen in the past year, new variants of concern can emerge, and we may need the ability to quickly respond to any new variants from overseas.

Over the past 20 months the world has gone through something that we did not foresee: a global pandemic that had an effect on everyone around the world in some way. A pandemic is an extraordinary event, and under this bill the declaration of pandemic powers for the unique powers required for the government to respond to such an event is provided for. There are a number of requirements in the bill that provide checks and balances on the pandemic declaration. I have certainly been concerned that some MPs have raised in their contributions that there are going to be declarations made on a whim. This is the process: the Minister for Health and the chief health officer must provide advice to the Premier to inform the Premier's decision, including on whether there is a serious risk to public health in Victoria arising from a pandemic or a disease of pandemic potential. The Premier can only make a pandemic declaration if they are satisfied on reasonable grounds that there is a serious risk to the public health of Victorians arising from a pandemic or a disease of pandemic potential. It goes without saying that there needs to be an actual, real-world pandemic before this power can be exercised.

The Premier must also prepare a report to be tabled in Parliament that includes a statement of reasons for making, varying, extending or revoking a pandemic declaration; a copy of the advice provided by the minister and the chief health officer in respect of making, varying, extending or revoking a pandemic declaration; and, where a declaration is being varied, extended or revoked, a summary of the pandemic orders made and the public health risk powers and pandemic management powers exercised over the period the pandemic declaration was enforced prior to the variation, extension or revocation. The Premier must revoke the pandemic declaration as soon as they are satisfied that the pandemic disease or disease of pandemic potential no longer presents a serious risk to public health.

Our experience has illustrated that, unlike other emergency situations like flood or fire, a pandemic can last for many months—unfortunately even years. The total duration for which a pandemic will pose a serious risk to public health is difficult to anticipate, and it is impractical to place limits on the number of renewals of a pandemic declaration. Under this bill a declaration can be made for 28 days in the first instance and then three months thereafter. Each time that the declaration is extended it must

be based on the advice that there continues to be serious risk to the public health of Victorians. Having no outer limit on the period of a declaration is an important reason that this bill has been introduced and provides the security government needs to keep critical public health measures in place that address unpredictable and constantly evolving risks for as long as necessary to protect public health. This approach also reflects best practice in other Australian jurisdictions, but I would say no other jurisdiction in Australia has an outer limit on its ability to make a declaration in response to a pandemic emergency. In fact in New South Wales they do not even require a declaration in order for the Minister for Health to use the broad powers that have been used in response to COVID-19.

It is important to note that the checks and balances go beyond the declaration itself. Once a declaration is made, any time the Minister for Health uses any power under the declaration there are further checks and balances on those orders. The CHO advice they are based on must be tabled. A ministers statement on the use of powers must be tabled. An explanation of how limitations on charter rights are demonstrably justified must be tabled. An independent advisory committee reviews the orders. The Scrutiny of Acts and Regulations Committee is able to review the orders. The advice of the CHO, the charter explanation and the ministers statement are tabled within four sitting days, and that is grounds for SARC to recommend a disallowance to the houses of Parliament. I am out of breath; there are that many accountability measures.

Ms Crozier: Why don't you just incorporate your speech? You don't even mean it.

Ms SYMES: I have listened to everyone's contributions and attempted to answer everybody's details. I have spent quite some time making sure I am addressing the issues that people have raised, Ms Crozier. It would not request too much of your time to listen, but you do not have to be in here if you do not want to.

When making decisions under the bill there has been some discussion about the interactions with the charter. Through the consultation on this bill the question of how the charter interacts with the decisions made under the bill came up several times, particularly from legal and human rights organisations. In response the government is proposing amendments to the bill in two key ways. First we wish to replace the objective provision in new section 165A(2) with wording clarifying that the Parliament recognises the importance of protecting human rights in managing the serious risk to life, public health and wellbeing presented by the outbreak or spread of pandemics and diseases of pandemic potential, intends that nothing in the new part will displace the operation of the charter and intends that the charter applies to the interpretation of the new part, the interpretation of subordinate instruments under the new part and acts done and decisions made under the new part by public authorities. It is actually quite technical, but this revised wording does provide greater clarity that there is no intention to displace the usual operations of the charter. In addition, to improve the transparency of the pandemic orders the bill requires the minister to publish and table an explanation of the human rights impacts of the pandemic orders each time an order is made, varied or extended.

