PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 20 February 2014

(Extract from book 2)

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

By authority of the Victorian Government Printer

The Governor

The Honourable ALEX CHERNOV, AC, QC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

The ministry

(from 22 April 2013)

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Deputy Premier, Minister for State Development, and Minister for Regional and Rural Development	The Hon. P. J. Ryan, MP
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Minister for Liquor and Gaming Regulation, Minister for Corrections and Minister for Crime Prevention	The Hon. E. J. O'Donohue, MLC
Minister for Local Government and Minister for Aboriginal Affairs	The Hon. E. J. Powell, MP
Assistant Treasurer, Minister for Technology and Minister responsible for the Aviation Industry	The Hon. G. K. Rich-Phillips, MLC
Minister for Environment and Climate Change, and Minister for Youth Affairs	The Hon. R. Smith, MP
Minister for the Arts, Minister for Women's Affairs and Minister for Consumer Affairs	The Hon. H. Victoria, MP
Minister for Agriculture and Food Security, and Minister for Water	The Hon. P. L. Walsh, MP
Minister for Police and Emergency Services, and Minister for Bushfire Response	The Hon. K. A. Wells, MP
Minister for Mental Health, Minister for Community Services, and Minister for Disability Services and Reform	The Hon. M. L. N. Wooldridge, MP
Cabinet Secretary	Mr N. Wakeling, MP

Legislative Assembly committees

Privileges Committee — Ms Barker, Mr Clark, Ms Green, Mr Hodgett, Mr Morris, Mr Nardella, Mr O'Brien, Mr Pandazopoulos and Mr Walsh.

Standing Orders Committee — The Speaker, Ms Allan, Ms Asher, Ms Barker, Mr Hodgett, Ms Kairouz, Mr O'Brien and Mrs Powell.

Joint committees

Accountability and Oversight Committee — (*Assembly*): Ms Kanis, Mr McIntosh and Ms Neville. (*Council*): Mr O'Brien and Mr Ronalds.

Dispute Resolution Committee — (*Assembly*): Ms Allan, Ms Asher, Mr Clark, Ms Hennessy, Mr Merlino, Mr O'Brien and Mr Walsh. (*Council*): Mr D. Davis, Mr Hall, Mr Lenders, Ms Lovell and Ms Pennicuik.

Economic Development, Infrastructure and Outer Suburban/Interface Services Committee — (*Assembly*): Mr Burgess, Mr McGuire and Mr Shaw. (*Council*): Mrs Peulich and Mr Ronalds.

Education and Training Committee — (*Assembly*): Mr Brooks and Mr Crisp. (*Council*): Mr Elasmar and Mrs Kronberg.

Electoral Matters Committee — (*Assembly*): Mr Northe. (*Council*): Mr Finn, Mrs Peulich, Mr Somyurek and Mr Tarlamis.

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

Family and Community Development Committee — (*Assembly*): Ms Halfpenny, Mr Madden and Ms Ryall. (*Council*): Mrs Coote and Mr O'Brien.

House Committee — (*Assembly*): The Speaker (*ex officio*), Ms Beattie, Mr Blackwood, Mr Burgess, Ms Campbell, Ms Thomson and Mr Weller. (*Council*): The President (*ex officio*), Mr Drum, Mr Eideh, Mr Finn, Ms Hartland, and Mrs Peulich.

Independent Broad-based Anti-corruption Commission Committee — (*Assembly*): Ms Hennessy, Mr McIntosh, Mr Newton-Brown and Mr Weller. (*Council*): Mr Viney.

Law Reform, Drugs and Crime Prevention Committee — (*Assembly*): Mr Carroll, Mr McCurdy and Mr Southwick. (*Council*): Mr Ramsay and Mr Scheffer.

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

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

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

Scrutiny of Acts and Regulations Committee — (*Assembly*): Ms Barker, Ms Campbell, Mr Gidley, Mr Nardella, Dr Sykes and Mr Watt. (*Council*): Mr Dalla-Riva.

Heads of parliamentary departments

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

Council — Clerk of the Legislative Council: Mr W. R. Tunnecliffe

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE ASSEMBLY
FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

Speaker:
The Hon. CHRISTINE. FYFFE (from 4 February 2014)
The Hon. K. M. SMITH (to 4 February 2014)

Deputy Speaker:
Mr P. WELLER (from 4 February 2014)
Mrs C. A. FYFFE (to 4 February 2014)

Acting Speakers: Mr Angus, Ms Beattie, Mr Blackwood, Mr Burgess, Ms Campbell, Mr Languiller, Mr McCurdy, Mr McGuire, Mr McIntosh, Ms McLeish, Mr Morris, Mr Nardella, Mr Northe, Mr Pandazopoulos, Ms Ryall, Dr Sykes and Mr Thompson.

Leader of the Parliamentary Liberal Party and Premier:
The Hon. D. V. NAPTHINE (from 6 March 2013)
The Hon. E. N. BAILLIEU (to 6 March 2013)

Deputy Leader of the Parliamentary Liberal Party:
The Hon. LOUISE ASHER

Leader of The Nationals and Deputy Premier:
The Hon. P. J. RYAN

Deputy Leader of The Nationals:
The Hon. P. L. WALSH

Leader of the Parliamentary Labor Party and Leader of the Opposition:
The Hon. D. M. ANDREWS

Deputy Leader of the Parliamentary Labor Party and Deputy Leader of the Opposition:
The Hon. J. A. MERLINO

Member	District	Party	Member	District	Party
Allan, Ms Jacinta Marie	Bendigo East	ALP	Languiller, Mr Telmo Ramon	Derrimut	ALP
Andrews, Mr Daniel Michael	Mulgrave	ALP	Lim, Mr Muy Hong	Clayton	ALP
Angus, Mr Neil Andrew Warwick	Forest Hill	LP	McCurdy, Mr Timothy Logan	Murray Valley	Nats
Asher, Ms Louise	Brighton	LP	McGuire, Mr Frank [6]	Broadmeadows	ALP
Baillieu, Mr Edward Norman	Hawthorn	LP	McIntosh, Mr Andrew John	Kew	LP
Barker, Ms Ann Patricia	Oakleigh	ALP	McLeish, Ms Lucinda Gaye	Seymour	LP
Battin, Mr Bradley William	Gembrook	LP	Madden, Mr Justin Mark	Essendon	ALP
Bauer, Mrs Donna Jane	Carrum	LP	Merlino, Mr James Anthony	Monbulk	ALP
Beattie, Ms Elizabeth Jean	Yuroke	ALP	Miller, Ms Elizabeth Eileen	Bentleigh	LP
Blackwood, Mr Gary John	Narracan	LP	Morris, Mr David Charles	Mornington	LP
Brooks, Mr Colin William	Bundoora	ALP	Mulder, Mr Terence Wynn	Polwarth	LP
Brumby, Mr John Mansfield [1]	Broadmeadows	ALP	Napthine, Dr Denis Vincent	South-West Coast	LP
Bull, Mr Timothy Owen	Gippsland East	Nats	Nardella, Mr Donato Antonio	Melton	ALP
Burgess, Mr Neale Ronald	Hastings	LP	Neville, Ms Lisa Mary	Bellarine	ALP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Newton-Brown, Mr Clement Arundel	Prahran	LP
Carbines, Mr Anthony Richard	Ivanhoe	ALP	Noonan, Mr Wade Mathew	Williamstown	ALP
Carroll, Mr Benjamin Alan [2]	Niddrie	ALP	Northe, Mr Russell John	Morwell	Nats
Clark, Mr Robert William	Box Hill	LP	O'Brien, Mr Michael Anthony	Malvern	LP
Crisp, Mr Peter Laurence	Mildura	Nats	Pakula, Mr Martin Philip [7]	Lyndhurst	ALP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Pallas, Mr Timothy Hugh	Tarneit	ALP
Delahunty, Mr Hugh Francis	Lowan	Nats	Pandazopoulos, Mr John	Dandenong	ALP
Dixon, Mr Martin Francis	Nepean	LP	Perera, Mr Jude	Cranbourne	ALP
Donnellan, Mr Luke Anthony	Narre Warren North	ALP	Pike, Ms Bronwyn Jane [8]	Melbourne	ALP
Duncan, Ms Joanne Therese	Macedon	ALP	Powell, Mrs Elizabeth Jeanette	Shepparton	Nats
Edwards, Ms Janice Maree	Bendigo West	ALP	Richardson, Ms Fiona Catherine Alison	Northcote	ALP
Eren, Mr John Hamdi	Lara	ALP	Ryall, Ms Deanne Sharon	Mitcham	LP
Foley, Mr Martin Peter	Albert Park	ALP	Ryan, Mr Peter Julian	Gippsland South	Nats
Fyffe, Mrs Christine Ann	Evelyn	LP	Scott, Mr Robin David	Preston	ALP
Garrett, Ms Jane Furneaux	Brunswick	ALP	Shaw, Mr Geoffrey Page [9]	Frankston	Ind
Gidley, Mr Michael Xavier Charles	Mount Waverley	LP	Smith, Mr Kenneth Maurice	Bass	LP
Graley, Ms Judith Ann	Narre Warren South	ALP	Smith, Mr Ryan	Warrandyte	LP
Green, Ms Danielle Louise	Yan Yean	ALP	Southwick, Mr David James	Caulfield	LP
Halfpenny, Ms Bronwyn	Thomastown	ALP	Sykes, Dr William Everett	Benalla	Nats
Helper, Mr Jochen	Ripon	ALP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Hennessy, Ms Jill	Altona	ALP	Thomson, Ms Marsha Rose	Footscray	ALP
Herbert, Mr Steven Ralph	Eltham	ALP	Tilley, Mr William John	Benambra	LP
Hodgett, Mr David John	Kilsyth	LP	Trezise, Mr Ian Douglas	Geelong	ALP
Holding, Mr Timothy James [3]	Lyndhurst	ALP	Victoria, Ms Heidi	Bayswater	LP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Wakeling, Mr Nicholas	Ferntree Gully	LP
Hulls, Mr Rob Justin [4]	Niddrie	ALP	Walsh, Mr Peter Lindsay	Swan Hill	Nats
Hutchins, Ms Natalie Maree Sykes	Keilor	ALP	Watt, Mr Graham Travis	Burwood	LP
Kairouz, Ms Marlene	Kororoit	ALP	Weller, Mr Paul	Rodney	Nats
Kanis, Ms Jennifer [5]	Melbourne	ALP	Wells, Mr Kimberley Arthur	Scoresby	LP
Katos, Mr Andrew	South Barwon	LP	Wooldridge, Ms Mary Louise Newling	Doncaster	LP
Knight, Ms Sharon Patricia	Ballarat West	ALP	Wreford, Ms Lorraine Joan	Mordialloc	LP
Kotsiras, Mr Nicholas	Bulleen	LP	Wynne, Mr Richard William	Richmond	ALP

[1] Resigned 21 December 2010
[2] Elected 24 March 2012
[3] Resigned 18 February 2013
[4] Resigned 27 January 2012
[5] Elected 21 July 2012
[6] Elected 19 February 2011
[7] Elected 27 April 2013
[8] Resigned 7 May 2012
[9] LP until 6 March 2013

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THURSDAY, 20 FEBRUARY 2014

CONTENTS

Thursday, 20 February 2014

The SPEAKER (Hon. Christine Fyffe) took the chair at 9.33 a.m. and read the prayer.

PERSONAL EXPLANATION

Member for Sandringham

Mr THOMPSON (Sandringham) — Last night in the debate on the Drugs, Poisons and Controlled Substances Amendment Bill 2013 I wrongly attributed the closure of the Jacksons meatworks in a speech by a former member for Geelong East and Bellarine as occurring in 1985 under the then Labor government. The closure occurred in or around 1979 during the term of the Liberal government, and the speech to which I referred was made in 1979.

BUSINESS OF THE HOUSE

Notices of motion

The SPEAKER — Order! Notices of motion 9 to 22 will be removed from the notice paper unless members wishing their notice to remain advise the Clerk in writing before 2.00 p.m. today.

PETITIONS

Following petitions presented to house:

Regional rail link

To the Legislative Assembly of Victoria:

This petition of residents of Brimbank draws to the attention of the house —

When the regional rail project is complete there will be up to 18 trains every hour through Ardeer and Deer Park stations. That is a train every 3.3 minutes and boom games will be down for up to 45 minutes at a time during peak hour. With this enormous increase in rail traffic there are issues to consider.

Noise: currently the RRL Sunshine to Deer Park is recognised as the section that has the greatest residential density and will be most affected by increased noise, including ground-borne noise, yet the RRLA and state government offers noise walls as the only solution and refuses to discuss options such as earth mounding and lowering of the rail line for noise mitigation with our community.

Traffic management: currently along the Sunshine to Deer Park section upgrades to the rail crossing are proposed for Anderson Road and Robinson Road. However, there are no plans to grade separate the Fitzgerald–Forrest road crossing and Mount Derrimut–Tilburn road crossing to deal with the increase to traffic congestion.

Service: while our community is being asked to cope with the increase in rail traffic there will be no increase at all to the number of trains stopping at Ardeer stations.

We therefore ask the house to:

1. require that the Regional Rail Link Authority attends an immediate community meeting with Brimbank council with a view to implementing appropriate noise protection, including vibration/freight noise, as a condition of the government funding of the project;

2. fund the grade separation of Fitzgerald–Forrest and Mount Derrimut–Tilburn road crossings to deal with the increase to traffic;

3. fund the cutting in of the regional rail line between Adelaide Street, Albion, and Deer Park stations.

By Mr LANGUILLER (Derrimut) (871 signatures).

Melton Highway level crossing

To the Legislative Assembly of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the house the Napthine state government's failure to properly manage the Melton Highway level crossing.

In particular, we note that:

1. the boom gates are down for 52 minutes every 2 hours during peak times;

2. during peak hours journey times are 20 minutes longer;

3. there is an increased risk for children crossing Melton Highway to get to school.

The petitioners therefore request that the Legislative Assembly urges the Napthine state government to guarantee that they will urgently fix the Melton Highway level crossing so that the issues noted above are addressed.

By Ms HUTCHINS (Keilor) (1139 signatures).

Reg Geary House

To the Legislative Assembly of Victoria:

The petition of the following residents of Victoria draws to the attention of the house that:

1. the Napthine government plans to close Reg Geary House, a 30-bed high-care public aged-care facility, in June 2014;

2. this follows on from the previous closure of Hazeldean Nursing Home, a 40-bed high-care public aged-care facility. If Reg Geary closes, Western Health will not operate any public sector residential aged-care facilities;

3. the 2012–13 Victorian state budget update foreshadows cuts to public sector aged care of $25 million in 2014–15 and $50 million in 2015–16;

4. despite an ageing population, the state government have closed public sector aged-care facilities in Ballarat, Castlemaine, Koroit, Kyneton, Melbourne and Williamstown and privatised one facility in Rosebud;

5. Reg Geary House has nurse-to-patient ratios to ensure quality care — ratios which do not exist in the private sector;

6. the closure of Reg Geary House will significantly remove choices for families in Melton.

The petitioners therefore request that the Legislative Assembly of Victoria urgently call on the Napthine government to stop the closure of Reg Geary House in Melton South.

By Mr NARDELLA (Melton) (146 signatures).

Tabled.

Ordered that petition presented by honourable member for Melton be considered next day on motion of Mr NARDELLA (Melton).

Ordered that petition presented by honourable member for Keilor be considered next day on motion of Ms HUTCHINS (Keilor).

PRIVILEGES COMMITTEE

Suspension of inquiry into complaint by member for Frankston

Mr WALSH (Minister for Agriculture and Food Security) presented report.

Tabled.

Ordered to be printed.

Investigation into improper disclosure of committee document

Mr WALSH (Minister for Agriculture and Food Security) presented report, together with appendices.

Tabled.

Ordered to be printed.

DOCUMENTS

Tabled by Clerk:

Ombudsman — Ombudsman's recommendations — Third report on their implementation — Ordered to be printed

Subordinate Legislation Act 1994 — Documents under s 16B in relation to *Education and Training Reform Act 2006* — Ministerial Orders 705, 713, 714, 715.

The following proclamation fixing an operative date was tabled by the Clerk in accordance with an order of the House dated 8 February 2011:

Co-operatives National Law Application Act 2013 — Whole Act — 3 March 2014 (*Gazette S46, 18 February 2014*).

PARLIAMENTARY COMMITTEES

Membership

The SPEAKER — Order! I have received the resignations of Ms Crozier, MLC, Mr McGuire and Mr Wakeling from the Family and Community Development Committee; and Ms Hennessy from the Public Accounts and Estimates Committee, effective from 19 February 2014.

Ms ASHER (Minister for Innovation, Services and Small Business) — By leave, I move:

That:

(1) Mr Madden and Ms Ryall be appointed members of the Family and Community Development Committee; and

(2) Ms Garrett be appointed a member of the Public Accounts and Estimates Committee.

Motion agreed to.

BUSINESS OF THE HOUSE

Adjournment

Ms ASHER (Minister for Innovation, Services and Small Business) — I move:

That the house, at its rising, adjourns until Tuesday, 11 March 2014.

Motion agreed to.

MEMBERS STATEMENTS

Corvina Foods

Mr HODGETT (Minister for Manufacturing) — On 9 December 2013, with the member for Mordialloc, I had the pleasure of visiting Corvina Foods. This company is working closely with the Victorian coalition government to grow its business through innovation. Corvina Foods is a fantastic example of a local business which is thriving on the back of a commitment to innovation. Corvina Foods is a manufacturer of chocolate and nut and health bars. It is a great local company which produces high-quality products for a number of major brands and employs 90 people.

In 2011 the company was awarded a $180 000 Competitive Business Fund grant by the coalition government to install new technology to improve production. Since completing the project, company sales have risen by 33 per cent and 50 people have been added to the workforce. This is a great news story for a firm which is always on the lookout for better ways of doing things in order to improve its competitiveness. Last year Corvina Foods was a finalist in the Melbourne Business Awards, which recognise outstanding businesses.

As the Minister for Manufacturing I have embarked on a program of visiting as many innovative businesses across Victoria as I can. This is to reinforce the coalition government's manufacturing strategy and our commitment to supporting local businesses. The Napthine coalition government's network of Victorian government business offices and Regional Development Victoria offices gives businesses better access to services and programs that can boost productivity, increase innovation and stimulate export development. Corvina Foods is just another great example of the coalition government delivering for manufacturing and assisting manufacturers to become more competitive and innovative.

Smythesdale business, health and community hub

Mr HOWARD (Ballarat East) — I was pleased to travel to Smythesdale last week and visit The Well, not a hole in the ground but an innovative business, health and community hub opened in 2008 as a $1.4 million project undertaken by Golden Plains Shire Council with $150 000 in funding from the former government. This has clearly been a very successful project. Ballarat Community Health provides a GP clinic four days per week. Other medical services are also provided, and a commercial pharmacy operates on site. Several other spaces are taken up by community groups, including the local historical society, and many local events, including a walking group, operate out of this hub.

Due to the success of the hub, Golden Plains Shire Council placed it on its list for federal funding in round 5 of the Regional Development Australia grants and was expecting to attract $850 000 to further extend and enhance The Well. However, with the election of the Abbott government round 5 funding grants have been cancelled. Golden Plains Shire Council and the Smythesdale community will now look elsewhere for funding support, and I hope that we can secure state funding to support this project.

Daylesford community facility

Mr HOWARD — Having worked with many residents of the Daylesford area, most notably Allan and Faye McLeod, to advance plans for an exciting, new and much-needed community facility at Victoria Park, Daylesford, I am disappointed to note that Hepburn Shire Council's application for $2.5 million from the federal government's Regional Development Australia round 5 grants has been cancelled by the Abbott government. This very worthy project is deserving of support, and I will continue to work with Hepburn Shire Council and the Daylesford community to see this project come to fruition.

Montalto Sculpture Prize

Ms VICTORIA (Minister for the Arts) — For 12 years now John and Wendy Mitchell have generously held the Montalto Sculpture Prize at their delightful winery estate. Along with family members, including their son-in-law Neil Williams, who again displayed his skills as the insightful artistic director, the Mitchells have ensured that sculptors have another lucrative prize to compete for. Congratulations to Adam Stone, a recent Victorian College of the Arts graduate whose very deserving 2-metre tall piece called *A Fall from Grace (Self Portrait Crash)* took out first prize. It is a fantastic start to what will be a long and successful career.

No More Tears — Colic Relief

Ms VICTORIA — Recently I had the distinct pleasure of launching one of the most exciting new books to hit the international shelves this year. *No More Tears — Colic Relief* was written by local Boronia pharmacist Gai Williams. As I read it I realised just how sanity-saving this book would have been when Charlotte was a baby. It helps parents diagnose colic, a condition that has babies writhing in pain, and even covers topics like breastfeeding problems. Best of all, it helps with practical, low-cost solutions. This book will be a bestseller, and I congratulate Gai and thank her on behalf of all the parents who will benefit from her research and wisdom.

King Kong

Ms VICTORIA — It was an emotional night on 16 February when audiences farewelled the Melbourne-made marvel that is *King Kong*, the musical. The cast were at their finest, and we should all be proud of what was achieved by this locally conceived show. As they say in the classics, this show is going straight to Broadway.

Convent Bakery

Mr WYNNE (Richmond) — I rise to acknowledge the Convent Bakery at the beautiful Abbotsford Convent, where Dominic Raco is the master baker and entrepreneur behind the success of employing 6 people with disabilities among his 40 staff. Dominic has long considered the problem of a lack of employment opportunities for people with disabilities. Dominic had the vision to see that workplace inclusion in his industry is appropriate, rewarding and a chance to address this obvious imbalance.

Dominic realised that the inherent level of understanding of the younger generation meant that extra or special training was not needed for his existing hospitality workforce. He just gave a brief talk to the staff, and they all got on with it. As he predicted, the existing staff took in their stride working alongside workers with a disability. The physical and emotional benefits of employment are profound for those with a disability. Not only is it of benefit to the individual workers but all those in their network of family, friends and carers also get a huge lift to see the workers happy and fulfilled. The reality is that inclusion of people with a disability into an existing labour group has a very positive effect not only for those with a disability but for those who work alongside them.

This year marks the 10th anniversary of the great Abbotsford Convent, the third most visited tourist site in this state and a wonderful legacy of the Bracks government.

Bushfires

Mr BULL (Gippsland East) — With fires burning over the past three weeks in East Gippsland many communities have been impacted, including Glenaladale, Lindenow, Lindenow South, Fernbank, Buchan, Goongerah, Bonang and Dellicknora, just to name a few. On recent visits to both the Glenaladale and Bonang fire grounds I met with many community members who have been severely impacted. To date a total of 14 homes and many kilometres of fencing have been destroyed, and there have been considerable stock losses. The loss and devastation is heartbreaking for those small communities. At Glenaladale I spoke to one couple who had purchased a property at auction on a Saturday, only to have fires ravage it the following day.

Given that the fires are still burning and not yet controlled, I ask the relevant ministers and government agencies to ensure that all possible support is given to these communities in the recovery process. I also thank all the on-ground firefighting crews, particularly those from outside the region, some from as far as New Zealand, who are working hard to contain the fires in the electorate.

Breanna Janson

Mr BULL — I congratulate Breanna Janson from Nagle College Bairnsdale, who was recently announced as one of the winners of a Spirit of Anzac prize. Her competition entry was a very moving poem about her great-grandfather Lawrence Bailey's war experience. Breanna's immediate family members were in attendance, including her great-grandmother and wife of Lawrence Bailey, to whom the poem was dedicated. They had the pleasure of hearing Breanna recite her work to the audience at Parliament House. I encourage all members of the house to read her outstanding poem. She is a very worthy recipient.

Australian Laser Masters Championships

Mr BULL — The Gippsland Lakes Yacht Club last weekend hosted the Australian Laser Masters Championships, with around 170 competitors from every state and territory as well as from New Zealand and South Africa.

Festival of Glass

Ms NEVILLE (Bellarine) — The fourth Festival of Glass was held in Drysdale last weekend, and I was delighted to again be invited to join in the official opening. The festival has become a highlight of the Bellarine calendar, and this year's exhibition will ensure that its fine reputation continues. This year we saw massive crowds — the biggest so far — and the range of stall-holders had great glass on display. It is a real testament to the strength of the community on the Bellarine Peninsula, especially the local Drysdale community, that they have been able to show the commitment and drive to grow the festival each year.

There is a long history of glasswork in the region, particularly in the Dell area, with spring water being exported in signature torpedo-shaped bottles and at one stage shell grit being sent to Melbourne's glass factories. This makes Drysdale the perfect setting for the festival and will ensure that the connection of this area to glass will continue in the future. The festival is also a wonderful way of exhibiting and celebrating artisans and artists working with glass, and this year included the very popular Glass on Film. Along with the festival, there is the development of a glass trail that will be up and running soon. We also saw workshops running for the first time, and they were all booked out over the weekend.

The festival is a great team effort. Thanks and congratulations go to all those involved — the artists and businesses, the sponsors including Bendigo Bank, the enthusiastic volunteers, the festival committee and in particular convenor Doug Carson, Patrick Hughes and the Drysdale and Clifton Springs Community Association.

Anzac Day centenary

Mr BAILLIEU (Hawthorn) — Last week marked the commemoration of the Monash militia camp at Lilydale and the mock battles that took place at Coldstream 100 years ago under the guidance of then Colonel John Monash. These events involved some 3000 militia troops and a substantial camp in Lilydale. I congratulate the local history societies, local historian Anthony McAleer, the Rotary Club of Lilydale, the Mount Evelyn and Healesville RSLs, local member Tony Smith, students, and in particular Colin and Michael Bennett, grandson and great-grandson of John Monash, who both participated. They were a fantastic couple of events that provided evidence of the importance of genuine community connection to these centenary events, which over the next five years will occupy much of our time.

Protective services officers

Mr BAILLIEU — I take this opportunity to thank the Minister for Police and Emergency Services and Victoria Police for the continuing rollout of protective services officers (PSOs). I welcome and commend those PSOs who have joined the Lilydale and Belgrave lines at Glenferrie, Hawthorn, Camberwell and Canterbury stations. Glenferrie station is in the heart of Swinburne University of Technology, and I have seen for myself the work the PSOs do late at night to control antisocial behaviour. The PSOs are welcome and are doing a fantastic job. The rollout has been a great success.

Bushfires

Ms DUNCAN (Macedon) — Residents of towns across the Macedon region, including Gisborne, Riddells Creek, Clarkefield, Romsey, Sunbury, Monegeeta and Darraweit Guim, are feeling the impact of widespread damage caused by the worst fire conditions since Black Saturday. Rising temperatures along with hot gusty winds and dry vegetation contributed to the spread of the fires, which burnt thousands of hectares of farmland in our region. Homes, sheds, fences and vehicles have been destroyed and thousands of animals injured or killed. If it were not for our dedicated emergency services personnel, all the amazing volunteers in the Country Fire Authority (CFA) and the State Emergency Service (SES), the situation would have been much worse.

I take this opportunity to thank all our emergency services personnel for the great work they did to save our community, along with the assistance provided by people from other states and New Zealand. The CFA and Macedon Ranges Shire Council worked closely with residents to provide the latest up-to-date information about the fires. The council, the Red Cross, government agencies and a multitude of volunteer organisations are now in the process of helping communities recover.

Although changed weather conditions have helped firefighters contain the fires we are not out of the woods yet, with many more hot days ahead. In addition, many families are still recovering. As always we need to learn from each event to see what we can do to better prevent and manage fires in the future. We also need to see what we can learn in areas such as recovery and the way roads are managed during and after events. We need to see what we can do to improve those processes.

Chinese New Year

Mr WAKELING (Ferntree Gully) — I would like to congratulate Kam and Christine Pow and members of the Knox Chinese community for the wonderful Chinese New Year fundraising dinner my wife and I had the honour of attending recently. The dinner raised over $5400 for the Smile Centre in Cambodia, which is currently being built to offer free, life-changing surgery to underprivileged children who suffer from cleft lip and palate.

St Andrews Christian College

Mr WAKELING — I was honoured to recently attend a morning tea at St Andrews Christian College in Wantirna South. I met with student leaders from both the middle and senior schools to discuss a range of issues concerning leadership. Congratulations to principal Catriona Wansbrough, the staff and the students for a great event. St Andrew's College has established itself as a leading independent school within the Knox municipality.

Parmalat Australia

Mr WAKELING — I was pleased recently to join the Premier and the Minister for Manufacturing at the official opening of the new ultra-high temperature (UHT) line expansion at the Parmalat Australia plant in Rowville. The plant has been extended to accommodate

two new UHT lines and three new filling machines, predominantly for exporting milk products to Asia. Parmalat Australia has invested $25 million in this expansion, which will create up to 50 new jobs by 2016. Congratulations to Parmalat CEO Craig Garvin and site manager Bruce Venables on this significant investment in the Knox community.

Wantirna Primary School

Mr WAKELING — I had the pleasure recently of joining the federal member for Aston, Alan Tudge, to officially recognise the new student leaders at Wantirna Primary School. I would like to congratulate principal Heather Norbury, school captains Justin McQualter and Olivia Alberti and all the other leaders on their success.

Mountain Gate Cricket Club

Mr WAKELING — I recently attended the 50th anniversary celebrations of the Mountain Gate Cricket Club. The night was thoroughly enjoyable, with Mark Burridge, Adrian Feeney, Ray Hartley, David and Chris Harris inducted as club legends and Graham Hartley inducted as patron.

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

Member for Frankston election commitments

Mr SHAW (Frankston) — I would like to reflect on the last three years and all the campaign promises I made before the 2010 election, which I canvassed in my home town of Frankston. All bar one have been delivered in prior budgets and will be finalised this year.

Frankston Hospital

Mr SHAW — Frankston Hospital was the subject of one of them, although that promise was much maligned and picked on. The hospital was promised a new emergency department. Since that time $80 million has been spent on the emergency department and other much-needed facilities, including a $5 million multistorey car park. The works taking place can be seen clearly from the road, and Frankston and surrounding areas will greatly benefit from them.

Mount Erin Secondary College

Mr SHAW — In the second budget Mount Erin Secondary College received $900 000 for plans to rebuild the school, and after many meetings and long hours spent in discussions between staff members and architects, working drawings were completed. In the 2013 budget the balance of the $9 million campaign promise was provided, and works are under way.

Frankston Meals on Wheels

Mr SHAW — Another election promise was simply to provide $40 000 for an oven for Meals on Wheels. That was delivered in the first year and was a much-needed community asset.

Frankston U3A

Mr SHAW — The University of the Third Age (U3A) was promised $10 000 to expand its computer room when it moved to John Paul College, and that was delivered in the first year. U3A Frankston now has over 700 members.

Frankston Toy Library

Mr SHAW — The Frankston Toy Library, the largest in Australia, was promised over $3000, which was delivered and used to purchase new toys for the children.

Kananook Creek

Mr SHAW — Recently Kananook Creek was the beneficiary of $2.5 million as part of a campaign promise to desilt the creek. The $2.5 million desilting of the creek from Wells Street to the mouth of the creek was handled by South East Water.

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

Echuca primary schools

Mr WELLER (Rodney) — I take this opportunity to revisit the issue of funding for the proposed primary school merger project at Echuca. Echuca Specialist School, Echuca South Primary School and Echuca West Primary School agreed to merge in 2007, and in 2012 the Victorian coalition government committed to purchasing a block of land at a greenfields site.

Since the Department of Education and Early Childhood Development secured the land in Echuca West, civil construction works of sections of road, footpath and stormwater drainage have been carried out to enable completion of the subdivision and transfer of the title. I understand these works have now been completed, and we have reached a point where funding is required for the planning and building of the new school.

The education minister has been most obliging towards my requests to visit and meet with representatives of each of the schools during the past few years, and he has an extremely good understanding of and is sympathetic towards the situation. On several occasions in the past the minister has also indicated that the merger project is a high priority for the 2013–14 budget.

Once again I stress the importance of this project. There is a drastic need to provide a purpose-built, safe and modern facility for these schools as a matter of urgency. The minister has previously indicated that capital works funding for the new school will be seriously considered during the state budget planning process, and I look forward to positive news in the May budget. In the meantime I invite the minister to attend a meeting with the respective school principals and myself at the proposed merger site to discuss the plan moving forward.

Office of Living Victoria

Mr FOLEY (Albert Park) — Last year the Minister for Water, through his Office of Living Victoria (OLV), made a grant from his Living Victoria Fund to upgrade the stormwater harvesting at Albert Park Lake, in my electorate. The minister allocated $995 000 to be spent to save $330 000 of potable water in a project to be managed by Parks Victoria. I ask the minister and the Office of Living Victoria to release the details of the contracting, the consultants, the business case modelling and the timetables for this and indeed all of the OLV's $50 million worth of projects — those funded already and those planned to be announced shortly.

I also ask the minister to release the outline of all the submissions received to date and whether the intellectual property of all those applications has been properly protected by the Office of Living Victoria. I would like to see the government take up my call for the operation, governance, staffing and financial management of all Office of Living Victoria grants managed by the Living Victoria Fund to be referred to the Auditor-General.

This minister has significant issues to answer, and he should come clean. The government should take this opportunity and refer the Office of Living Victoria's operations and its relationship with the minister's office to the Auditor-General.

Leadbeater's possum

Mr BLACKWOOD (Narracan) — I commend the Minister for Environment and Climate Change for the action he has taken to protect our state's faunal emblem, while seeking — very importantly — to maintain a sustainable timber industry here in Victoria. The coalition government has established the Leadbeater's Possum Advisory Group to bring both conservationists and the timber industry around the table to deliver practical recommendations to government, and it has allocated $l million for immediate implementation of the group's recommendations. It has already invested $1.86 million into research and monitoring of threatened species in Victoria's forests by the Arthur Rylah Institute for Environmental Research, and it has supported Zoos Victoria's Leadbeater's possum breeding program at Healesville Sanctuary.

I also point out that it was a coalition government that in 1995 set up the Leadbeater's possum recovery team that drafted the Leadbeater's possum action statements, which have been informing land managers and the timber industry with operating prescriptions that protect the habitat of the possum.

Despite these very positive steps, the member for Bellarine chose to ignore the facts and accuse the Napthine government of doing nothing to protect the Leadbeater's possum, as quoted in the *Sunday Age* last weekend. She also made some very vague reference to Labor developing a plan to protect the possum and its habitat. This is code for doing a deal with the radical green groups to secure preferences in this year's election. Labor does not have the guts to put the Greens last. It appears to be concerned about current job losses, yet it will still get into bed with the biggest threat to long-term sustainable jobs here in Victoria — the Greens.

WorkSafe Victoria

Mr SCOTT (Preston) — WorkSafe Victoria is suffering from another restructure. In this context 'restructure' is code for 'job losses'. Information provided by stakeholders indicates that somewhere in the vicinity of another 20 jobs will be lost at WorkSafe. The same stakeholders indicate that since the middle of last year there has been a net loss of around 110 jobs within WorkSafe.

There are particular areas where these job cuts appear to be having a significant impact. Of great concern is the fact that it has been indicated that there will be a restructure in relation to how agricultural safety will be

managed, with there no longer being a dedicated manager of agriculture within WorkSafe. While this will still be a responsibility within WorkSafe, changes to the structure that have been reported to me are of great concern because farm safety is an area of particularly high rates of accidents within the community, and there are sadly too many deaths and injuries in the agricultural sector. Also of concern is an indication that advertisements are being canned at the post-production stage.

This information regarding the restructure has not been made widely publicly available, and it is time the government came clean and indicated what cuts it is making to WorkSafe, particularly at a time when it is intending to move WorkSafe to Geelong. It would be honest and truthful for the government to come forth and indicate to the community of Geelong what cuts it is making and, of the jobs it has promised for Geelong by moving WorkSafe, which of those it has already cut in this round of restructuring.

Luke Batty

Mr BURGESS (Hastings) — On 12 February 2014 the community of Tyabb was changed forever. On that day a wonderful young boy's life was stolen at the Tyabb cricket ground and so was the innocence of this small, rural, tight-knit community. That evening 11-year-old Luke Batty's life was ended by a person he had every right to believe would protect him from all harm.

The night after the tragedy the community gathered at the place where Luke lost his life to remember him, to support each other and to just try to make sense of this shocking and senseless event. People came to grieve, bring flowers and leave cards in the memory of the very popular and outgoing 11-year-old boy and to comfort his courageous mother. Almost as though they were being drawn by an unseen spirit, hundreds of people drifted into the Tyabb ground, many ashen faced, others still shaking their heads and all seeking answers that will never come.

Many people stood on the park bench that had been chosen as the place to speak from to say what was in their hearts, many starting off with the smile of memories on their faces and ending with the pain of such a tragic loss. Many of Luke's young friends bravely overcame their fear of speaking in front of hundreds of people to give voice to their love for Luke and to express some of the pain they were feeling. Others who had never met Luke stood to provide support to others struggling with the weight of such a loss.

This was a tragedy in every sense of the word, and it affected so many. People throughout my community reacted with disbelief as the tragic news found its way into their homes, clubs and workplaces. Victorians and Australians were joined in their grief by people from around the world. The day after Luke died members of the Australian cricket team wore black armbands in memory of Luke during their test match in South Africa. Sheffield Shield players also wore black armbands that week in their games around the country. All Tyabb cricket games scheduled for the following weekend were cancelled as a sign of respect and tribute to Luke.

I was not fortunate enough to know Luke and have not yet met his mother; however, the Tyabb community loves them both. Luke's brief 11 years of life were not without their challenges, but there is no doubt they were filled with the love and caring of his mum, Rosie Batty. Luke's was a life so short, yet so full — —

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

Banyule Primary School

Mr CARBINES (Ivanhoe) — I rise to thank and commend the work of Banyule Primary School staff and parents who in trying circumstances and in the face of the incompetence of the Napthine government continue to provide a first-class education to young people in my electorate.