The second key amendment is to provide greater clarity as to what the minister is required to publish. New section 165AP will require the Minister for Health to publish an explanation of whether in the opinion of the minister an order does or does not limit charter rights, and if an order does limit charter rights, the nature of the right limited, the importance of the purpose of the limitation, the nature and extent of the limitation and the relationship between the limitation and the purpose and whether there are any less restrictive means that were reasonably available to achieve the purpose of the order.

Much has been made of the minister's ability to make pandemic orders that differ in application to different groups of people based on their different attributes. The purpose of new section 165AK(3) is to enable the minister to create targeted pandemic orders which apply differently to different categories of people. This is important because pandemic risks are not the same for all sections of our community. For example, a disease might be more dangerous to elderly people, or a person may be at greater risk if they are unvaccinated. These provisions are about avoiding blanket restrictions that apply to

everyone where that may not be needed. Having targeted orders that apply to those most at risk is one way we can avoid overly broad restrictions.

There were different ways to draft these options. It was open to us to achieve these goals through a variety of measures, and I want to explain why we are proposing new drafting in our amendments. At the moment the bill makes reference to the Equal Opportunity Act 2010 in setting out how these differentiated orders might be made. We have heard strong feedback that this approach has led to concerns that the powers might be misused in the future, for example, to make orders differentiating on the grounds that have no relation to public health risks, such as political belief. These concerns have been fuelled by inflammatory and speculative statements about how the bill works. And we have seen today in this place that despite repeated statements clarifying the intention of the provisions, wild speculation has continued. What is more, despite government amendments having been circulated to put this beyond doubt, the opposition have continued to fearmonger about what these provisions would enable. As I have said, the provisions were never intended to enable pandemic orders to be applied in a way that discriminates on irrelevant attributes. We could have just come into this chamber and explained that, but instead we want to make it abundantly clear to the community that the concerns that have been raised are unfounded, so much so that we can achieve the intended outcomes of the provision without referring to the Equal Opportunity Act. Our proposed amendments will, as has always been the intention, make it clear that these provisions enable pandemic orders to differentiate among groups of people based on characteristics that are irrelevant to the public risk.

Mr Davis: On a point of order, President, I am thankful the minister is making a lengthy contribution here, but did she say fearmongering? If so, I just ask that she withdraw it. You were speaking quickly. Did you use the word ‘fearmongering’? Was that correct?

Ms SYMES: In relation to what?

Mr Davis: In relation to other parties. You did? Well, I would ask that you withdraw it.

Ms SYMES: I would also point out that the chief health officer’s directions already distinguish between different settings of public health risk—

Members interjecting.

The PRESIDENT: Order! First of all, Mr Davis raised a point of order. I have not ruled it out yet, or whatever my decision will be. And then you are talking from there. Please! Mr Davis, I understand your point of order, but I do not think the word you describe is unparliamentary.

Mr Davis: President, you have made rulings on exactly this sort of matter in this debate. Now, you have got to be consistent about it.

The PRESIDENT: I do not want to get involved in this. I have made my ruling.

Ms SYMES: I would also point out that the CHO’s directions already distinguish between different settings of public health risk attributes. For example, we know that the COVID-19 vaccine reduces the risk of severe disease, the risk of transmission and the risk of death, and now that we have the available supply, orders are made that distinguish between those who are vaccinated and those who are unvaccinated. Differentiation also occurs in hospital settings and aged-care settings, where additional protections are required to keep vulnerable people safe, and Victoria is not unique in using emergency powers for these exact measures. For examples, countries such as the US, Denmark, Norway, Switzerland and Indonesia all have in place different forms of vaccination requirements for particular groups of people or people wanting to engage in particular activities. We must also remember that under the bill the minister is only permitted to make pandemic orders if satisfied that they are reasonably necessary to protect public health, in consultation with the CHO.

I have already referred to several other important safeguards. There are some other amendments that have been circulated. I might seek leave of the house to extend my time so I can cover off some of the points that people asked me to in the summing up.

Mr Davis: I am happy to provide leave for the minister to keep going for a few minutes, if that is helpful, but I am also not happy for her to attack the opposition in that process.

Members interjecting.

The PRESIDENT: He is entitled to his comments. Please, members! I do not think the minister was attacking the opposition, but anyway.

Leave granted.

Ms SYMES: Thank you. I will not take much time. It is just that there were certain things that people wanted me to cover off, and obviously we can come back to this in detail in the committee stage of the bill on Thursday. Some members had some specific questions around the VCAT detention review response or the proposals that some had sought to be added. I would like to say that the detention powers have been a particular point of consideration both when we extended the state of emergency in March and also in the development of this bill.

As part of the consideration which has been given to whether VCAT-based review options are achievable and/or desirable, a core principle that we have maintained is that it is critically important to a person in detention that their review is heard and determined quickly. A review by VCAT was explored in detail, and following this consideration it was determined that VCAT would not be able to achieve the timeliness required to hear and determine detention cases effectively. It is important to note that the public health risk has to be considered in an aggregate sense, and this is the fundamental job of the CHO. Replicating this approach to risk assessment would be difficult within the VCAT model.

The detention review officer arrangements that were developed and put in place with the March state-of-emergency extension provide a person-centred, accessible option with variations to detention that are currently made by the CHO, meaning that any risk to public health is appropriately considered by a public health expert with the most up-to-date public health information available. It is important to note—I do not think many people are aware of this—that detention review officers are dedicated public servants. They must be highly skilled senior barristers with a minimum of 10 years experience to fulfil that role. So it is important to note the right of review has been thoroughly considered, and there is also the addition of a Supreme Court review of detention orders if appropriate.

I do want to emphasise that the bill sets the standard for transparency and accountability in Australia. No other Australian state or territory equivalent acts require emergency or public health orders to be published and tabled in Parliament. The bill has some of the most far reaching accountability and transparency measures of any bill of this nature. I am happy to go through this in more detail, but for brevity this evening I will draw attention to just a few.

The Scrutiny of Acts and Regulations Committee can review pandemic orders and report to Parliament if it is of the view that the orders are incompatible with human rights or they appear to have improper legal authority. SARC can recommend that an order be disallowed, and both the houses of Parliament can pass a resolution to disallow the order.

The bill also provides for the establishment of an Independent Pandemic Management Advisory Committee, comprising people with relevant expertise representing different community sectors, which will provide advice to the Minister for Health in relation to making orders, including impacts on the community and business, for instance. The committee's reports and recommendations will also be tabled in the Parliament within four days, subject to amendments being received by the minister. The government has also committed to providing appropriate resourcing for the function of the Independent Pandemic Management Advisory Committee.

We have also committed to publishing a range of other material. The bill provides that the secretary must make and publish a compliance and enforcement policy in relation to a COVID-19 pandemic within 90 days of the pandemic declaration being made. The government has committed to including in this policy that any restrictions on protest rights should be limited to what is reasonably necessary to protect public health and should remain in force only for as long as is reasonably necessary.

As well there are detention guidelines covering the welfare of detained persons. Government has committed to address in the detention guidelines reference to access to fresh air and exercise as well as medical care and access to necessary essentials such as food.

I might finish there. The bill, in summary—I do not need to summarise too much—has been covered extensively in the debate today. This is about Victoria being able to continue its effective management of the COVID-19 pandemic after the state-of-emergency expiry. At the same time we want to ensure Victoria has fit-for-purpose legislation to implement crucial public health measures in the event of future pandemics. I would commend the bill to the house and thank members for their contributions today.

House divided on Mr Bourman's amendment:

Ayes, 18

Atkinson, Mr
Bach, Dr
Barton, Mr
Bath, Ms
Bourman, Mr
Crozier, Ms

Cumming, Dr
Davis, Mr
Finn, Mr
Grimley, Mr
Hayes, Mr
Limbrick, Mr

Lovell, Ms
Maxwell, Ms
McArthur, Mrs
Ondarchie, Mr
Quilty, Mr
Rich-Phillips, Mr

Noes, 19

Elasmar, Mr
Erdogan, Mr
Gepp, Mr
Kieu, Dr
Leane, Mr
Meddick, Mr
Melhem, Mr

Patten, Ms
Pulford, Ms
Ratnam, Dr
Shing, Ms
Stitt, Ms
Symes, Ms

Tarlamis, Mr
Taylor, Ms
Terpstra, Ms
Tierney, Ms
Vaghela, Ms
Watt, Ms

Amendment negatived.