A headline in the *Age* today reads 'Schools caught short as classroom demand leaps'. The article reports the Minister for Education as admitting there have been delays in establishing relocatable buildings. It goes on to say:

> It is a similar story at Banyule Primary School, where students are eagerly waiting for two double portables, which were delivered in January, to be fitted out.
>
> Principal Sharon Marmo said 100 grade 1 and 2 students were working in a large classroom while they waited for the four classrooms.
>
> …
>
> Ms Marmo urged the government to pump more money into school buildings in this year's budget.

It is no surprise that the Napthine government has sold three schools in the Ivanhoe electorate and pocketed $20 million. Over three budgets not one cent of that $20 million has been invested in Ivanhoe schools, with the government opting instead for the second-class option of crummy portable facilities at Ivanhoe schools which it cannot even have up and running for our

students by the start of the school year. Over 100 school students in the Ivanhoe electorate are now being required to put up with makeshift arrangements because this government refuses to either provide any of that $20 million or to invest in Ivanhoe schools.

This government flogs off our facilities and then gives us the substandard, second-class option of portables which it cannot even get online by the start of the school year. The Ivanhoe community will hold this government to account at election time for its hatred of state education.

SPC Ardmona

Mr McCURDY (Murray Valley) — Fruit growers in my electorate have welcomed the Victorian coalition government's funding for SPC Ardmona. The announcement that this government will provide $22 million towards a $100 million coinvestment in SPC Ardmona gives certainty to the future of the fruit industry that includes Cobram and Invergordon.

Wunghnu fires

Mr McCURDY — My thoughts are with those in Wunghnu and surrounding areas who were impacted by a large grass fire that destroyed homes, property and a lot of farm land. Recovery efforts include replacing large amounts of fencing that was lost and helping out farmers who are in need of feed for their stock. It is heartening to see communities in my electorate rallying around each other in this time of need by donating hay and other items to support our farmers.

Shire of Moira

Mr McCURDY — I would like to thank our emergency services personnel, Moira Shire Council and the Red Cross, who have all done an amazing job fighting fires, protecting our communities and caring for residents. Moira Shire Council and its residents have been through a lot of hardship in recent years, including floods, a tornado and now fires. They continue to show resilience and a fighting spirit.

Tarrawingee Country Fire Authority brigade

Mr McCURDY — Country Fire Authority volunteers have given their all fighting fires locally as well as further afield. A large tree limb fell and significantly damaged the Tarrawingee brigade's new tanker. Members of the Tarrawingee brigade and other local volunteers were on board fighting fires at Kilmore and Wallan as part of a 35-member strike team from district 23 when this happened.

GrainCorp

Mr McCURDY — A $125 million investment by GrainCorp that will include the expansion and upgrade of the Numurkah oilseed operations is great news. New jobs are expected to be created at the Numurkah site, and this employment growth is fantastic for the region as well as securing the existing 40 jobs at the facility. This announcement is a real sign of confidence in the local region, with GrainCorp identifying Numurkah as the centre of its oilseeds-growing operations.

City of Wyndham public transport

Mr PALLAS (Tarneit) — I rise to address the house on public transport in the city of Wyndham. A fortnight ago many MPs took part in the Take Public Transport to Parliament Day organised by the Public Transport Not Traffic campaign. I was happy to lend my support to this important cause and participated with a local constituent, Michael Alexander. This event highlighted the increasing demand placed on public transport, particularly on the Werribee rail line, where demand is forecast to grow at a rate of 8 per cent per annum between 2011 and 2021. The day provided an opportunity for members of Parliament to show their local communities that they value public transport.

The Napthine government has failed to adequately invest in public transport across the board, but Wyndham in particular has been hit hard, with the government failing to meet demand. The *Wyndham Leader* reported that Public Transport Victoria statistics show that over one-third of afternoon peak passengers on the Werribee line were in overcrowded carriages. The line also had the highest percentage of overcrowded trains on the metro network in the afternoon peak and one of the highest percentages in the morning peak.

I hear from constituents regularly about how difficult it is to even find a car park at their local railway station. This is a serious problem given that buses in Wyndham have the least direct routes of all the metropolitan bus services. Residents in new growth areas such as Moorookyle in Tarneit have to walk up to 1 kilometre to even make it to a bus stop. The government has failed to meet the public transport needs of the Wyndham community. It must invest in public transport to reduce congestion on our roads and to create breathing space for commuters on trains and buses.

Geelong Region Innovation and Investment Fund

Mr KATOS (South Barwon) — Yesterday's question time saw disgraceful and hypocritical questions from the Leader of the Opposition and the member for Bellarine regarding the Geelong Region Innovation and Investment Fund (GRIIF). I, along with the Premier and the Minister for Manufacturing, sat in the canteen of Ford's Geelong plant speaking to Ford workers and union representatives about this fund and their future. Their concern was that they did not want to see the GRIIF allocated too quickly as they want the job generation that government coinvestments will bring to coincide with Ford's wind-down. Yet yesterday Labor members were critical of funding not having been allocated. This shows how out of touch the Leader of the Opposition and the member for Bellarine are. If they had bothered to speak to Ford workers and their union representatives, they would have known that this is exactly what they want.

There are 36 applications that have been made to round 1 of the fund, and I expect decisions on these applications to be made in the near future. The coalition government is getting on with the job of coinvesting in Geelong businesses to generate job opportunities, unlike the Leader of the Opposition, who talks down Geelong at every opportunity. We have made investments in IXL Metal Castings, creating 12 jobs; Express Promotions, creating 16 jobs; Carbon Revolution, creating another 20 jobs; Associated Kiln Driers, creating 15 more jobs; Farm Foods Retail Services, creating 26 more jobs; the redevelopment at the site of the former St Mary's school, creating 100 construction jobs and 50 ongoing jobs; and Karingal's Kommercial factory, creating 60 jobs.

Firefighters

Mr HERBERT (Eltham) — I rise to applaud the incredible bravery and dedication of those active members of the Eltham, Research and Plenty Country Fire Authority (CFA) brigades who pitched in to defend lives and property during Victoria's recent fire emergency period. The brigades attended fires in Warrandyte, Mickleham, Wallan, Research and Kilmore, with tankers, trucks and crews from these terrific brigades putting in 12-hour shifts, relieving local brigades, saving homes and protecting the public in the worst bushfire conditions since Black Saturday. I also commend these brigades for their terrific efforts in community education before the fire season and for providing constant critical information about fire safety. I note that works are progressing on Labor's $9.6 million new Eltham CFA station, which will provide improved capacity for more heavy duty tankers to protect our community. I also acknowledge the support of the project from the previous minister, the member for Gippsland South.

While I congratulate and commend CFA firefighters, I note that not everything has gone smoothly with the government's handling of the bushfire emergency, with a number of members of the public finding the government VicEmergency website and application lacking in up-to-date information and difficult to use. This is something the government needs to address as a matter of priority. The sterling efforts of these brave men and women of the CFA were also undermined by the unnecessary scaremongering and showboating by a member for Eastern Metropolitan Region in the Council, who made wild and uninformed claims about Nillumbik Shire Council.

State Emergency Service Mildura unit

Mr CRISP (Mildura) — I pay tribute to the efforts of the State Emergency Service in the Mildura region last week when we had 80 millimetres of rain. There were the usual leaking roofs and gutters, and there was water over the road — —

The ACTING SPEAKER (**Mr McCurdy**) — Order! The time for members statements has expired.

TRANSPORT (SAFETY SCHEMES COMPLIANCE AND ENFORCEMENT) BILL 2014

Statement of compatibility

Mr MULDER (Minister for Public Transport) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Transport (Safety Schemes Compliance and Enforcement) Bill 2014.

In my opinion, the Transport (Safety Schemes Compliance and Enforcement) Bill 2014, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The main purpose of the bill is to consolidate and improve existing monitoring, compliance, investigation and enforcement powers available to the Victorian safety director (Victoria's rail, bus and marine regulator) and transport safety

officers following the implementation of national rail and marine safety schemes in Victoria.

Consequential changes are also made to the investigatory powers of the chief investigator, transport safety who deals with no-blame investigations following public transport and marine accidents.

The bill ensures that local compliance and enforcement standards for Victoria's locally regulated rail, marine and bus safety sectors enjoy the same levels of compliance and enforcement support as occurs under recent national schemes.

The bill provides the safety director and officers of Transport Safety Victoria with detailed entry, search, seizure, inquiry and questioning powers. It also includes important administrative sanctions, such as the power to serve improvement and prohibition notices and contains court-based sanctions.

The bill also provides a platform for Victoria to implement COAG-approved directors' liability principles in Victoria, which limits the offences for which an officer might be liable when an offence is committed by the corporation.

The provisions in the bill broadly follow (with modifications and improvements) the monitoring and compliance provisions, enforcement measures and court sanctions in the rail safety national law (modified and applied as a law of Victoria by the Rail Safety National Law Application Act 2013).

Prior to commencement of the national schemes, compliance and enforcement tools used by the regulator to monitor and enforce these schemes and Victoria's bus safety scheme were contained in the Transport (Compliance and Miscellaneous) Act 1983. The national provisions draw heavily on many pre-existing measures in that act.

A number of additional key Victorian provisions contained in the Transport (Compliance and Miscellaneous) Act 1983 are retained and a number of improvements (including measures to ensure that any limitations on charter act rights are within reasonable limits) are made.

The provisions are tailored to extend beyond rail safety, including the Melbourne metropolitan tram network, to provide powers in respect of Victoria's local bus and marine safety schemes.

Human rights issues

The bill engages the charter act rights of freedom of movement, privacy, property rights, the right to a fair hearing, the right to be presumed innocent and minimum guarantees in criminal proceedings. The impact of the bill on each of these rights is discussed below.

Freedom of movement

Section 12 of the charter act provides that every person lawfully within Victoria has the right to move freely within the state. The right is not absolute. As with all rights protected by the charter act, the right may be subject to reasonable limitations that can be demonstrably justified in a democratic society in accordance with section 7 of the charter act.

Stopping vessels and vehicles

A number of provisions empower the stopping of vessels and vehicles.

Clauses 11 and 12 of the bill contain provisions enabling a transport safety officer to detain a vessel for up to 48 hours, or such longer period as the Magistrates Court allows. A vessel may be detained only if an officer has boarded it for compliance and investigative purposes under clause 6 of the bill. These powers do not limit an individual's movement, only that of the vessel. The power to detain a vessel may only be exercised if an officer seeks to ascertain whether a transport safety or infrastructure law or approved marine code of practice has been complied with or whether an offence against a transport safety or infrastructure law has been committed, or in relation to an investigation into a marine safety matter.

Clauses 10 and 42 of the bill enable directions to be given to a master or person operating or in charge of a vessel to stop and (under clause 10) manoeuvre or secure a vessel. The clause 10 power is exercisable for compliance and investigative purposes. Clause 42 applies where a police officer or transport safety officer requires the person in charge of a vessel to produce a marine licence or certain other documents required by marine safety regulations to be displayed in or on the vessel. Clause 9 contains powers to stop rolling stock, road vehicles and buses, where a transport safety officer enters premises for compliance and investigative purposes under clause 6.

The powers are limited to stopping the vessel or vehicle and giving directions for the compliance and investigative purposes of the provisions. Other than being required to remain in order to comply with requirements to produce a licence or other directions, the provisions do not authorise the detention of individuals.

Clause 92 also enables an authorised officer to temporarily close a crossing, bridge or other structure, but only if necessary because of an immediate threat to safety. Clause 51 contains a similar power which may be exercised in the circumstances set out in clause 50(1), for example if a transport safety officer reasonably believes that a person is carrying out railway operations that threaten safety.

Insofar as the powers limit freedom of movement of individuals, it is reasonable and justified under section 7 of the charter act given the importance of the purpose of Victoria's marine and public transport safety schemes, which are to better secure safety on our waters and to secure safety in respect of public transport, so far as is reasonably practicable. This includes ensuring that individuals operating vehicles and vessels are licensed to do so and are safe. I acknowledge that the powers to stop vehicles and vessels are not limited to circumstances in which the transport safety officer suspects that an offence has been committed. However, I consider that such powers are necessary to monitor compliance with the regulatory scheme, and to detect non-compliance.

Directions to persons

Clause 8, which contains general powers exercisable by a transport safety officer who enters a place or who boards a bus or a vessel under clause 6, includes a power to require persons to provide reasonable help. This extends to operating

a vessel, driving a train or to running the engine of a locomotive or bus. In addition, a person may be required to unload or open rolling stock. Insofar as this may limit a person's freedom of movement it is reasonable and justified for the purposes of the provisions.

Restrictions on access to sites

Clause 16 enables a transport safety officer or a police officer, for compliance and investigative purposes, to secure a site and restrict access to a site. It is an offence to enter or remain at the site. However, certain exceptions apply where a person enters or remains at a site to ensure the safety of persons, to remove deceased persons or animals, to move a road vehicle or its wreckage to a safe place, or to protect the environment from significant damage or pollution.

Clause 71 also provides that a transport safety officer may serve a non-disturbance notice on a person requiring the person to preserve a site or prevent its disturbance. The notice may also require that certain rolling stock, a bus or vessel are preserved or not disturbed. These directions may again engage the freedom of movement. However, the power may only be exercised if the officer reasonably believes it is necessary to serve a non-disturbance notice to facilitate the exercise of his or her powers.

Any limit upon freedom of movement effected by these provisions is minimal and for an appropriate purpose, and I consider them to be reasonable and justified.

Privacy

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

The right is engaged in particular by the various powers of entry, search and seizure in clauses 6 to 8 and 18 to 21. The right is also engaged by the requirements to provide information such as a person's name and address in clause 41 and to produce certain information or certificates under clause 42, and by the broader power to require production of documents and answer questions under clause 22.

Entry, search and seizure

Part 2 of the bill includes a range of entry, search and seizure powers. I consider that, insofar as the powers interfere with privacy, such interference is in accordance with law and is not arbitrary. Entry, search and seizure powers properly exercised are essential to the investigative and compliance functions of Victoria's local bus, rail and marine safety regulator. The powers are exercisable in constrained circumstances, are directed at important regulatory purposes and are subject to a range of safeguards.

The powers of entry, search and seizure without warrant are primarily available in respect of commercial premises in which individuals have a limited expectation of privacy, namely premises which transport safety officers reasonably suspect to be marine premises or public transport premises, and buses and vessels which are in use. An officer who enters a place that is not marine premises or public transport premises is required by clause 6(2) to leave immediately. Clause 6(3) authorises entry into places adjoining marine premises or public transport premises, but this is only in the very limited and important circumstances where entry is urgently required for the purpose of dealing with a marine incident or a public transport incident. Otherwise, warrantless entry into residential premises is only authorised with the consent of the person with control or management, or the occupier or resident of the premises (see clause 46).

The bill also prescribes clear processes where entry to premises without warrant is obtained. Clauses 6 and 7 require a transport safety officer to take all reasonable steps to notify the person with control or management of premises of the officer's entry, unless this would defeat the purpose of entry or cause unreasonable delay. If no-one is present, a notice must be left setting out what has been done, when and why, and the procedure for contacting the safety director for further details. Clause 49 also provides that, in exercising powers, officers must cause as little inconvenience as possible and must not remain on premises any longer than is reasonably necessary.

The power to conduct a search pursuant to a warrant under clause 18 applies in relation to a broader range of premises, and may include residential premises. However, such searches are subject to the safeguards of the warrant process. Clause 18 provides that a warrant may be issued only if a magistrate is satisfied that there are reasonable grounds for suspecting that evidence of an offence against a transport safety or infrastructure law is, or may within the next 72 hours be, at the premises or on the rolling stock, bus or vessel. Various procedural safeguards are prescribed including procedures for announcement before entry and providing a copy of the warrant to relevant persons (clauses 20 and 21) and requiring provision of receipts for and copies of seized things (clauses 31 and 32).

The bill also deals with instances where a film, photograph, video or digital recording or other image taken under the powers exercisable under clause 8 on entry to premises or boarding of a bus or vessel under clause 6 contains the likeness of a person. Clause 8(2) confirms that the film or other image is not inadmissible in evidence if the capturing of that likeness is incidental to the taking of the film or other recording or image. Insofar as this engages privacy rights, I do not consider that the right is limited as a result of this provision, which merely clarifies the extent to which the image or recording is admissible.

Information-gathering powers

Several provisions of the bill require a person to provide information that may be personal. However, not all information required or obtained under these provisions will be of a personal nature (indeed, it may be that none of the information obtained is personal information).

Clause 41 empowers a transport safety officer to require a person to provide their name and address. While that information is personal in nature, any interference with privacy is reasonable and not arbitrary because the power may be exercised only for the important but limited purposes relating to the commission of offences. Further, clause 41(2) requires the officer to tell the person the reason for the requirement and to warn the person of the consequences of not complying. Similarly, clause 43 enables a direction to be given requiring a person to state the name, home and business address of another person associated with rolling stock, a bus or vessel, but again, the power may only be exercised for very limited purposes.

Clause 42 empowers police officers and transport safety officers to stop a vessel and to require production of certificates and licences. These documents may contain personal information and the powers are not limited to circumstances in which an offence is suspected. However, any interference with privacy is minimal and I consider it is reasonable and not arbitrary to require their production in order to monitor compliance with the marine safety scheme and ensure that masters and operators of marine vessels are appropriately licensed.

Broader information-gathering powers are contained in clause 22. These powers are discussed in more detail below in respect of the privilege against self-incrimination. It is possible that some personal information may be required to be provided in the exercise of the power, but the power is limited to compliance and investigative purposes and clause 22(3) requires that interviews be conducted in private where the person so requests. To the extent that privacy may be interfered with I consider that it is lawful and not arbitrary.

Property rights

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

The bill contains various provisions that interfere with a person's property. In particular, a person's property may be seized (both under warrant and otherwise under clauses 8(1)(i) and (j), 18, 19 and 27 of the bill) and sites (which may include property, vessels, buses and other vehicles, or rolling stock) may be secured under clause 16 of the bill. In limited circumstances, property may be forfeited to the state (clause 33).

A person may also be directed to move a vessel, including for the purposes of detention (clauses 10 and 11), and to move other things including rolling stock (clauses 8(1)(l) and (4), and 9). Property may be inspected, examined, moved, entered or opened using reasonable force (clause 8(1)(e)). Equipment may be used to examine or process things (clause 15), electronic equipment may be operated (clause 14) and documents may be copied and retained (clauses 8(1)(c) and 26). Directions may also be given for the protection of evidence (clause 17).

Supervisory intervention orders under clause 110 and exclusion orders under clause 111 may also have the effect of interfering with a person's use of their property.

These provisions, broadly outlined above, may in certain circumstances amount to a deprivation of property. However, in my view, the powers are compatible with the right in s. 20 of the charter act. The circumstances in which property can be seized, secured, forfeited or otherwise interfered with are clearly specified, including by reference to the reasons for which powers can be exercised, and safeguards against the arbitrary deprivation of property are provided.

Fair hearing and presumption of innocence

Section 24 of the charter act guarantees the right to a fair hearing in both criminal and civil proceedings. In addition, specific minimum guarantees in criminal proceedings are provided in s. 25 of the charter act, including the right to be presumed innocent.

Provisions affecting the way evidence is given and the burden of proof

There are a number of provisions in the bill that alter the way that evidence may be given and affect the burden of proof. These provisions engage the right to a fair hearing and the right to be presumed innocent in s. 25(1) of the charter act.

Clause 107 enables evidence to be given of certain matters by way of certificate. The certificate is proof of the matters stated unless evidence to the contrary is given by the accused. I consider that this provision is compatible with the rights in sections 24 and 25 of the charter act. While it alters the manner in which certain matters may be proved, the burden of proof remains on the prosecution. Having regard to the matters set out in clause 107 it is reasonable that the prosecution be able to prove each of those matters through a certificate. If the accused wishes to take issue with the evidence, this may be done by adducing evidence to the contrary, which should not be a difficult matter.

Clause 98 provides that evidence of past convictions in respect of proceedings relating to a safety work infringement may also be used as evidence if a person is found guilty of the relevant charge where certain procedural steps have been taken. They can only apply after a person is found guilty and therefore do not affect the right to be presumed innocent. Procedural safeguards are put in place, including requiring consent of the accused if he or she is present in court, and I consider that the provisions are compatible with the right to a fair hearing.

A number of provisions provide for offences, subject to the accused having a reasonable excuse. The consequence of these provisions is that the accused will bear the burden of adducing or pointing to evidence to establish a reasonable excuse. Once sufficient evidence is presented, the prosecution bears the burden of proving the absence of the reasonable excuse beyond reasonable doubt.

Clause 8(3) provides that it is an offence for a person required to give reasonable help under section 8(1)(l) not to comply with the requirement without reasonable excuse. Reasonable help includes matters such as helping a transport safety officer to access electronically stored information, running the engine of a locomotive or bus, or operating a vessel. Clause 9(2) contains an offence to refuse to comply with directions about the operation and movement of rolling stock and vehicles without reasonable excuse. Clause 10(3) contains similar provisions about the movement and handling of vessels.

Clause 22(6) provides that a person must not fail to produce documents or answer questions without reasonable excuse. Clauses 29(4) and 30(2) provide that it is an offence to fail to comply with a direction in relation to seizure without reasonable excuse. Under clause 41(4), a person must not fail to provide his or her name and address, and evidence of its correctness, without reasonable excuse.

Clause 58 requires a person to comply with an improvement notice unless the person has a reasonable excuse for not doing so. Clause 63 contains a similar provision in respect of prohibition notices. Clause 73 also provides that it is not an offence to fail to comply with a non-disturbance notice if the person has a reasonable excuse. Clause 90(4) makes it an excuse for an accused to fail to comply with a direction in respect of safety reports without reasonable excuse. Clauses 91(4) and (6) also provide that a person must comply

with a direction in respect of works affecting a railway unless the person has a reasonable excuse.

I consider that the imposition of an evidential burden on the accused with respect to establishing a reasonable excuse is reasonable and justified. In each case, the reasonable excuse will be within the knowledge and control of the accused, and it will be relatively easy for the accused to present evidence of it. In contrast, the prosecution may not know what excuse the accused will assert, and given the array of potential excuses that could be advanced it would be difficult or even impossible for the prosecution to prove an accused had no reasonable excuse.

A number of provisions provide for more specific exceptions to offences. In these cases, the accused will bear the burden of adducing or pointing to evidence of the exception. Clause 16(3) provides that a person must not enter a secured site or board a restricted bus or vessel without permission. However, subclause (4) contains a number of exceptions such as entering to ensure the safety of persons. Clause 17(2) makes it an offence to fail or refuse to comply with a direction under subsection (1), to which subsection (3) sets out a range of exceptions. Clause 42(5) contains an exception to the offence of not providing a certificate, licence, exemption or other document when requested, if it is not on the vessel at the time the request to produce is made.

I consider that the imposition of an evidential burden on the accused is reasonable and justified. In each case, whether an exception applies will be within the knowledge of the accused and evidence will be within their control. It will be relatively easy for the accused to point to or adduce that evidence.

Infringement scheme

The section 24 right is also engaged by division 2 of part 4 of the bill, which relates to safety work infringements.

The bill provides that a safety work infringement notice may be served by a police officer following the recording of a prescribed amount of alcohol concentration in a rail safety worker's blood at the time of commission of the offence. The infringement penalty process involves an alternative dispute resolution process whereby a person may accept a penalty without a court hearing.

If a safety work infringement notice is served, the safety work infringement takes effect as a conviction of the offence unless the rail safety worker to whom the notice was issued objects to the infringement notice within 28 days of the notice. Safety work infringements result in a conviction being recorded without a court hearing (in the same way as occurs with certain road traffic drink driving offences). However, a conviction is not recorded automatically if the person challenges the notice within the 28-day time limit.

I consider that the infringement scheme is compatible with the right to a fair hearing and the presumption of innocence. While a conviction may be recorded without a hearing, the right to a hearing is preserved. A person who receives a safety work infringement notice has the right, in accordance with the procedure prescribed in the bill, to have the matter dealt with by a court.

<u>Fair hearing and privilege against self-incrimination</u>

Section 25(2) of the charter act provides for minimum guarantees in criminal proceedings. The right is engaged where the privilege against self-incrimination is abrogated. Section 25(2)(k) protects the right to be free from self-incrimination.

This means that a person charged with a criminal offence may not be compelled to testify against himself or herself or to confess to guilt. This is also an important element of the right to a fair hearing. At the investigation and pre-trial stage, this includes the right to remain silent. Evidence obtained compulsorily may offend this right.

Clause 22 provides transport safety officers with powers to require any person at searchable premises or on a searchable bus or vessel to say who has custody of a document and to answer any questions put to the person by the officer. A person must comply with a direction unless the person has a reasonable excuse for failing to comply. Clause 23 provides that a person is not excused from answering a question or providing information or a document on the ground that to do so would incriminate the person. However, the privilege against self-incrimination is protected by providing both a direct and indirect use immunity in clause 23(2), which ensures that neither the person's answer nor evidence obtained as a consequence of that answer can be used against that person in a criminal proceeding, other than a proceeding arising out of the answer being false or misleading. An exception to this is where the information or document that is obtained directly or indirectly as a consequence of the answer is information or a document that is required to be kept under the regulatory scheme, or is contained in such a document.

To the extent that the exceptions in clause 23(3) limit the privilege against self-incrimination, I consider they are reasonable and justified. Pre-existing documents (as opposed to oral testimony) and information required to be kept under a regulatory scheme are generally accorded less protection under the privilege against self-incrimination. They are documents that a person is required to produce and keep as a consequence of their election to participate in the regulatory scheme. Ensuring that they are made available for investigatory and regulatory purposes, and ensuring they are able to be used in criminal proceedings including against those required to keep them, is essential to achieving compliance with the rail, bus and marine safety schemes in Victoria and the broader safety purposes of those schemes.

The bill also provides a number of more specific information-gathering powers where, depending upon the circumstances, there is the potential for the answer to be incriminating or to lead to the discovery of incriminating evidence. Clause 41 empowers directions to provide a person's name and address. Clause 42 requires persons to produce licences and certificates. Clause 43 requires certain persons associated with rolling stock, buses and vessels to provide information regarding the identification and address of other persons associated with those vehicles. It is possible that providing the answer or producing the licence or certificate would, in some cases, incriminate the person or lead to the discovery of evidence that would do so. However, I consider that any limit on the privilege against self-incrimination is reasonable and justified. They are reasonable obligations that are necessary to ensure the regulator has access to essential information for purpose of monitoring and enforcing the regulatory scheme.

Conclusion

The bill provides essential monitoring, compliance and investigative powers for Victoria's local rail, bus and marine safety schemes. For the reasons set out in this statement, I consider that the bill is compatible with the charter act. I consider that, to the extent that some provisions may limit charter act rights, the limitations are reasonable and demonstrably justified in a free and democratic society.

Hon. Terry Mulder, MP
Minister for Public Transport

Second reading

Mr MULDER (Minister for Public Transport) — I move:

That this bill be now read a second time.

Speech as follows incorporated into *Hansard* in accordance with resolution of house:

The main purpose of this bill is to improve compliance and enforcement support for Victoria's local rail, bus and marine safety schemes.

The house will recall that 2013 was a year of change in the rail and marine sectors which saw the finalisation of national schemes mandated by the Council of Australian Governments including new governance settings and regulatory changes.

The national schemes set the platform for bringing most parts of the rail and marine sectors under national control while leaving remaining areas under state cover.

For example, the national rail safety regulation and investigation schemes apply to most Victorian railways including metropolitan and V/Line services, both passenger and freight.

However, tram and light rail systems, including the major Melbourne system, and most of the state's tourist and heritage railways, remain locally regulated.

Similarly, many small commercial vessel activities are caught nationally, especially licensing and certification functions.

But significant activities in the marine sector remain under state and territory cover including regulation of all waterways and pilotage and drug and alcohol standards.

As a result of these new arrangements, there are both national and state laws in place for these areas of transport in Victoria.

The national rail and marine schemes are headed by South Australian and commonwealth laws respectively.

The national laws are then applied by statutes enacted by the Victorian Parliament to provide for the full rollout of the national schemes throughout the state.

The national rail and marine schemes largely adopted pre-existing Victorian legislation and underlying policy in those areas, although the national statutes did make improvements in some areas.

As a result, differences now exist between the national scheme statutes and local Victorian statutes, including in the important area of compliance and enforcement standards.

These provisions give important support to safety schemes as they contain essential aids like inspection and search and seizure powers and also establish sanctions that the regulator Transport Safety Victoria and the courts can use to prevent and deal with breaches of safety standards.

It is also important to note that these powers are also used by the chief investigator, Transport Safety when investigating incidents and safety trends which concern the public transport and marine sectors.

While Victoria already has separate statutes which set safety standards for the rail, marine and bus industries, the compliance and enforcement provisions which support the standards are contained in a single statute, the Transport (Compliance and Miscellaneous) Act 1983.

This step was taken some years ago due to the similarity of the compliance and enforcement issues which arise across all three transport schemes and the need to maintain coordination and consistency.

The house will be aware that good compliance and enforcement provisions are essential to the effectiveness of regulatory schemes, particularly those which support public safety.

It is plain that there is little point having transport safety standards if the industry regulator and the courts do not have sufficient powers and sanctions to apply them.

With this key point in mind, it is critical that Victoria continues to maintain high standards for locally regulated transport on land and water and remains nationally consistent.

Taking this common-sense approach, the bill predominantly aligns local compliance and enforcement standards with national provisions drawing mainly on the national rail safety scheme.

More particularly, the bill is needed to avoid anomalies.

It makes little sense to have different compliance and enforcement standards in rail depending on whether a train or a tram is involved or whether a train is nationally or state regulated.

Similarly, material differences in powers and sanctions in marine are not appropriate based on events involving national matters — like safety duties, the condition of vessels, certification or crewing — or state matters like waterway management, pilotage, port management, drug and alcohol controls.

This is especially when the national and state schemes may be used during the same incident.

The answer is to better align state standards with national standards.

Accordingly, the bill creates a new and more aligned statute to replace the state's ageing and nationally inconsistent laws.

I note that the proposal also adjusts existing director's liability provisions to bring them further into line with national standards.

The bill is complex in parts. Accordingly, detailed information about its provisions and their impact and origin is set out in the explanatory memorandum for the benefit of members.

This is an important bill.

It is needed so that compliance and enforcement standards for Victoria's local rail, marine and bus safety sectors enjoy the same levels of compliance and enforcement support as recent national schemes and to help avoid anomalies between state and national regulation.

The bill helps to maintain and improve Victoria's high transport safety standards on land and water and for that reason it deserves to enjoy the strong support of all members.

I commend the bill to the house.

Debate adjourned on motion of Mr NOONAN (Williamstown).

Debate adjourned until Thursday, 6 March.

MENTAL HEALTH BILL 2014

Statement of compatibility

Ms WOOLDRIDGE (Minister for Mental Health) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the 'charter act'), I make this statement of compatibility with respect to the Mental Health Bill 2014 (the bill).

In my opinion, the bill, as introduced in the Legislative Assembly, is compatible with the human rights as set out in the charter act. I base my opinion on the reasons outlined in this statement.

Overview

Victoria's Mental Health Act 1986 ('MHA') is the oldest mental health law in Australia. The MHA establishes a legislative framework for the provision of mental health treatment. It also authorises and regulates the detention and involuntary treatment of persons with severe mental illness. Stand-alone mental health legislation provides the best means to articulate and protect patients' rights and maximise individual autonomy.

New legislation is needed to promote recovery-oriented practice, to minimise the use and duration of compulsory treatment, to safeguard the rights and dignity of people with mental illness, and to enhance oversight while encouraging innovation and service improvement.

Under the bill patients will be presumed to have capacity to make their own treatment decisions. This presumption can be displaced where patients do not have capacity at the time the treatment decision needs to be made. Mental health services will be required to provide patients with support and information to enable them to make or participate in decisions about their treatment and recovery.

However, whenever the state interferes with the privacy of individuals, appropriate safeguards need to be in place to protect human rights and prevent abuses.

Compulsory assessment and treatment criteria

The bill has separate criteria for:

> Assessment orders and court assessment orders: a person who appears to be mentally ill and needs to be assessed by an authorised psychiatrist to determine if he or she requires compulsory treatment; and
>
> Temporary treatment orders, treatment orders, secure treatment orders and court secure treatment orders: a person who has a mental illness and requires immediate compulsory treatment.

A person may be made subject to an assessment order if he or she appears to have mental illness and all the other assessment criteria apply to the person. Where an assessment order is made, a person may be taken to a designated mental health service for the purposes of being examined and assessed by an authorised psychiatrist.

An authorised psychiatrist may not make the person subject to a temporary treatment order unless the authorised psychiatrist determines that the person has mental illness and all the other treatment criteria apply.

Presumption of capacity

The bill establishes a presumption that all people have capacity to give or refuse to give informed consent in relation to their assessment and treatment. This presumption may be displaced where it is demonstrated that the person does not have capacity to make that decision at the time that the decision needs to be made.

The bill sets out principles for clinicians and others to consider when determining whether a person can make a treatment decision.

Process for becoming a patient

Compulsory patients — part 4 of the bill

A person may only be made subject to an assessment order or temporary treatment order if there is no less restrictive means reasonably available to enable the person to be assessed or treated. This includes whether the person can receive mental health treatment voluntarily. See clauses 5 and 29.

An assessment order can only be made following an examination by a registered medical practitioner or a mental health practitioner who considers that all the criteria for an assessment order apply to the person. A mental health practitioner is a prescribed class of persons employed by a designated mental health service.

A person subject to an assessment order may be taken to a designated mental health service for the purposes of being examined and assessed by an authorised psychiatrist to

determine whether the criteria for a temporary treatment order apply to that person.

An authorised psychiatrist may not make the person subject to a temporary treatment order unless the authorised psychiatrist is satisfied that the person has mental illness and all the other treatment criteria apply. A temporary treatment order may only be made for a person who requires immediate treatment to prevent serious harm to himself or herself or another person or to prevent serious deterioration to the person's health. A temporary treatment order has a duration of 28 days unless revoked earlier.

The purpose of a temporary treatment order is to enable a person to be compulsorily treated in either an inpatient or community setting. If an authorised psychiatrist considers the patient requires compulsory treatment beyond 28 days, the authorised psychiatrist must satisfy the Mental Health Tribunal (the tribunal) that the criteria continue to apply to the person and that a treatment order should be made. See clause 52.

The tribunal is an independent statutory body comprising a lawyer, a psychiatrist or registered medical practitioner and a person appointed to represent the views of the community. A patient has the right to attend and to be legally represented at the hearing before the tribunal. See part 8.

If a person pleads guilty or is found guilty of an offence and he or she is not in custody, the person may be made subject to a court assessment order. The purpose of a court assessment order is to enable an authorised psychiatrist to determine whether the criteria for a temporary treatment order or a court secure treatment order apply to the person and to provide advice to the court to enable it to determine the most appropriate sentence. See division 2 of part 5.

A person subject to a court assessment order may not be compulsorily treated unless an authorised psychiatrist is satisfied that urgent treatment is necessary to prevent serious harm to the person or another person or serious deterioration in the person's health.

Security patients — part 11 of the bill

A court secure treatment order is a sentencing option available to a court where, but for the person's mental illness, the court would have sentenced the person to a term of imprisonment. The duration of the court secure treatment order must not exceed the period of time that the person would have been sentenced to had he or she been sentenced to a term of imprisonment. See division 2 of part 11.

A secure treatment order is where a person becomes so mentally unwell in prison that he or she requires compulsory treatment and must be transferred from prison to a designated mental health service. See division 3 of part 11.

Persons subject to secure treatment orders or court secure treatment orders are security patients.

Security patients may only be detained and treated for their mental illness while the relevant statutory criteria apply. The criteria include the requirement that the person has mental illness and that he or she requires treatment to prevent serious harm to themselves or another person or to prevent serious deterioration in the person's health. There must be no less restrictive means reasonably available to enable the person to receive mental health treatment. If the criteria do not apply, the person must either be transferred to prison to serve the balance of their sentence or released on parole (if eligible).

Orders of fixed duration and tribunal hearings

Compulsory patients

Assessment orders, temporary treatment orders and treatment orders have a fixed maximum duration.

The tribunal may determine to fix the duration of a treatment order for a shorter period if it considers that more frequent tribunal oversight is required in the circumstances.

The authorised psychiatrist must immediately revoke a person's assessment order, temporary treatment order or treatment order where the relevant statutory criteria no longer apply to that person.

A patient may make an application to the tribunal at any time for a revocation of his or her temporary treatment order or treatment order. If the tribunal determines that one or more of the criteria do not apply to the patient, the tribunal must revoke the temporary treatment order or treatment order. There is no limit on the number of applications for revocation that a person may make to the tribunal. A patient may attend the hearing and has a right to be legally represented.

In the case of a community assessment order the fixed maximum duration is 24 hours. In the case of an inpatient assessment order it ends 24 hours after the person is received at a designated mental health service or 72 hours, if the person is not received at a designated mental health service. If the authorised psychiatrist is unable to determine whether all the criteria for a temporary treatment order apply to the person, the authorised psychiatrist may extend the assessment order for 24 hours no more than twice.

A temporary treatment order has a duration of 28 days unless revoked earlier. Within those 28 days the tribunal must hear and determine whether the criteria for a treatment order apply to the patient. If, at the hearing, the tribunal is satisfied that all the treatment criteria apply to the patient it must make a treatment order.

The tribunal will also determine the setting where treatment will be provided. An inpatient treatment order will have a maximum duration of six months and a community treatment order will have a maximum duration of 12 months. The determination of the setting and the duration must be least restrictive in the circumstances.

For a young person under the age of 18 years, a treatment order may only be made for a maximum of three months regardless of whether the young person is receiving treatment as an inpatient or in the community. The determination of the setting and the duration must be least restrictive in the circumstances.

Security patients

The orders to which a security patient may be subject are a court secure treatment order or a secure treatment order.