House divided on motion:

Ayes, 19

Elasmar, Mr
Erdogan, Mr
Gepp, Mr
Kieu, Dr
Leane, Mr
Meddick, Mr
Melhem, Mr

Patten, Ms
Pulford, Ms
Ratnam, Dr
Shing, Ms
Stitt, Ms
Symes, Ms

Tarlamis, Mr
Taylor, Ms
Terpstra, Ms
Tierney, Ms
Vaghela, Ms
Watt, Ms

Noes, 18

Atkinson, Mr
Bach, Dr
Barton, Mr
Bath, Ms
Bourman, Mr
Crozier, Ms

Cumming, Dr
Davis, Mr
Finn, Mr
Grimley, Mr
Hayes, Mr
Limbrick, Mr

Lovell, Ms
Maxwell, Ms
McArthur, Mrs
Ondarchie, Mr
Quilty, Mr
Rich-Phillips, Mr

Motion agreed to.

Read second time.

Referral to committee

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (22:45): I move:

That debate on this bill be adjourned for seven days until the Scrutiny of Acts and Regulations Committee has examined the bill further and received answers from the Minister for Health that were raised in *Alert Digest* No. 15.

The PRESIDENT: Mr Davis, the words should be ‘That the bill be referred to the Scrutiny of Acts and Regulations Committee to report back’. Are you happy with that?

Mr DAVIS: I am. I move:

That the bill be referred to the Scrutiny of Acts and Regulations Committee for inquiry, consideration and report within seven days.

President, SARC—

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (22:47): I move:

That the question be now put.

Mr Davis: You can’t while I am on my feet.

The PRESIDENT: According to standing orders they can interrupt, Mr Davis, so I have to put the question. Pursuant to standing order 12.25, the member has sought to move for the closure of debate. Standing order 12.25(2) requires that six other members must rise in their place in support of the motion. I ask those members who wish to do so to now rise in their places to indicate their support.

Required number of members having risen:

The PRESIDENT: There being at least six members who support the closure motion, I will put the question forthwith without amendment or debate.

House divided on Ms Pulford’s motion:

Ayes, 19

Elasmar, Mr
Erdogan, Mr
Gepp, Mr
Kieu, Dr
Leane, Mr
Meddick, Mr
Melhem, Mr

Patten, Ms
Pulford, Ms
Ratnam, Dr
Shing, Ms
Stitt, Ms
Symes, Ms

Tarlamis, Mr
Taylor, Ms
Terpstra, Ms
Tierney, Ms
Vaghela, Ms
Watt, Ms

Noes, 18

Atkinson, Mr
Bach, Dr
Barton, Mr
Bath, Ms
Bourman, Mr
Crozier, Ms

Cumming, Dr
Davis, Mr
Finn, Mr
Grimley, Mr
Hayes, Mr
Limbrick, Mr

Lovell, Ms
Maxwell, Ms
McArthur, Mrs
Ondarchie, Mr
Quilty, Mr
Rich-Phillips, Mr

Motion agreed to.

ADJOURNMENT

4440

Legislative Council

Tuesday, 16 November 2021

House divided on Mr Davis's motion:

Ayes, 18

Atkinson, Mr
Bach, Dr
Barton, Mr
Bath, Ms
Bourman, Mr
Crozier, Ms

Cumming, Dr
Davis, Mr
Finn, Mr
Grimley, Mr
Hayes, Mr
Limbrick, Mr

Lovell, Ms
Maxwell, Ms
McArthur, Mrs
Ondarchie, Mr
Quilty, Mr
Rich-Phillips, Mr

Noes, 19

Elasmar, Mr
Erdogan, Mr
Gepp, Mr
Kieu, Dr
Leane, Mr
Meddick, Mr
Melhem, Mr

Patten, Ms
Pulford, Ms
Ratnam, Dr
Shing, Ms
Stitt, Ms
Symes, Ms

Tarlamis, Mr
Taylor, Ms
Terpstra, Ms
Tierney, Ms
Vaghela, Ms
Watt, Ms

Motion negatived.

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (22:59): I move:

That the bill be committed on the next day of meeting.