Within 28 days after a person is received as a security patient at a designated mental health service, the tribunal must conduct a hearing to determine whether the relevant statutory criteria for compulsory treatment apply to the person. If the

tribunal is satisfied that all the treatment criteria apply, the tribunal must order that the person remain a security patient.

The tribunal must continue to review the person at least every six months while the person remains a security patient.

If the authorised psychiatrist or the tribunal determines that the relevant statutory criteria no longer apply, the person must be discharged as a security patient and transferred to prison to serve the remainder of his or her sentence or, where appropriate, released on parole.

At any time a security patient may apply to the tribunal to be discharged as a security patient.

Treatment while a person is a patient under the bill — part 5 of the bill

Informed consent must be sought before a course of treatment can be administered to a patient. The bill sets out the requirements for seeking informed consent.

The authorised psychiatrist must make treatment decisions (excluding electroconvulsive treatment and neurosurgery for mental illness) in some circumstances where a patient does not have capacity to give informed consent or has capacity and does not consent.

The provision of treatment must be to prevent serious harm to the person or another person or to prevent serious deterioration to the person's health. The treatment provided must be the least restrictive treatment possible in the circumstances.

There is a list of factors set out in the bill to which the authorised psychiatrist must have regard to when determining the least restrictive treatment.

Tribunal approval of ECT and NMI

The tribunal must hear and determine whether to approve the performance of electroconvulsive treatment (ECT) for patients who do not have capacity to give informed consent to ECT.

The tribunal must also approve the performance of ECT for all people under the age of 18 years ('young persons'), regardless of whether they have capacity to give informed consent to ECT.

Neurosurgery for mental illness (NMI) (formerly psychosurgery) may only be performed where a person has given informed consent and the tribunal determines that the person has capacity to give that informed consent. The tribunal must also be satisfied that the person will benefit from the performance of NMI.

Safeguards during compulsory treatment

The bill will prescribe circumstances where a person with mental illness must be given a statement of rights. For example, a person subject to an order must be given a statement of rights and an explanation of those rights and other information under the bill. See division 1 of part 5.

The bill will also establish the right of a person to nominate another person to receive information and to provide support for the period of time the person is subject to an order. The nominated person will assist the person to exercise his or her rights and represent the person's views and preferences. See division 4 of part 3.

The bill will require that where a patient has a guardian, the guardian will receive information and be consulted about the patient's treatment. Similarly, where a child is less than 16 years of age, a parent will receive information and be consulted about the child's treatment.

The bill will also establish a right to seek a second psychiatric opinion. Where certain categories of patient obtain a second opinion that recommends changes to their treatment, the authorised psychiatrist must have regard to that opinion. The authorised psychiatrist will not be required to change the patient's treatment; however, the patient will be entitled to apply to the chief psychiatrist for a review of their treatment as recommended by the second opinion psychiatrist if the authorised psychiatrist does not change the patient's treatment after the patient obtains the second opinion report. See division 4 of part 5.

The bill enables a person to make an advance statement to record his or her treatment preferences in the event the person becomes unwell and requires treatment. The authorised psychiatrist must have regard to an advance statement when considering the least restrictive treatment for a patient. See division 3 of part 3.

The bill will establish the mental health complaints commissioner ('the commissioner') as an independent entity who may receive and investigate complaints about public mental health services. The commissioner will have broad powers to investigate services, informally resolve disputes, conciliate or otherwise resolve disputes, make recommendations and issue compliance notices for breaches of the proposed legislation. See part 10.

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

The primary rights relevant to the bill are:

Section 8 — recognition and equality before the law;

Section 10(b) — protection from torture and cruel, inhuman or degrading treatment;

Section 10(c) — right not to be subjected to medical treatment without full, free and informed consent;

Section 12 — freedom of movement;

Section 13 — privacy and reputation;

Section 15 — freedom of expression;

Section 21 — liberty and security of the person;

Section 22 — humane treatment when deprived of liberty;

Section 24 — fair hearing;

Section 25(1) — the right to be presumed innocent until proved guilty.

These rights, as they are relevant to the bill, are discussed in more detail below.

I have chosen to deal with the primary charter act rights relevant to the bill by grouping them together when they raise issues that substantially overlap. To the extent that these groups of rights are limited by the provisions of the bill, I consider that in each case the limitations are reasonable and therefore comply with the charter act.

The right not to be subject to medical treatment without consent — section 10(c)
Protection from torture and cruel, inhuman or degrading treatment — section 10(b)
The right to privacy — section 13(a)

Section 10(c) of the charter act provides that a person must not be subjected to medical treatment without his or her full, free and informed consent.

Section 10(b) of the charter act provides that a person must not be subject to torture and cruel, inhuman or degrading treatment.

Section 13(a) of the charter act recognises a person's right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. In this context I am concerned with privacy in the sense of 'bodily integrity', which involves the right not to have our physical selves interfered with by others without our informed consent. This includes the compulsory administration of medications as well as invasive procedures.

These rights are relevant to the bill as clause 71 authorises the provision of treatment without full, free and informed consent where the person is subject to a temporary treatment order, treatment order, secure treatment order or court secure treatment order.

Part 6 also empowers clinicians to undertake restrictive interventions, which impact on a person's bodily integrity.

The use of restrictive interventions are permitted on a person receiving mental health services at a designated mental health service where it is necessary to prevent serious and imminent harm to the person or another person or to administer necessary medical treatment to a person.

Restrictive interventions include physical restraint, mechanical restraint and seclusion. Restrictive interventions may not be used unless all other less restrictive options have been tried or considered and found unsuitable in the circumstances.

Division 3 of part 15 provides that these interventions may be used to search people for the purpose of safe transport to or from a designated mental health service.

A 'pat down' search may be used in circumstances where there may be property on the person that presents a danger to the health and safety of any person or that could be used to assist the person to escape.

(a) the nature of the right being limited

Underlying these three rights are the concepts of personal autonomy and human dignity. These rights are not absolute in law and may be subject to reasonable limitations.

(b) the importance of the purpose of the limitation

The purpose of the limitation on the right not to be subject to medical treatment without consent is to ensure that a person suffering from severe mental illness receives necessary treatment at times when he or she does not have the capacity to give full, free and informed consent to treatment or when he or she has capacity but refuses to give consent and needs immediate treatment to prevent serious harm to the person or another person or serious deterioration to the person's health.

The purpose of the limitation on the rights to privacy and protection from degrading treatment is to permit:

> restrictive interventions to enable the safe delivery of mental health services by preventing serious and imminent harm to the person subject to the restrictive intervention or another person;
>
> searches and sedation to enable a person to be safely taken to or from a designated mental health service for treatment. These practices are permitted to be used judiciously to ensure the safety of the person and the safety of others such as ambulance employees and medical staff.

Without these limitations, people may suffer unnecessarily and experience serious harm or deterioration in their mental health or may harm another person. In my opinion, these are pressing and substantial concerns that need to be addressed by the legislation.

(c) the nature and extent of the limitation

The right not to be subject to medical treatment without consent

The following safeguards in the bill are intended to ensure that the extent of the limitation on the right not to be subject to medical treatment without consent is kept to the minimum necessary.

In order to ensure that the range of person who may be subject to treatment without their consent is narrow, parts 4 and 5 of the bill distinguish between persons who have capacity to provide informed consent to treatment and those who do not have capacity or do not give informed consent.

Clause 70 establishes a presumption that all persons have the capacity to give informed consent to treatment regardless of their age or legal status. Clause 68 provides that the presumption may only be displaced by evidence that the person does not have capacity to give informed consent to treatment at the time the decision must be made. Clause 69 also specifies the elements required for seeking informed consent.

The bill restricts the circumstances in which compulsory mental health treatment can be provided when a person is unable or does not give informed consent. Part 4 requires that a person be made subject to a temporary treatment order or treatment order before compulsory treatment can be given. Clauses 45 and 46 provide that a person may not be made subject to a temporary treatment order without first being made subject to an assessment order.

Clauses 38 and 42 permit urgent treatment for a person subject to an assessment order in circumstances where the person consents or a registered medical practitioner employed

at a designated mental health service is satisfied that urgent treatment is necessary to prevent serious harm to the person or another person or serious deterioration in the person's health. This limitation is required to prevent the person suffering serious harm or suffering serious deterioration before the authorised psychiatrist is able to complete the assessment and determine whether the criteria for a treatment order apply to the person.

Clauses 5, 71, 72 and 73 provide that an authorised psychiatrist may only provide substitute consent to treatment for a person subject to a temporary treatment order or treatment order in specified circumstances. Substitute consent is only permitted once it is determined that person is either unable to consent or does not give informed consent to the treatment that is necessary to prevent serious harm to the person or another person or serious deterioration in the person's health. Clause 5 sets out that the relevant criteria for the order must apply to the person, including that the immediate treatment is necessary to prevent serious harm to the person or another person or serious deterioration to the person and there is no less restrictive way for the person to be treated.

Clause 71(3) requires the authorised psychiatrist to have regard to a person's treatment preferences, including those in any advance statement, when making treatment decisions. While the authorised psychiatrist is not obligated to follow the treatment preferences of a patient, clause 73 provides that the authorised psychiatrist must inform the patient if the patient's preferences will not be followed and give reasons for departing from the patient's advance statement. Clause 73(2) further provides that the authorised psychiatrist must inform the patient that he or she can request written reasons. If the patient does request written reasons, clause 73(3) requires that the written reasons must be provided to the patient within ten working days.

Part 5 makes special arrangements for ECT and NMI. The tribunal must approve the performance of ECT on a patient who does not have capacity to give informed consent to the performance of ECT before it can be performed. The tribunal must also approve the performance of ECT on a person under the age of 18 years ('young person') regardless of whether that young person has the capacity to give informed consent. Where a patient or a young person has capacity to give informed consent and refuses ECT, the tribunal must respect the informed decision and refuse the performance of ECT. This requirement upholds the right to autonomy and bodily integrity rights.

A person must have capacity to give informed consent to NMI and must in fact give informed consent before it can be performed. A person cannot give substitute consent to another person receiving NMI. For example, a guardian cannot give consent for a represented person to receive NMI. This means that NMI cannot be given compulsorily to any person in Victoria. The tribunal will be responsible for determining whether the person has given informed consent and whether the NMI will be of benefit to the person.

The right to privacy and protection from degrading treatment

The following safeguards in the bill are intended to ensure that the extent of the limitations on the right to privacy and protection from degrading treatment is kept to the minimum necessary.

Division 3 of part 15 provides that only an authorised person (defined by the bill as a member of the police force, ambulance paramedic, medical practitioner employed by a designated mental health service, mental health practitioner or member of a prescribed class) may seize or detain a thing found in a search of a person for the purpose of providing safe transport to or from a designated mental health service. A thing may only be seized and detained if it presents a danger to the person or anyone else or could assist the person to escape. In addition, the authorised person must take reasonable steps to return the thing to the person from whom it was seized once the reason for its seizure no longer exists.

Permitting searches in these circumstances is considered reasonable to prevent danger to the health and safety of any person or to prevent a patient's escape. It is intended that these measures are only to be used as part of a regime that includes the safeguards described above.

Part 6 provides that the restrictive interventions may only be used in specified circumstances.

A person may only be kept in seclusion if it is necessary to prevent the person causing imminent and serious harm to the person or another person. Bodily restraint may only be used on a person if it is necessary to prevent imminent and serious harm to the person or to another person or is required to administer treatment or medical treatment to the person. A restrictive intervention may only be used after all other options have been tried or considered and found to be unsuitable. The restrictive intervention must be stopped without delay if the criteria for placing the person in restraint or seclusion no longer apply.

Restrictive interventions may only be authorised by the authorised psychiatrist, or if he or she is not immediately available, a registered medical practitioner or the senior registered nurse on duty.

Clause 350 provides that bodily restraint or sedation must be necessary to enable the person to be safely taken to or from a designated mental health service. The bodily restraint and sedation used must be the least restrictive and intrusive to enable safe transport of the person. All reasonable less restrictive alternatives to take the person must have been tried or have been considered and found unsuitable.

Bodily restraint for the purposes of transport may only be carried out by an authorised person. Sedation may be administered by a registered medical practitioner or a registered nurse or ambulance paramedic at the direction of a registered medical practitioner or if the administration of sedation is in their scope of practice.

These limitations are required in legislation to ensure that designated mental health services have adequate powers to deal with the day to day management of mental health services, including the safe transport of people with mental illness. These limitations are also necessary to protect the health and safety of people receiving treatment compulsorily.

(d) the relationship between the limitation and its purpose

The limitation on the right not to be subject to medical treatment without consent is to ensure a person only receives treatment without consent when this is necessary to prevent serious harm to the person or another person or serious deterioration in the person's health.

As outlined above, the bill specifies the circumstances in which the right to privacy is limited and includes safeguards to ensure interference with the right to privacy is not used arbitrarily.

The limitation on the right to protection from degrading treatment is to ensure a person is only made subject to a search, sedation or a bodily restraint to protect the safety of the person who needs treatment, or any other person for example persons accompanying or treating the person or members of the public.

(e) any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the purpose of the limitation.

If the person is unable to consent to treatment, there is no less restrictive way for them to receive treatment to prevent serious harm or deterioration other than by a substitute decision-making scheme. Empowering the authorised psychiatrist to consent to treatment on such a person's behalf is a protective mechanism to prevent abuses of this vulnerable patient group.

If a patient has the capacity to make a decision but refuses treatment, compulsory treatment is reasonable in circumstances where the person has mental illness and, because of the mental illness, immediate treatment is necessary to prevent serious harm to the person or another person or serious deterioration in the person's health.

Part 6 limits interference with a person's bodily integrity by expressly providing that restrictive interventions may only to be used after all reasonable and less restrictive options have been tried or considered and have been found to be unsuitable. The restrictive intervention must cease immediately when the reason for the intervention no longer applies.

If the person cannot be safely detained for treatment or treated without a restrictive intervention, there is no less restrictive way for the person to be treated.

Division 3 of part 15 provides that the use of bodily restraint and sedation for transport purposes may only be used after all reasonable less restrictive alternatives have been tried or considered and deemed unsuitable in the circumstances. When used the restraint or sedation must be administered in the least restrictive and least intrusive manner to enable safe transport.

(f) conclusion

For the reasons outlined above the limitations that the bill places on the right not to be subject to medical treatment without consent, on the right to be protected from degrading treatment and on the right to privacy are reasonable, proportionate and compatible with the charter act.

The right to privacy — section 13(a)
Freedom of expression — section 15

Section 13(a) of the charter act recognises a person's right not to have his or her privacy unlawfully or arbitrarily interfered with. As discussed above, privacy includes bodily integrity, but right to privacy is also relevant to the bill in other ways.

Section 15 of the charter act establishes the right to freedom of expression.

Both of these rights are relevant to the bill as follows.

Division 3 of part 15 provides for powers of entry in order to take a person to a designated mental health service in accordance with other provisions of the bill. The powers include the use of reasonable force to gain entry to premises to apprehend a person for the purposes of taking the person to a designated mental health service.

Division 2 of part 3 provides for restrictions to be placed on an inpatient's right to communicate while at a designated mental health service if the authorised psychiatrist is satisfied that it is necessary to protect the health, safety or wellbeing of the inpatient or another person.

Division 1 of part 15 also provides for the disclosure and collection of health information without the consent of the person to whom the information relates.

In relation to the right to freedom of expression, clause 124 provides for the chief psychiatrist or an authorised officer (being a person appointed by the chief psychiatrist under the bill) to require a person to answer questions and to produce documents that are in the person's possession or control. Clause 254 provides for similar powers for the commissioner.

(a) the nature of the right being limited

The nature of the right to privacy is as stated on page 7.

Underlying the nature of the right to freedom of expression is the basic principle that every person has a right to seek, retrieve and impart ideas and information of all kinds.

The right to freedom of expression is qualified in that it may be subject to lawful restrictions such as those reasonably necessary to protect public health.

(b) the importance of the purpose of the limitation

The purpose of the limitation that permits entry to premises is to enable the timely apprehension of a person to enable them to receive mental health assessment and treatment in prescribed circumstances.

The purpose of the limitation on an inpatient's right to communicate is to protect the health, safety or wellbeing of the inpatient or any other person.

The purpose of the limitation that permits the sharing of health information without consent is to protect the health and safety of persons receiving mental health services and the safety of other people. Information sharing also permits the identification and monitoring of trends in respect of mental health treatment and care over time.

The purpose of the limitation that requires a person employed or engaged by a designated mental health service to answer questions or produce documents is to improve the quality and safety of mental health services and to monitor compliance with the regulatory framework.

These purposes are important and necessary for the effective operation of the bill.

(c) the nature and extent of the limitation

The charter act requires that any interference with a person's privacy must not be 'unlawful'. The scope of any legislative provision that allows an interference with privacy must specify the precise circumstances in which interference may be permitted. Any interference with the right must not be arbitrary and any limitation on privacy must be reasonable in the circumstances.

These clauses do not unreasonably limit the right to privacy. The powers are provided by law and are not arbitrary since they are limited and purposeful.

Clause 353 specifies when the power of entry may be used and how that power is to be exercised. The use of entry powers is restricted to authorised persons. The authorised person must reasonably believe the person to be apprehended may be found at the premises.

The entry power in clause 353 may only be used if a provision in the bill provides for a person to be taken to a designated mental health service. Before entering, the authorised person must give any person at the premises an opportunity to permit entry to the authorised person. Reasonable force may only be used to gain entry where permission is not granted.

Division 2 of part 3 expressly provides that patients have a right to lawful communication and to receive reasonable assistance to exercise this right.

The authorised psychiatrist may restrict an inpatient's communications if he or she is satisfied the measures are necessary to protect the health, safety or wellbeing of any person. It is appropriate to extend the limitation to protect wellbeing because safety may not be an issue where an inpatient is detained but is able to make distressing telephone calls.

The limitation is restricted to communications to or from a designated mental health service including the receipt of visitors at the designated mental health service. The limitation may only be imposed by the authorised psychiatrist and must be for the minimum time necessary in the circumstances to achieve its purpose and must be reviewed regularly. The authorised psychiatrist must, as soon as practicable, after commencement of the restriction notify the patient, the nominated person, any guardian or parent (if the patient is under 16 years of age) or, in some cases, the secretary of the restriction.

Part 15 provides that health information may only be disclosed or collected in specified circumstances to protect patient privacy. In the absence of consent, health information may be disclosed to the extent reasonably necessary to enable the performance of functions and exercise of powers under the act.

Disclosure is also permitted in other specified circumstances. Disclosure may be authorised by another act or by specific health privacy principles under the Health Records Act 2001. Disclosure of information can occur when required by a mental health service provider to provide health services to the person. Disclosure is also permitted when required by a carer in order for the carer to provide care to a patient. Disclosure 'in general terms' may be made to a friend, family member or carer of the person to whom the health information relates if it is not contrary to any wish expressed by the person about disclosure to these persons.

Health information may be collected by a designated mental health service for the purpose of providing mental health services. The commissioner, the chief psychiatrist, the secretary, the tribunal and the Forensic Leave Panel may collect health information for the purposes of performing functions or exercising their powers under the bill.

The nominated person's scheme in division 4 of part 3 is an additional safeguard to protect a person's privacy. The scheme enables a person to choose another person to receive key information about the person's treatment and to be involved in certain discussions, for example, treatment planning.

The power to require persons to answer questions and produce documents in their possession (contained in clauses 124 and 254) is not an unreasonable limitation on the right to freedom of expression. It is restricted to persons who are employed or engaged by a designated mental health service and the questions must relate to issues that arise from their employment or engagement. The power may only be exercised by the chief psychiatrist or an authorised officer (being a person appointed by the chief psychiatrist under the bill) or the commissioner or an investigator appointed by the commissioner. The power may only be used to carry out the functions of the chief psychiatrist, to improve the quality or safety of mental health services or to monitor compliance. The commissioner may only use this power to carry out his or her functions in order to resolve complaints made against mental health service providers.

Clause 360 expressly provides for protection against self-incrimination, enabling a person to refuse to answer questions or provide information where that would tend to incriminate the person.

(d) the relationship between the limitation and its purpose

Although the bill interferes with privacy, the limitations are rationally and proportionately connected to their purpose.

The entry powers may only be used when a provision of the bill provides for the person to be taken to a designated mental health service. The purpose of the limitation is to ensure the person receives timely access to treatment to prevent serious deterioration in the person's health or serious harm to the person or another person.

Any restriction on the right to communicate only relates to a person while he or she is an inpatient at a designated mental health service and can only be imposed for as long as it is necessary and must be regularly reviewed by the authorised psychiatrist. The limitation can only be exercised to protect the safety and wellbeing of the inpatient and any other person from communications that would cause harm.

In relation to sharing health information, the limitations permitting disclosure and collection are specified in detail. The purpose of the limitations is to protect the health and safety of persons who need treatment by enabling treatment and care decisions to be based on all relevant information. Information sharing also permits the identification and monitoring of trends in respect of mental health treatment and care over time.

Requiring a person to answer questions or produce documents is only permitted to improve the quality and safety of mental health services and monitoring compliance with the bill.

(e) any less restrictive means reasonably available to achieve its purpose

There is no less restrictive means reasonably available to achieve the purposes of the limitations.

(f) conclusion

I consider that the bill does not authorise an unlawful or arbitrary interference with a person's privacy.

For the reasons outlined, the limitations that the bill places on the right to privacy and freedom of expression are reasonable and proportionate and are compatible with the charter act.

The right to liberty and security of person privacy — section 21
Freedom of movement — section 12

Section 21 of the charter act provides that a person has a right to liberty and security. It sets out the minimum rights of individuals who are arrested or detained. By restricting the valid reasons for detention, the charter act aims to minimise the risk of arbitrary or unlawful deprivation of liberty.

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

These rights are relevant to the bill because part 4 provides for detention for assessment and compulsory mental health treatment.

These rights are also relevant to the bill because division 2 of part 15 provides for the apprehension of persons in specified circumstances and for bodily restraint and sedation for transport. Refer to the discussion of sections 10(c) and 13(a) of the charter act commencing on page 7 for the issues raised by these limitations.

(a) the nature of the right being limited

The right to liberty and freedom of movement rely on the principle that every person has a right to physical liberty that can only be interfered with in specific circumstances, clearly established by law. These rights are not absolute and may be subject to reasonable limitations.

(b) the importance of the purpose of the limitation

The purpose of the limitation is to ensure that necessary mental health treatment can be provided even if it requires detention of a person or constraints on a person's liberty. This is an important purpose because the treatment is necessary to prevent serious harm to the person or another person or serious deterioration in the person's health.

(c) the nature and extent of the limitation

The limitation is proportionate. The powers to detain and apprehend are not arbitrary. The bill provides that a person can only be detained or apprehended in specified circumstances.

Part 4 provides a person may be detained in a designated mental health service for assessment or compulsory treatment. Assessment or compulsory treatment in the community may also involve some limitation of the person's liberty and freedom of movement because the person may be required to attend for assessment or treatment.

The bill seeks to minimise the duration and extent of the limitations on liberty and freedom of movement. It also includes a number of procedural safeguards that will assist in ensuring that continued detention does not become arbitrary.

All orders made under the bill are of fixed maximum duration. These are maximum periods and the bill provides the order must be immediately revoked by the authorised psychiatrist or the tribunal if the statutory criteria no longer apply to the person.

Clause 60 provides that compulsory patients may apply to the tribunal at any time to revoke the order to which they are subject. Clause 272 and 279 provide that security patients may apply to the tribunal to be discharged as a security patient. If the tribunal is not satisfied that the relevant criteria for the relevant order apply to the person, the tribunal must revoke the order. See clauses 55, 273 and 279. There is no onus on the applicant to satisfy the tribunal that the criteria no longer apply to the person. The onus is on the authorised psychiatrist to satisfy the tribunal that all the criteria apply to the person.

The bill provides for apprehension in three specified circumstances: at clause 352 where a patient is absent without leave; at clause 351 where a person is found by police who appears to have mental illness and who presents risk of serious harm; and at clause 353 where a provision of the bill provides for a person to be taken to a designated mental health service. The bill restricts the use of apprehension powers to authorised persons.

Clause 353 satisfies the requirements of section 21(4) of the charter act by requiring that a person apprehended or detained under the bill must be informed at the time of the reason for the apprehension or detention.

The bill does not make this provision in relation to the apprehension of persons by police because police are required to give reasons when they apprehend any person or in relation to the apprehension of security patients whose apprehension is authorised by court warrant because a copy of the warrant must be provided at the time of execution.

Clause 352 provides that compulsory patients, security patients and interstate compulsory and security patients may be apprehended by an authorised person if they are absent without leave from a designated mental health service.

For patients who are absent without leave, the legal authority for the apprehension arises from the breach of the order to which they are subject. Apprehension seeks to prevent harm to the person or any other person in circumstances where the state of the person's mental health may not be known. Clause 352(4) provides that following apprehension the person is to be taken to the relevant designated mental health service.

Clause 351 provides that the police may apprehend a person who appears to have mental illness if they reasonably believe that the person needs to be apprehended to prevent serious harm to the person or another person. As soon as practicable

after apprehension, the police must arrange for the person to be examined by a registered medical practitioner or mental health practitioner who must determine whether to make an assessment order for the person.

The police must immediately release the person if the practitioner who examines the person determines that the criteria for an assessment order do not apply to the person.

Clause 353 also provides that an authorised person may apprehend a person to give effect to any provision that requires the person to be taken to a designated mental health service. The provisions in the bill this refers to are clauses 33, 45(1)(b), 58(4) and 350 and are only for the purpose of assessment against the statutory criteria and/or treatment at the designated mental health service.

(d) the relationship between the limitation and its purpose

The limitation is rationally and proportionately connected to the purpose.

In relation to apprehension, division 3 of part 15 provides that a person may only be apprehended by authorised persons in specified circumstances.

Part 4 provides detention for only as long as the statutory criteria apply, up to a specified maximum duration and for the purpose of preventing serious harm to the person or another person or serious deterioration in the person's health.

(e) any less restrictive means reasonably available to achieve its purpose

There is no less restrictive means reasonably available to achieve the purpose of the limitation.

If a person is unable to consent to assessment or treatment, there is no less restrictive way for them to be assessed or treated, other than being made subject to an assessment order, a temporary treatment order or a treatment order, which necessarily results in some limitation of their liberty or freedom of movement.

For compulsory patients, the setting for assessment and treatment must also be the one that is least restrictive. Compulsory assessment or treatment may only be provided in a designated mental health service if the assessment or treatment cannot occur in the community.

If a person is unable to consent to being taken to a designated mental health service or to being assessed by a registered medical practitioner or mental health practitioner, there is no less restrictive way for him or her to be taken or assessed, other than being apprehended or assessed in accordance with the bill.

(f) conclusion

For the reasons outlined, the limitations that the bill places on the right to liberty and security and the right to freedom of movement are reasonable, proportionate and compatible with the charter act.

Humane treatment when deprived of liberty — section 22

Section 22 of the charter act provides that all persons deprived of liberty must be treated with humanity and respect for their inherent dignity.

These rights are relevant to the bill because part 4 provides for detention for assessment and compulsory mental health treatment.

These rights are relevant to the bill because division 8 of part 11, division 3 of part 13 and division 3 of part 15 provide for the apprehension of persons in specified circumstances.

These rights are also relevant to the bill when it provides for bodily restriction and sedation of persons. Refer to the discussion of sections 10(c) and 13(a) of the charter act commencing on page 7 for the issues raised by these limitations.

(a) the nature of the right being limited

The purpose of the right is to recognise the particular vulnerability of persons in detention. The right requires the state to treat all persons in detention with humanity and dignity. The right requires that detained persons ought not to be subject to any hardship or constraint other than those resulting from the deprivation of liberty.

However, the right is not absolute and may be subject to reasonable limitations.

(b) the importance of the purpose of the limitation

The purpose of the limitation is to ensure that persons with severe mental illness receive necessary treatment and care while they are detained.

The limitation of the right in the form of compulsory assessment and treatment of persons is central to the purpose of the bill, which is to provide for the treatment and recovery of persons with severe mental illness.

(c) the nature and extent of the limitation

The limitations are proportionate.

The purpose of detaining persons under the bill is to provide for their treatment. The bill requires that all persons subject to a temporary treatment order, treatment order, secure treatment order or court secure treatment order are to receive treatment. The bill includes safeguards that are intended to ensure that the limitations on the right to humane treatment are kept to the minimum necessary.

The objectives and principles in part 2 are applicable to all action taken under the bill and expressly provide for the protection of the rights and the dignity of persons with mental illness.

As already discussed the bill contains a number of safeguards to ensure that persons subject to temporary treatment orders, treatment orders, secure treatment orders or court secure treatment orders are sufficiently protected and treated with humanity at all times.

Part 4 provides that a person subject to a temporary treatment order, treatment order, secure treatment order or court secure treatment order must be informed of his or her rights and provided with a statement of rights.

The bill strengthens the service improvement and monitoring role of the chief psychiatrist. Clause 129 provides that the chief psychiatrist may issue directions to a mental health service provider to improve the quality and safety of the

mental health services provided by the mental health service provider generally or to a specified person. Division 2 of part 7 will empower the chief psychiatrist to monitor services, conduct investigations and conduct clinical practice audits.

Part 9 provides that community visitors will also continue to visit designated mental health services and other prescribed premises to ensure the adequacy of facilities and the standard of care.

Division 1 of part 10 establishes the commissioner who has broad powers to informally resolve complaints, investigate complaints, conciliate disputes, make recommendations and issue compliance notices.

(d) the relationship between the limitation and its purpose

The limitation is rationally and proportionately connected to its purpose.

While detained, a patient will only receive mental health treatment without consent when necessary to prevent serious deterioration in the patient's health or serious harm to the patient or another person.

Restrictive interventions may only be used to prevent imminent and serious harm to a person receiving mental health services in a designated mental health service or another person or in the case of bodily restraint being required to administer necessary treatment or medical treatment to the person. The intervention must cease immediately if the reason for using the restrictive intervention is no longer relevant.

(e) any less restrictive means reasonably available to achieve its purpose

If the criteria for compulsory mental health treatment apply in a designated mental health service, there must be no less restrictive means reasonably available to achieve the purpose of providing mental health treatment for a patient.

If the treatment can be provided in the community, the person will no longer be detained, as there is a less restrictive means of achieving this purpose.

Where a prisoner has been transferred to the designated mental health service to receive compulsory treatment as a security patient, there will be no less restrictive means reasonably available to provide mental health treatment for the person. This is because transfers will only occur when voluntary treatment in prison does not address the person's treatment needs. Compulsory treatment is not provided in prisons.

Part 6 provides that a restrictive intervention must only be used when all reasonable and less restrictive options have been tried or considered and found to be unsuitable. In these circumstances there will be no less restrictive means to prevent imminent and serious harm to that detained person or another person (such as another patient or staff) or to administer necessary treatment.

(f) conclusion

For the reasons outlined, the limitations that the bill places on the right to humane treatment are reasonable and proportionate and compatible with the charter act.

I am satisfied that these measures, which are in addition to those that operate under the current act, are sufficient to ensure that all persons deprived of liberty are treated with humanity and with respect for the inherent dignity of the human person.

Fair hearing — section 24

Section 24 of the charter act guarantees all persons the right to a fair and public hearing. It includes the right to have a proceeding decided by a competent, independent and impartial tribunal.

The right to a fair hearing is relevant to the bill because part 8 establishes the tribunal and regulates the appointment of tribunal members.

(a) the nature of the right

The right to a fair hearing is concerned with procedural fairness to ensure the proper administration of justice. This right can only be interfered with in specified circumstances.

Fair hearing

What constitutes a fair hearing will depend on the procedures of the tribunal, the extent to which they protect the rights of the parties and the extent to which they ensure that each party to the proceedings has a reasonable opportunity to present their case under conditions which do not place that party at a substantial disadvantage.

Division 5 of part 8 sets out the procedure of the tribunal. Clause 181 expressly provides that the tribunal is bound by the rules of procedural fairness. Clause 184 provides that a person who is the subject of a proceeding before the tribunal has the right to appear in person and has the right to legal representation. Clause 185 provides that a party may be assisted by an interpreter or another person necessary or desirable to make the hearing intelligible to that party.

Under clause 189 the tribunal has an obligation to provide written notice of a hearing to the parties and any other significant persons such as the parent of a person under the age of 16 years who is the subject of a proceeding. Clause 191(1) places an obligation on the relevant designated mental health service to provide access to any documents relevant to a proceeding at least 48 hours before a hearing. Pursuant to clause 191(2) the authorised psychiatrist may make a non-disclosure application to the tribunal if he or she believes that the material would reasonably cause serious harm to the person or another person. If the tribunal is not satisfied that the material in question would cause serious harm, clause 191(4) provides that the tribunal may refuse the authorised psychiatrist's application for non-disclosure or adjourn the hearing for a period not exceeding five business days.

Clause 195(2) provides that the tribunal must give oral reasons for making a determination at the conclusion of the hearing including an explanation of the determination and any order. Clause 195(4) requires the tribunal to take reasonable steps as soon as practicable to give the person who is the subject of the proceeding and other parties to whom notice was given a copy of the order.

A party to the proceedings may request a statement of reasons under clause 198 for the decision within 20 business days and the tribunal may accept a request for reasons outside this time

if special circumstances exist. Under clause 201 a person who was a party to a proceeding before the tribunal may apply to the Victorian Civil and Administrative Tribunal (VCAT) for a review of the tribunal's decision.

Division 6 of part 8 provides for a rules committee to be established to develop rules of practice and procedure and practice notes for the tribunal.

Public hearing

Clause 193(1) provides that hearings before the tribunal are to be closed to the public.

This reflects the sensitive nature of the proceedings. However, under clause 193(3) a person who is the subject of a proceeding before the tribunal may request the hearing or any part of the hearing be heard in public. In addition clause 193(2) the tribunal may order that the hearing or any part of the hearing be open to the public if it is satisfied that it is in the public interest.

Competent, independent and impartial tribunal

Clause 159 provides that the tribunal will comprise members in four categories, legal, psychiatrist, registered medical practitioner and community. The first three categories of membership will require specialist professional qualifications and experience.

For a period of 12 months from the commencement day of the bill, clause 425 provides that on the determination of the president of the tribunal, the tribunal is determined by a legal member and a community member where a psychiatrist member or a registered medical practitioner member is not available.

The Governor in Council will appoint members on the recommendation of the minister. The tribunal is an independent quasi-judicial tribunal, not subject to the direction or control of the minister or any other entity or body.

The bill provides that determinations of the tribunal are subject to review by the VCAT and clause 197 sets out that a question of law may be referred to the Supreme Court with the consent of the president of the tribunal.

To ensure the impartiality of tribunal members, clause 159(7) expressly prohibits full-time and part-time tribunal members obtaining outside employment without the prior consent of the minister or president (depending on the member's role). Clause 364 also imposes a duty on members to disclose a conflict of interest.

(b) conclusion

For the reasons outlined I am of the opinion that the bill promotes and does not unreasonably limit a person's right to a fair hearing under the charter act.

The right to be presumed innocent until proved guilty — section 25(1)

Section 25(1) of the charter act provides that a person charged with a criminal offence has the right to be presumed innocent until proven guilty according to law. The right is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding, so that the accused is required to prove matters to establish, or raise evidence to suggest, that he or she is not guilty of an offence.

Clause 358(1) creates an offence for a person to give information or prepare or produce a document that is required under this act that the person believes to be false or misleading. Subsection (2) of this clause provides that it is a defence if the accused can prove that, at the time at which the offence is alleged to have been committed, he or she believed on reasonable grounds that the information, document or statement was true or was not misleading.

Clause 358(2) will place a legal burden of proof on the accused by requiring him or her to prove, on the balance of probabilities, the relevant defence. In doing so, this provision may be considered to limit the right to be presumed innocent.

The purpose of imposing a legal burden of proof on the accused is to allow him or her to avoid liability for breaching clause 358(1) if he or she is able to prove that, at the time at which the offence is alleged to have been committed, he or she believed that the information was true or correct.

In such circumstances, the accused possesses the requisite knowledge to establish the defence, and it is not unduly onerous for him or her to give sufficient evidence to discharge the burden placed upon them. It would be impractical to require the prosecution to bear the burden of proof and therefore it is appropriate that the burden of proof for establishing the defence rests with the accused.

The burden of proof is imposed on the accused in respect of establishing a defence. The prosecution first has to establish the relevant elements of the offence. Additionally, the offence is punishable by way of pecuniary penalty. There is no prospect of imprisonment for the accused.

The imposition of the burden of proof on the accused is directly related to the purpose of enabling the offence in clause 358(1) to operate as an effective deterrent while also providing a suitable defence.

The burden is imposed on the accused to avoid evidentiary problems that may arise, particularly when the relevant facts are within the knowledge of the accused, and which may lead to a loss of convictions.

Although an evidential onus would be less restrictive upon the right to be presumed innocent, it would not be as effective because it could be too easily discharged by the accused. The inclusion of a defence with a legal burden on the accused to prove the matter on the balance of probabilities achieves an appropriate balance of all interests.

To the extent that clause 358(2) may limit the right to be presumed innocent, that limitation is reasonable and demonstrably justified in a free and democratic society.

Clause 204 makes it an offence for a person to fail to comply with a summons to attend the Mental Health Tribunal, without reasonable excuse. In doing so, this provision places an evidential burden on an accused person and may be considered to limit the right to be presumed innocent.

The purpose of imposing an evidential burden on an accused person is to allow him or her to avoid liability for breaching clause 204 if they are able to prove that they had a reasonable excuse.

The evidentiary burden is imposed upon an accused person, as it is the accused person who would have knowledge of the excuse. Clause 204 does not impose a legal burden. This is because after an accused person has adduced evidence to support the existence of an excuse, the prosecution must prove beyond reasonable doubt the absence of the excuse raised.