House divided on motion:

Ayes, 19

Elasmar, Mr
Erdogan, Mr
Gepp, Mr
Kieu, Dr
Leane, Mr
Meddick, Mr
Melhem, Mr

Patten, Ms
Pulford, Ms
Ratnam, Dr
Shing, Ms
Stitt, Ms
Symes, Ms

Tarlamis, Mr
Taylor, Ms
Terpstra, Ms
Tierney, Ms
Vaghela, Ms
Watt, Ms

Noes, 18

Atkinson, Mr
Bach, Dr
Barton, Mr
Bath, Ms
Bourman, Mr
Crozier, Ms

Cumming, Dr
Davis, Mr
Finn, Mr
Grimley, Mr
Hayes, Mr
Limbrick, Mr

Lovell, Ms
Maxwell, Ms
McArthur, Mrs
Ondarchie, Mr
Quilty, Mr
Rich-Phillips, Mr

Motion agreed to.

Adjournment

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (23:03): I move:

That the house do now adjourn.

WALLAN QUARRY

Mr ONDARCHIE (Northern Metropolitan) (23:03): (1631) My adjournment tonight is for the Minister for Planning. Residents do not approve of the proposed quarry on the Northern Highway affecting the beautiful townships of Beveridge and Wallan, or as better said: a quarry in Beveridge and Wallan is the pits. The proposed structure plan for Beveridge North West precinct has not gone down well with the residents of Wallan and Beveridge. A quarry in a high-growth area that has many new families that are building their new homes and raising their children is a very bad idea. There was

a community information session held in September 2021, which was attended by over 100 concerned community members who did not want the quarry. The Mitchell Shire Council has twice rejected the planning permit, and residents have told me they do not want the dust, the noise, the extra traffic and the impact it will have on their community. The action I seek from the minister is to listen to the residents of Beveridge and Wallan and halt the government's support for the quarry at the Wallan and Beveridge location.

PRISONER REINTEGRATION PROGRAMS

Mr GRIMLEY (Western Victoria) (23:04): (1632) My adjournment debate is for the Minister for Corrections in the other place. I recently met with the minister to discuss a number of things, and one of those was the current status of programs within our prisons. It is something I have frequently spoken about in this place. Most prisoners will leave prison—that is a fact—but what we do with prisoners whilst they are incarcerated is very important. This includes ensuring they have adequate access to programs that aim to rehabilitate and reintegrate them back into the community. Understandably over the last few years during COVID offenders have been doing most programs via audiovisual link. I say 'most' as some programs have not been able to take place due to their face-to-face nature. I think we are all aware that working with someone face to face is much more beneficial than speaking to someone through a computer screen—not only is it more engaging, but it allows those running the program to pick up on the mannerisms and behaviours of the prisoner.

When I spoke to the minister she indicated that the government were currently exploring how they can get programs back running in prisons. In my eyes it is pretty straightforward in that those seeking to enter prison for the purposes of providing services should get a rapid antigen test or even a PCR test within 72 hours of entering or similar. Given such program providers will likely need to be vaccinated and every prisoner has had the opportunity to also be vaccinated, the likelihood of transmission is markedly low. When you consider that prison staff and custodial officers have been entering prisons daily throughout the whole pandemic for extremely obvious reasons, I am sure we can find low-risk ways of having program providers entering prisons as a matter of urgency. Therefore the action that I seek is for the minister to reinstate face-to-face programs in Victoria's prisons as a matter of urgency.

WESTERN METROPOLITAN REGION LEVEL CROSSING REMOVALS

Ms VAGHELA (Western Metropolitan) (23:06): (1633) My adjournment matter is directed to the Honourable Jacinta Allan, the Minister for Transport Infrastructure and Minister for the Suburban Rail Loop. This adjournment matter relates to the portfolio responsibilities of transport infrastructure. The Andrews Labor government is getting rid of another dangerous and congested level crossing in the west. The Old Geelong Road level crossing in Hoppers Crossing will be gone on 9 December. The new road bridge over the rail line will connect the Old Geelong Road directly to the Princes Highway. This level crossing is dangerous and congested. Over 18 000 vehicles per day stop at this level crossing. Many emergency vehicles, patients and staff need to wait in traffic congestion at this crossing on their way to the Werribee Mercy Hospital. On a usual day the boom gates are down for over one-third of the time during the morning peak, when up to 25 trains run through the crossings.

Three level crossings on the Werribee line, three on the Sunbury line, one in Essendon and one in Williamstown have already been removed in the west. The government has smashed its target of 50 level crossings by the end of this year. We plan to get rid of 85 level crossings across Melbourne by 2025, with 47 already gone. The action I seek from the minister is to provide me with an update on the progress of all level crossing removal projects in Western Metropolitan Region.