The offence introduced by clause 204 is punishable by way of a pecuniary penalty. There is no prospect of imprisonment for the defendant. Consequently, this provision does not limit the right to the presumption of innocence.

Recognition and equality before the law — section 8

Section 8 is based on the principle that all persons enjoy legal rights and provides that a person has the right to be protected from discrimination based on the attributes set out in the Equal Opportunity Act 2010. These include discrimination on the basis of a disability, which includes mental illness. This right is relevant to the bill because it provides for compulsory treatment of persons with a mental illness. Mental illness is defined in clause 4(1) of the bill as a medical condition that is characterised by a significant disturbance of thought, mood, perception or memory. This definition is subject to a list of qualifications in clause 4(2).

The purpose of compulsory treatment is a necessary limitation on the right to be protected from discrimination as it ensures that persons suffering from severe mental illness receive necessary treatment.

The bill includes safeguards to ensure that the extent of the limitation on the right is kept to the minimum necessary. A summary of these safeguards referred to earlier in this statement are summarised below:

- the presumption that all people have capacity to make decisions about their assessment and treatment;
- assessment orders, temporary treatment orders and treatment orders have a fixed maximum duration;
- the establishment of the mental health complaints commissioner;
- a patient's right to seek a second psychiatric opinion and apply to the chief psychiatrist for a review of their treatment;
- the provision and explanation of a statement of rights to a person subject to an order;
- enabling a person to make an advance statement to record his or her treatment preferences in the event they become unwell;
- the right of a person to nominate a person to receive information and provide support for the period of time the person is subject to an order;
- the inclusion of mental health principles in the bill which include the provision for persons under 18 to have their best interests recognised and promoted as a primary consideration;
- provision for where a person has a guardian, for them to receive information and be consulted about the person's treatment.

For the reasons detailed earlier in this statement, there are no less restrictive means reasonably available to provide compulsory treatment to people suffering with severe mental illness. The limitation the bill places on the right to equality are reasonable, proportionate and compatible with the charter act.

Additional rights relevant to the bill

The following additional rights are also relevant to the bill:

- Section 9 — right to life;
- Section 17 — protection of families and children;
- Section 18 — taking part in public life;
- Section 19 — cultural rights;
- Section 20 — property rights;
- Section 25(2)(k) — protection against self-incrimination.

Section 9 provides that a person has the right not to be arbitrarily deprived of life. This right can also impose a positive obligation on the state to protect the lives of persons in its care and to conduct an effective investigation into serious incidents.

The measures contained in the bill are compatible with this right, as they enhance the right to life. The bill provides for compulsory treatment in order to protect the life of a person with a severe mental illness.

Clause 122 also provides for the chief psychiatrist to conduct an investigation into the provision of mental health services by mental health service providers where the health, safety or wellbeing of a person is or was endangered as a result of those services. Clause 228 also provides for a mental health complaints commissioner to investigate complaints relating to mental health service providers. Where the death of a patient occurs, the Coroner's Act 2008 provides that the death must be investigated. For this reason, the bill is compatible with the positive obligations imposed on public authorities under section 9 of the charter act.

Section 17 of the charter act provides that families are the fundamental unit in society and are entitled to be protected by society and the state. It also provides that every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.

The right is relevant to the bill as it affects the welfare of children and young people as consumers of mental health services and as members of families who use such services. The bill provides specific safeguards for children and young people, in relation to their treatment and their role as carers or family of persons with mental illness.

The mental health principles contained in part 2 expressly provide in clause 11(1)(i) that the best interests of children and young persons receiving mental health services are always a primary consideration. Clause 11(1)(j) also provides that children, young persons and other dependents of persons receiving mental health services should have their needs, wellbeing and safety recognised and protected.

Clause 11(1)(l) provides that carers, including children, for persons receiving mental health services are to have their role recognised, respected and supported.

The principles in clause 68(2) provide that the presumption that a person has capacity to give informed consent to a course of treatment will apply irrespective of the person's age.

Clause 57(2) provides treatment orders for children and young persons under the age of 18 years are of shorter duration, with a maximum of three months, although the tribunal will be able to make further orders if the criteria still apply.

As previously advised, ECT may only be performed on a young person under 18 years of age with the approval of the tribunal. Where the tribunal determines that a young person has capacity to consent to ECT, the tribunal may only approve ECT if the young person gives informed consent. Where a young person does not have capacity to consent to ECT, the tribunal must decide whether the ECT is least restrictive in all the circumstances. For the purposes of determining 'least restrictive', the tribunal will consider the young person's views and preferences about the ECT, whether the ECT is likely to remedy the mental illness or lessen the ill effects, and a range of other factors described in the legislation.

For this reason the measures contained in the bill relating to families and children are compatible with the rights contained in section 17 of the charter act.

Section 18 of the charter act provides that a person has the right to participate in public life.

Section 19(1) of the charter act provides that persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of that background, to enjoy his or her culture, to declare and practise his or her religion and to use his or her language. Section 19(2) provides for the distinct cultural rights of Aboriginal persons, including the right to maintain their kinship ties and to maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.

These rights are relevant to the bill as, for example, compulsory treatment may interfere with a person's ability to engage in public life, maintain kinship ties or practise their religion.

The bill's mental health principles at clause 11(1)(g) provide for the principle of responsiveness to individual needs. It requires appropriate regard be given to a person's culture, language, communication, age, disability, religion, gender and sexuality.

Clause 11(1)(h) further provides that the distinct culture and identity of Aboriginal persons must be taken into account. These principles reinforce the cultural rights of people with a particular cultural, religious, racial or linguistic background.

Section 20 provides that a person must not be deprived of his or her property other than in accordance with law. The measures contained in the bill are compatible with this right as the bill includes safeguards to ensure interference with a person's property rights is not arbitrary. Clause 356 provides that a thing may only be seized and detained by an authorised person in prescribed circumstances. Where the thing is securely stored by the authorised person all reasonable steps must be taken to return the thing to the person from whom it was seized.

Section 25(2)(k) provides that a person in a criminal proceeding has the right not to be compelled to testify against himself or herself or to confess guilt. The bill is compatible with this right as clause 360 provides for a protection against self-incrimination.

For this reason it is my view that the limitations on these rights are compatible with the charter act.

Hon. Mary Wooldridge, MP
Minister for Mental Health

Second reading

Ms WOOLDRIDGE (Minister for Mental Health) — I move:

That this bill be now read a second time.

Speech as follows incorporated into *Hansard* in accordance with resolution of house:

The Victorian government is putting individuals and families at the centre of mental health services and investing in new ideas to improve the lives of people with mental illness.

Victoria's priorities for mental health reform focus on ensuring people who need mental health treatment and support can access high-quality and responsive care when they need it. People with a mental illness and their families should be able to actively participate in decisions related to their care and have a range of choices about the types of support they need to achieve optimal wellbeing.

Preventing mental illness where possible, providing help early and working with individuals and their families to meet their own recovery goals is central to the government's approach. Together with people with a mental illness, carers, families and services, the Victorian government is building a stronger system in which long-term recovery and support for overall health and wellbeing, social connectedness and economic participation are paramount.

Victoria's Priorities for Mental Health Reform 2013–15 highlights the concrete actions to be taken over the next three years to:

reform Victoria's mental health legislation;

strengthen clinical mental health services;

reform mental health community support services;

connect mental health services with other health and human services;

broaden prevention and promotion activities;

develop a stronger, more capable and sustainable specialist mental health workforce.

Victoria has a diverse and vibrant mental health sector spanning the public, community-managed and private sectors.

Yet the way this sector is configured, funded and integrated into the broader health and human services systems needs significant reform, important aspects of which are now under way.

Comprehensive reform of Victoria's mental health legislation is a central element in the coalition government's agenda for mental health.

The government's objective is to deliver new mental health legislation that provides an effective and contemporary legal framework for the assessment, treatment and recovery of Victorians with severe mental illness.

The current Mental Health Act is over a generation old. It is tired, out of date, and needs the major overhaul provided by this bill.

The bill has involved comprehensive policy development over a period of more than five years.

The review of the Mental Health Act 1986 examined recent developments in treatment and care in mental health services and mental health policy at both national and state level, including:

> opportunities for people with mental illness to meaningfully participate in decisions about their treatment and recovery;
>
> health and social outcomes;
>
> oversight and complaint mechanisms;
>
> responsiveness to families and carers; and
>
> reforms to mental health services.

An exposure draft for the mental health bill was released at the end of 2010 and attracted a lot of comment. These submissions consistently said that more work was needed to produce a good mental health bill. Consistent with our election commitments, the Victorian government held round table public meetings and targeted consultations in the first half of 2011 to discuss the issues identified in these submissions. These meetings were extremely productive, with the community and government working together to identify practical policy solutions for the future of Victoria's mental health legislation.

I acknowledge that there is a diversity of views among consumers, carers, families, health professionals and the community about some aspects of the policy. As far as possible, the government has sought to reconcile these differences and deliver our key reform objectives.

As a result of this work, in October 2012 the government released *A New Mental Health Act for Victoria — Summary of Proposed Reforms*, which outlined the government's key objectives and policy intentions for reform of the mental health legislation in Victoria. These included the intention to:

> embed supported decision making in the law;
>
> promote recovery-oriented practice;
>
> minimise the use and duration of compulsory treatment;
>
> require compulsory treatment to be provided in the least restrictive and least intrusive manner possible;
>
> better facilitate carer and family involvement in treatment and care;
>
> increase safeguards to protect patient rights and dignity; and
>
> encourage public sector clinicians and service providers to engage in continuous service improvement and reforms to the mental health service system.

The government has continued to engage with the community and stakeholders throughout the development and drafting of the bill.

This bill delivers all the government's reform objectives, which respond to the community's expectations for contemporary mental health legislation that promotes supported decision-making partnerships between patients and practitioners and enables public sector clinicians and public mental health service providers to deliver quality mental health services.

The bill establishes a comprehensive, individual-focused legal framework for the compulsory assessment, treatment, support and recovery of persons with mental illness.

The bill repeals and replaces the Mental Health Act 1986. The bill also makes amendments to the Sentencing Act 1991 and consequential amendments to a number of other acts.

Establishing a recovery framework

The government is committed to ensuring an approach that puts the patient at the centre of health care. This bill provides a legislative framework that promotes recovery-oriented practice in the Victorian public mental health service system.

Recovery is often described as a journey rather than an outcome. The term 'recovery' in the mental health context does not necessarily mean that the person no longer has mental illness or is no longer experiencing any symptoms of mental illness. Instead, recovery in mental health encompasses the often fluctuating nature of mental illness where some people will not have a recurrence of illness, others will have some further episodes and some will experience repeated episodes of illness over time.

Recovery is about maximising individual choice, autonomy, opportunity and wellbeing during a person's life and accordingly is a self-defined process that is highly individual.

The role of mental health service providers in recovery is to provide effective support when and where required, within an integrated system that enables people with mental illness to put in place the supports they need to maximise their wellbeing.

Supported decision making

At the very heart of the bill is a supported decision-making model that will enable patients to make or participate in decisions about their assessment, treatment and recovery and to be provided with the support to do so.

A key fundamental change in this bill is that people with mental illness are presumed to have capacity to make decisions about their own care.

People with serious mental illness may have fluctuating capacity to make decisions about treatment. A person with mental illness may not be able to make a decision about a course of treatment at a particular point in time, but may regain capacity to make that decision at another time.

The bill provides that all people are presumed to have capacity to make decisions about their own treatment unless it is established that the person lacks capacity at the time the decision needs to be made. This presumption exists regardless of the person's legal status under the bill.

The bill includes criteria for determining whether a person has capacity to give informed consent and principles to assist clinicians to determine whether a person can consent to treatment at the time the decision needs to be made. All reasonable steps should be taken to ensure that the assessment occurs at a time and in an environment in which the person's capacity can most accurately be assessed.

Where a patient is unable to consent, they must be supported to be involved in the decision-making process to the greatest extent possible.

The bill recognises that a person's capacity to make a decision can be affected by the support available to them. People who may not be able to make a decision alone might be able to make their decision with appropriate support.

The bill requires that mental health service providers provide patients with relevant information and reasonable support to make or participate in decisions about their treatment.

Nominated person

The bill establishes the role of the nominated person. It enables a person to nominate another person to receive information and to provide support in the event that the person becomes unwell and requires compulsory treatment. We anticipate that in most cases the nominated person will be a family member or carer — providing a clear legislative recognition of carers in this legislation.

The role of the nominated person is to help protect the patient's interests. They may assist the patient to exercise their rights and can help represent the patient's views and preferences about their treatment and recovery to members of the treating team. They will be given information and consulted at critical points in planning the patient's treatment and recovery, such as admission and discharge, and will be able to give their views.

It is not intended that the nominated person should act independently of the patient and they are not a substitute decision-maker. The role will be voluntary and the patient and their nominated person will decide together how active and involved the nominated person will be in support of the patient.

Carers

While it is expected that a nominated person will be someone who is significant in the life of the patient, most likely a family member or carer, there will often be other people who are actively involved in their life and provide support and care to the patient. The support of carers is crucial to recovery.

The government supports the important, valuable and often difficult role undertaken by carers. Including specific provisions enabling carers to be involved in the treatment and care of people with mental illness furthers the government's commitment to supporting and facilitating the important role of carers as reflected in the Carers Recognition Act 2012. The bill encourages greater opportunities for partnership between carers, patients and clinicians. It seeks to involve carers in key decisions about assessment, treatment and recovery wherever that is possible. It also allows carers to be given information if they need that information to provide care to a patient.

This bill will promote mental health service providers working closely with patients and carers to identify and meet the specific needs of the carers to support them to undertake their important role. This includes providing information relating to treatment and management options, how to respond to disturbing behaviours, how to access practical assistance and generally assisting carers to effectively support the person with mental illness.

Advance statements

During consultations, consumers expressed frustration about the lack of a formal mechanism in law for them to set out in writing their preferences for future treatment in the event that they become unable to make such decisions.

The bill enables a person to make an advance statement to record their treatment preferences in the event that they become unwell and require compulsory treatment.

Preparation of an advance statement provides an opportunity for people to discuss their views and preferences about treatment with their treating team, their nominated person, family members and carers. It can also be an opportunity to discuss and specify the extent to which the person wants carers involved in their treatment, support and care.

Importantly, advance statements will assist the authorised psychiatrist to understand the patient's treatment preferences and, if the person is unable to make decisions, enable the authorised psychiatrist to make treatment decisions that better align with the patient's preferences.

Advance statements are intended to improve communication, give patients greater control over their treatment when they are subject to compulsory treatment and promote an improved patient experience and recovery.

Second psychiatric opinion

The bill provides a right for patients to seek a second psychiatric opinion about their treatment at any time and, in the case of compulsory and security patients (who are prisoners who require compulsory mental health treatment), whether the criteria for compulsory treatment still apply to the patient.

Second psychiatric opinions are intended to promote self-determination by giving patients information about their treatment and available alternative treatments so that they can make informed contributions to decisions about their treatment.

Advocacy

Separate to the legislation, the government will also fund advocacy and support services for patients as an integral part of the reforms. Advocates will be available to visit mental health service providers or provide telephone advice to assist

patients to participate in decisions about their assessment, treatment and recovery.

Advocates will provide information and assist patients to understand and exercise their rights, but they will not provide legal advice or represent patients at Mental Health Tribunal hearings.

Compulsory treatment

The existing safeguards in the current Mental Health Act 1986 are inadequate to ensure that treatment is provided in the least restrictive and least intrusive manner. For example, the current criteria for orders are not effectively targeted and enable a person who 'appears' to have a mental illness to be placed on an involuntary treatment order. The current involuntary treatment orders have an indefinite duration and the substitute decision-making model for providing compulsory treatment is inconsistent with contemporary views about patient participation and recovery.

The bill seeks to promote and enable voluntary assessment and treatment in preference to compulsory assessment and treatment wherever possible.

Where compulsory treatment is required, the bill seeks to minimise its duration and ensure that it is provided in the least restrictive and least intrusive manner possible. The bill does this by introducing specific criteria for compulsory treatment, treatment orders that operate for a fixed duration, and timely independent oversight by a new Mental Health Tribunal.

The bill specifies the criteria for providing compulsory assessment and treatment. The criteria provide clear guidance to decision-makers, consumers and other stakeholders about when compulsory assessment and treatment are appropriate. The criteria reflect the objectives of the bill and have been designed to ensure that compulsory assessment and treatment are only used when there is no less restrictive means reasonably available to ensure a person receives necessary assessment and treatment.

Safeguards, oversight and service improvement

The power to restrict a person's rights, such as to provide compulsory treatment or to limit a person's freedom of movement, brings with it an obligation to ensure that any restrictions can be justified, are proportionate and include effective oversight and safeguards.

The bill establishes a comprehensive and integrated suite of oversight mechanisms and safeguards to protect the rights of patients.

Mental Health Tribunal

The bill establishes the Mental Health Tribunal to replace the Mental Health Review Board and the Psychosurgery Review Board. The tribunal is a quasi-judicial body that is independent of designated mental health services.

The principal role of the tribunal will be to make treatment orders for patients. Under the current Mental Health Act 1986, the authorised psychiatrist is responsible for both making treatment orders and deciding the treatment a patient will receive. This dual role can lead to tensions between the patient and the treating psychiatrist and can be a barrier to establishing a collaborative treatment relationship and a focus on recovery.

This bill establishes the tribunal as an independent body to decide that a person requires compulsory treatment. This will leave the authorised psychiatrist and other members of the treating team free to engage with the patient in ways that promote recovery-oriented mental health care.

Mental health complaints commissioner

Feedback through the community consultation processes identified a level of dissatisfaction with the current arrangements for making complaints about mental health service providers. People reported that complaints pathways can be complex and difficult to navigate, and that responses to complaints have not been timely or responsive to the needs of people with mental illness. Further, there have been no statutory mechanisms to ensure complaints lead to improvements in the safety and quality of mental health services.

The bill establishes a mental health complaints commissioner to receive, manage and resolve complaints about mental health service providers. The commissioner will provide an accessible, supportive and timely complaints mechanism that will be responsive to the needs of people with mental illness.

Chief psychiatrist

The chief psychiatrist will continue to provide clinical leadership and advice to public mental health services.

The bill redefines the role of the chief psychiatrist to focus on supporting mental health service providers to improve the quality and safety of the mental health services they provide and promoting the rights of people receiving mental health services, in particular people receiving compulsory assessment or treatment.

This will be achieved through expert clinical advice and other leadership functions, including clinical guidelines, specialist clinical information, training and education.

I now turn to the parts of the bill.

Part 1 sets out the purpose of the bill and definitions. It includes a definition of mental illness to ensure the scope of the legislative scheme is clear. For the removal of doubt, the definition sets out a list of attributes which by themselves cannot be used to determine that a person is mentally ill.

Part 2 sets out the objectives and principles of the bill.

A key objective of the bill is to enable the assessment of persons who appear to have mental illness and the treatment of persons with mental illness. The grounds for determining that a person needs assessment or treatment are set out elsewhere in the bill.

The bill seeks to ensure that assessment or treatment is given in the least restrictive way possible with the fewest restrictions possible on rights and dignity. It also aims to protect the rights of persons receiving assessment or treatment, and ensure they are informed of their rights under the bill and supported to exercise their rights.

The bill also seeks to ensure that assessment and treatment occur within a broader recovery-oriented framework by supporting people to be involved in decisions about their assessment, treatment and recovery.

Part 2 also includes the guiding principles of the bill. Mental health service providers must have regard to the mental health principles when providing mental health services and any other person must have regard to the principles when exercising a power or performing a function under the bill.

Part 3 sets out the requirements for informing patients about their rights. Detention and treatment in a designated mental health service places limitations on liberty and security of a person.

The bill establishes a right to communicate lawfully and specifies the limited circumstances when communication can be restricted. Communication is critical to enable patients to seek and obtain support consistent with recovery-oriented practice. For this reason, the bill provides that restrictions on communication cannot limit access to a legal representative, the mental health complaints commissioner, the Mental Health Tribunal or a community visitor.

Division 3 of part 3 sets out the requirements for making and revoking advance statements. An advance statement enables a person to record their treatment preferences in the event that they become unwell and require compulsory treatment.

Division 4 of part 3 provides for the appointment of nominated persons and defines the role.

Part 4 of the bill establishes a comprehensive framework of orders for compulsory assessment and treatment of persons with mental illness.

Assessment order

A registered medical practitioner or a mental health practitioner may make an assessment order for a person if they have examined the person and are satisfied that the criteria for an assessment order apply to the person.

The criteria for an assessment order require the relevant practitioner to be satisfied that the person appears to have a mental illness and because of the apparent mental illness appears to need immediate treatment to prevent serious harm to the person or another person or to prevent serious deterioration in the person's mental or physical health.

The practitioner must be satisfied that there is no less restrictive means reasonably available to assess the person. For example, if the person is willing to seek voluntary treatment, this would be a less restrictive option and the practitioner should not make the person subject to an assessment order.

The purpose of an assessment order is to enable an authorised psychiatrist to examine the person to determine whether they have a mental illness and require compulsory mental health treatment. It is this process of examination and deciding whether the criteria for a treatment order apply to the person that is known as assessment.

Assessment may be conducted in an inpatient setting or in the community. Consistent with the objectives of the bill, a practitioner should only make an inpatient assessment order if they are satisfied that the assessment of the person cannot occur in the community.

The authorised psychiatrist must complete the assessment of a person subject to an assessment order with 24 hours of the person being received at a designated mental health service, in the case of an inpatient assessment order, or within 24 hours of the making of a community assessment order. An authorised psychiatrist may extend the assessment period twice, up to a maximum of 72 hours in total, if he or she needs more time to complete the assessment.

A patient subject to an assessment order may only be given treatment for their apparent mental illness if they consent to the treatment or if the treatment is necessary as a matter of urgency to prevent serious harm to the person or another person or to prevent serious deterioration in the person's mental or physical health.

Temporary treatment order

At the assessment, if the authorised psychiatrist determines that the criteria for a temporary treatment order apply to the person, the authorised psychiatrist may make a temporary treatment order.

The criteria require the authorised psychiatrist to be satisfied that the person has a mental illness. It may not be possible for the authorised psychiatrist to make a specific medical diagnosis at this early stage, such as schizophrenia, but he or she must be satisfied that the person has a mental illness as defined in part 1 of the bill.

The authorised psychiatrist must be satisfied that, because of the person's mental illness, they need immediate treatment to prevent serious harm to the person or another person or to prevent serious deterioration in the person's mental or physical health.

The authorised psychiatrist must be satisfied that treatment will be provided to the person if they are placed on a temporary treatment order. This criterion ensures that people are only made subject to an order if the authorised psychiatrist is satisfied that there are suitable services available to treat the person's mental illness. This criterion serves to ensure that if the person is placed on an order, the relevant designated mental health service has an obligation to provide the person with treatment.

Finally, the authorised psychiatrist must be satisfied there is no less restrictive means reasonably available to enable the person to be treated, including the person being treated on a voluntary basis.

The treatment criteria deliberately set a high threshold for initiating compulsory treatment because compulsory treatment imposes serious limitations on human rights.

Treatment order

If a person remains on a temporary treatment order at the end of the period of the order, 28 days, the Mental Health Tribunal must conduct a hearing to determine whether the criteria for a treatment order apply to the person.

The tribunal can make a treatment order if it determines that all the criteria apply to the person.

The tribunal must also determine the setting of the order (either inpatient or community) and the duration of the order: up to six months for an inpatient treatment order, up to 12 months for a community treatment order and no more than three months if the person is under 18 years of age regardless of the setting. The shorter timeframe for people under

18 years of age will ensure that there is greater oversight of compulsory treatment decisions for young people.

At the end of the period of the treatment order, the authorised psychiatrist may make an application to the tribunal for a further treatment order if the criteria for a treatment order still apply to the person.

Part 4 of the bill also enables patients who are detained in a designated mental health service to be granted leave of absence from the service and for any patient to have the responsibility for their treatment transferred to a different designated mental health service.

Part 5 of the bill governs the treatment of patients.

Division 1 of part 5 deals with capacity and informed consent.

Informed consent must be sought before treatment is given to a person.

The person must be presumed to have capacity to give informed consent unless at the time the decision needs to be made the relevant clinician forms the opinion that the person does not have the capacity to give informed consent.

The bill sets out the criteria for determining whether a person has capacity to give informed consent and the necessary elements for a person to make an informed decision to consent to mental health or medical treatment under the bill.

Treatment

Division 2 of part 5 provides that patients, excluding people on assessment orders and court assessment orders, must be provided with mental health treatment.

The government believes this is necessary to ensure that patients receive treatment at times when:

> they do not have the capacity to give informed consent to treatment; or
>
> they have capacity but do not consent to treatment and the person needs treatment to prevent serious harm to the person or another person or to prevent serious deterioration in the person's mental or physical health.

The authorised psychiatrist is responsible for the treatment of a patient. The authorised psychiatrist must seek a patient's informed consent to treatment before it can be administered.

Where a patient is unable to give informed consent or does not give informed consent to a course of treatment, the bill authorises the authorised psychiatrist to treat the person without consent. The authorised psychiatrist must have regard to the person's views and preferences about the treatment and the reasons for these views and preferences, including any recovery outcomes that the person would like to achieve. These may be contained in the advance statement. Consistent with the model of recovery-oriented mental health practice, the person should be given information and involved in the decisions to the greatest extent possible.

The bill also seeks to involve the nominated person, carers and other people who are significant in the life of the patient in any decisions made by the authorised psychiatrist.

The authorised psychiatrist must review and revise all treatment given to patients on a regular basis.

Medical treatment

The bill establishes a regime to regulate consent to medical treatment for patients who are unable to consent to general health care and specifies who can consent to medical treatment in these circumstances.

Second psychiatric opinions

The bill provides a right for patients to seek a second opinion from a psychiatrist. The role of the 'second opinion' psychiatrist is to assess the patient and provide an opinion as to whether all the criteria for the treatment order apply to the patient (except forensic patients) and to review the treatment provided to the patient and recommend any changes the second opinion psychiatrist considers appropriate in the circumstances.

The second opinion psychiatrist must provide a written report to the patient, the authorised psychiatrist and other specified people, including the nominated person and the carer.

The authorised psychiatrist is required to consider any second psychiatric opinion report provided to them and may make changes to the patient's treatment based on the recommendations. It is intended that any changes would be discussed with the patient, the nominated person and other specified people in the same way any decision about treatment is made under the bill.

A patient will be entitled to apply to the chief psychiatrist for a review of their treatment in the event that the authorised psychiatrist does not adopt any or all of the recommendations contained in the second opinion report. The chief psychiatrist may make any recommendations to the authorised psychiatrist and the patient about the disputed treatment that the chief psychiatrist considers appropriate in the circumstances.

Ultimately, the chief psychiatrist will have the power to direct an authorised psychiatrist to make changes to a patient's treatment if alternative treatment is more appropriate in the circumstances.

Electroconvulsive treatment

Electroconvulsive treatment (ECT) is an effective treatment for severe depression and some other mental illnesses.

Nevertheless, feedback from the community consultation processes showed that the community expects greater oversight of the performance of ECT on:

> patients receiving compulsory treatment subject to an order under the bill; and
>
> people under 18 years of age.

ECT is a treatment rarely given to young people, but the clinical advice is that it may be the most appropriate treatment in a limited number of circumstances. It is for this reason the government has not prohibited its use, but will require any ECT for people under 18 years of age to be approved by the Mental Health Tribunal.

Any adult patient may give informed consent to ECT and receive the treatment.

If a patient does not have capacity to give informed consent, ECT may only be performed on the patient with the approval of the independent Mental Health Tribunal following an application by the treating psychiatrist. The Tribunal may only approve ECT if it is satisfied that there is no less restrictive way for the person to be treated.

A psychiatrist may apply to the tribunal for approval to perform ECT on a young person if the young person has given informed consent or, if they are unable to give informed consent, a parent or guardian has given consent to the ECT. The ECT cannot be performed unless the tribunal approves.

If the tribunal finds that a young person has capacity to consent to ECT and has in fact given informed consent to the ECT, the tribunal must approve an application to perform ECT.

If the tribunal finds that a young person does not have capacity to give informed consent to ECT, it may only approve the ECT if it is satisfied a parent or guardian has consented to the ECT and there is no less restrictive way for the young person to be treated.

The tribunal cannot approve ECT if a patient has capacity and refuses to give consent to ECT.

In any decision it makes, the tribunal must consider the person's views and preferences about the ECT, the views of other significant people such as carers, the likely consequences if the ECT is not performed and a range of other factors described in the bill.

In all decisions about ECT, the patient or young person must be presumed to have capacity unless it can be demonstrated that the person lacks capacity at the time the decision needs to be made.

The government has been advised that the likely need for emergency or 'same day' ECT is extremely rare because of the nature of the treatment and the way it is administered. Accordingly provisions to allow emergency ECT without consent of the patient have not been included in the bill. Nevertheless, it is recognised that in some cases the commencement of a course of ECT may be urgent. The tribunal will be able to expedite a hearing in response to an urgent request.

Neurosurgery for mental illness

Neurosurgery for mental illness, which was previously known as psychosurgery, is a surgical procedure performed on the brain to treat severe, incapacitating mental illness.

In recent years, all applications to the current Psychosurgery Review Board have been in relation to deep brain stimulation. Deep brain stimulation has been used successfully over the past 15 years to treat neurologically based movement disorders, such as Parkinson's disease, and is now being trialled and is showing promising results for treating severe treatment-resistant depression and severe obsessive compulsive disorders.

The bill provides that neurosurgery for mental illness may only be performed on a person who has given informed consent and where the Mental Health Tribunal has approved the performance of the treatment. The tribunal must be satisfied that the neurosurgery for mental illness is likely to remedy the person's mental illness or lessen the symptoms and improve the person's quality of life.

No substitute decision-maker will have the authority to consent to neurosurgery for mental illness on behalf of another person.

Part 6 of the bill regulates the use of restrictive interventions such as bodily restraint and seclusion.

Bodily restraint and seclusion are highly intrusive practices that tragically have been linked to injuries and deaths.

The government is committed to reduce and wherever possible eliminate the use of bodily restraint and seclusion by designated mental health services. To this end, the bill provides that these restrictive interventions may only be used after all reasonable and less restrictive options have been tried or considered and have been found unsuitable in the circumstances. It also requires that any restrictive intervention must be stopped immediately when the grounds for using the restrictive intervention no longer apply.

The regulation of restrictive interventions applies to all people receiving mental health services in a designated mental health service, regardless of the person's legal status under the bill or their age.

The bill extends the existing regulation of mechanical restraint to the use of any physical restraint, such as the use of physical force like 'holding' to limit a person's free movement. The regulation of physical restraint will require services to examine why and how these practices are being used in order to reduce and where possible eliminate them from clinical practice.

The bill will create greater accountability and oversight of the use of restraint and seclusion by strengthening the role of the authorised psychiatrist with respect to the authorisation and continued use of these restrictive practices.

High levels of clinical care, monitoring and reporting will apply, commensurate with the intrusiveness of these practices, for example people being bodily restrained must be continuously monitored because of the risks involved.

In addition, the bill requires that key people, such as the patient's nominated person and the chief psychiatrist, are notified whenever restrictive interventions are used.

Part 7 of the bill outlines the role of the secretary and redefines and enhances the role of the chief psychiatrist to focus on providing statewide clinical leadership to improve the quality and safety of public mental health services.

The chief psychiatrist will monitor services and may conduct clinical practice audits, clinical reviews and investigations.

Part 8 of the bill establishes the Mental Health Tribunal and sets out its main functions. It also sets out the membership of the tribunal and the procedures for appointment, removal and resignation of members.

At each hearing the tribunal will consist of three members: a lawyer, a registered medical practitioner or psychiatrist and a member of the community. Where the tribunal is considering an application for ECT or neurosurgery for mental illness, it must include a psychiatrist to ensure the tribunal has the

benefit of the specialist knowledge and expertise provided by psychiatrists.

The tribunal is intended to be an accessible, timely and responsive body. Depending on their nature, proceedings can be initiated by a patient, the patient's treating psychiatrist, a person at the request of the patient, a guardian of the patient or a parent if the patient is under 16 years of age.

The person who is the subject of proceedings before the tribunal is entitled to appear and to be represented by anyone of their choice.

The tribunal is expected to take a holistic approach when it makes determinations and consider a range of factors, including the patient's goals, preferences and aspirations and the views of other people who are significant in the life of the patient, such as the nominated person and carers.

The tribunal will be bound by the rules of procedural fairness and may inform itself on any matter as it sees fit. It is expected the tribunal will conduct each proceeding as expeditiously and with as little formality and technicality as possible in the circumstances.

The tribunal will take a solution-focused and recovery-oriented approach to hearings. This will place the patient at the centre of the hearing, as an active participant in the discussion and decision-making processes. The patient will be supported to discuss their thoughts, views, preferences and goals to enable problem-solving and promote self-determination. The overall goal of these hearings is to support patient progress toward voluntary treatment and recovery.

Part 9 of the bill continues the role of community visitors.

Public consultation identified strong support for community visitors to continue to monitor the adequacy and appropriateness of mental health services provided to people with mental illness.

Part 10 of the bill establishes the mental health complaints commissioner.

This is a new role being introduced in this bill. The commissioner will provide an accessible, supportive and timely complaints mechanism that will be responsive to the needs of people with mental illness. The commissioner will have expertise in mental health service provision and the complexities of compulsory treatment.

The bill enables the commissioner to consult with other persons or bodies, such as the health services commissioner, in order to coordinate complaints that straddle the mental health and general health sectors. The commissioner may refer complaints or accept referrals from other bodies to simplify the processes for people making complaints.

It is intended that the procedures of the commissioner will be flexible and proportionate to the cause of the complaint and will provide appropriate remedies. It is expected that most complaints can be resolved through informal processes rather than resorting to formal investigation. However, the commissioner will have a range of powers to investigate and take necessary actions in more serious cases.

A key reform is that the bill will enable the commissioner to receive complaints by families and carers on behalf of consumers, for example where the patient doesn't have capacity to make a complaint or where the patient is a child. This will ensure all patients can have their complaints heard and addressed and be supported to participate in the complaints process.

It is recognised that complaints can assist public mental health services to identify areas for improvement and contribute to better and more responsive mental health services. The commissioner will have an important role to identify, analyse and review quality, safety and other issues arising out of complaints and to make recommendations for improvements to mental health service providers, the chief psychiatrist, the secretary and the minister.

Part 11 of the bill provides for the detention, treatment, management and discharge of security patients who are prisoners who require compulsory mental health treatment.

Part 12 of the bill provides for the detention, treatment and management of forensic patients. Forensic patients are people who have been found not guilty of an offence or unfit to plead because of mental impairment under the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 or a comparable law in another jurisdiction and are being detained in a designated mental health service for treatment.

Part 13 provides for the recognition of compulsory mental health treatment orders and provisions in mental health laws of other Australian states or territories. These provisions enhance access to mental health services across state borders and ensure that no matter where a person is in Australia they can receive responsive and timely mental health services.

Part 14 of the bill continues the Victorian Institute of Forensic Mental Health, Forensicare, which has existed since 1998. The role of the institute is to provide, promote and assist in the provision of forensic mental health and related services in Victoria.

The bill updates the regulatory framework establishing the institute to modernise the functions and governance arrangements.

Members of the board of directors will now be appointed by the Governor in Council rather than the minister and the clinical director will be appointed by the institute in the same way clinical directors are employed by other health services.

These new arrangements will strengthen the independence of the institute and its board of directors.

Part 15 of the bill sets out a number of procedural and operational matters.

Division 1 of part 15 establishes the confidentiality of health information held by mental health service providers and then sets out the specific circumstances when that health information may be disclosed to external organisations and individuals. From the public consultation process it was evident that the existing provisions in the Mental Health Act 1986 are complex and difficult to understand. The bill will provide clear guidance about when health information may be disclosed so that people with mental illness, clinicians, families and carers can understand their rights and responsibilities.

A person may consent to the disclosure of their health information. Consent may be express or implied, but it is

intended that implied consent should only be relied upon where that consent can be confidently and reasonably inferred through the actions of the person.

The government recognises that there are certain circumstances where it will not be appropriate or practicable to obtain consent to disclosure of health information and these have been addressed in the bill.

The bill permits health information held by a mental health service provider about a person to be disclosed to another health service provider in order to assist them to provide services to the person. Many health services, such as mental health service providers, drug and alcohol service providers and primary care providers, share common clients. The capacity to share information between providers promotes access to health services, opportunities for early intervention and health promotion, and improved health outcomes. While it is preferable that consent to sharing of information should be obtained, in some circumstances it will be necessary to share information to ensure health services can be provided safely and effectively. This might be necessary where the person is unable to give consent or to prevent serious harm to the person or another person or to prevent serious deterioration in the person's mental or physical health.

The bill creates a scheme to regulate the collection, use and disclosure of health information through an electronic health information system. It authorises members of staff of mental health service providers to enter information in an electronic health information system in the knowledge that other services may collect and use that information to provide mental health services to an individual. The bill limits access to an electronic health information system. A person must not collect or use, or attempt to collect or use, health information in an electronic health information system unless it is reasonably required by a mental health service provider to provide mental health services to a person.

The bill will permit a mental health service provider to disclose a person's health information to a friend, family member or carer in 'general terms'. It is intended that only very limited information may be disclosed under this exception to confidentiality. For example, it would extend to telling a telephone caller that an inpatient is well enough to receive visitors or the disclosure of limited information, such as diagnosis, during family psycho-education sessions.

The government recognises that carers need adequate information to allow them to perform their caring role. The bill seeks to balance a patient's right to privacy and the carer's need for information in order to provide sufficient support or care. It is recognised that this support and care can be crucial to the ongoing wellbeing of both the patient and the carer.

In a significant advance for carers and families, the bill sets out the circumstances when information can be shared with carers if a patient has not consented to the information sharing, or does not have the capacity to consent. Currently, clinicians must make a complex and difficult judgement about what information needs to be shared. The resulting confusion has often led to a failure to appropriately share information, to the detriment of both patients and their families and carers.

The bill enables health information to be disclosed to a carer where the disclosure relates to a patient and the health information to be disclosed is reasonably required by the carer to provide care to the patient or to determine the nature and scope of the care to be provided and to make the necessary arrangements in preparation for that role.

Division 3 of part 15 sets out powers and functions for the apprehension and transport of people with mental illness or the appearance of mental illness in prescribed circumstances. The bill includes specific powers to enter premises to enable a person to be taken to a designated mental health service. In addition, it authorises the use of sedation and bodily restraint where it is necessary to prevent serious and imminent harm to the person or another person. Consistent with the objectives of the bill, sedation and restraint may only be used after all reasonable and less restrictive options have been tried or considered and have been found to be unsuitable to ensure safe transportation.

The bill enables a police officer to apprehend a person who appears to have a mental illness so as to prevent serious and imminent harm to the person or another person.

It is intended to give police officers maximum flexibility about where they can take a person to be examined. In practice police will often take an apprehended person to the emergency department of a public hospital to be examined by a medical practitioner.

The bill will support this existing practice by enabling a police officer to take an apprehended person to a public hospital, denominational hospital, privately operated hospital, or public health service within the meaning of the Health Services Act 1988. The police officer will then be able to release the person from police custody into the care of the relevant hospital or health service. The hospital or health service must then arrange for the person to be examined as soon as practicable by a registered medical practitioner or mental health practitioner. This is intended to allow police to return to their other duties as soon as practicable without the need to wait until the examination has been completed.

Division 5 of part 15 of the bill provides for codes of practice. Codes of practice will provide practical guidance to any person or body exercising powers or performing functions or duties under the bill to promote best practice. The codes of practice will provide a greater level of detail than would generally be included in legislation or regulations and can be more readily updated to reflect new developments in interpretation of the law and clinical practice.

It is expected that codes of practice will also be used by clinicians, people with mental illness, families and carers to understand the application of the bill.

Part 15 provides for a number of other miscellaneous matters.

Part 16 of the bill provides repeal and transitional provisions.

Part 17 of the bill makes amendments to the Sentencing Act 1991, the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 and other acts.

The options available to the courts have been updated to achieve greater consistency with other orders made under the bill and simplified to encourage increased usage by the courts.

This is a substantial piece of legislation, which will make a fundamental difference to people living with mental illness, their families and carers and the broader community.

> The government recognises the magnitude and significance of these reforms and is committed to a review of the legislation five years after commencement to ensure that Victoria's mental health legislation keeps pace with innovation and clinical best practice developments.
>
> This bill is the result of the hard work of many people. I would particularly like to acknowledge and thank the members of the community consultation panel, the late Mr Ben Bodna, AM, Mr Julian Gardner, Ms Dominique Saunders and Mr Wayne Schwass, as well as the Mental Health Act reform expert advisory group and the consumer and carer peak organisations, the Victorian Mental Illness Awareness Council and the Victorian Carers Network. I also want to recognise the dedication of the members of the Mental Health Act reform team in the Department of Health and specifically the manager of that team, Ms Emma Montgomery.
>
> In conclusion, the reforms contained in the bill will result in significant changes to Victoria's mental health system and will provide important opportunities to reinvigorate the service system and improve outcomes for people living with mental illness.
>
> I commend the bill to the house.

Debate adjourned on motion of Mr NOONAN (Williamstown).

Debate adjourned until Thursday, 6 March.

SUMMARY OFFENCES AND SENTENCING AMENDMENT BILL 2013

Second reading

Debate resumed from 12 December 2013; motion of Mr CLARK (Attorney-General).

Mr PAKULA (Lyndhurst) — It gives me no pleasure to rise to speak on the Summary Offences and Sentencing Amendment Bill 2013. However, it gives me some pleasure to indicate to the house that Labor will oppose the bill, and it will oppose it proudly. We will oppose this bill because it amounts to the potential criminalisation of all forms of protest in the state of Victoria. This is a bill which represents the Premier's impersonation of Joh Bjelke-Petersen, and which represents his attempts to be a poor man's Campbell Newman.

This is a draconian, antidemocratic and unnecessary bill. In an even more cynical, tricky and unworthy move, the government has tried to combine its draconian move-on powers with its alcohol-exclusion orders provisions. I say very clearly that we think the alcohol-exclusion orders are unenforceable and unworkable. They are not sufficiently offensive for us to oppose them, but we think the bill ought to be split. We are calling on the government to split the bill. The two effects have absolutely no commonality between them whatsoever. If the bill is split, we will vote for the alcohol-exclusion provisions, which are part 3 of the bill, but if the government does not agree to split the bill, it is our intention to move a motion to do just that.

Mr O'Brien interjected.

Mr PAKULA — The Treasurer interjects. We will come to the subject of how tough this is on alcohol-fuelled violence during the course of the debate. It is important to look at the detail of the move-on powers. Which circumstances will give rise to police and protective services officers (PSOs) having the power to move protesters on under the threat of arrest? All a police officer or a PSO needs in order to move someone on is to suspect on reasonable grounds that the person: has committed an offence in that place, is causing a reasonable apprehension of violence to another person, is causing or is likely to cause an unreasonable obstruction to others, is present for the purpose of procuring or supplying drugs, or is impeding or attempting to impede any person from lawfully entering or leaving premises or parts of premises.

We heard from the Attorney-General as reported in the *Melbourne Leader* on 17 February. The Attorney-General is reported to have said that the laws target serial law-breakers. The Attorney-General is quoted as saying:

> Every Victorian has the right to protest and express their views. However, when individuals resort to unlawful tactics that threaten the livelihood of law-abiding businesses (and) employees … they must be held to account.

That is what the Attorney-General said. But let us be clear: this is not a law that applies solely to violent or unlawful protests — it applies to any protest. All that any police officer or PSO needs in order to break up a protest, to move someone on or to arrest someone is a reasonable suspicion that the person is causing an unreasonable obstruction, is likely to do so, or is impeding or attempting to impede someone.

Mr O'Brien interjected.

Mr PAKULA — The Treasurer interjects incessantly with his mantra, as if this is some sort of brilliant — —

The ACTING SPEAKER (**Mr McCurdy**) — Order! It is disorderly to respond to interjections.

Mr PAKULA — I say to the Treasurer that this is the same old nonsense that the Tories have been going on with for 100 years, and it is the same old nonsense that they resort to when they are in strife. This is the

same line that former Leader of the Opposition Robert Doyle ran in 2002 when he was trying to save the furniture.

Let us go to examples of what would be covered by these move-on laws. They include the lock-the-gate protest and the anti-fracking protest, which was supported by The Nationals and the member for Bass. Those protesters could easily be moved on or arrested under the powers provided in this bill. The anti-McDonald's protesters in Tecoma could easily be moved on or arrested under these powers.

Mr O'Brien interjected.

Mr PAKULA — The Treasurer says, 'They should be moved on'. That is right, because anyone's protest is illegitimate in his view. If the government believes a picket is illegal, it will order the police to move the protesters on. That is what the Treasurer is saying. The nurses who were protesting during enterprise bargaining agreement negotiations when the member for Hawthorn was Premier could be moved on under these powers. The Baiada picket, where workers were being horribly exploited, could be moved on under these powers. Taxi licence holders protesting on the steps of Parliament could be moved on under these powers.

Teachers and even lawyers standing outside the County Court protesting against legal aid cuts could be moved on under these powers. Paramedics could be moved on under these powers. Anyone holding a protest outside a member of Parliament's office could be moved on under these powers. Protesters holding a protest outside 104 Exhibition Street could be moved on under these powers. On 28 June 2006 there was a protest in Liebig Street, Warrnambool, outside the office of the member for South-West Coast and the now Premier came out. I refer to an article in the Warrnambool *Standard* of June 2006, which says:

> Dr Napthine's speech to workers was drowned out by crowd members shouting 'Out, out, out' as he said that since the federal government had been elected in 1996 wages in real terms had increased … Persistent heckling forced Dr Napthine to retreat from the street into his office.

That is the kind of protest the government would like to see stopped and people moved on or arrested because of some kind — —

Mr O'Brien — Garbage!

Mr PAKULA — The Treasurer says, 'Rubbish'.

Mr Wynne — 'Garbage' he said.

Mr PAKULA — He said, 'Garbage'. My question to the Treasurer is: how would he know. Is he suggesting that once this power is provided that the government can control which protests are moved on and which are not?

Mr O'Brien — Don't you trust the courts?

Mr PAKULA — It has got nothing to do with the courts.

The ACTING SPEAKER (**Mr McCurdy**) — Order! The member should address his comments through the Chair.

Mr PAKULA — The Treasurer says, 'Don't you trust the courts?'. All that needs to happen is that a policeman or protective services officer (PSO) on the ground at the time forms a view about the nature of the protest and moves them on. Even during a protest like the Plug the Pipe protest, an issue so beloved by the members for Benalla, Swan Hill and Seymour; they could all be told to move on, then be arrested, then have their names kept in a register and then have orders issued against them.

The Treasurer behaves as if it is only the opposition, only the Labor Party, that has formed this view about the move-on powers. Let us have a look at some of the groups who have written to me and written to the government who are opposed to these powers. They include the St Kilda Legal Service, the Federation of Community Legal Centres Victoria, the Peninsula Community Legal Centre, Youthlaw, Western Suburbs Legal Service, the Independent Riders Group and the Law Institute of Victoria. Geoff Bowyer, the new president of the law institute, has said these laws could:

> … have a significant and devastating impact on the homeless who, by the nature of their situation, are forced to gather in public places, often returning to a familiar spot after being moved on.

The Human Rights Law Centre has described the potential for misuse as being very high. This is not something that has just been dreamt up by the Labor Party or by unions; this is widely opposed throughout the legal fraternity by the Human Rights Law Centre, the law institute, the Independent Riders Group and all manner of members of this community because they are draconian laws and they are unwise laws.

It is interesting to recall what government members said when they were in opposition. On 9 December 2009 the member for Benalla talked about the 'democratic right to protest' of the Plug the Pipe protesters, but now he wants to take that right away for

others. I suppose it does not matter for the member for Benalla because he is on his way out of here.

On 10 November 2009, the member for Malvern, now the Treasurer, said:

> It is important to note the fact that there is a very important right to lawfully protest. We on this side of the house would not seek to do anything which would interfere with that lawful right.

What happened to those noble sentiments?

Mr O'Brien interjected.

Mr PAKULA — The Treasurer keeps saying, 'Lawful' as if it is only illegal protests which are targeted, but that is not the case.

Mr O'Brien interjected.

Mr PAKULA — Treasurer, unlike you, I have.

The ACTING SPEAKER (**Mr McCurdy**) — Order! The member should address his comments through the Chair.

Mr PAKULA — On 15 March 2010 the Leader of The Nationals, now the Deputy Premier, said:

> Any information gathered on protesters by the government or private security firms must be destroyed.

And:

> There's something very wrong in Victoria when local communities are subject to this sort of bullying and intimidation from a government.

Now he wants police to record and keep the very same information against protesters.

We have already heard the Treasurer say today that those anti-McDonald's protesters in Tecoma ought to have been moved on and ought to have been arrested if they did not move on when they were told to. That is the way this government wants to treat communities; that is the way this government wants to treat protests in this state. Every Victorian should understand the way in which the government is seeking to stifle protest in this state. Police and PSOs can give a move-on order to a group; and if it is not complied with, every member of that group can be arrested, their names recorded, their names retained and 12-month exclusion orders applied for. Nothing unlawful needs to be happening.

Mr O'Brien interjected.

The ACTING SPEAKER (**Mr McCurdy**) — Order! I ask the Treasurer to cease interjecting.

Mr PAKULA — Can I take up the interjection?

The ACTING SPEAKER (**Mr McCurdy**) — Order! No.

Mr PAKULA — Acting Speaker, let me make the point without the interjection.

The ACTING SPEAKER (**Mr McCurdy**) — Order! The member for Lyndhurst should address his comments through the Chair.

Mr PAKULA — In the case of industrial picketing, Acting Speaker, this power applies even to legally protected industrial action. That has been made clear by the government. It applies to picket lines against which no orders have been granted, and it applies to picket lines against which no orders have been sought, so no-one needs to have gone to court, and no illegal declaration needs to have been made about the picket line. When the Treasurer sits here and says that it is only about illegal pickets, that is pure sophistry on his part. No order has to have been made against the picket, and no order has to have been applied for against the picket. The determination of whether or not it is illegal is simply in the hands of whoever is on duty at the time.

Mr O'Brien interjected.

Mr PAKULA — All that in fact needs to have happened, Treasurer, is that a big Liberal Party donor needs to have made a call to your office or to the Premier's office, after which you make the call and say, 'Get these people out of here', as we know occurred before.

Mr O'Brien — On a point of order, Acting Speaker, I find the comments of the member for Lyndhurst offensive and require them to be withdrawn.

The ACTING SPEAKER (**Mr McCurdy**) — Order! The member for Lyndhurst has been asked to withdraw.

Mr PAKULA — I will withdraw. I think it is extraordinary that the Treasurer is so thin-skinned given the accusations and the allegations he throws around in this house day in and day out.

The ACTING SPEAKER (**Mr McCurdy**) — Order! The member for Lyndhurst will address his remarks through the Chair.

An honourable member — Withdraw.

Mr PAKULA — I withdraw. Day in, day out this Treasurer — —

The ACTING SPEAKER (**Mr McCurdy**) — Order! The member for Lyndhurst has withdrawn. The member for Lyndhurst to continue.

Mr PAKULA — Day in, day out this Treasurer comes into this place and makes all sorts of unfounded allegations, not just against members of this Parliament but against people who have no connection to this Parliament. He does it under privilege, and he never repeats his allegations outside.

Mr O'Brien — Struck a nerve, didn't I?

Mr PAKULA — Well, can I say that I have never asked him for a withdrawal. The fact is that all that needs to happen is that police need to reasonably suspect that someone has been impeded or — —

Honourable members interjecting.

The ACTING SPEAKER (**Mr McCurdy**) — Order! I ask the member for Monbulk and the Treasurer to cease interjecting.

Mr PAKULA — All that needs to happen for this law to be activated is for someone on the ground, a police officer or a protective services officer, to reasonably suspect that someone is or may be impeded or obstructed, or that someone might attempt to impede or obstruct. It applies to every example I have cited. In regard to the courts, the courts only get involved after the moving on has happened.

The government picks a bunch of examples and says, 'That would not happen in reality'. But as I have indicated, once the power is granted, unless the government knows something that the opposition does not, the government does not get to pick and choose which forms of protest and which types of protesters get moved on. Every community rally and every community protest can be subject to these laws, unless there is a phone call.

We heard interjections from the Treasurer. The government wants Victorians to believe that this bill is about drug dealing. Why then is it not confined to that? The government wants Victorians to believe that the bill is about violent or unlawful protest, but the fact is the police already have the power to deal with unlawful behaviour, violence or trespass. The government wants Victorians to believe that this is about things like east–west link protesters, but by the Linking Melbourne Authority's own admission those protests have not cost the project even one day of lost time. This is about all the other protests — the lawful ones, the peaceful ones, the inconvenient ones — —

Mr O'Brien interjected.

Mr PAKULA — Do you have Tourette's? You just go on and on and on with the same mantra.

The ACTING SPEAKER (**Mr McCurdy**) — Order! The member for Lyndhurst!

Mr PAKULA — This is about the protests that cause the government political embarrassment. This is about the ones where the government's mates make a phone call and say, 'Call off the dogs'. This is about a government wanting to pick and choose which protests it sees as worthy and which it sees as inconvenient, where these powers will be activated. It is unwarranted, unnecessary, antidemocratic and draconian, and it runs counter to every faux noble sentiment coalition MPs expressed in opposition. Those sentiments were convenient to them then, but we know, by virtue of the introduction of this bill, that they did not mean them. If you applied all of those quotes that I referred to earlier to this law, you would see there is an inexplicable degree of dissonance. If you took the comments of the Treasurer, the Deputy Premier and the member for Benalla at face value, you would think those people could not support the introduction of this bill.

Turning to the alcohol-exclusion orders, they are a meritorious idea. The opposition says quite openly that they are a meritorious idea. The notion of barring people from drinking alcohol if they have committed heinous crimes in which alcohol is a significant factor is a meritorious idea. But it is a good idea which is being incompetently executed. It is an idea the utility of which has been almost fatally undermined by the government's brainless obsession with looking tough. If you look at the provisions of the bill, it will not achieve, on any planet, the objectives that the government says are the objectives of the bill.

Does the government, for example, leave it to judges to assess the merits of a particular case and to look at how serious the offence was? Does the government leave it to judges to assess whether the offender has priors? Does the government leave it to judges to assess how big a factor alcohol was in the commission of the offence and then leave it to judges to decide how long to exclude the offender from licenced places for? No. It is a mandated period of two years even if in the circumstances a judge might find that the appropriate exclusion period was one year or indeed three years. The judge does not get to make any of those decisions. The government has said that in every case it is two years. Whether or not two years is right or justifiable, no matter how big a factor alcohol was, no matter what

priors the offender has, it is two years, two years, two years.

Does the government provide licensed venues with any kind of information about who the excluded people are? Does the government provide licensed venues with a list of names of people who have been excluded? Does the government provide licensed venues with photographs of people who have been excluded? Does the government provide any additional resources whatsoever to enforce these alcohol-exclusion orders? The answers are no, no, no and no. No-one who runs any licensed venue will have any idea, either by name or picture, of who the excluded people are. There are no additional resources for anyone to enforce this law. It is totally and utterly unenforceable.

Most importantly, I ask: is it the drinking of alcohol that is barred? Is it the purchase of alcohol that is barred? The answer is no.

Mr Clark interjected.

Mr PAKULA — I say to the Attorney-General that that would clearly make too much sense for this government. If someone who is excluded wanders across the road to the European and orders a coffee or a poached egg, they will have committed an offence — because it is a licensed venue. Someone else can buy that person a sixpack of beer and that is fine, but if they go across the road and order a coffee at a licensed venue, they will have committed an offence. The Treasurer was saying by interjection before that the Labor Party does not want to deal with alcohol-fuelled violence. I ask: are the streets really safer if a violent drunk cannot purchase an egg or if a violent drunk cannot order a coffee at 8 o'clock in the morning? Are the streets really safer in those circumstances?

Honourable members interjecting.

Mr PAKULA — Every licensed venue, morning or night, whether or not the offender — —

Honourable members interjecting.

Mr PAKULA — The Attorney-General is soft on boiled eggs. Seriously, it is just a mantra repeated over and over again in the face of all the evidence. In the face of a rising crime rate, in the face of overflowing prisons, in the face of a court system collapsing and, in the face of legal aid falling apart, members of this government keep running around beating their chests, saying, 'We are tough on crime', while the crime rate goes up. What an absolute triumph! No licensee of any venue, morning or night, whether or not the offender is trying to buy alcohol, will have any information provided. There are no extra resources for Victoria Police. This is just the epitome of an all-show, no-go confidence trick. It is an absolute sham.

As I indicated at the outset, there is nothing in the provisions relating to the alcohol-exclusion orders that could not be rectified, amended or fixed by a government whose members applied some common sense and competence to them. If the government is prepared to split the bill, opposition members will vote for the alcohol-exclusion orders. If the government will not split the bill, in the consideration-in-detail stage the opposition will move its own motion to do just that. There is nothing in the alcohol-exclusion orders part of the bill that cannot be fixed by a government whose members know what they are doing.

However, the move-on powers are irredeemable. They are draconian. They are quite simply Bjelke-Petersen-era laws. They mean that we have set off down the slippery slope.

Mr O'Brien interjected.

Mr PAKULA — I say to the Treasurer that those people protesting outside McDonald's in Tecoma are not thugs, nurses are not thugs, paramedics are not thugs and taxi protesters out on the steps of Parliament are not thugs. I will tell the house who government members believe is a thug. They believe that a thug is anyone who opposes their agenda. Anyone who opposes this Treasurer's or this Attorney-General's agenda is in their eyes a thug — and they are determined to shut those people up, to silence them and to haul them off to jail. They want to haul off to jail taxi protesters, McDonald's Tecoma protesters and Lock the Gate protesters. In the eyes of members of this government these people are all thugs and enemies of the state because they have the temerity to stand up to this government and to stand up for their rights.

Members on this side of the house want to make it very clear that we do not believe that people protesting about a McDonald's in Tecoma are thugs, we do not believe nurses are thugs, we do not believe teachers are thugs and we do not believe paramedics are thugs. We do not believe that people who are standing up for their basic rights and exercising their lawful right to protest are thugs. With these laws, we have set off down the slippery slope. Today members are debating a set of laws which infringe the vital right to protest that exists in a democracy. It is a hard-fought-for right, a vital right and the hallmark of any free society. These laws fundamentally offend the principles that all the so-called lovers of freedom opposite claim to hold so dear. Members of the Liberal Party believe in freedom

for their mates, but they do not believe in freedom for the people who might have the audacity to stand up for themselves and oppose the government's agenda.

The Labor Party will defend the right of people to protest, because these laws do not only deal with unlawful and violent protest. These laws criminalise lawful protest, they criminalise peaceful protest and they criminalise any protest the government finds offensive. We will oppose these move-on laws, we will oppose them proudly and, if we are elected in November, we will repeal them.

Mr SOUTHWICK (Caulfield) — It is my pleasure to rise to support the Summary Offences and Sentencing Amendment Bill 2013. What a load of rubbish we have just heard from the member for Lyndhurst — talk about Chicken Little saying, 'The sky is falling in' — about what we are doing to keep people safe and ensure that businesses can get on with what they need to do, which is provide jobs. We have seen day in and day out in this place that the Labor Party is very quick to stand up and talk about what is happening with jobs in our state. Yet time and again outside various business premises in our state we have seen the rights of those businesses being impeded by protesters who are not protesting lawfully and are not peaceful. I will come to that in a minute.

The bill protects people's right to express their views and interests in a legitimate way and continue to protest; however, it extends powers to deal with people who are impeding others from lawfully accessing a premises, who have committed an offence in a public place, who are causing others to have a reasonable fear of violence or who are endangering safety or engaging in behaviour that is likely to cause damage to other people's property.

Mr Pakula interjected.

The ACTING SPEAKER (**Mr McCurdy**) — Order! The member for Lyndhurst has had his chance.

Mr SOUTHWICK — This is not about those people who want to peacefully protest and express their views. This is about the unlawful thugs who support the Labor Party. It is about the union mates who support and fund the Labor Party. The Construction, Forestry, Mining and Energy Union has been out there engaging in unlawful behaviour on building sites and has actively sought to disrupt business and ensure that business comes to a standstill while union protesters are there. We saw that with the Grocon action, which led to losses of $500 000 a day — a total of $10 million worth of damages — due to inactivity as a result of the union blockade that brought the streets to a standstill.

We saw it with the east–west link protests, which the member for Lyndhurst says did not cost taxpayers a dollar. Let me draw to the attention of the member for Lyndhurst the fact that the police response to try to keep people safe covered 2575 8-hour shifts and is now estimated to have exceeded $1.65 million in taxpayer money. Police have pinpointed 10 people who broke the law in their efforts to prevent construction of the east–west link from taking place. This is not about a peaceful protest. It is about demonstrators stopping an economic activity that provides jobs and ensures that Victoria remains open for business.

The Labor Party wants to shut the door and say, 'No, we're going to look after our union mates'. I refer to Baiada Poultry in Laverton, which lost over $1 million in spoilt chicken as a result of protesters. They locked the doors during that protest. A small business owner who had two trucks inside the facility was not able to access the facility to get his spoilt chicken, and he lost his small business as a result of being locked out of that plant. Electricity was shut down and no diesel was allowed into that plant, and as a result of the protest that small business and many other small businesses lost work.

I now turn my attention to the boycott, divestment and sanctions (BDS) campaign protests. We have seen a series of BDS protests. Opposition members are shaking their heads, and so they should be. Firstly, in December 2010 we saw a protest in Melbourne Central shopping centre. The protesters had agreed with police that they would peacefully protest — this comes to the crux of what this law change is all about — but they then went into Melbourne Central, completely took over the shopping centre and protested until activists had to be removed from that site. In the second incident protesters went to the Park Hyatt Melbourne hotel and continued that behaviour.

Mr Pakula interjected.

Mr SOUTHWICK — I will come to that.

The ACTING SPEAKER (**Mr McCurdy**) — Order! The member for Caulfield should speak through the Chair.

Mr SOUTHWICK — In February 2011 there was another protest where police again had to physically remove protesters who were impeding business at a store. It shut down the whole shopping centre precinct for a number of hours. A number of small businesses were affected as a result of this.

In April 2011 a Jericho cosmetics store, a small business, closed because of two previous protests. The business owners decided to close the store because they were not going to deal with protesters again. That was not good enough for the protesters; they wanted to get someone, so they went to the Max Brenner store. The Max Brenner protest involved physical confrontation with police members, and the demonstrators were moved on. There were altercations with police, and 10 police members sustained minor injuries as a result of the protest — so much for the claims of a peaceful protest from the Labor Party.

In the fourth protest, again in 2011, the police public order management unit was brought in to help police at the event with the intention of making arrests. At this stage no arrests were made. The protesters could not get close to the store because they were surrounded by police trying to protect the shop owners and the businesses, so the protesters decided to take up positions on the ground and first levels of the shopping centre. On this occasion Melbourne Central was again stampeded by these protesters and shut down for a number of hours. Not one store, not two stores, but the whole of Melbourne Central was shut down as a result of this.

A fifth protest took place at a subsequent time. Some protesters went into the Max Brenner store while others waited in another wing. The protesters who went into the store had jumpers on and appeared to be consumers. At a given time they took off their jumpers and were wearing shirts with protest slogans. They chained themselves to the chairs and tables in the store and the protesters in the other wing came into the store. An altercation took place and 19 arrests were made.

Honourable members interjecting.

Mr SOUTHWICK — Here is the kicker for the vocalists on the other side: all the 19 protesters arrested were let off under the current laws because in those circumstances they were not breaking the law. They could chain themselves to furniture in the store, shut it down for hours, block traffic and block people from coming into the store, but they were all let off because the current law does not provide for move-on powers. The current law does not provide for those who shut down businesses and aggressively protest, but the Labor Party is happy for these protesters to continue aggressively doing what they are doing — shutting down businesses one after the other and targeting businesses in Victoria.

Honourable members interjecting.

The ACTING SPEAKER (**Mr McCurdy**) — Order! The member for Yuroke!

Mr SOUTHWICK — If opposition members were genuine, they would distinguish between what are genuine, peaceful protests and what is a disgraceful attempt to shut down and disrupt a business and harm not only that business but its employees, the shopkeeper, shoppers and everybody else around the store.

This legislation is designed to restore activity, restore confidence and give police necessary powers. Opposition members should be standing up for the Victorian policemen and women who have to deal with these disgraceful activities. They should be standing up for those Victorian police who have to cop it on the chin time and again. The police have told us there is nothing they can do under the current laws. Under these new laws we are giving them the opportunity to do something about it — arrest those behaving disruptively, stop that sort of activity and allow businesses to get on with what they do best. The bill is designed to allow businesses to be successful, not be shut down, and to provide jobs, not cut jobs, as the Labor Party wants to do.

Mr MERLINO (Monbulk) — The Labor Party vehemently opposes the Summary Offences and Sentencing Amendment Bill 2013. I oppose this bill on behalf of the community I am proud to represent. Labor opposes this bill because it is grossly antidemocratic. The bill seeks to criminalise all forms of peaceful community protest. The single biggest issue in the Dandenongs is the establishment of a McDonald's franchise in Tecoma. As many members would be aware, it is the subject of a massive and peaceful community protest.

On Tuesday members of my community — local mums and dads — protested on the steps of Parliament House against McDonald's in Tecoma. During debate on this bill, as the shadow Attorney-General, the member for Lyndhurst, was on his feet leading Labor's opposition to the bill, the Treasurer said the McDonald's protesters should have been moved on. That is the truth of what is behind this legislation. I tell the Treasurer that every single person in Tecoma and right across the Dandenongs will be made aware of his comments.

Mr O'Brien interjected.

Mr MERLINO — 'Terrific', the Treasurer says. He can rest assured that that will happen.

Eleven hundred and seventy submissions opposed the application to council, and they did so because this McDonald's would be completely and utterly out of character with the Dandenongs and would set a disastrous precedent. Council unanimously opposed the application. The Victorian Civil and Administrative Tribunal (VCAT), in a reprehensible decision, overturned that democratic decision of council. The Napthine government has done nothing to resolve this issue. Indeed in this bill the government seeks to blame and curtail the rights of the Dandenong Ranges community.

The failure of VCAT and this government has not deterred the community. There have been public rallies of thousands and thousands of people, almost daily protests and a petition of well over 100 000 signatures. A survey was conducted and every house in Tecoma was doorknocked with one question: 'Are you for or against the proposed McDonald's in Tecoma?'. Almost 90 per cent opposed it. The people of Tecoma and the Dandenong Ranges do not want it, and in our democratic society they have every right to have their voices heard and to protest peacefully against this inappropriate development. They have been a constant presence at the construction site — and good on them, I say.

On 16 July last year McDonald's issued a writ against eight protesters who became known as the Tecoma 8. On 18 July McDonald's obtained an interim injunction in the Supreme Court that included not only the original eight protesters but anyone else who had obstructed a vehicle or trespassed in the previous two weeks. 'Anyone else' — does this sound familiar? On 28 July, 3000 to 4000 people turned out to protest on the streets of Tecoma — local residents, mums and dads, who do not want this facility built.

The law firm Maurice Blackburn took up the case. It stated:

> Maurice Blackburn represented the 'Tecoma 8' pro bono because we believe peaceful protest is fundamental to civil rights and democracy.
>
> …
>
> We believe the legal action and tactics being used by McDonald's Australia to stop protesters in Tecoma, Victoria, were an affront to civil liberties.
>
> An interim Supreme Court injunction restricted the movement of people who had protested against the development. The final orders sought by McDonald's involved a group being appointed as representatives of a much larger group. If made, they were likely to be so broad in their application that they could have applied to people who did not know they were subject to them …
>
> This case went beyond Tecoma. The orders were intimidating for many community activists because they bound an ill-defined class of people, and were structured in such a way that, if successful, could have had significant implications for other community protests.

Following mediation McDonald's abandoned the lawsuit. The Napthine government, through this draconian and antidemocratic bill, is seeking to do what McDonald's failed to do. The Napthine government is acting against the community of the Dandenong Ranges, and this bill is an affront to those people. It provides powers to police to move on one person or many, to break up community protests and to arrest protesters if they have a reasonable suspicion that someone is impeding or attempting to impede. Deputy Speaker, when you have 4000 people marching down Burwood Highway, it is a bit hard, don't you think, not to be impeding?

If the police choose to move people on, as the Attorney-General said in his second-reading speech:

> … police and PSOs may give one direction to an entire group rather than having individually to direct each person in the group to move on.

If those 4000 local residents marching down Burwood Highway are told by police to move on and they choose not to, they could be arrested. They will be ordered to give their names and addresses. Those names and addresses could be retained, and then the police could apply for an exclusion order — an exclusion order for 4000 local residents — to say that they cannot congregate around Tecoma to express their concern about the McDonald's.

Through this bill this government is criminalising the peaceful community protest of thousands of my constituents. Labor will never support this. Through this bill the government wants to destroy the local campaign to stop McDonald's in Tecoma. Just a few minutes ago the Treasurer exposed the truth of that. He wants the protesters to be moved on, he wants the police to — —

The DEPUTY SPEAKER — Order! The member knows it is disorderly to respond to interjections, and I would suggest that he does not respond to the interjection from the Treasurer.

Mr Pakula — The Treasurer is not even here!

The DEPUTY SPEAKER — Order! I am the Chair here. I have said it is disorderly to respond to interjections. It does not matter when the interjection was, it is disorderly to respond to it.

Mr MERLINO — I refer to comments from Maurice Blackburn, which acted pro bono on behalf of the Tecoma 8. Maurice Blackburn lawyer Elizabeth O'Shea said this about the bill:

> It effectively criminalises a range of behaviours that are fundamental to freedom of assembly and freedom of speech. The right to protest has resulted in hard-won freedoms we all enjoy and curbed excesses of corporate and political power. Why is the Victorian government so frightened of people congregating to express their views?

Why is the Napthine government so afraid of my community in the Dandenong Ranges? Labor is opposing this bill and, as the shadow Attorney-General pointed out, if we are elected to government in November, Labor will repeal the legislation.

I challenge the future Liberal candidate for Monbulk to make that same commitment in the lead-up to this election. I will be putting that to the future Liberal candidate for Monbulk, everyone in Tecoma will be putting that to the future Liberal candidate for Monbulk, and we will find out if that candidate has the same view as the Treasurer, the Premier, the Attorney-General and everyone on the government benches who feels that it is appropriate to produce a piece of legislation that is so antidemocratic, so like what Joh Bjelke-Petersen would have produced in Queensland many years ago. That is what this government has produced. Labor will oppose the bill, and Labor will repeal the legislation if elected in November.

Mr NEWTON-BROWN (Prahran) — The Summary Offences and Sentencing Amendment Bill 2013 is yet another election commitment being fulfilled by the coalition government. We promised we would set up banning notices for people convicted of violent assaults in licensed premises and give police and licensees the tools they need to make sure that they are safe when people socialise on licensed premises. This is what we are doing with this bill, but it also goes much further. As we heard during the harangue by the member for Monbulk over the last 10 minutes, the bill also gives police the power to move people on.

Much misinformation has been spread, both in the chamber today by the members for Monbulk and Lyndhurst and more generally by the union movement. There has been a lot of froth and bubble about rights being protected and the freedom of people to demonstrate and protest. This bill does nothing to impinge on those rights. Peaceful demonstration is a cherished part of our democracy, and it is not impacted by this bill. The right to protest or demonstrate is not absolute. The members for Lyndhurst and Monbulk seem to think that those rights should not be tempered in any way.

The new human rights commissioner, Tim Wilson, took up his post this week. He is one of my constituents. In one of his first interviews he said that freedoms are not absolute; they must be tempered by the impacts they have on other freedoms. In other words, freedom cannot impinge on other rights which are as legitimate. Therefore it is okay to exercise your right to demonstrate as long as that right to demonstrate does not impinge on other people's rights not to be intimidated, threatened, harassed or attacked. It is not okay to demonstrate if that involves forcibly preventing people from entering their workplace. It is not okay to demonstrate if that involves punching police horses or running over people in vehicles.

Are these the freedoms that the member for Monbulk is seeking to protect? Because every one of those things happened at a demonstration at the Myer Emporium site in 2012. I went for a walk down there when the picket line was in force, and I have to say it was an intimidating sight. Large numbers of workers were blocking the entrance to the building site, there was a lot of yelling and screaming, and the Grollos sustained an attack on them which went on for weeks. The police had inadequate powers to move on the violent protesters.

As an aside and by way of disclosure, I worked for the Grollos for three months as a labourer on one of their building sites. I was an undercover lawyer. I was working in construction law, and I was sent to learn about construction hands on, so I worked at the State Electricity Commission headquarters site in Flinders Lane. It was quite an experience. I went through various trades — concreting, steel fixing, installing conduits — but my cover was blown early on, perhaps by the neat creases my mother had ironed in my overalls. Despite this, the workforce was happy to have me there and I learnt a lot. There was a little bit of gentle bastardisation — I was given a homemade hammer made out of a bit of water pipe, which was balanced like a sledgehammer — but I was happy to endure that and was certainly happy to be out in the open air, learning a bit about the practicalities of the area of law in which I was working.

One thing that struck me, however, was the loyalty of the Grollo workforce. It was like one big family. Workers were looked after, and those with special needs were looked after. It was not about fighting for awards and conflict between boss and worker; it really was an atmosphere of respect and mutual care that permeated that workforce. So it did not surprise me to

hear that the Grollo workforce united against those union picketers. People were drawn in from outside that site to protest, and the Grollo workforce, many of whom were union members, actually asked the picketers to go away. All they wanted to do was to turn up to work for their employer and do the job for which they were being paid.

I refer briefly to an article by Daniel Grollo which was published in the *Financial Review* this week. He set out the sequence of events that led to this picketing, which he said started 12 years ago when the Grollos took a stand against lawless behaviour by unions. The Construction, Forestry, Mining and Energy Union (CFMEU) secretary at the time simply said, 'We'll just smash them', and that is what they tried to do. Mr Grollo noted that many of his subcontractors and suppliers could not stand the heat, could not stand the weight of the campaign against them, and he is thankful that there will soon be a royal commission to put the construction industry under the microscope.

Mr Grollo shed light on the CFMEU 'business model', stating that the standard practice is for the CFMEU to demand that a construction company employ a union colleague that it nominates. Once that occurs, if the company caves in and agrees, the union then has a foothold to take control of the operations and shut down the site industrially, should there be any challenge to the union's power in the future.

August 2012 was when the CFMEU marshalled those thousands of workers from other building sites. It made the claim that Grocon was anti-union and had shocking safety standards when in fact the federal safety watchdog had just recognised Grocon as having the best safety systems across the whole industry. Certainly the employees of Grocon did not support the union's claims on safety. They were spurious claims with a spurious basis on which the violent picket line was established. The Grocon workers themselves went public, put their necks on the line and wrote an open letter, simply asking that the basic rights that the union leadership enjoyed also be extended to the workers on the Grocon site — that is, to be able to go to work, to have the respect of the union, of the workers and of the company, and for business to continue without these sorts of illegal disruptions.