BUDGET 2021–22

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (23:07): (1634) My adjournment tonight is for the attention of the Treasurer in the other place. I notice the recent quarterly report that has come out in just the last few days, tabled last Friday in fact, shows that the government has already borrowed over \$10 billion in the first three months of the current financial year. The government

planned, according to its 2021–22 budget paper 5, on page 9, to spend \$21.103 billion over the full financial year. On my reckoning they are ahead of the rate here. On the surface this looks like a significant blowout in the borrowing that is occurring just in the first three months. My question is: is there a target for this, quarterly or half yearly, and what is the nature of that target, or are we just racking it up like on Afterpay or a credit card?

I also note in the quarterly report it shows that \$9.5 billion of debt was added, so there are very significant matters there. There is borrowing on one hand, but there is net debt overall. With the \$9.5 billion of debt that was added in three months, that shows a net debt at 30 September of \$82.2 billion, the highest net debt level in Victoria's history. That is about \$12 300 of debt for every man, woman and child in Victoria, a very significant increase in the debt situation.

Of course through COVID we understand some debt was inevitable and there was a legitimate case for such spending, but at the same time there are many projects around the state where the government has lost control of these projects with massive cost blowouts—\$3 billion and climbing on the Metro Tunnel, in fact nearer \$4 billion; more than \$3 billion on the West Gate Tunnel; and massive blowouts on the level crossing projects. But they will not tell us how much the blowouts are on those projects. So this loss of control by the state of its borrowing in this context is, I think, very concerning.

So what I am seeking from the Treasurer is: what are the targets for these quarterly steps and half-yearly steps? Are there targets, or is it just an open-ended, open slather approach where there is no control? And what steps is he taking to bring it back under control? Can he release those targets for the quarters and the half-year, and can he indicate to the house what steps he is taking to rein in the debt that is running away quarterly far faster than the annual rate he intended?

VICTIMS OF CRIME

Ms MAXWELL (Northern Victoria) (23:11): (1635) My adjournment is to the Minister for Victim Support, and the action I seek is for the minister to review the claims for assistance for the children of Michelle Skewes, which have previously been rejected by the Victims of Crime Assistance Tribunal (VOCAT). Michelle Skewes endured years of horror at the hands of her abusive husband. He was recently jailed for a minimum of 10½ years on nine counts of rape, two counts of assault and one count of threatening to inflict serious injury. These offences occurred over a five-year period that was plagued with coercive control and degrading, pervasive abuse.

The judge noted Ms Skewes's victim impact statement as being candid, honest and disarming in its dignity. It includes triggers of panic, moments of fear and terror, broken self-esteem, hypervigilance, distrust of others, anxiety, being plagued by nightmares and exhaustion, suffering the besmirching judgement we so often see in victim blaming and her attempts to shut off the abusing rhetoric that she endured in an attempt to reconstruct her life.

Ms Skewes has four children, three of them living. I will not give too much detail here in terms of what she has conveyed to my office about the impact of family violence on her children, but I think it is enough for us just to imagine their suffering and understand their need and their right to support. Ms Skewes has received some victim support through VOCAT, though it is quite minuscule in comparison to the five years, five months and 55 days that it took for this matter to run from report through to sentencing. She applied through VOCAT for support for her children to receive counselling; however, that was rejected. She did not have the emotional strength to appeal. These children are not considered victims in their own right, and this in itself is something that we will continue to push the government to correct.

Reforms in relation to victims of crime assistance cannot come soon enough for us. We have made some progress in increasing the recognition of children who live with and witness family violence, most recently through my colleague Mr Grimley, who is working with Rosie Batty on calls for the standalone offence of family violence in the presence of a child. Children who witness family violence, who live in the context of family violence are victims. There is no doubt about that. This family has

suffered enough, and these children deserve access to the psychological supports they need. I look forward to the minister's urgent action on this abhorrent decision.

RESPECTFUL RELATIONSHIPS

Mrs McARTHUR (Western Victoria) (23:13): (1636) My adjournment matter is for the Minister for Education. During last week's Public Accounts and Estimates Committee inquiry into the 2020–21 financial and performance outcomes hearings, where representatives from the Department of Education and Training appeared as witnesses, I asked about the incident at Brauer College in Warrnambool, where male students were forced to stand up at assembly and apologise for their gender. I also asked about the incident where students at Parkdale Secondary College that were heterosexual, white and Christian were asked to stand up in front of their peers and were then told that they were oppressors because of their privilege. My questions to the representatives from the department were:

Were either of these views part of the Victorian curriculum in the last financial year? Is there anything in the Victorian curriculum which you think might have inspired these actions in these schools?