Therefore the question has to be asked: is this what the ALP is seeking to protect? Is it seeking to protect the rights of people to demonstrate in a way which is illegal and which is against the interests of those workers who wish to enter their workplace in a legal manner? It is clear that there are numerous other examples as well. The Max Brenner case is another high-profile example of an inappropriate demonstration, with the boycott divestment and sanctions (BDS) organisation protesting outside the Max Brenner stores. Again, this was a disgusting and in this case also a racist campaign that simply overstepped the mark and had a terrible impact on the business of Max Brenner. It scared customers away. Is this really the freedom the ALP wishes to protect — freedom for the BDS organisation to protest against businesses such as Max Brenner?

The coalition government is prepared to stand up for the Jewish community — for the whole community — when it is attacked by unlawful picket lines and unlawful demonstrations that overstep the mark, from free speech to impacting on those other rights we also hold dear. With this legislation a clear message is being sent: peaceful protest and peaceful demonstration is encouraged — it is part of our democracy — but the community does not think it is okay to stop people going to work through fear and intimidation, the community does not think it is okay to violently attack police who are trying to uphold people's rights to go to work and the community does not accept that protest can be used for ugly, racist attacks on decent, law-abiding people. The bill should be supported by the opposition, and I commend it to the house.

Mr WYNNE (Richmond) — I rise to make a contribution to the Summary Offences and Sentencing Amendment Bill 2013 following the superb contributions by the shadow Attorney-General and the Deputy Leader of the Opposition. In doing so I reiterate the fundamental position of the Australian Labor Party that not only do we oppose this bill but that if we are given the honour of being elected at the end of this year, we will repeal this bill as one of our first actions in government.

Why do we make this commitment? We do it for some very fundamental reasons. This bill essentially erodes the hard-fought-for rights of people to protest in this state. Its genesis is a deep, abiding and visceral hatred by this government of people who seek to show dissent, people who seek to organise themselves, people who are part of organised labour, people who are part of the trade union movement. We see this demonstrated every day by this unelected Premier when he comes in here at question time. There is nothing that excites this Premier more than bashing the Labor Party and the trade union movement. These are the only two things in life that give him pleasure. It is the same old shtick by this government.

All this morally bankrupt government can do is bring forward this sort of legislation that essentially erodes the fundamental rights of citizens in our community to

stand up and protest when they see decisions proposed by this government that are wrong. It is wrong in relation to the east–west tunnel, which is a fundamental mistake that has been made by this government. I support the right of members of my community to protest peacefully against the east–west tunnel every single day. I support the people of the community of Tecoma if they want to stand up and express their views about decisions made and about how their community ought to operate in the future. I also support the right of members of the trade union movement to peacefully protest to ensure their fundamental rights are protected. That is why we oppose this legislation. It is draconian and antidemocratic, and it echoes back to those very dark days of the Bjelke-Petersen government. Who could ever forget those days when, if more than two people — three people — congregated together it was an illegal act. We see the views of this deeply conservative Attorney-General echoing through this legislation. That is very clear to us.

There are a number of aspects to this bill that I think are extraordinarily dangerous. The first is that in the context of this bill a police officer or a protective services officer (PSO) merely needs to suspect on reasonable grounds that a person has committed an offence in that place or is causing a reasonable apprehension of violence in another person, is causing or is likely to cause an undue obstruction to others or is present for the purposes of procuring or supplying drugs. The bill refers to reasonable grounds. I was very concerned after having recently read a really excellent brief provided to, I think, all members of Parliament by the Fitzroy Legal Service.

It provided a brief to us to inform the community of the potential impacts of this bill. The briefing paper was provided by Meghan Fitzgerald, the solicitor for the Fitzroy Legal Service, and is endorsed by no less prestigious organisations than the Salvation Army; the Council to Homeless Persons; the Victorian Drug and Alcohol Association; HomeGround Services, one of our major and distinguished emergency housing providers; Youth Projects; Justice Connect: Homeless Law; Flat Out; the Victorian Aboriginal Legal Service; and others. These are prestigious organisations, particularly the Salvation Army. They have noted that very deep concerns have been expressed about the potential impact of this particular bill on the most marginalised communities.

It is not surprising that I would deal with this issue, given that I have a long history of working with and supporting marginalised communities, not only in my own electorate but more generally across the state. What strikes me particularly about this bill is the aspect of it that goes to the question of someone causing or being likely to cause an undue obstruction to others. I will tell the house the story of where I was on Sunday. I went down to Enterprize Park to represent my party and to acknowledge the tragic death of a homeless man called Mouse, who had been stabbed to death in the viaduct underneath the railway line at the park.

I went to that event with members of the Salvation Army and with the Lord Mayor and other distinguished people. I was simply there to acknowledge the fact that not only had dreadful harm being done there but to say more broadly to the community that homeless people are welcome, that there is a place for homeless people in this city and that this poor 42-year-old man's life had not been taken in vain. I was there to say that we as a community were prepared — and there were perhaps 200 to 300 of us present — to stand up together and say, 'No, your life actually did amount to something, Mouse. We do acknowledge your life, and in the future we need to do better when we are trying to deal with homeless people in this state'. Certainly the legacy of this government thus far is a very sad legacy when it comes to addressing homelessness.

What does the bill mean for those displaced people? Causing unreasonable obstruction is one of the tests for whether a PSO or police officer can move somebody on. The people who are sleeping under that viaduct may well, in the context of this bill, cause unreasonable obstruction. They may offend people because they are living in the public realm. This is where they live. I invite any member to go over to the substation in Fitzroy Gardens at the back of this Parliament House at lunchtime today, because what they see might offend them. There will be homeless people sleeping around that substation tonight. Members may find that offensive and an unreasonable obstruction. Indeed Victoria Police could find that an unreasonable obstruction as well and move those people on, but move them on to where? They have nowhere to go, and that is why they are sleeping in parks. That is why people are sleeping in vulnerable conditions underneath the viaduct at Enterprize Park.

The bill is completely unreasonable. It is unjustified that this piece of legislation is before the Parliament. It will deleteriously impact upon the most vulnerable people in our community. I refer not only to homeless people but also to my friends in the Aboriginal community, who also live in the public realm because that is how they choose to congregate. Smith Street is a major connection point for members of Aboriginal communities moving through Melbourne and seeking to link up with relatives and friends. There is absolutely the potential that someone will create an unreasonable

obstruction and the police will be able to move them on.

I submit that this piece of legislation is deeply rooted in the most conservative elements of this government. It is a shameful piece of legislation. It seeks to vilify and criminalise organised labour in this state, which is a shameful thing. Indeed it has the real potential to inflict very severe harm on the most marginalised in our community — people who live their lives in the public realm. Shame upon the government!

Dr SYKES (Benalla) — I rise to contribute to the second-reading debate on the Summary Offences and Sentencing Amendment Bill 2013. I wish to make it very clear that I strongly endorse the bill. It is yet another plank in our government bringing law and order to Victoria and delivering what most people want — that is, to be able to feel safe in our community and go to work safely.

We have heard the rhetoric from those on the other side. Crouching Tiger pounced today. After a series of insipid performances, the member for Lyndhurst launched into a tirade that was high on emotion, passion and rhetoric but out of touch with what most Victorians want. As I said, most Victorians want to be free from dangerous and threatening situations. They want to be able to walk the streets and go to work without threats to their safety. They do not want taxpayers dollars to be wasted on controlling violent protesters, and they do not want law enforcement officers to be put at risk of injury as a result of the unruly and at times absolutely disgraceful behaviour of some protesters.

The member for Caulfield drew on some examples, and I encourage people to read his contribution in *Hansard*, because it is quite clear that a number of these protests have been expensive to deal with and that serial offenders — people who continually break the law — have been identified. I think it was the member for Prahran who indicated that under the current laws there are problems with bringing those people to justice. We saw the Leader of the Opposition standing shoulder to shoulder with the Construction, Forestry, Mining and Energy Union (CFMEU). At the same time, through the media and other means, the outrageous, illegal behaviour of members of the CFMEU has been exposed — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! We listened to the member for Monbulk, and now he should listen to the member for Benalla.

Dr SYKES — The people I represent have had a gutful of this sort of behaviour. They strongly endorse the action being taken by the Liberal-Nationals coalition government. I also reject the assertion — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! Interjections are part of debates, but the language has to be appropriate for Parliament. The calling of names across the chamber will not be tolerated.

Dr SYKES — Thank you, Deputy Speaker, for that welcome protection. The member for Lyndhurst's opening assertion that this legislation will potentially criminalise all forms of protest in Victoria is outrageously out of touch with the reality. I reiterate that people who protest peacefully will continue to have that right — that right will be protected.

On the subject of protesting, I note that previous members have referred to a role I have played in protesting, in particular my role in the Plug the Pipe protests. We protested peacefully, and yet members of the then Labor government referred to us as 'ugly, ugly people', 'quasi-terrorists' and a 'sorry bunch of people'. Just to make it clear that that is not a figment of my imagination or a reflection of the passing of years, my staff checked with the parliamentary library this morning. The library came back with the following information to validate the statement I just made:

> Peter Batchelor first referred to the pipeline protesters as ugly, ugly people when they were brought into the gallery on 5 February 2008 …

And:

> Mr Holding referred to The Nationals as a 'sorry bunch of people' and that the protesters had 'quasi-terrorist threats' on 21 November 2007 …

That is documented. It is a fact that those on the other side, who at this stage say they are going to stand up and purport to represent the people, made those outrageous accusations against people protesting legally. Of course, as history has shown, the Labor Party was thrown out of office. The former Labor Premier resigned, as did the former member for Thomastown and the former member for Lyndhurst. And of course our government plugged the pipe.

We can also refer to a more recent protest experience, where under the existing legislation it would be fair to say that I and, I believe, some members of the opposition may have felt unnerved when we were seeking to go from Parliament House to the Windsor Hotel. Members of Parliament in the state of Victoria

were seeking to cross from this building to the Windsor Hotel to participate in a function being conducted by members of the Jewish fraternity. We had to assemble in this place and walk across that street surrounded by a cordon of police — police on either side — and three police horses leading the way. I felt uncomfortable about that, and I observed protesters attempting to injure those horses and in the process making MPs of this state feel threatened. This legislation is about protecting the rights of the majority of Victorians and enabling peaceful protest but saying that violence, threatening behaviour and serial offending are things we have had enough of and that those involved should move on.

Moving on to the alcohol-exclusion orders, this is again sensible legislation. We have all heard of the consequences of alcohol-fuelled violence. Like many others, I have personal knowledge of it. One my footy teammates, Terry Keenan, was in a pub celebrating a football victory in the Goulburn Valley and as a result of someone being affected by alcohol he was king hit. He went down and as a result suffered severe brain damage. Ultimately his life support was turned off. I should say that in that case the person who allegedly threw the punch was not found guilty, but it is an example of a situation where alcohol-fuelled violence resulted in tragic consequences. I and many others miss our good mate TK.

This legislation is about toughening up on people who are perpetrators of alcohol-fuelled violence. It will enable exclusion orders to ensure that these sorts of things are limited. It is part of an overall package where we seek to provide the legislative ability to toughen up on people. However, in cases of alcohol-fuelled violence and protesting it is about producing a cultural change, getting acceptance of that and as a community rejecting the idea that alcohol-fuelled violence is okay. It is about rejecting the idea that there is a need to get fully tanked and then do things that are unacceptable. It is about rejecting non-peaceful protest.

I imagine many of us have travelled to other parts of the world where people do not enjoy the democracy we have. They realise that what we have here is special and needs to be protected. That is why we are putting in place legislation that further addresses the issue of alcohol-fuelled violence but importantly also protects the right of people to protest peacefully. It absolutely rejects the ability of people to be violent and disgraceful and to put people at risk and cost taxpayers money. It is totally unacceptable behaviour in our democracy.

Ms GARRETT (Brunswick) — It is with great passion that I rise today to speak on this draconian and disgraceful piece of legislation that has been put before the house. Having heard a passionate contribution from the member for Benalla about the Plug the Pipe protest and the journey those people went on and having seen the passion on the member for Seymour's face, as we stand here it is worth noting how people feel when there is something that strikes at the heart of their community — when they are concerned that something is going to destroy or impact negatively on their community. In such cases people come together, organise and stand up for the rights of that community.

It is very similar to the Construction, Forestry, Mining and Energy Union, which has to have a funeral plan offered to its members because so many people die on building sites. That is why it gets so passionate about occupational health and safety. It is so relevant to members of the Maritime Union of Australia, which lost an entire generation of people because they loaded asbestos off the wharfs, day in, day out, and which stood with Bernie Banton when the James Hardie company tried to get out of this country without paying for its obligations and when there were thousands of people protesting in the streets about that issue. We on this side of the house, and we hope those on the other side of the house, feel pretty passionate about those issues. Clearly we feel that people have the right to come together to organise and stand up for occupational health and safety and stand up for just compensation when people are injured or die at the hands of negligent corporations.

We in this place operate under a solemn covenant with the people of Victoria. We are given a great privilege to make laws — to debate laws and pass them. That covenant means that we must stand here and protect the rights and freedoms of the citizens of this state, particularly those who have a small voice. This must be done especially when it is inconvenient, politically embarrassing or hard for those who hold the reins of power, because to fail to do so is to break the covenant the government makes with Victorians to look after their rights and their freedoms.

To go back to the Plug the Pipe protests, these clearly caused the former government a considerable amount of political pain. They were embarrassing, difficult and hard to manage, but the former government did not introduce legislation to take away the right of those people to protest. The former government understood that people have the right to protest, particularly when it is embarrassing and inconvenient to government.

This Parliament has a responsibility to ensure that the checks and balances that remain in our democracy are upheld. Hard-fought freedoms and rights can be torn

away in an instant, and that is what this legislation does. This legislation gives police an extraordinary and unchecked power to move protesters on if they suspect the protesters have committed an offence, if there is a reasonable apprehension of violence, if a protester is likely to cause an unreasonable obstruction to others or is impeding or attempting to impede any person from lawfully entering or leaving premises or part of premises. These are huge, sweeping, discretionary, unfettered powers that will apply to all protests.

An honourable member interjected.

Ms GARRETT — Read the legislation. In the checks and balances of our democracy we do not allow this Parliament to have unfettered — —

Mr Burgess interjected.

The DEPUTY SPEAKER — Order! The member for Hastings will get his turn.

Ms GARRETT — We have courts and tribunals which are independent from government and which are there to ensure that the rights and freedoms of citizens are protected and are not subject to the whims of the government of the day. It is always tempting for any government to come in here and hack into those rights and freedoms because it is politically inconvenient and embarrassing for those rights and freedoms to be upheld. People who stand up and say, 'We dislike decisions of this government' cause the government pain, so no doubt it is always tempting for members on that side of the chamber to squash that sort of dissent. But a test of true character for those who hold the reins of power is that they do not give in to that temptation, that they understand there is a broader matter of principle and a broader responsibility and that they are custodians in this place of democracy, which as we know is a fragile beast and can be trampled on and dismantled very quickly.

We have had some very passionate contributions. The Deputy Leader of the Opposition spoke at great length and with great measure about what has happened in his community regarding the proposed McDonald's in Tecoma. We have talked about what has happened with nurses protesting and having thousands of people in the street protesting about health issues. We have talked about paramedics and the ambulance crisis that is crippling this state.

Time and again people have to take to the streets to have their point heard and to ensure that the broader community understands these issues. We have had protests by taxi licence holders and teachers, and we have had anti-fracking protests in regional Victoria. These are all important, precious expressions of our democratic rights, and they are vehicles by which people can achieve change when things are wrong. Let us face it: no government has all the answers. No government under our democratic system should be able to dictate everything. This is a vibrant democracy with those checks and balances.

This gets back to this government's obsession with the union movement. We have a fundamental right as citizens in this country to have freedom of association, and there is a reason we have this right. It has been a hard-fought — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! If the members for Monbulk and Gembrook wish to continue their conversation, they can take it outside the chamber.

Ms GARRETT — It has been a hard-fought right, because for many centuries those without bargaining power were exploited and treated appallingly. They came together collectively to organise, to address the power imbalance and to demand proper terms and conditions of employment. This is a noble, fundamental right. It is a fundamental right for those workers who are given the benefit of that collective action.

It is a fundamental tenet of our democratic system that we have checks and balances, that the powerful members of our community do not always have the final voice, and that people can stand together and say, 'This is unacceptable. We demand outcomes that benefit the collective, the whole or more than just those who hold the reins of power or the reins of money'. This is what is so deeply disturbing about this legislation. It gives so much unfettered and unchecked power to police to move people on, and not just move them on but to take their names. They can be in a book for 12 months. Shut it down!

This is not said lightly by members on this side of the house, but this legislation is similar to that introduced by a former Premier of Queensland, Joh Bjelke-Petersen, whereby if two people were together, it was an unlawful association. This is a very slippery slope that will impact dramatically on the rights of all of our citizens. Those of us who have lived in Queensland or know people there are aware of the dark days when civil liberties and rights — —

Mr Pakula interjected.

The DEPUTY SPEAKER — Order! The member for Lyndhurst should listen to the member for Brunswick.

Ms GARRETT — We stand here proudly as a party united with our brothers and sisters in the trade union movement. We stand here proudly with the citizens of Victoria who want the right to be able to call on this government to change its legislative agenda and to implement policies to protect their communities. We do so with passion and pride. If we are elected in November, this legislation will be repealed. We call on this government to reflect on its covenant with the Victorian people. Once again we are here debating an absolute breach of that covenant. Those opposite should hang their heads in shame.

Mr WATT (Burwood) — I rise to speak on the Summary Offences and Sentencing Amendment Bill 2013. I have sat here for the whole debate and listened to the empty rhetoric from those on the other side. The member for Brunswick has been the only one on the other side who has provided any real substance or has not overinflated figures. The member for Brunswick has quite clearly put it out there and she has exposed why those on the opposite side are so opposed to this bill. I think I heard the words 'union', 'CFMEU' and 'brothers and sisters' scattered throughout the speech. It was all about the masters of those on the other side who are pulling the strings, organising their preselections, deciding who comes into this place and deciding what they will say. It is all about those on the other side who are dancing to the tune of their masters, and that is why they are so opposed to this bill.

Honourable members interjecting.

Debate interrupted.

SUSPENSION OF MEMBER

Member for Lyndhurst

The DEPUTY SPEAKER — Order! Under standing order 124, I ask the honourable member for Lyndhurst to vacate the chamber for 60 minutes. That language will not be tolerated; it is unparliamentary.

Honourable member for Lyndhurst withdrew from chamber.

SUMMARY OFFENCES AND SENTENCING AMENDMENT BILL 2013

Second reading

Debate resumed.

Mr Merlino interjected.

The DEPUTY SPEAKER — Order! The member for Monbulk is warned. The member for Burwood to continue, without assistance.

Mr Merlino interjected.

Mr WATT — Deputy Speaker, I ask the member for Monbulk to withdraw the comment he just made.

Mr Merlino — What, that I agree with the member for Lyndhurst?

The DEPUTY SPEAKER — Order! The member for Monbulk!

Mr Merlino — What do I withdraw? Is it that I agree with the member for Lyndhurst, Deputy Speaker? Is that what I am withdrawing? I am not sure.

Mr WATT — Stop being an idiot.

The DEPUTY SPEAKER — Order! I am on my feet and the member for Melton knows that when I am on my feet he should not speak.

Mr Nardella — I didn't.

The DEPUTY SPEAKER — Order! The member for Burwood has taken offence to a comment made by the member for Monbulk. I ask the member for Monbulk to withdraw.

Mr Merlino — I withdraw.

Mr Pallas — On a point of order, Deputy Speaker, in the interests of the dispassionate application of sessional orders in this place, you expelled from this chamber, for an hour, the member for Lyndhurst because he used a term that was unparliamentary. The member for Hastings has described the member for Monbulk as 'an idiot'.

Mr Burgess — No, he didn't!

Mr Pallas — Let me assume that you heard, Deputy Speaker.

The DEPUTY SPEAKER — Order! I did not hear.

Mr Pallas — I will not persist.

The DEPUTY SPEAKER — Order! I thank the member for Tarneit. The member for Burwood to continue, without assistance.

Mr WATT (Burwood) — I know those on the other side do not like to hear it but the truth is the truth, and it is interesting to note that they do not want those on this side to be able to get up and put our point of view about the fact that those on the other side do not really have a point of view. It is about their being puppets to their masters, and they do not really have any ideas for themselves.

What I would say is that the member for Brunswick also mentioned extraordinary power. I note that the current act talks about being able to reasonably suspect a person. The act already has provisions covering reasonable suspicion and all we are doing is putting in a few more provisions to cover where 'the person is … impeding or attempting to impede another person from lawfully entering or leaving premises or part' thereof. I do not think many people in society would actually think that you should be able to stand in front of somebody and stop them from going to work. You should not be able to come along with a bunch of your mates and stop somebody from operating their business. There are not many people in Burwood who come knocking on my door saying, 'I want to be able to stop people from going to the local coffee shop because I do not like them'.

If we consider the examples given by the members for Caulfield and Prahran — Max Brenner and the Myer Emporium work site in relation to those protests there — not many people in Burwood came knocking on my door and said, 'Leave them alone, let the protesters go about their business'. Not many people in Burwood came to my office and said that was an acceptable practice. The only people who think that is an acceptable practice are the members on the other side because they are the puppets of their union masters and are being told that is what they have to say.

Honourable members interjecting.

Mr WATT — Shame! Interestingly enough those on the other side — I think it was the member for Richmond — talked about a list of august organisations that were complaining about this bill. Many of those organisations contacted the Scrutiny of Acts and Regulations Committee (SARC), of which I am a member. We looked at the submissions they made and took the view, with the assistance of our human rights adviser — it is in the SARC report entitled *Alert Digest* No. 1 of 2014 — that:

> The Summary Offences and Sentencing Amendment Bill 2013 is, therefore, compatible with the rights set out in the Charter of Human Rights and Responsibilities.

If members on the other side do not like the rights that are set out in the Charter of Human Rights and Responsibilities, they should have fixed it when they introduced that bill in the first place. As I said, this particular bill meets those rights set out in the charter, contrary to the views of those on the other side. I listened to the member for Lyndhurst saying that the east–west link protest has cost no money. I refer to a *Herald Sun* article of 9 January which says that a bolstered police presence protecting the Alexandra Parade site is set to cost more than $336 000 in taxpayer funds. I know those on the other side cannot count, I know they cannot add up, but more than a month ago it had cost — and it is still climbing — $336 000. Opposition members might think it is pocket change. It is nothing compared to their $19 billion black hole in — —

An honourable member — It is somebody else's money.

Mr WATT — It is somebody else's money. It is nothing like the $19 billion black hole in their transport plan, nothing like the $1.8 million a day, every day, for the rest of the 27 years that people will be paying for the desalination plant, and nothing like the $3 billion they lost on the pokies. We have talked about the north–south pipeline and the $750 million that was spent by those on the other side. I understand that $336 000 might not be a lot of money to those people on the other side, but it is money that does not need to be expended, because at the end of the day people should be allowed to go about their business and do their work.

In my maiden speech I mentioned a song by The Masters Apprentices. The line I used was, 'do what you wanna do, be what you wanna be, yeah'. Most people would know the song and some people might actually remember my maiden speech. No, I will not sing it. I also said in my maiden speech:

> It is up to the government to provide the framework that will allow us, within reason, to achieve this.

That is what this bill is about. It is about letting us go about doing what we want to do and allowing protesters to protest, within reason. I do not have a problem with people protesting within reason. I further stated:

> … the individual must accept responsibility for their choices.

If you want to obstruct somebody who is going to work, if you want to obstruct people who are trying to open their businesses — —

Mr Nardella — Who? You?

Mr WATT — Any protester. If the Deputy Speaker wants to do that, if the member for Melton wants to do that, then fair enough, but this law says that you are not going to be able to obstruct people who are trying to go to work. I also said in my maiden speech:

> There are always consequences for our actions, some good and some bad.

We are putting into place a law which will say that you cannot obstruct people who are going about their lawful business. It is lawful to build a building, it is lawful to sell coffee, it is lawful to sell hot chocolate, but it is not going to be lawful to close down a business just because you do not like the fact that they may be related somehow to some Jewish organisation that has nothing to do — —

Mr Nardella — What are you talking about?

Mr WATT — It is strange that people on the other side do not seem to understand that you should be able to do what you want to do, as long as it is lawful and does not obstruct other people. This bill is putting that into practice. I commend it to the house.

Ms D'AMBROSIO (Mill Park) — I am not sure that I heard it all, but who on the other side could go past the comments of the member for Burwood? I will put it simply, because there are many on this side of the house who want to contribute to this very important bill, the Summary Offences and Sentencing Amendment Bill 2013. I will confine my comments to 5 minutes. This bill is nothing more than a Trojan Horse ridden by the ghost of Joh Bjelke-Petersen. I remember the times of Joh Bjelke-Petersen. I remember the flight of many Queenslanders who got caught up in peaceful, legitimate protests on the streets at a time when not even five people could congregate without breaking the law because of the conservative bent of an illegitimate government in Queensland. This bill stinks of that.

I remind the house of the legitimate protests of ordinary Victorians that have occurred and will continue to occur, whether it is a single Victorian, such as the one who has been sleeping on the steps of Parliament for weeks on end now, or hundreds and thousands of Victorians who want to legitimately express a view about whatever it is that is of concern to them — government policy, opposition policy or whatever it might be. They all have a right to protest and they should not be exposed to the type of draconian legislation that we are now sadly debating in this house. I am proud to be a member of an opposition that has declared unequivocally that in the event of its winning the election in November it will repeal this insidious legislation.

Let me remind the house of the kinds of protests that this bill will seek to scuttle. Taxi licence holders protested peacefully late last year outside the office of a member for Northern Metropolitan Region in the Council. The member called the police on that peaceful protest of family members who, under this government, were going to lose their livelihood and perhaps their house. That is the attitude of this government. Is it any wonder that today we are confronted by this bill and this insidious Trojan Horse, which will allow this government to take action in relation to protests by ordinary Victorians?

Many Victorians do not have access to the ears of government through any means other than their own voices and their own presence. They seek to collectively take a stand for what they believe is right. Whether I agree with them or not, whether the government agrees with them or not, everyone has the right to do that. It may be taxi licence holders or it may be textile, clothing and footwear workers who are losing their jobs marching down the street. It may be people like my mother, who did that. It may be people disputing a pipeline. You only have to ask the previous Minister for Water about how peaceful some of those protests were. This bill will mute every single one of those protests. That is what the government is attempting to do today. The objective of this bill is to demonise organised voices that come together with a common belief to exercise a democratic right in between elections.

This is what democracy is about. Those on the other side pretend that this is somehow about letting ordinary people get on with the business of everyday life. I will stand up to my death to protect and preserve the rights of people to voice their opinions, whether I believe in those opinions or not. Many people in the 1970s and 1980s, and even up until the 1990s, protested on the streets against nuclear war and the build-up of nuclear weapons. Those were legitimate voices, whether I agreed with them or not — which I happened to do. That was legitimate protest, and this bill cuts through and ignores all of those activities.

I ask this government whose voices it wants to hear in between elections. Does it want to just hear the voices at the business lunches it has, where people can buy

access and have their voices heard through lobbyists? If government members think that is sufficient to ensure a viable, thriving democracy, then they have sorely misunderstood their role in government and the importance and pre-eminence of citizens — of every Victorian, whether as a lone voice or as part of a collective of 100 000 people — to be able to exercise their rights and protest against any decision at any time peacefully, legitimately and with conviction.

Members of this government will rue the day they start applying this law to people who have a legitimate concern and are under suspicion at the whim of an authorised officer. They might be mothers who are crying over the deaths of their sons because of ambulance delays, they might be taxi licence holders or they might be workers at Golden Circle. This week 120 workers at Golden Circle are on a picket line because this government is failing the manufacturing industry. This government has been happy to not say even one word in support of those workers in Mill Park whose factory is closing down in March with the loss of 120 jobs to Queensland. Theirs is a legitimate protest because this government has no plan to save jobs. These are the voices of people in my community for whom I will advocate and support their right to express their protest to the death. Members of this government should be ashamed of themselves.

Mr WAKELING (Ferntree Gully) — It gives me great pleasure to rise to support the Summary Offences and Sentencing Amendment Bill 2013. I have been very interested to hear the comments of those opposite. In a sort of a ramble they have tried to put forward all sorts of arguments. Let us be very clear: there are two main components of this bill. Firstly, I refer to the alcohol-exclusion orders. They are introduced in relation to a very important area about which this government has said that it will take action. To pick up the comments of those opposite, they have said that they will repeal the bill.

Honourable members interjecting.

Mr WAKELING — It is unruly to take up interjections, but I cannot help it if those opposite do not actually understand what their position is. I can only go on the comments of one of the members of the opposition when they said, 'If we are elected, we will repeal the bill'. If they are going to repeal the bill, they are telling Victorians that the important changes that the government is making in regard to alcohol-fuelled violence by the creation of alcohol-exclusion orders will be repealed by a Labor-led government. All I can say is that that is a shameful position, and I would be ashamed if I were a member of an incoming Labor government and I knew I was elected on the basis that I had been telling Victorians, 'I'm going to repeal legislation and remove this important area of law'. The *Bendigo Advertiser* carried an article headed 'Coward's punch laws essential'. All I can say is that that is an important area of law. That is the first area that I would like to cover.

The second area is in regard to the move-on and related exclusion orders. It is interesting to hear Labor members reverting to type when it comes to issues such as this. I worked in industrial relations for 15 years. I have attended many picket lines, and I have seen many picket lines that have been operated in an appropriate manner. But I can tell the house that Victorians do not accept the behaviour of members of the Construction, Forestry, Mining and Energy Union (CFMEU) at a particular Grocon site. I remind the house of exactly what went on during that dispute, when a dirt sheet was issued. I will read from that document. It says:

> Grocon's scabs named and shamed
>
> Grocon flew these grubs to Queensland to cross a picket line and is paying them to do its dirty work in Victoria.

It contains photos of a number of people with captions under them. Photos of Andrew Brinzi and Joe Brinzi carry the caption 'Scab brothers'. Other captions are 'Peter Hewett nightclub bouncer turned Grocon scab herder'; 'Anthony Cuzzilla scabbed for Grocon in Qld and Footscray'; 'Daniel van Camp Daddy's boy making his old man John (another scab) proud'; and 'Peter Hewett cosying up to a policeman while scabbing at Grocon's Footscray site'.

That is bad enough, but it then goes on to say — and I will be interested to hear the interjections from those opposite:

> Get rid of these scabs out of our industry.

And:

> They will never be forgotten.

What I find most interesting is the little by-line at the end. It says, 'Brought to you by Scab Hunter', and has a picture of a gentleman with a gun. I would have thought that in 2012 that type of behaviour would have been unacceptable anywhere in Victoria if not Australia. But that is exactly the type of intimidation and exactly the type of behaviour that we saw at the Grocon dispute at the Myer Emporium project.

Those opposite know full well that the leading union involved in that dispute was the CFMEU, led by John Setka. Those opposite stood shoulder to shoulder with

their brothers and sisters, arm in arm with CFMEU members. That is exactly what this piece of legislation is directed at because that behaviour was appalling, that behaviour was intimidatory, that behaviour was not Victorian and that behaviour is not Australian. The house should not take that just from government members but should take it from the media and the courts, because all those organisations and the courts reaffirmed that the behaviour of the CFMEU was wrong, inappropriate and not acceptable.

What did we hear from those opposite? They just said, shoulder to shoulder, 'We take the instructions with one hand from Lygon Street, from the head office of the CFMEU and John Setka, and we take the cash in the other, in the form of donations by the CFMEU'. Of course those opposite are all very quiet because they know that the facts are very plain. Members need only read the editorials in the *Herald Sun* to see that the community thinks the CFMEU's behaviour was appalling. The community knows that CFMEU members need to be reined in and that their political puppets here in Spring Street are not going to do or say anything, because we know that those opposite get their riding instructions in one hand and in the other they get the cash in donations — —

The ACTING SPEAKER (**Mr Morris**) — Order! I notice that the member for Lyndhurst has returned to the chamber. I understand that he was suspended at 11.49 for an hour. He should leave.

Mr WAKELING — As I was saying, it is the type of behaviour I was describing that is exactly what this legislation is about. It is about organisations such as the CFMEU whose members seek to take inappropriate action and to act unlawfully. Of course, those opposite have been given their riding instructions from Lygon Street, from the CFMEU's state and national offices, telling them what they should and should not be doing on this. Heaven help the world if the government actually introduced legislation which curtailed the behaviour of the CFMEU, which actually stopped its members from distributing material such as this sheet from which I have read and which describes Victorian and Australian workers as scabs.

I do not know whether those opposite think that that type of behaviour is acceptable, but I would have thought that union officials on building sites across Melbourne calling other people scabs is probably not appropriate in this day and age. We get silence from those opposite because they know that it would be a case of heaven help them if they stood up and condemned it, heaven help them if they came out and said that this type of behaviour is ugly and that this type of behaviour is intimidatory.

Of course Labor members will not say it. They know full well that in their heart of hearts they are appalled by this type of behaviour. They know it is appalling that unions will do this, but do Labor members have the capacity to stand up on this issue? They are trying to deflect the debate and the discussion. I would have thought that the major dispute at the Myer Emporium site involving the CFMEU and the distribution of this material would be relevant to the debate on the bill before the house, given that it is central to what we are talking about today. The bill was created to deal with this exact type of behaviour.

Labor members do not like the fact that legislation is coming into the house to challenge that type of behaviour. I do not know if I have it wrong — and I ask those opposite to correct me — but I think Labor has said it would repeal this legislation. If Labor repealed this legislation, it would be a green light for the CFMEU to revert to type, to distribute this type of material, intimidate people, threaten police and threaten Victorians. I for one will not stand for it. My community will not stand for it, and this side of the house will not stand for it. The *Herald Sun*, the courts and Victorians will not stand for it. There is only one group of people that will stand for it: those sitting opposite. They should hang their heads in shame.

Ms KANIS (Melbourne) — The member for Ferntree Gully ranted at us for 10 minutes about unions and what we will and will not do. He has now left the chamber, but let me clarify Labor's position on this bill. Labor will oppose the bill. We oppose the bill because it amounts to criminalisation of all forms of protest in this state. I emphasise the word 'all'. In our view the bill is draconian, antidemocratic and unnecessary.

What is also awful about this bill is the fact that it is a cynical, tricky and unworthy wedge device. The government has combined the move-on powers in the bill with its alcohol-exclusion order provisions. While we believe the alcohol-exclusion provisions are unworkable and unenforceable, they are not offensive to us. We are calling on the government to split the bill. If the bill is split, as the member for Lyndhurst outlined in his contribution, we will vote for the alcohol-exclusion provisions that make up part 3 of the bill. However, we defend the right of Victorians to protest. We oppose the move-on powers contained in the bill, and if elected, we will repeal them.

The member for Ferntree Gully in his contribution was waving papers around and yelling at us, but he did not

talk about the bill in any depth or detail at all. The bill increases the scope and breadth of police move-on powers and substantially narrows the current exceptions to these powers that protect protest, freedom of expression and freedom of assembly. The bill also introduces exclusion orders that can be made against specific individuals banning them from attending particular public places if a certain number of move-on orders have been made against them in a specific period of time.

Currently a member of the police force or a protective services officer (PSO) on duty at a designated place can give a direction to a person or a group of people in a public place to leave that public place, but the move-on powers currently in law have exceptions. The bill increases the situations in which a move-on direction can be given. It empowers police or PSOs to request that a person or a group of people move on in a whole range of situations. This is what we in the Labor Party find so objectionable, because in our view these powers make all forms of protest in Victoria potentially unlawful.

The current legislation says that move-on powers do not apply to people who, alone or in a group, are picketing a place of employment, demonstrating or protesting about a particular issue, or speaking, bearing or otherwise identifying with a banner, placard or sign, or otherwise behaving in a way that is apparently intended to publicise the person's view about a particular issue. The changes made by this bill would limit these exceptions. The practical implication of this is that a protest exemption to the move-on powers would no longer apply in picket or blockade situations. In our view these changes would mean that protest action that attempts to more directly achieve protest objectives, through picketing or blockading entrances in particular, will be subject to move-on powers and the provisions which allow for arrests for breaching move-on directions will lead to an increased criminalisation of all such forms of protest.

We have heard a lot of discussion from the other side about unlawful protest. This bill increases the gamut of what an unlawful protest is. In our view that is not acceptable. In Victoria and in any democracy people have a right to peacefully and forcefully express their views. It is quite interesting that this bill is being brought in at a time when this government is facing more and more protest on the streets about its agenda. We are seeing the rise of community action against this government because the community is so disgusted with what is happening. It is telling that this bill attacks the basic democratic right to protest.

I would like to read a quote from a submission by the Flemington and Kensington Community Legal Centre to the Scrutiny of Acts and Regulations Committee in relation to this bill because it articulates what is at stake. The submission says:

> Where violence or aggression has occurred during protest activity —

and I emphasise this —

> police already have an array of offences available to charge if they deem appropriate.
>
> Victoria is free from the sorts of political violence associated with less free, more authoritarian and non-democratic countries elsewhere. We have [been] successful in balancing concerns about disruptions and violence during protests with the right to freedom of movement, freedom of expression, peaceful assembly and freedom of association so far in Victoria.
>
> Non-violent interventions in all their forms are the last form of protest action for Victorian citizens who feel that, according to their conscience and beliefs, they need to make a stand and put their bodies, as it were, 'on the line'.
>
> We may not agree with all of the reasons for a particular protest and we can argue the facts back and forth as any good democratic society should. But generally, and as history has most often proven, they are good and courageous people, and if we criminalise the option of intervening in an injustice occurring, we reduce the role of these brave people throughout our history who have dared stand up to greed, destruction, injustice or exploitation.

In my view the Flemington and Kensington Community Legal Centre in its submission captures the danger of this bill. We are a free and democratic society in Victoria, and we do not want to see the struggles that occur in societies in which people are restricted from protesting. This bill goes too far.