Dr David Howes, the deputy secretary for schools and regional services, strangely told me:

It is the case that as a result of the specific recommendation from the Royal Commission into Family Violence we have been implementing the Respectful Relationships curriculum. So those actions were acknowledged to be outside that, but the Respectful Relationships curriculum has been a very important part ... of establishing more respectful relationships, both in schools and across the community.

This was bizarre because I never even asked about the Respectful Relationships program. Clearly senior figures in the minister's department believe there is a strong link between this program and the far-left indoctrination and politicking occurring in our schools. These incidents are a disgrace, and if there is any correlation between them and the government's programs, perhaps not only should the schools have apologised but the minister also. Radical identity politics has no place in our education system, and actions must be taken to ensure our curriculum does not propagate it. The action I seek is for the minister to clarify whether he agrees with his deputy secretary's views that there is a link between these outrageous incidents driven by extreme far-left ideology in Victorian schools and the government's Respectful Relationships program.

WILLIAMSTOWN HOSPITAL

Dr CUMMING (Western Metropolitan) (23:16): (1637) My adjournment matter is to the Minister for Health in the other place, and the action that I seek is for the minister to clarify the restrictions on visitors for those in respite care. My constituent's 96-year-old mother lives alone and had a fall at her home, sustaining a fracture. She has been placed in respite care for six weeks in the transition care program (TCP) ward in the Williamstown Hospital. My constituent, her siblings and other family members are stressed as they are not able to visit her. They have been advised by staff at the hospital that no-one at any time can visit her even though all family members are fully vaccinated, as well as their mother, yet the patient in the same room has her family come in and visit, taking the patient food throughout the week. She is placed on a seat for 3 hours, just staring out of her window. How is this fair? The family has also been advised to collect the dirty laundry from the hospital as that is not within the service of the hospital.

Confused by the whole situation, my constituent's niece called to have this clarified and was advised by the staff members that the unit manager would call her back. She is still waiting for that call. In the meantime she called back the TCP ward and spoke to the nurses station, as the unit manager had left for the day. He showed no compassion at all and confirmed all information was correct and it was hospital policy. The option of seeing her in a waiting room or a garden was denied. The only time they could possibly see her was on compassionate grounds—in other words, if she was on her deathbed. She called the patient representative department at Western Health, who advised her they could call the hospital to seek an exemption. Why are all of us vaccinated if we cannot spend time with our

family when they are in need? Why aren't facilities clearer on the restrictions? Doesn't being the age of 96, turning 97, mean anything in the way of compassion? This bureaucratic nonsense must stop.

BRIGHT HEALTH PRECINCT

Ms LOVELL (Northern Victoria) (23:19): (1638) My adjournment matter is for the Minister for Health, and it concerns funding for the Bright health precinct development. The action that I seek is for the minister to provide a funding commitment of \$40 million for the completion of the Bright health precinct development, a revolutionary project that will allow provider Alpine Health to meet the healthcare needs of the Bright community. The amalgamation of the Bright District Hospital and Health Services, Tawonga District General Hospital and Myrtleford District War Memorial Hospital saw the creation of Alpine Health in November 1996. Since the amalgamation both Myrtleford District War Memorial Hospital and Tawonga District General Hospital, which is now known as Mount Beauty District Hospital, have been redeveloped under a staged capital development program. Unfortunately Alpine Health has been unable to secure appropriate funding to complete a redevelopment of the Bright District Hospital and Health Services, and numerous studies have shown that the current infrastructure cannot deliver the quality health care the community needs.

On 3 March this year I called on the minister to provide funding for Alpine Health to complete detailed planning of a redevelopment of Bright's health services. This work has been done, with a feasibility study completed and the business case now being finalised. The feasibility study has determined that the planned Bright health precinct development will meet the health needs of the community, with the redevelopment of four key areas of service. The project will finally deliver a new 35-bed high-care aged-care facility to the region, with the ability to expand with an additional two seven-bed units. A refurbishment of the existing hospital bed-based services and nursing facilities will be completed together with an extension of the kitchen area and the hospital's community and allied health space, which will expand the range of allied and specialist health services available to patients. The project will see the current Hawthorn Village aged-care facility become Alpine Health's new health education hub, as well as serving as an accommodation space for international healthcare workers.