We have all been inconvenienced by protests, student occupations, rallies or protest marches through our streets, but this bill suggests that inconvenience is too great a price to pay. I put it to you, Acting Speaker, that that inconvenience is a good price to pay for a community and a society that allows people to express their views. That temporary inconvenience is something we need for people to have their voices heard. It is okay for us here in Parliament; we can get up, say what we like and have our voices heard, but many people in our community do not have that opportunity. The only thing they can do is protest.

To restrict protests in this way attacks the democratic basis of our community, and that is why we do not support these move-on powers. Let me be absolutely clear: we will repeal these move-on powers when we are elected to government.

Mr BULL (Gippsland East) — It is a pleasure to make a contribution to the debate on the Summary Offences and Sentencing Amendment Bill 2013. As we have heard, the bill makes important changes to the law to better protect the community from lawless behaviour on our streets and to deter and prevent alcohol-fuelled violence.

The bill amends the Summary Offences Act 1966 to give police clearer and more effective move-on powers and to create longer lasting exclusion orders. We have heard from some that this bill is about halting protests, but that is simply not the case. Standing up for things like fair workplaces is a fair and reasonable thing. This is about making sure that protests are conducted in a lawful manner and an orderly way. It is about ensuring that this will happen and strengthening the ability of our authorities to better manage protests — not stop them altogether — and reduce the impacts on the wider public. It is about removing the impact on innocent third parties.

Some contributors to the debate have referred to situations we have seen recently in the public arena, and these events have been totally unacceptable. The member for Melbourne suggested that inconvenience is a fair price to pay, but I disagree with that philosophy. I do not think innocent third parties should be inconvenienced in going about their lawful way of life in the community and doing things they are entitled to do. The impacts on business, the economy and everything else are enormous.

Currently move-on powers provide police and protective services officers (PSOs) with what is best described as a useful tool for safeguarding the peaceful enjoyment of public spaces by all and for defusing situations that threaten public order and safety. This bill is about increasing respect for the law, for law-makers and for third parties — those going about their regular business in the community. Police and PSOs currently have the power to direct people to move on from a public place for a range of reasons, but what we have seen in the public arena in the past has clearly indicated that this power does not go far enough. This bill provides further grounds to make sure we can defuse these situations, which are totally unacceptable to the wider society.

Under this bill police and PSOs will be able to direct a person to move on from a public place if they suspect — these points make perfect sense, and I am not sure how anyone could oppose them — that the person has committed an offence in the public place, is causing a reasonable apprehension of violence in another person, is causing or is likely to cause an unreasonable obstruction to others, is present for the purpose of procuring or supplying drugs or is impeding or attempting to impede another person from lawfully entering or leaving a premises or part of a premises. Do those opposing the bill really think it is fair and reasonable to impede a person from lawfully entering or leaving a premises? That is everybody's right.

These changes are similar to some we have seen in the forest industry, where in recent years people have gone onto work sites and strapped themselves to machinery, creating very unsafe work practices in our forest coupes. This government made a welcome step towards removing that sort of dangerous behaviour, which was not only causing danger to the people undertaking those acts but also impeding those who were going about their lawful business and trying to earn a dollar while operating within the laws and guidelines we have in the business sector in Victoria. I am not opposed to the right to protest, but I am opposed to the view that a protest should greatly inconvenience the general public and non-related third parties — those going about their business.

These new grounds will provide greater certainty for police members and PSOs as to when they may exercise move-on powers and will expand the range of circumstances in which such directions may be given. The bill clarifies that police and PSOs may give one direction to an entire group rather than having to individually direct each person in the group to move on for the reasons previously outlined. This is a common-sense move. The bill continues to protect legitimate rights to lawful protest or demonstration; it is not about removing the right to protest. However, if protesters go too far and resort to threats of violence or seek to impede the rights of others, the bill makes clear that police will have the power to order those protesters to move on, and that should be the case.

The bill will also improve the enforcement of move-on directions. For example, it provides that police or PSOs may arrest a person who refuses to be moved on for the various offences they may have committed. The bill will also assist the detection of such contraventions by providing that police may require a person being directed to move on to provide their name and address. Currently police are unable to do this in many cases, making it difficult to detect when someone has contravened a move-on order and returned to the fray, if you like. This change will also enable police to keep an accurate record of who they have had to repeatedly move on.

The time lines of these move-on powers have been another issue. We currently have a situation where

police have moved people on for whatever appropriate reason, only to return the next day and encounter the same people in the same situation causing community unrest and inconvenience yet again. This bill will ensure that there is provision to exclude people from certain places for much longer periods of time. That might be the case not only in relation to extreme protest actions but also the buying and selling of drugs. People who turn up regularly to engage in that sort of activity can receive move-on orders and come back the next day. We need to be able to take action to put longer time frames in place around that.

The issuing of this exclusion order, which will apply for up to 12 months, will be discretionary. The court can only issue such an order if it is satisfied that a person has been repeatedly directed to move on from a public place and that an exclusion order would be a reasonable means of preventing the person from engaging in that sort of behaviour again in the future. I think the 12-month period allowed for these exclusion orders is a very fair and reasonable time frame.

Another aspect of this bill relates to the government's election commitment to ban those convicted of alcohol-fuelled violence from licensed premises for two years. The government made a commitment to ban those found guilty of committing such offences while under the influence of alcohol from licensed premises for two years. Accordingly, this bill amends the Sentencing Act 1991 to give effect to that commitment. As we have heard in various debates in this Parliament, a high proportion of violent behaviour is caused by people who have had too much to drink. This government — and I am sure all members of this house — do not want to see this unacceptable behaviour continue.

Under the requirements in the bill a court can make an alcohol-exclusion order where it is satisfied that the person has been convicted of a relevant offence, the person was intoxicated at the time of the assault and the person's intoxication significantly contributed to the offence. These exclusion orders will prohibit the offender from entering licensed premises or consuming liquor anywhere in Victoria for a period of two years.

This is going to have a significant impact on the social lives of these people over and above the sentence that has already been handed down. Where an offender goes to jail for their offence, the exclusion order will apply from the time they are released from jail. Where an offender is sentenced to a community correction order of longer than two years, the court will be able to impose alcohol treatment conditions that will continue to operate after the expiry of the alcohol-exclusion order.

A court may allow a person to enter licensed premises for a specified purpose if they have a very good and valid reason to be there. It could be for work; maybe they are a tradesman, an electrician or that type of thing. There is provision for them to enter licensed premises to undertake whatever they need to do if the reason is worthy. Importantly, if they do not have that permission, contravention of an alcohol-exclusion order will be an offence carrying a penalty of up to two years prison. This is a good bill, and I commend it to the house.

Ms HUTCHINS (Keilor) — I rise to speak on the Summary Offences and Sentencing Amendment Bill 2013. Labor will be opposing this bill because, quite frankly, it amounts to the criminalisation of organised labour. The government's intent is to stop democratic processes going forward. Government members do not want to hear when someone is objecting. They do not want to have people on the streets objecting to their cuts and changes. They want to shut things down so that those who want to have a say will feel threatened by the law through the clauses proposed in this bill. Previous speakers have called on the government to split the bill into two parts so that the alcohol-exclusion provisions can be dealt with separately. However, as previous speakers on the other side of the house have indicated, the government does not intend to do that. It wants to tie up all of these issues to hide the fact that it wants to stop the right of Victorians to protest.

The move-on laws are absolutely objectionable to us, as they should be to members of any democratic state. The bill extends the circumstances in which people can be directed to move on, and it applies some of these circumstances to previously excluded persons such as protesters. Under these laws a protective services officer or a police officer has the power to move on protesters under threat of arrest if they merely suspect on reasonable grounds that the person has either committed an offence in that place, is causing a reasonable apprehension of violence to another person, is causing or is likely to cause an unreasonable obstruction to others, is present for the purpose of procuring or supplying drugs, or is attempting to impede any person from lawfully entering or leaving a premises or parts of a premises.

Some of the speakers on the other side of the house have talked about applying common sense. We already have laws in place to deal with all of those situations which police have the right to act on. What the government really wants to do is shut down the voices

of common people who want to exercise their right to protest.

Those opposite say, 'Let us apply common sense to these situations'. I draw the house's attention to a common-sense example. Over summer there was a protest in the suburb of Taylors Hill in my electorate. In fact it was a protest that affected my family. My brother came home from work and he could not enter his house. The protest involved about eight kids who live on his street. They had blockaded his door with bikes and were chanting, 'Set Gus free' — Gus being my nephew, who was banned from playing with kids on the street. They were there protesting for an hour. If those opposite want to talk about common sense, I would ask them if the purpose of this bill is to stop kids such as those in Taylors Hill from protesting against parents' decisions to stop a kid from playing? In common-sense terms, if this bill passes, that is the sort of protest that could be stopped. That is the sort of protest where police could move in.

The police could ask such kids for their names and addresses, and they could actually fine them $720 for breaching this law. That is how absolutely ridiculous these laws are. No common sense is being used. Currently the government wants to market this provision to Victorians as a bill that is about drug dealing, violence and unlawful protest, but really the scope is much wider. I think my example of the kids protesting in the streets of my electorate over the right of their friends to have a play goes to the core of how ridiculous this bill is. The government wants to shut people down for having their say.

I have been a unionist since the day I started work, and I have never attended so many rallies as I have in the last 12 months, out in front of this place and in the streets of Melbourne — people using their right to protest against the cuts this government has put in place.

Mr Watt interjected.

Ms HUTCHINS — No, what you want to do as a government is shut down the right of people to speak, shut down the right of nurses to protest and shut down the rights of teachers, health workers, disability workers and taxidrivers — they are all the people whose voices you want to shut down when they disagree with what the government is doing to their wages and conditions and the provision of services they put in place. That is what this is about — shutting down democracy and people's voices — and it is an absolute disgrace.

We have heard government members opposing the rights of unionists to protest even when they have legal protection in the process of workplace bargaining — even when they can be out there demonstrating. It is a direct attack on the democratic rights and freedoms of people, and I quote Elizabeth O'Shea, a lawyer with Maurice Blackburn Lawyers, who has represented not only a whole range of asylum seekers in courts of law but also the protesters from Tecoma. She said:

> This is a direct attack on democratic freedoms that people have historically fought hard to protect. It effectively criminalises a range of behaviours that are fundamental to freedom of assembly and freedom of speech.

It is a freedom that I fought hard for many years to defend and will continue to fight hard to defend in this place. I am proud to say that my history is steeped in the actions of being able to protest against any government changes that may affect workers' lives.

In 1998 a waterfront dispute here in Melbourne led to a three-week protest at Webb Dock in which I was very involved, negotiating day in, day out with Victoria Police at the time to ensure that that was a peaceful protest.

Mr Burgess — Negotiating with the police?

Ms HUTCHINS — I was negotiating for peaceful protests to proceed over three weeks of protests at the waterfront, and I have to say it was a peaceful protest during that time. The 1400 workers who were sacked from their jobs and were fighting for the right to be reinstated ended up having the law on their side after that protest. Through the Federal Court and the High Court they were found to be acting in a lawful way to protect their jobs, and the actions of collusion by both the company and the federal government at the time were found to be unlawful. That dispute is part of Victorian and Australian history now, and it demonstrates just how peaceful protest can bring about change and a better society.

The move-on powers in this bill are draconian, they are Bjelke-Petersen in style and they mean we have set off down a slippery slope. They infringe the vital rights that exist in a free democracy, and they infringe the right to protest. Labor will defend the right of Victorians to protest. We will oppose these move-on powers, we will oppose this bill and, when we are elected in November, we will repeal this legislation.

Mr KATOS (South Barwon) — I am pleased to rise this afternoon and make a contribution to the debate on the Summary Offences and Sentencing Amendment Bill 2013. As other speakers have said, the bill has two

parts. It expands police and protective services officer (PSO) move-on powers to create longer lasting exclusion zones, but it also bans those who have been convicted of alcohol-related violence from licenced premises for two years, which delivers on a key election commitment we made.

Much of the debate today is centred on unions. Unions have their lawful place in the workplace. They are there to represent their members' interests and to do so in a proper manner. They are there to ensure that their members are adequately remunerated and that they are in a safe working environment. I have no issue with that being done in a lawful manner, but unfortunately there are times when the line is crossed and this is not done in a lawful manner. I know the people of Victoria are very concerned when they see the sort of thuggish and intimidatory tactics that have been used by unions, particularly the Construction, Forestry, Mining and Energy Union (CFMEU), when they are on sites like the Myer Emporium site. That was disgraceful behaviour. As the member for Ferntree Gully said, the scab-hunter tactics of people like the representatives of the CFMEU are the sort of draconian and archaic practices that need to be abolished.

In Geelong we saw the case of the Little Creatures Brewery. It was another example of the CFMEU saying it wanted to get additional safety officers on union sites. They are just there to create thuggery and intimidation on those union sites, and they held up the Little Creatures Brewery. That brewery was a $60 million investment in the Geelong economy which created 50 new jobs, and it is so well patronised. It is a great development for Geelong, but because the CFMEU wanted jobs for the boys and wanted to extend its thuggery and intimidation onto those work sites, it held that project up. The only reason it ended up continuing was through Supreme Court orders. It was absolutely disgraceful.

Another example of union intimidation that I witnessed personally when I was a councillor at the City of Greater Geelong in 2009 was when two employees were dismissed. It was called the 'steak sandwich affair'. I have no issue with the union representing those workers and proper negotiations taking place with the CEO of the City of Greater Geelong, but one Tuesday they organised a barbeque at the Geelong Trades Hall in Myers Street. Most of the unionists were half-drunk, and they illegally stormed the City of Greater Geelong. They broke into the building. They came flying up the stairs, and two female councillors were intimidated and shaking afterwards. This was disgraceful behaviour.

What I saw that night was several Labor councillors sitting in the corner. They knew those trade unionists and should have gone up to them and said, 'We are not going to stand for this behaviour', but what did they do? They sat in the corner and smiled. I still remember watching them. They smiled. They enjoyed that sort of behaviour — intimidation and thuggery. It was utterly disgraceful. Two female councillors were visibly shaken. The thuggery and discrimination shown towards those women was utterly disgraceful, and I still remember it to this day. They sat in the corner and smiled. One of those councillors was an Australian Manufacturing Workers Union representative who then went on to the CFMEU. They enjoy this sort of thuggery and violence. They get off on it. They love it, and I think it is absolutely disgraceful.

As I said, I have no issue with a union, through a democratic process, representing the interests of its members, but it should do it lawfully and legally, not through thuggery and intimidation. I suppose it all comes back to the fact that opposition members take the donations and then they have to accept their marching orders. They have to accept what they are told by those unions, and that is the crux of this matter.

When we mention that matter, there is silence because we all know that the Construction, Forestry, Mining and Energy Union (CFMEU) should be disenfranchised. Opposition members should be dissociating themselves from that sort of intimidating and disgraceful behaviour. But what do we have? The Leader of the Opposition and his faction have hugs and kisses for the CFMEU. They should be denouncing that sort of thuggery and intimidation. That behaviour is what is draconian; that sort of behaviour should not be part of our workplaces. I have no problem with a union representing its members' interests to the best of its ability in a lawful manner, but what we have with a lot of these protests is illegal activity. It needs to be stopped, and that is why I am proud today to be standing here and supporting this legislation.

Mr BROOKS (Bundoora) — It is a real pleasure to join in this debate on the Summary Offences and Sentencing Amendment Bill 2013. At the very outset I want to clarify and repeat the point that has been made by the lead speaker and other members on this side of the house that the opposition does not oppose part 3 of this bill, which relates to alcohol-exclusion orders. If the government were to split this bill, we would support that part of the bill through the house. We think it is a cynical ploy that the government has attached that part to the remainder of the bill that relates to the move-on powers at this point, because otherwise we would have

been able to have that alcohol-exclusion order part of the bill moved through the house without dissension.

The remainder of this bill deals with the move-on powers that have been central to the debate in the chamber today, and it has become very clear from listening to the contributions of members opposite that this bill is all about the unions. It has become very clear. The Attorney-General in introducing this bill did not mention unions, but it has become very clear that members of the government have not been able to help themselves today. They have been frothing at the mouth and falling over themselves to speak, to condemn unions, to run out their lines about the Construction, Forestry, Mining and Energy Union (CFMEU) and to tell all of the horror stories they like to trot out under the cover of parliamentary privilege. But we have seen the real reason that this bill has been brought into this place. I think they would have been much better off to have been up-front with the Victorian public and specifically said that this bill is about curbing union power. If that is the case that people have been making today, that is what they should have said from the outset. They should be up-front with people.

I would have thought a bill that contained so much restriction on people's freedoms, whether you agree with the restrictions or not, would have been adequately covered, explored and discussed in the Scrutiny of Acts and Regulations Committee (SARC) report. I would have thought that that committee, considering the important role it plays, would have given this matter serious discussion and provided members of this house with a thorough explanation and discussion of the issues, in particular addressing the submissions that were made to that committee. I went to the Scrutiny of Acts and Regulations Committee *Alert Digest* No. 1 of 2014 and the Charter of Human Rights and Responsibilities report is restricted to three small paragraphs.

It concludes with the words, 'The committee makes no further comment'. Interestingly I gather from the minutes there was a difference of opinion on the committee because there was a vote that indicates that government MPs on this matter decided to vote in favour of the report that went into the *Alert Digest* and the Labor members voted against it. I can only assume from that that there was a disagreement at SARC about the content of this report. It is a very brief report. It is symptomatic of this very issue where a government is trying to shut down debate and lawful protest. It shut down proper discussion of this bill in the duly constituted committee process of this Parliament. It is an absolute sham. SARC is not functioning properly. Members of this house on both sides rely upon the Scrutiny of Acts and Regulations Committee to provide it with the information the house needs to be able to debate legislation properly, and we have heard contributions from members opposite who do not understand parts of this bill and do not understand the concerns about it. It is impossible to respond to the concerns that have been raised in the community if you have not had the benefit of a SARC report that explains what those concerns are. As I said, even if at the end of that process you disagree with the report or those views, SARC should provide a full report.

If we go back to the last substantial changes to the Summary Offences and Controlled Weapons Acts Amendment Bill in 2009 when Labor was in government, we see that the Scrutiny of Acts and Regulations Committee published a fulsome report in its *Alert Digest* No. 14 of 2009. The report ran for some 14 pages, with 7 pages of discussion on the impacts on the Charter of Human Rights and Responsibilities. It is obvious that this government, through the SARC process, has shut down any proper discussion of these matters, despite a submission — not from labour movement organisations, not from unions, not from the CFMEU but from the Law Institute of Victoria — which says:

> The legal effect of this bill, if enacted in its current form, would be to limit the ability of individuals and groups to assemble and protest in public.

The Law Institute of Victoria said that. This is not the CFMEU or some union; this is the Law Institute of Victoria. That is a fact that this government has chosen to ignore, and it does so at its own peril.

The Victorian Council of Social Service also expressed concern about the bill's impact:

> … on vulnerable groups who are highly visible in public spaces —

this is in relation to the impact of potential move-on orders —

> including homeless people, people with mental health and drug and alcohol issues, Aboriginal people and young people.

Similar concerns were expressed by the Victorian Equal Opportunity and Human Rights Commission. Its submissions to the Scrutiny of Acts and Regulations Committee inquiry and to the government were ignored, and I think that is a great shame.

The main concern I have with this bill, and which I share with members on this side of the house, is that the threshold test — the low bar that needs to be jumped

over — for a police officer or a protective services officer (PSO) to move someone on or to potentially arrest them is that they need to have a reasonable suspicion that someone is likely to cause an unreasonable obstruction or a reasonable suspicion that someone is attempting to impede someone else. That could be just about anything. Just about anything anybody does could fall under that definition. I want to come back to that point, but I think it says something about this government that when the manufacturing sector in this state is dying, jobs are leaving this state, the crime rate is up, TAFE is in crisis and ambulances cannot get their patients into hospitals, this Parliament is debating the shutting down of protest action. That is what we are debating in this Parliament today. The Victorian people would like us to be debating the issues that really affect them, not the curtailment of their rights to protest. It is absolutely outrageous.

I suggest to the member for South Barwon that the people of Geelong do not want their rights to protest curtailed but are more interested in jobs for the future — highly skilled, high-wage jobs in the local community. My advice to the member for South Barwon is that he focus on providing jobs for his community.

As I said, the test the bill provides for a PSO or a police officer moving someone on or arresting them would see people who gather on the front steps of Parliament House moved on or arrested. Over the last three years we have seen many people protesting against the mean-spirited character and incompetence of this government. In June 2012 and February 2013 hardworking teachers in Victorian schools — people who we entrust our children's education to — fought not just for their wages and conditions but also against the cuts this government made to their schools. Under this bill they could have and probably would have been moved on or arrested. TAFE staff who protested in Treasury Gardens in September 2012 also could have been moved on or arrested because there was a reasonable suspicion they might impede or obstruct others.

My colleague the member for Ivanhoe and I, along with other members representing nearby electorates, gathered at a protest in Burgundy Street to force the government to fund the last stage of the Olivia Newton-John Cancer and Wellness Centre. Would that protest have been shut down or people moved on under this bill? The nurses — people who care for the sick and frail in hospitals — who rallied on the front steps of Parliament House, not just for their own wages and conditions but also against the cuts that this government had made to the health system, would have been moved off the front steps of Parliament House and told to move on or they would be arrested. Taxidrivers, firefighters and other hardworking Victorians will have their rights taken away from them by this mean, desperate government.

In my local community just a week ago a group of 50 residents gathered at a small local park that the local council — dominated by Liberals, as it happens — wants to flog off to developers. A former member for Eltham is on that council and is driving that process. I imagine that most of those present — children, older people, mums and dads — would never have been in a union or have attended a protest before. They would have been affected by this law — they could have been moved on and arrested if they did not move on. This law is an absolute disgrace, and it should not be accepted by this Parliament. As I said, it impacts on all Victorians by restricting their rights and freedoms. It is a bad law introduced by a desperate, rotten government, and it should be rejected.

Ms MILLER (Bentleigh) — I am delighted to rise to speak on the Summary Offences and Sentencing Amendment Bill 2013. The member for Bundoora misled the house. He talked about the right to protest.

Honourable members interjecting.

Ms MILLER — The government is not against protesting. We believe in freedom of speech, and we believe that any public servant, wherever they come from, has the absolute right to voice their opinions. However, when unions — the Construction, Forestry, Mining and Energy Union and others — and left-wing socialist activists protest at the risk of causing physical or mental harm and disrupting business, that is where we draw the line. This piece of legislation is going to put a stop to that. We on this side of the house are going to make sure that those thugs do not impact on businesses or individuals in Victoria.

The bill expands the move-on powers of police and protective services officers and creates longer lasting exclusion orders to deal with people who are subject to repeated move-on directions. The other purpose of the bill is to create a new scheme for banning those convicted of relevant offences while under the influence of alcohol from specified licensed premises for two years. This implements one of the government's election commitments.

In 2010 I was involved in a protest against the boycott, divestment and sanctions (BDS) campaign. The BDS campaigners were pro-Palestinian and pro-activist, and they campaigned against the wonderful Jewish

community, members of which live in the Bentleigh electorate and in other parts of Melbourne. The government is proud to stand up to those on the other side of the house, to represent that community and to stop these thugs from impacting on them.

Sitting suspended 1.00 p.m. until 2.02 p.m.

Business interrupted under standing orders.

RULINGS BY THE CHAIR

Questions without notice

The SPEAKER — Order! Yesterday during question time, in resolving a point of order, I made reference to the Premier using the words 'task force'. Having reviewed the detail of my ruling in *Daily Hansard* I realise that the intent of that ruling could be misinterpreted. I therefore wish to clarify that matter for the benefit of members.

When answering a question a minister may refer to any part of the question and the preamble. I did not mean to create the impression that a minister can dwell on a particular word and frame their whole answer around that word.

QUESTIONS WITHOUT NOTICE

Department of Human Services case management

Mr ANDREWS (Leader of the Opposition) — My question is to the Minister for Community Services. Can the minister detail for the house the functions of the Department of Human Services integrated client and case management system?

Ms WOOLDRIDGE (Minister for Community Services) — I thank the Leader of the Opposition for his question. The Department of Human Services is working in an integrated way — through case management and our systems management processes — with vulnerable families. I am very proud of the work the coalition government has done to drive a positive change so that we work with families in a way that reflects their full range of needs rather than the silo-based system we have had in the past.

We are seeking to work with those families in a way that integrates the response — whether it be a disability response, a family violence response, a child protection response — and looks at the full perspective of the family, as well as the individuals as part of that. Particularly importantly, we look at the children in the context of parental challenges.

We have systems that are being put in place. We have integrated case management that has been put in place. We are trialling our model of Services Connect in five different locations right across the state, and what we are seeing is that we are driving positive change for vulnerable families. This is fundamentally what we should be doing. There is a very significant investment that this state makes for vulnerable families, and we need to drive that positive change so that families can not only respond and receive the services but actually return to independence in terms of their future prospects and children and families can be safe and well in that context.

I am very pleased to say that this has been a substantial reform in the way the Department of Human Services has been structured and in the way we are working with community sector organisations to drive change so that we can work in an integrated way across both sectors and work very positively with vulnerable families.

Latrobe Valley fires

Mr NORTHE (Morwell) — My question is to the Deputy Premier and Minister for Regional and Rural Development. Can the minister advise the house how the government is responding to the economic and community health and safety concerns arising from the continuing fires in the Latrobe Valley?

Mr RYAN (Minister for Regional and Rural Development) — I thank the member for his question. The full economic impact of the fires which continue to burn in Gippsland is yet to be assessed. Accordingly we are unable as a government at this point in time to put numbers around that all-important element of the consequences of the events we are continuing to see unfold.

It must be said, though, that there are even more pressing matters that are currently of concern to all of us — to the Parliament at large, I suggest, and certainly to the communities in Gippsland and very particularly in the Latrobe Valley. Smoke from the Yallourn and Hazelwood coalmine fires and the fires throughout the area is affecting air quality in and around the Latrobe Valley in particular and in Gippsland more generally. The fire at the Hazelwood open-cut mine is a complex and very difficult fire. The reality is that it will be some time before it is able to be extinguished. I pay tribute to those who have thus far been engaged in the terrible task of fighting that fire.

Nevertheless, the impact on air quality and the potential health risks associated with these events is understandably, and with every justification, causing

concern amongst local residents and the community. I commend the local member, the member for Morwell, who has been very active in bringing these matters to the attention of government and advocating on behalf of his community.

I can tell the house that a community health assessment centre is being established at the Ambulance Victoria office in Morwell. I am advised by Ambulance Victoria that that centre will operate from 8.00 a.m. tomorrow and will run through until 8.00 p.m. on a daily basis. Paramedics and nurses will provide health information to those in attendance and provide advice, as well as an assessment service, for people who are concerned about their health. They will be working in conjunction with local general practitioners, who will be the main focus of actual attention which may be required by people who are affected.

In addition, the Department of Human Services, together with the Latrobe City Council, has established a community respite centre in Moe for those seeking respite in accordance with the chief health officer's advice. It will also serve as a hub for various agencies of government origin that people need to seek advice from with regard to matters pertaining to their needs. It will also include the Red Cross and the Victorian Council of Churches. The Minister for Health visited there yesterday, accompanied by the local member.

In addition to all of this, various initiatives are being undertaken with regard to the warnings appropriate to the community at large. The Environment Protection Authority (EPA) has monitoring in place for fine particles to measure the impact of smoke on local air quality. Similar monitoring is being undertaken not only at the mine site but around the town of Morwell, and the Department of Health will continue to monitor those health impacts and will continue to liaise very closely with local GPs.

The EPA will continue to issue smoke advisories when air quality levels require action to be taken by the community. A static information bus has been located outside the Morwell Coles store. It is open from 9.00 a.m. until 5.00 p.m. today. There are also community officers walking the streets in Morwell providing information. Various other forms of communication mechanisms are being implemented to ensure people are kept abreast of the current issues. Initiatives are also being undertaken to ensure that schooling is provided in appropriate ways for the students in the area. We are concerned in a primary fashion for the health and welfare of the people of the Latrobe Valley.

Department of Human Services case management

Mr ANDREWS (Leader of the Opposition) — My question is again to the Minister for Community Services. I refer again to the Department of Human Services integrated client and case management system, which for the minister's benefit is an IT and data system. I ask: will the minister guarantee that no jobs associated with this service and system will be outsourced to any offshore providers?

Ms WOOLDRIDGE (Minister for Community Services) — Once again I thank the Leader of the Opposition for his question. I would like to put this in context because there has been — —

Honourable members interjecting.

Ms WOOLDRIDGE — The Ombudsman has reported on the IT systems of the Department of Human Services. He said at the time that the cost of the client relationship information system, which is part of this integrated system, had blown out by more than $100 million under the Labor government. This is what we inherited as a coalition government across IT systems management. It has been consistent across the board: HealthSMART, police systems — —

Honourable members interjecting.

The SPEAKER — Order! The Minister for Ports!

Ms WOOLDRIDGE — We have example after example of where we have had to manage an IT system, in whichever portfolio or department we have responsibility for, that has been bungled, mismanaged and overrun in terms of cost by the former government. As a government, we are making substantial inroads towards improving those systems. Whether it be the police information system, the education system, HealthSMART or the case management system in the Department of Human Services, we have had to fix the failures of the former government. That is what we will continue to do — to make sure that these systems work for clients.

We will ensure that that the people who need the support that the system provides, the clients who are receiving our services, can get the support, education and community safety that they need. We are making sure that these systems work, and we will continue to do that work. We understand that you have to invest in IT systems, but you have to do it sensibly and carefully and you have to make sure that you do not have the overruns and mismanagement of the former Labor government.

Trade missions

Ms MILLER (Bentleigh) — Can the Premier update the house on the job-creating benefits for families and the Victorian economy of recent super trade missions?

Dr NAPTHINE (Premier) — It is indicative that when we talk about the jobs of the future for Victoria, opposition members laugh and guffaw rather than support the growth of jobs, the growth of exports and the growth of opportunities. We on this side of the house, the members of the coalition government, are very proud of the work we are doing: rolling up our sleeves, going overseas to get jobs and grow exports for Victoria, and creating new opportunities for Victorians across the state.

I can advise the house that in the Asian region, the consumer class across Asia is expected to grow from 500 million today to 3.6 billion by 2030. We know Victoria is well placed geographically and, with the product range, skills and services we have, we are well placed to tap into those growing markets. That is why this government has a real plan to deliver those exports and jobs. We have conducted 65 trade missions with over 2000 businesses. That has already delivered for Victoria. Those trade missions have already delivered an additional $4 billion of exports and an extra 3600 jobs. That is 3600 Victorians who are in employment because of the trade mission program undertaken by this government. We are out there promoting Victoria's key strengths in food and fibre, education, advanced manufacturing, information and communications technology, tourism and hospitality, professional services and sustainable urban development.

The question related specifically to China, which is Victoria's largest trading partner. It is the fastest-growing source of tourists to Victoria, and it is the largest source of international students. It is an important country for our future trade, our future job opportunities and our economy. Since we have been in government there have been seven trade missions to China. They include a mission in October last year which had 400 delegates, which included 300 businesses and which visited nine cities. I am pleased today to release the outcome of that mission, which has already clocked up $385 million worth of new exports and over 200 new jobs. This builds on the work of the South-East Asian trade mission in the middle of 2013 which has already delivered $230 million worth of new exports and 330 new jobs.

Some of the investments and job opportunities created by the China trade mission include the opening in Carrum Downs of Australian Dairy Park, which has already secured $30 million worth of exports for infant formula made from clean, green dairy products from Victoria, creating 30 jobs in Carrum Downs.

The Summerfruit Australia group has already projected $30 million worth of exports of stone fruit. Warrnambool Cheese & Butter — in my own backyard — signed a $10 million lactoferrin contract while its representatives were in China. Ralph's Meat Company secured another $6 million contract. Samic Shanghai — I think this is a fabulous outcome — established a new food procurement office in Melbourne, which will provide enormous benefits. Qenos is now exporting world-class health and safety and environmental management to Chinese chemical industries.

ICT companies SmartTrans, Business Intelligence Technologies and Rectifier Technologies Pacific all signed new contracts. That is why in the last quarter of 2013 we had an 11 per cent increase in Victorian exports compared to the 12-month period prior to that. And of course today — —

The SPEAKER — Order! The Premier's time has expired.

Department of Human Services case management

Mr ANDREWS (Leader of the Opposition) — My question is to the Minister for Community Services. Given the minister's refusal to guarantee no offshoring in her previous answer, I ask: can the minister confirm that next Monday her department's chief information officer, Grahame Coles, and executive director, Jim Higgins, will fly to India to meet with companies slated to operate the Department of Human Services integrated client and case management system? Can the minister confirm that for the house?

Ms WOOLDRIDGE (Minister for Community Services) — I thank once again the Leader of the Opposition. Let us recap exactly where we are. We are reforming the way we deliver services for vulnerable families, because we will always focus on the needs of vulnerable families with the service delivery that we have with the Department of Human Services. In doing that we are integrating the way that we respond, as we have seen in the debate over the last week in terms of service provision in instances of family violence where there may also be mental illness, alcohol and drug abuse and so on.

To do that we also need an integrated IT system. This integrated IT system is providing a single client view so that we can actually have a perspective of the full range of services that a client in their family context receives. We remember that under the former government IT systems in the child protection system had a $100 million blow-out. That could have been $100 million delivering services to vulnerable families. Last year we put out a tender to develop the integrated single client view. We invited submissions to that tender broadly. It is four jobs — it is looking at four permanent positions in relation to the integrated single client view.

As is appropriate, I am not close in terms of that tender process, in terms of who has applied, because it has not been resolved. As I would expect — —

Ms Green interjected.

The SPEAKER — Order! The member for Yan Yean will cease interjecting.

Ms WOOLDRIDGE — I take it that the opposition does not support integrated services to families that are vulnerable. Is that the message that we are hearing in terms of some of the messages from the former shadow minister and so on?

We need to make sure that the money we have to invest for vulnerable families ensures that we can deliver services for those families as effectively as possible. What we are doing is undertaking, as anyone would expect, a probity-managed tender system so that we can deliver an integrated client view, and there are four permanent jobs in relation to this IT system. I support the fact that we look for value for money in relation to services and the capacity to deliver an IT system, in contrast to what we saw in the past from Labor, which gave jobs to its mates ahead of what happens in terms of service delivery and capacity.

Honourable members interjecting.

The SPEAKER — Order! The level and tone of interjections from the Leader of the Opposition and the Deputy Leader of the Opposition will stop.

Ms WOOLDRIDGE — There are no backroom deals, no prearranged contracts for union mates. We are going through an appropriate process with a publicly advertised tender to find someone to deliver an integrated IT system which will mean that we can deliver integrated services for vulnerable families. That process will continue under this government so we can make sure we are investing in good outcomes for vulnerable families in this state.

Trade missions

Mr MORRIS (Mornington) — My question is for the Minister for Employment and Trade. Can the minister update the house on the coalition government's initiatives to improve trade links with the Middle East and India?

Honourable members interjecting.

The SPEAKER — Order! I will not have this level of interjection. It is verging on bullying. Members are not even allowing the minister to start answering the question.

Ms ASHER (Minister for Employment and Trade) — I thank the member for Mornington for his question. I think the hilarity that we can see on the opposition benches shows there is a complete lack of understanding about the government's trade mission program. The trade mission program is a program designed, as the Premier has just articulated, to secure investment in Victoria and jobs for Victorians. If the Labor Party does not understand the purpose of export and investment, then it has a long, long way to go with its economic credentials.

I also make the point that at the moment, due to investment by Indian companies in Victoria, 4500 Victorians are in jobs. This is due to this particular investment. I am delighted to announce that over the next two weeks I will be leading back-to-back super trade missions to the Middle East and Turkey and to India. This will be our 9th trade mission to the Middle East and 10th trade mission to India. To date the trade missions to the Middle East have assisted 380 Victorian companies and generated anticipated export sales for Victorian companies of over $550 million for the 24-month period post mission. The trade missions to India have assisted over 490 Victorian companies and generated anticipated export sales of over $636 million for the 24-month period post mission.

I will be accompanied on the Middle East trade mission by the Minister for Water, who will also go to Oman and Saudi Arabia. I wish him well with the number of companies going there. I will be accompanied in India by the Minister for Technology, who has been there on multiple occasions selling our technology strengths to that country. There will be 151 delegates from 117 companies joining me in the Middle East and Turkey. Of this, 96 are small and medium enterprises and 21 are larger. They cover Victorian industries such as food and beverage, agribusiness, sustainable urban design, education, marine and fashion. On the Indian trade mission there will be 136 delegates from

101 companies. Of these, 84 are small and medium enterprises.

It is particularly important to note that the Victorian trade mission program allows many of these small and medium enterprises, which would not have the capacity to embark on export, to make these contacts and embark on an export program, courtesy of the work done on the ground by the Victorian government business offices and by all of those participating in the program.

The companies cover a range of industries of strategic importance to Victoria: education, health and aged care, ICT, sustainability and tourism. I am delighted to further advise the house that this is the first time we are exploring the health and aged-care field in India, and our Victorian-based organisations are well placed to assist with India's increasing health care needs. Twenty-two Victorian tourism businesses will also be participating.

An honourable member interjected.

Ms ASHER — Activities will include business-to-business meetings — I have already advised that; the member was not listening.

A whole range of business meetings with trade and airline partners will also take place during the trade mission. The media events will leverage high-profile sporting events in Victoria, including the Cricket World Cup 2015, and we will be announcing a range of tourism initiatives as well. These super trade missions have already yielded Victoria $4.1 billion, and they have been a great success.

Department of Human Services case management

Mr ANDREWS (Leader of the Opposition) — My question is to the Minister for Community Services. Can the minister confirm whether her chief information officer, Grahame Coles, and executive director, Jim Higgins, are flying to India next Monday to meet with companies slated to win the contract for the integrated case management system — yes or no?

Ms WOOLDRIDGE (Minister for Community Services) — I thank the Leader of the Opposition for the question. Can I just say that there are no companies slated to win a tender process. We run — —

Honourable members interjecting.