Finally, the development also includes acquiring land to build a new medical centre, utilising private capital investment and providing engagement for a full range of medical services. During the regional sitting in Bright this year the hospital board group met with numerous MPs to outline the need for this redevelopment. The feasibility study has identified the cost of the development to be \$40 million, and with the completion of the business case imminent I call on the minister to commit the funding to make this project a reality.

COVID-19 VACCINATION

Mr QUILTY (Northern Victoria) (23:22): (1639) My adjournment matter is, as usual, for the Minister for Health. My office has been flooded with calls complaining about difficulty in getting a vaccine exemption. The story is often the same: the doctor recommends against vaccination because of a person's individual circumstances making it a bad idea, but the doctor refuses to provide a written exemption. The doctors say their hands are tied. They can only issue exemptions in extremely narrow, externally prescribed circumstances or else they will lose their registration. Despite what the government may want you to think, there are many reasons people may seek exemption. A common reason is that you have already acquired immunity somehow else. People who contract COVID-19 develop an immune response that protects them from future infections, at least for a time. We have heard many cases where doctors have told patients to avoid or delay vaccination because of exposure to COVID-19. Should these patients be required to ignore the advice of their doctors in order to participate in public life?

Some people have immunity from vaccines, but the government refuses to recognise it. Many people, mostly returned travellers, have received vaccinations other than the few that are available in Victoria. They are unable to have these vaccines recognised by Australia's immunisation register and therefore are unable to work. There is even a vaccine developer in South Australia who is unable to get an

exemption for his own vaccine despite the fact it has been approved for use in foreign countries, and he will be sacked from his job. Then there are a whole host of people for whom vaccination is unusually risky, such as people who have had severe reactions to their first dose. Every time the government shoots down a valid concern it gives more fuel to conspiracy theories. People start to wonder: if COVID immunity is not a valid excuse to get an exemption from vaccination, what is the purpose of vaccination? They think: if vaccines are about health, why is the risk of a likely anaphylactic reaction not a valid cause for an exemption? We are hearing story after story from people with these exact concerns who are told by their doctors that their concern is valid but they are unable to provide an exemption regardless.

The government has even gone so far as to send police to raid clinics of doctors who have been issuing exemptions. I call on the minister to allow doctors to use their professional and expert opinions as the basis for providing an exemption to COVID-19 vaccination requirements. One of the government's lines is that we must all get vaccinated for the sake of those who cannot get vaccinated, but in the very next breath the government turns around and brands these very people who cannot get vaccinated as dirty anti-vaxxers and wants to destroy their lives.

ELECTIVE SURGERY WAITING LISTS

Ms CROZIER (Southern Metropolitan) (23:24): (1640) My adjournment matter this evening is to the Minister for Health, and it is in relation to the bans that are still applied in some hospitals across Victoria regarding elective surgery. Just last week we got the figures, with record numbers of Victorians that are now on the elective surgery waitlist—67 596—and of course we had record numbers on the elective surgery waitlist prior to the COVID-related suspensions of surgery last year. So the situation has only got worse over the last 20 months, and these people are waiting in pain. Their conditions are worsening, they are becoming more debilitated and their quality of life is deteriorating. It is critically important that they have this urgent surgery; it is vital surgery that they need. Elective surgery is not, as some people seem to think, cosmetic; it is surgery to do with hips and knees, joint replacements, grommets, carpal tunnel and cataracts—a whole range of things that are vital and will impact on somebody's ability to have a good quality of life.

But some hospitals across Victoria still have a 50 per cent ban, and these are non-critical hospitals that do not have intensive care unit beds. They cannot cater for COVID patients, and nor will those staff be taken into a hospital where they need to be. It seems just absolutely ridiculous that these bans are applied. In New South Wales they have never restricted non-urgent elective surgery in non-critical hospitals. So the action I am seeking is that the minister immediately lift the limit of having just 50 per cent operating in these hospitals to at least 75 per cent, if not 100 per cent, and he needs to come out and tell the public when he is going to do this.

RESPONSES

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (23:27): There were 10 adjournment matters raised this evening. They will all be referred to the relevant ministers for a response.

The PRESIDENT: On that basis the house stands adjourned.

House adjourned 11.27 pm.