The SPEAKER — Order! The minister does not need the assistance of government members.

Honourable members interjecting.

The SPEAKER — Order! Opposition members will cease interjecting.

Ms WOOLDRIDGE — We run a fair process that is advertised through a tender where the applicants are assessed on a range of criteria, which are published. Then they develop a short list. The key people then meet with those short-listed applicants and a decision is made against the criteria which were published at the beginning. That is how the process should work. It might be foreign to those opposite; they might not understand that this is the way it works.

I support an open and transparent process in decision making about the tendering of IT services in this state. We have seen the ramifications when you do not do such things. We have seen the ramifications across the education system, the police system, the human services system, the health system and so on. So we will — —

Mr Merlino — On a point of order, Speaker, the minister is debating the question. It was a very simple yes or no question. The minister may not have read her brief; it must be underneath the phone call list for the Kew branch. The minister is a bit distracted lately.

Ms Asher — On the point of order, Speaker, the minister has been asked a question, and the minister is well within her rights to place the question in context. Just because the opposition does not like the answer does not mean the minister is not abiding by standing orders. She is, and she is entitled to place the question in context.

The SPEAKER — Order! I do not uphold the point of order. The minister was being relevant to the question that was asked.

Ms WOOLDRIDGE — As is appropriate for a minister, I sign off on the criteria and the process of a tender at the beginning and then leave it to the professionals in the Department of Human Services (DHS) to undertake that process as they should. There will be a recommendation and a conclusion at the end, when they have completed that process. Those opposite may have engaged in tender processes along the way to make sure the right people they liked were selected, but that is not — —

Ms Allan — On a point of order, Speaker, under standing order 58 the minister is clearly debating the question and making some fairly odious references to and casting aspersions on the practices of the previous government which are bordering on offensive.

Honourable members interjecting.

Ms Allan — You might be comfortable with alleging corruption, but we are not.

Standing order 58 simply states that ministers should not debate the question. That is exactly what the minister was doing. It was a very narrow question. I ask that you bring her back to answering it.

Ms Asher — On the point of order, Speaker, the minister is well within her rights to set her answer in context. In *Rulings from the Chair* of December 2013, at page 164, according to Speaker Smith:

> While it is not appropriate to attack the opposition during question time —

and the minister is certainly not doing that —

> it is permissible to talk about something that the former government did.

It is well within the rules of the house for the minister to refer to something the former government did, and it is that which she is doing.

Mr Nardella — On the point of order, Speaker, the ruling at page 164 must be considered in terms of the question and in terms of the answer being relevant to that question. A ruling by Speaker Maddigan was:

> … ministers can refer to the situation of the state when they took office, but should only make passing reference to the activities of a previous government.

Over nearly 2 minutes the minister has referred a number of times to the previous government and to the opposition. I support the point of order raised by the member for Bendigo East in asking you to bring the minister back to answering the question.

The SPEAKER — Order! I believe the minister was being relevant to the question that was asked. I do not uphold the point of order.

Ms WOOLDRIDGE — I will not intervene in a process. Having set clear criteria up-front and agreed on a process, I then support the Department of Human Services professionals to conduct that process as it should be conducted. If it ends up as an overseas contract, that is something governments have done for a long time. The myki contract is a good example of a contract that was let by the former government which was an overseas contract. These things do happen, as it happened at that time. I am not going to intervene in a process.

Members will even recall that a former Premier, John Brumby, outsourced the call centre for his media centre to the Philippines. These are things that have happened from time to time.

Honourable members interjecting.

The SPEAKER — Order! I once again remind members that if the level of noise is such that the Chair cannot clearly hear the answer — —

Honourable members interjecting.

The SPEAKER — Order! All I could hear was the Leader of the Opposition's voice. Members must realise that if I cannot hear an answer clearly, when a point of order is raised I have to give any benefit of the doubt to the member on their feet.

Ms WOOLDRIDGE — We will run a clear process. We will make sure the best provider to ensure the delivery of these systems is in place, because we are making sure that our focus is on vulnerable families. That is my focus, and that is the focus of the government — to make sure we can — —

Mr Andrews — On a point of order, Speaker, on relevance, in this week of all weeks we are entitled to know whether these officials are flying to India on Monday and whether these jobs are going overseas.

The SPEAKER — Order! The Leader of the Opposition knows not to repeat — —

Mr Andrews — We are entitled to an answer, not this performance from the candidate for Kew.

The SPEAKER — Order! The Leader of the Opposition knows very well that a point of order is not an opportunity to repeat a question.

Ms WOOLDRIDGE — At least our preselections are not a stitch-up with John Setka and the Comancheros, as we see on the other side! We will run our processes as we should, but ultimately this is about the vulnerable children to whom we are delivering services in a way that no other government has done before, which will make a fundamental difference to children and families in this state. That is our priority; that is what we will focus on.

White Night Melbourne

Mr GIDLEY (Mount Waverley) — My question is to the Minister for the Arts. Can the minister outline to the house the many elements of the expanded White Night Melbourne festival and the benefits flowing to Victorian families and businesses?

Ms VICTORIA (Minister for the Arts) — I thank the member for his interest in the arts. I know he has a very active arts community in his electorate. As people know, I am passionate about the arts and believe they are an integral part of the quality of our lives. Victoria is one of the great arts centres of the world, and Melbourne is one of the great arts cities of the world. With White Night Melbourne coming up, I thought it was important to be able to outline to the house — I thank the member for his interest in White Night Melbourne — some of the benefits that flow from a big major event like this.

We know the arts strengthen communities. We also know the arts quite often provide rewarding opportunities in employment and careers and also that, very importantly, they make a substantial contribution to the economy, especially here in Victoria. I am proud to be part of a coalition government whose members believe in the arts and understand the arts and that the betterment of culture is for the good of all Victorians and for building a better Victoria. I note that the Premier is going to spend much of his evening — I do not know that he is going to do the full 12 hours — at White Night enjoying it.

In the same way I would also like to acknowledge the former Premier, the member for Hawthorn, whose idea this was. I place on the record how fabulous White Night 2013 was, with 300 000 people flocking to Melbourne to enjoy a fabulous night. We have over 500 artists who are involved this year. Many of them are local; in fact most of them are local. We have set the event up in precincts, so it goes everywhere from the very north of the city — last year it was only two city blocks; this year we are doing eight city blocks — and we are going all the way up to Melbourne Museum and all the way down over the Yarra to the National Gallery of Victoria (NGV) and beyond.

The arts create over 110 000 full-time equivalent jobs in Victoria, something that we are very proud of as a government. We continue to help proliferate those jobs by sponsoring the arts, giving grants in the arts and making sure that it is an industry that is very much nurtured. Some amazing things are going to happen at White Night. To touch on the southern end of the precinct, at NGV we have Melbourne Now, which I am excited to say was a coalition government initiative, and we have just hit over 500 000 people who have gone to the NGV over the two campuses to look at the finest craftsmanship from Victorians. It is only Victorian artists that are on display. People can go into that; it is a free exhibition.

Going up to the other end of town, we have Designing 007, a fabulous initiative at the museum. It has just hit its target of 130 000 people visiting that wonderful Melbourne-only exhibition. In between we have lots of people working throughout Swanston Street; obviously there will be the beautiful illuminations of the buildings that were so important last year. I know the Premier is going to enjoy Molecular Kaleidoscope with me in the domed reading room of the State Library of Victoria.

We are going to have synchronised swimming at the Melbourne City Baths. I am looking forward to the music stage in Bourke Street, with the Shuffle Club with Nina Ferro playing at 3.30 in the morning and lots of things in between. We are also going to have the Vladmaster View-Master Experience at the Australian Centre for the Moving Image. I can only imagine 200 people with View-Masters all clicking at the same time. It is going to be quite an experience. There are going to be amazing things all night long, and I am very proud to be the Minister for the Arts in a coalition government that gets the arts.

Cabinet discussions

Mr ANDREWS (Leader of the Opposition) — My question is to the Premier. Can the Premier confirm that rather than focusing on Victoria's growing jobs crisis, cabinet on Monday this week instead had extensive discussions about the member for Doncaster's future and resolved that all government media opportunities for the next couple of weeks should be focused on securing the member for Doncaster's job as the candidate for Kew?

Dr NAPTHINE (Premier) — It is not normal for the Premier or anybody in cabinet to disclose cabinet discussions, but in this case let me make it very clear: what has been purported by the Leader of the Opposition is absolutely and utterly wrong, untrue, bunkum, bulltish — however you want to describe it. It is absolute and utter bulltish. I am not sure where he got the information from, but it is typical of the questions that we get in here from the Labor Party — wrong, wrong and wrong again!

What we focus on in cabinet is real decisions to get on and build a stronger and better Victoria. That is what we are on about in cabinet. We are on about making sure that we grow jobs and opportunities. We are on about introducing legislation that makes Victoria a safer place. We are talking about legislation to make sure Julian Knight remains in jail. That is what we are talking about in cabinet. We are talking about the 3200 jobs that will be created in east–west link stage 1.

Many of those jobs are for good people who belong to our unions and work across the state. Earlier this week I was asked about Alcoa workers who may get a job on the east–west link stage 1 project. I just happen to have a comment here from the Electrical Trades Union state secretary. He is quoted in regard to east–west link stage 1 as saying 'that will provide hundreds of jobs for our members'. The same article says:

> He expected at least 500 electricians to be employed on east–west link stage 1 and another 200 … jobs.

Portland Aluminium is in my electorate, and I have been to Point Henry a number of times. I know that many electricians work for Alcoa, and those electricians will certainly be lining up for those sorts of jobs on east–west link. The Australian Workers Union state secretary, Ben Davies, was quoted in the *Age* of 10 September in reference to east–west link stage 1. He is quoted as saying:

> … of course, we would support it.
>
> …
>
> We just want to see infrastructure projects that create jobs …

That is what he said. We know many members of the Australian Workers Union work in our smelting industries, and those people will be looking for those jobs on east–west link stage 1. The friend of the friend of the Leader of the Opposition, the Construction, Forestry, Mining and Energy Union state secretary, the Leader of the Opposition's mate, John Setka, was also reported as having 'recently offered his union's strong backing for the project'. Arm in arm, shoulder to shoulder with his mate the Leader of the Opposition, John Setka is saying he wants east–west link stage 1 because there are jobs in it for his members.

Mr Merlino — On a point of order, Speaker, the Premier is not being relevant to the question. Photo opportunities with the minister, a puff piece in the *Sunday Age*, is not — —

The SPEAKER — Order! The member for Monbulk will not use a point of order to attack another member or enter into debate. His points of order are becoming frivolous.

Mr Andrews interjected.

The SPEAKER — Order! The Leader of the Opposition! The Chair is speaking. I do not uphold the member for Monbulk's point of order.

Dr NAPTHINE — Our cabinet continues to concentrate on growing jobs and opportunities for Victoria — and 66 900 more Victorians are employed now than when we came to office. We have talked about the jobs created by Coles, the jobs created by Cotton On, the jobs created by the national disability insurance scheme, the jobs that will be created in Geelong by our policy of moving the Victorian WorkCover Authority headquarters to Geelong, the jobs in the information and communications technology sector, the jobs delivered by the super trade missions and the jobs at SPC Ardmona. We talked about that and said it was a good decision for the government to coinvest — —

The SPEAKER — Order! The Premier's time has expired.

Employment

Mr ANGUS (Forest Hill) — My question is to the Treasurer. Can the Treasurer update the house on the latest jobs data, and is he aware of any threats to job creation?

Mr O'BRIEN (Treasurer) — I thank the member for Forest Hill for his question and for his interest in the economy and jobs growth. Today at 11.30 a.m. the Australian Bureau of Statistics released the regional unemployment data for the three months to January. This data shows that in the three months to January regional Victoria created 4700 new jobs. Victoria now has a regional unemployment rate of 5.4 per cent, the lowest of any state in the country — and 5.4 per cent is much lower than 6.3 per cent, which was the regional unemployment rate when Labor was kicked out of office. This regional jobs growth means there are an extra 24 600 men and women in regional Victoria who now have jobs who did not have jobs under Labor.

This comes off the back of last week's employment data for January, which shows that in a month where the Australian nation dropped 3700 jobs, Victoria put on 7300 new jobs. This week has seen some difficult announcements for jobs in some sectors, but it is important to note that our economy is growing and our state is putting jobs on.

When the economic challenges are greater, it is more important than ever to have a team in government that can manage money, that can manage major projects and that understands business. The last thing Victoria needs — the worst thing for jobs — would be to have a government that thinks economic reform is putting on a new public holiday. The worst thing for jobs would be opposing major infrastructure projects like east–west link, which is creating 3200 jobs. The worst thing for jobs in Victoria would be to have a government

beholden to rogue unions led by convicted police bash artists like John Setka and the Construction, Forestry, Mining and Energy Union.

The coalition government will not do that. We will stand up for Victoria and for Victorian jobs. That is why we have been investing in regional Victoria, and that is reflected in the jobs numbers. We have 770 jobs being created through the $630 million Bendigo Hospital redevelopment. We have 650 construction jobs and 600 ongoing jobs through the establishment of the Ravenhall prison. Members opposite complain about these new prisons. Presumably they would rather see criminals on the streets than having them securely locked up in jails. We make no apology for saying we have a stronger position on law and order, and we will build jail capacity accordingly and create jobs in the process. We have 5500 new jobs created through the Deputy Premier-administered $1 billion Regional Growth Fund, and 2700 jobs have been saved through this government's coinvestment with SPC Ardmona.

There are other threats to job creation in this state. If you cannot cost your major projects, that is a threat to the economy. If you have a $19 billion black hole in your costings, that is a threat to the economy. You would double debt, you would trash the AAA rating and you would blow the budget. Victoria cannot afford a $19 billion black hole, and we cannot afford Labor.

Mr Pallas — On a point of order, Speaker, above the hyperventilation and the panic, I ask the minister to table the so-called $19 billion document he is referring to.

The SPEAKER — Order! The member for Tarneit! Does the minister have a document he wishes to table?

Mr O'BRIEN — On the point of order, Speaker, it speaks volumes when the Labor Party is asking us to explain its costings.

The SPEAKER — Order! I do not uphold the point of order.

Mr O'BRIEN — Victorians cannot afford unfunded transport black holes. They need good projects and well-funded projects. They cannot afford Labor.

SUMMARY OFFENCES AND SENTENCING AMENDMENT BILL 2013

Second reading

Debate resumed.

Ms MILLER (Bentleigh) — I will contribute a little more to the debate on the Summary Offences and Sentencing Amendment Bill 2013. I congratulate the Attorney-General for bringing forward this important legislation, which makes changes to move-on powers, to alcohol-exclusion orders and, more importantly, to move-on-related exclusion orders. There are a couple of examples I would like to share with members.

The Construction, Forestry, Mining and Energy Union caused disruption at the Emporium Melbourne site, impacting on jobs and the economy. Labor clearly does not care about the impact unions are having on the building industry. The Leader of the Opposition is pro-union and is a puppet of their demands, and he has not defended Victorians. Heaven help Victorians if the Labor Party gets into office. We will be going back to the 1980s. The state will be in disarray and corruption will be rife. As I said, we will be going backwards.

There are two examples I would like to bring to members' attention where this bill is very important in clarifying the ability to move protesters on. On 29 July 2011 there was a protest by the boycott, divestment and sanctions movement. Pro-Palestinian activists and members of the left and unions were being very disruptive. They were targeting the Max Brenner chocolate shop in Melbourne and the Jericho cosmetics shop. Police made arrests on that day, but all were let off because this piece of legislation did not exist. The protest was very disruptive of businesses run by members in the Jewish community, not only at this particular site in Melbourne but at sites throughout Victoria. There has been victimisation of the Jewish community. These people, possibly serial protesters, are targeting members of this wonderful community simply because they are Jewish or have a connection to Israel, and that is wrong.

The other example I would like to bring to members' attention is the 2012 Israel Independence Day. A number of members of the government were escorted across the road to the Windsor hotel. There were police officers there, probably about 10 deep. There were mounted police, officers with masks and barriers. We were all scuttled across and, I have to say, it was very frightening. Those thugs were disrupting our work as members of Parliament who were trying to do the right thing by all Victorians and certainly by our own

constituents. The Labor Party will do anything. I think this bill is a very important piece of legislation. I commend it to the house and wish it a speedy passage.

Ms HALFPENNY (Thomastown) — Firstly, I would like to repeat what has been said many times by members of the Labor Party. That is that we have consistently asked that this bill be split into two parts — one to talk about how to deal with alcohol-fuelled violence, and the other to talk about people's democratic right to protest. There are already laws to deal with obstruction and interference with trade, and it is not necessary to have laws that go further than that. The bill we are talking about today provides for the arrest, jailing and fining of people who are merely protesting and upholding their right to protest. There are already laws to deal with all those other things.

This legislation talks about people's fundamental right to protest. They also have a right to only be accused and found guilty of things they have actually done. This legislation provides police with the ability, if they think that maybe — they are not quite sure, but maybe — somebody might at some stage in the future do the wrong thing, to issue a notice to move that person on, just on the basis that a person may be doing something that a police officer may think is not the right thing to do. Again, there are laws to deal with a protester who is doing particular things, but they have to be things that the person has actually done, not simply things that they are alleged to have done. The matter then goes to court to determine whether in fact that person has committed an offence, rather than relying on the belief, suspicion or who knows what of a police officer who was at the protest.

This is a very undemocratic piece of legislation. It is not just about industrial relations protesters. It is not just about workers pursuing their rights. It is also about other protesters, whether they be trying to preserve historic buildings or complaining about a big corporation that wants to ruin their community and their enjoyment of life. These are the things that people protest about, and they have a right to do so. We on this side of the house are opposed to any legislation that reduces the democratic right of people to protest. As has been stated previously, the Labor Party has committed to repeal this legislation if elected in November.

Mr K. SMITH (Bass) — It is a pleasure to be back on my feet and unshackled from the chains of the chair to say to the Labor Party that there is a new poacher on the block, and you are going to feel it for the next 10 months at every opportunity I get to whack it into you.

It is a pleasure to be speaking on the Summary Offences and Sentencing Amendment Bill 2013, which I totally support. I say that those on the other side have no right to stand and object to something like this, which is going to be good for the people of Melbourne and the citizens of Victoria. If you want to protest, protest peacefully — as people do on the steps of Parliament when we invite them to come here; not like those ratbags at the east–west link, not like those ratbags at the G20, not like those ratbags at Occupy Melbourne, and not like those ratbags at the S11 rallies. Who are these ratbags? Labor's mate Stephen Jolly. Do you know him? He is one of your mates. The problem that you have got — —

Honourable members interjecting.

Mr K. SMITH — Just hang on a minute. The problem you have is that you have to object to this bill because the union thugs and your mates from Lygon Street, the pinkos and commos up there — I would have said the pinko, commo bastards, but that is unparliamentary — say you do. The trade union thugs are the ones that you owe your jobs to, the ones who say who is going to get the seats in this house, the ones who say who is going to get the seats in the upper house, the ones who told the member for Eltham that he has to leave here and go into the other house to get some other poor thug from the trade union movement into this house. You must worry a little bit about where you are all heading here. The Labor Party is controlled by the trade union movement; we know that. It is controlled by the Brian Boyds, the Johns Setkas, the ratbags, the troublemakers and the thugs who have attacked police and have been charged for beating people up, beating up police and causing problems.

You on the other side of the chamber are responsible for those people. You are controlled by them. You are the puppets of the trade union movement. You are the puppets of the thugs who come from Lygon Street — the troglodytes and the luddites. They are all your controllers, and they are all up there. You know you have a responsibility to them. You know you have to stand up in this place and say you oppose good legislation. You know you have to do that because they are the people who control you.

They are the people who went down to the Grollo site day after day to try to stop building work going ahead and stop good building workers who were wanting to go onto the site and earn a fair day's pay. Your people marched on those good workers and tried to stop them getting on the site. You objected to Grollo running a good building program. Look at the building now. If you had have got your way it would never have been

completed. There never would have been enough money to pay for all of the things the trade unions were demanding. Look at us now — $1.8 million a day for us having to pay — —

Honourable members interjecting.

Mr K. SMITH — You just go away. Go up to your seat and yell a bit of abuse at me from up there. Go on.

The ACTING SPEAKER (**Mr Angus**) — Order! Through the Chair!

Mr K. SMITH — It was $1.8 million a day that the unions forced Thiess Degrémont to have to pay to a lot of lazy workers on that site who did not deserve the money they were getting. It was $1500 for a girl to go into the dining room and clean up after their morning and afternoon teas. The money for the labourers working on-site, where drugs were sold, is just a way of propping up the unions. The fact is that you people on the other side of the chamber — each member of the Labor Party — are responsible for what happens when the G20 get out of control, when the east–west protesters get out of control and when the S11 protesters get out of control. You are responsible for that, and if it continues — —

Mr Nardella — On a point of order, Acting Speaker, the honourable member for Bass should by now understand that he should be directing his comments through the Chair, so I ask you to bring him to order and to direct him to direct his comments through the Chair.

The ACTING SPEAKER (**Mr Angus**) — Order! I encourage the member for Bass to direct his remarks through the Chair.

Mr K. SMITH — Through you, Acting Speaker, I am saying that those thugs on the other side of the chamber are responsible for Victoria having the highest costs for buildings — —

Ms Campbell — On a point of order, Acting Speaker, I ask the member to withdraw that comment.

Mr K. SMITH — Which comment?

The ACTING SPEAKER (**Mr Angus**) — Order! Can the member for Pascoe Vale clarify which comment she is referring to?

Ms Campbell — Thugs.

The ACTING SPEAKER (**Mr Angus**) — Order! The member for Bass has been asked to withdraw.

Mr K. SMITH — I withdraw. So sit down and relax. I have still got a couple of minutes to go.

Ms Campbell interjected.

Mr K. SMITH — I withdrew. I said that. What more do you want?

Ms Campbell — Acting Speaker, I draw your attention to the health of the member.

The ACTING SPEAKER (**Mr Angus**) — Order! That is not a point of order. The member for Bass, to continue.

Mr K. SMITH — What do we read in the paper about people like Anthony Main and Stephen Jolly? Anthony Main is one of the people on the other side of the chamber — a member of the Labor Party. He was active in the violent G 20, Occupy Melbourne and S 11 rallies. He is 37 years old today.

Ms Duncan — On a point of order, Acting Speaker, I ask you to bring the member back to the bill.

The ACTING SPEAKER (**Mr Angus**) — Order! I do not uphold the point of order. It has been a wide-ranging debate and the member is talking on the bill.

Mr K. SMITH — I am speaking on the bill — the Summary Offences and Sentencing Amendment Bill. I am talking about one of the protesters who has forced the introduction of this legislation. I am talking about people like Anthony Main. He is 37 years old. He hates right-wing politicians, he hates big business and he has said he is proud to be a pest. I will tell you what: when this legislation goes through, let us see how proud he is when he gets dragged up by the coppers. Let us see how proud he will be then, with his mate Cr Stephen Jolly and Yarra City Council.

Ms Duncan interjected.

The ACTING SPEAKER (**Mr Angus**) — Order! The member for Macedon will cease interjecting.

Mr K. SMITH — You will have your chance to get on your feet if you want to have a go. These protesters are not legitimate protesters. They are in fact professional protesters. They are financially supported by the people of Melbourne, by the taxpayers of Australia, and they are supported by the trade union movement. Every one of them will be picking up money. They will be on the dole, they will be getting dough, and we the taxpayers will be paying for those protesters to be out there.

Government members do not like those sorts of people. They are not even fair dinkum. They are not like some of the real protesters we get out on the steps of Parliament House. This former group of people want to bring their kids along to rallies. What a disgrace. That shows the mentality of some of these ratbags out on these lines. It is not fair on the kids and it is not fair on the people of Melbourne, who have to pay for the police to be there trying to keep those people under control.

Ms Campbell interjected.

Mr K. SMITH — Don't you start. You had your go before. I think the important thing here is that the people on this side of the chamber understand that the legislation being proposed is good legislation. It will bring some of these protesters to account for the stupid things they are doing. We know they are pinkos; we know they are commos; we know they are from the Trades Hall Council, which organises all this sort of stuff. They are the problem. Go up to Lygon Street, have a look, call on the Brian Boyds, call on the John Setkas — just call on all the leaders of the trade union movement. They will be the ones financing these people after they waste all of the dough that they get from being on the dole.

Mr Pakula interjected.

Mr K. SMITH — Don't you start — you were one of them. What are you talking about? Have a look at yourselves. How many of you are trade union people? Nearly every single one. How many of you are puppets of the unions? Every one of you. You are puppets of the trade unions.

Honourable members interjecting.

Mr CLARK (Attorney-General) — I thank honourable members for their contributions to the debate on the bill. This is a bill to support and strengthen the upholding of the rule of law on the streets of Victoria after the 11 years of the soft-on-crime approach under the previous government. It has two key elements. The first is to impose a two-year ban from licensed premises on those who engage in alcohol-fuelled violence. The second is to strengthen and add to the move-on powers made available to our police force to deal with a range of antisocial street disorder and misconduct.

In relation to the first of those elements, the member for Lyndhurst sought to argue for far less clarity in the operation of that sanction. What the member needs to understand is that it is a sanction. A key part of sanctions is making clear the message and the consequences of people's actions. Just as this government has abolished suspended sentences to send a clear message that jail means jail, so we want to send a clear message that those who engage in alcohol-fuelled violence on our streets will be banned from licensed premises for two years. If the member wants to advocate a watering down of that policy, let him continue with the arguments he presented earlier.

In relation to the second aspect of the bill, there is no question of the support of anybody on this side of the house for peoples' rights to engage in peaceful protest and nothing in the bill provides any ground for a move on to apply to people engaging in peaceful protest.

People are able to march. They can hold rallies, they can wave banners and they can listen to speakers. They can gather outside employers' premises and outside the sites of projects they disagree with. They can hold up signs calling on people not to enter premises on a site, and they can hand out leaflets to people seeking to enter or leave premises explaining what their position is. All of those lawful and legitimate rights for public protest are upheld by this bill. Indeed they are strengthened by this bill, because if others seek to engage in unlawful action to tear down and block legitimate peaceful protests, then those protesters who try to break the law or use threats of violence to deter others from having their say can be ordered to move on. This bill in fact strengthens the right of everybody to have their lawful and legitimate say in the community.

Those who oppose this bill ranged far and wide in trying to dress this up as some issue that threatens rights. They went everywhere except to say that what they really want is the right to engage in unlawful conduct and the use of force and to — —

An honourable member interjected.

The ACTING SPEAKER (**Mr Angus**) — Order! The member for Broadmeadows will cease interjecting.

Mr CLARK — They want the right to be able to engage in unlawful conduct, to blockade premises and to leave our police without an authority and without a power to act on the spot to deal effectively with that sort of conduct. We have seen the difficulties that have arisen because of the lack of clarity of the law in this area. This bill lays down very clear and precise criteria in relation to offending in a public place, creating an apprehension of violence in other persons and of impeding or attempting to impede another person from lawfully entering or leaving premises.

Mr Pakula interjected.

Mr CLARK — The honourable member shows how he misunderstands the bill, because the undue obstruction ground does not apply in relation to political protests. The bill relates to conscious attempts to impede lawful entry to or leaving of premises.

This is a very sensible measure which will deal with those who engage in disruptions on the streets or in other public places that impede the right of other Victorians to quietly and peacefully go about their lawful business. This will provide another capacity to police to deal effectively with these disruptions on the spot to avoid disturbance and to uphold the rule of law. Just as we have seen with infringement matters, if anybody disagrees with the actions taken by police officers on the spot, they are entitled to have their day in court and to argue their case. But what the law lacks at the moment and what this bill provides is strengthened powers to act in a wide variety of circumstances against those who engage in disruptive and antisocial behaviour on the streets. The bill dramatically scales back the broad range of exemptions the Labor government gave to trade union and political protests when it introduced this legislation in the first place.

On this side of the house we believe that all people need to respect and uphold the rule of law whether they are engaging in political protest or in any other activity, and we believe that the police need effective powers to deal with those who do not respect the rights of others and to do so on the spot. I commend the bill to the house.

House divided on motion:

Ayes, 44

Angus, Mr
Asher, Ms
Baillieu, Mr
Battin, Mr
Bauer, Mrs
Blackwood, Mr
Bull, Mr
Burgess, Mr
Clark, Mr
Crisp, Mr
Delahunty, Mr
Dixon, Mr
Gidley, Mr
Hodgett, Mr
Katos, Mr
Kotsiras, Mr
McCurdy, Mr
McIntosh, Mr
McLeish, Ms
Miller, Ms
Morris, Mr
Mulder, Mr
Napthine, Dr
Newton-Brown, Mr
Northe, Mr
O'Brien, Mr
Powell, Mrs
Ryall, Ms
Ryan, Mr
Shaw, Mr
Smith, Mr K.
Smith, Mr R.
Southwick, Mr
Sykes, Dr
Thompson, Mr
Tilley, Mr
Victoria, Ms
Wakeling, Mr
Walsh, Mr
Watt, Mr
Weller, Mr
Wells, Mr
Wooldridge, Ms
Wreford, Ms

Noes, 43

Allan, Ms
Andrews, Mr
Barker, Ms
Beattie, Ms
Brooks, Mr
Campbell, Ms
Carbines, Mr
Carroll, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Edwards, Ms
Eren, Mr
Foley, Mr
Garrett, Ms
Graley, Ms
Green, Ms
Halfpenny, Ms
Helper, Mr
Hennessy, Ms
Herbert, Mr
Howard, Mr
Hutchins, Ms
Kairouz, Ms
Kanis, Ms
Knight, Ms
Languiller, Mr
Lim, Mr
McGuire, Mr
Madden, Mr
Merlino, Mr
Nardella, Mr
Neville, Ms
Noonan, Mr
Pakula, Mr
Pallas, Mr
Pandazopoulos, Mr
Perera, Mr
Richardson, Ms
Scott, Mr
Thomson, Ms
Trezise, Mr
Wynne, Mr

Motion agreed to.

Read second time.

Consideration in detail

The DEPUTY SPEAKER — Order! Before calling members to speak on clause 1, I advise the house that the member for Lyndhurst has given notice of a motion to split the bill. The house must first deal with the member's motion before moving to consider the bill. Accordingly, I call the member for Lyndhurst to move his contingent motion as listed on the notice paper.

Mr PAKULA (Lyndhurst) — I move:

That the Summary Offences and Sentencing Amendment Bill 2013 be divided into two bills as follows:

(a) A Summary Offences Amendment Bill 2014 being the Summary Offences and Sentencing Amendment Bill 2013 with the following changes:

(i) Long title as follows:

"A Bill for an Act to amend the Summary Offences Act 1966 and for other purposes.";

(ii) Short title as follows:

"Summary Offences Amendment Bill 2014";

(iii) Heading to Part 1 of the Bill;

(iv) Clause 1 as follows:

"1 Purpose

The purpose of this Act is to amend the **Summary Offences Act 1966** in relation to directions to move on and to provide for the making of exclusion orders from public places.";

(v) Clause 2;

(vi) Heading to Part 2 of the Bill;

(vii) Clause 3;

(viii) Clause 4;

(ix) Clause 5;

(x) Clause 6;

(xi) Part 3 of the Bill omitted;

(xii) Heading to Part 4 of the Bill renumbered 3;

(xiii) Clause 9 renumbered 7;

(b) A Sentencing Amendment Bill 2014 being the Summary Offences and Sentencing Amendment Bill 2013 with the following changes:

(i) Long title as follows:

"A Bill for an Act to amend the **Sentencing Act 1991** and for other purposes.";

(ii) Short title as follows:

"Sentencing Amendment Bill 2014";

(iii) Heading to Part 1 of the Bill;

(iv) Clause 1 as follows:

"1 Purpose

The purpose of this Act is to amend the **Sentencing Act 1991** to provide for the making of alcohol exclusion orders in relation to offenders who commit certain violent assaults.";

(v) Clause 2;

(vi) Part 2 of the Bill omitted;

(vii) Heading to Part 3 of the Bill renumbered 2;

(viii) Clause 7 renumbered 3;

(ix) Clause 8 renumbered 4;

(x) Heading to Part 4 of the Bill renumbered 3;

(xi) Clause 9 renumbered 5;

(c) That each Bill be printed and considered separately by the House.

I am pleased to speak in support of my motion. The effect of the motion is to split the bill into two parts. I do not intend to speak for very long on this; in fact I do not necessarily intend to speak even for my full 5 minutes. I simply make the point that in the view of the opposition the bill is an unworthy and tricky attempt to create a wedge to effectively hive together a bill which is about move-on powers and a bill which is about alcohol-exclusion orders. There is absolutely no community of interest between those two matters.

One provides enormous powers to shut down legitimate protest, something which will — despite the words of the Attorney-General in summing up on the bill — potentially create a situation where legitimate political protest can be stopped and silenced. Even though, as the Attorney-General said, the obstruction head may not apply to political protest, the impeding head certainly does. It will apply to a range of protests. During the second-reading debate there was a reference to it applying to protesters like those against McDonald's in Tacoma, and the Treasurer by way of interjection said, 'They ought to be moved on'. Part 2 of the bill is about shutting down debate and protest and criminalising actions that have been legal until this day.

The other part of the bill, part 3, is about alcohol-exclusion orders. In summing up the Attorney-General indicated that it is about making sure that in all cases alcohol-exclusion orders apply for two years. Even I could say that there are some cases where it might be more appropriate for exclusion orders to apply for three years, five years or however long a judge thinks they should apply. Under the alcohol-exclusion orders, publicans, licensees and others will have absolutely zero information about who is excluded and what they look like and no resources with which to enforce the provision. Nevertheless, the opposition has made it clear that we will vote for it if the bill is split.

There is absolutely no reason why a provision about moving protesters on and a provision about excluding persons from licensed facilities if they commit certain offences under the influence of alcohol belong in the same bill. They do not belong in the same bill. Members ought to be shown the respect of being allowed to vote for or against those two particular legislative options independently. It is not reasonable for members of this house to be forced to oppose one simply because they oppose the other — because these are two radically different provisions. They have absolutely nothing to do with one another. In these circumstances it is vital for members of this chamber to be given the opportunity to determine whether they support move-on powers or alcohol-exclusion powers, without a member's opposition to one set of powers by and of itself meaning that member is forced to vote against the other. If the bill is not split, that is the position members will be put in. Part 2 and part 3 of this bill have absolutely no community of interest. For those reasons, the opposition supports splitting the bill. I commend my motion to the house.

Mr CLARK (Attorney-General) — This is a bill to address antisocial street behaviour in various forms, both alcohol-fuelled violence on the streets and other street disturbances and disruptions in public places. Both aspects of this bill address problems that have become manifest as a result of the 11 years of the soft-on-crime approach of the previous government. One element of the bill removes the exemption that the previous Labor government gave to its union mates and others engaged in political protests, putting them above the law. The government believes respect for the law on the streets and in public places should be upheld by all people, regardless of whether they are engaging in a political or industrial dispute. That is the reason we are dramatically confining the exemption the previous Labor government gave to industrial and political protest. The overarching objective of the bill is to uphold the rule of law on the streets by ensuring that there are sanctions against those who engage in alcohol-fuelled violence and that our police force is empowered to ensure that objective is achieved.

The opposition wants to take exception to parts of the bill, and it is entitled to do that. Opposition members have already made their views clear during the course of the second-reading debate, and no doubt they will make their views clear in the course of the consideration-in-detail stage. Obviously the government seeks the support of the house for all aspects of this bill, but if opposition members want to oppose certain parts of it, they can make their points of view clear without the necessity of splitting the bill.

If the house decides there is good reason to split the bill and consider different aspects in different ways, that is something that is open to the house to resolve, but it means that it will take greater time and there will be greater impediment in terms of this law passing this house and therefore being considered by the other place and having the opportunity to go on to the statute books. If the house supports this bill as a whole, there is no particularly good reason to split the bill unless the house wants to deal with different aspects in different ways, which, as I say, the house is entitled to do if it wants. However, if the house does not want to deal with different aspects in different ways, there is no need to split the bill. We should get behind this bill, pass it and get it onto the statute books.

Mr PALLAS (Tarneit) — In rising to speak in support of the motion moved by the member for Lyndhurst, I want to make it clear that the government could not have done a worse job with this bill if it had stuck the two competing issues together with chewing gum and spit. In effect this is a bill that seeks to deal with two substantially different issues. We have heard probably no more compelling reason for why these matters should be kept separate than the contribution from the member for Bass, where essentially all we heard was rhetoric and bile directed at members on this side of the chamber for a genuine belief in the right of people to protest and protest lawfully. We saw so many on the other side actually standing and upholding that very same right when they were in opposition. I will not torture this Parliament once again with a rendition of each and every instance, but time and again that right was seen as being important.

The alcohol-exclusion arrangements are valuable, although there is some argument about their workability and enforceability. However, quite frankly it is cynical, tricky and unworthy of this Parliament that this cobbled-together piece of political polemic should be given the status of legislation in this place. What we see here is an attempt to substantially undermine people's right to protest. Whatever happened to the Liberal Party — the party that is presumably supposed to be for liberty? Liberty only has its practical application in the fact that it can be exercised at the inconvenience, on occasion, of others. That, in fact, is a democracy. I mourn for this place. I mourn for the once great Liberal Party that on occasion stood up for the forgotten people. Instead it is now just a party that forgets people. It forgets the right of the community to rise up as a group and express its views to government on issues of social moment. It forgets that people can exercise their conscientious right to do so.

Our right to do so in this Parliament is in effect being undermined by a tricky and cynical arrangement simply to insist on this piece of legislation being dealt with as a single bill. I believe it is draconian, antidemocratic and unnecessary. If this government had the courage of its conviction — if it believed these pieces of legislation with contradictory and in many cases mutually exclusive objectives could ultimately be dealt with separately — then the Parliament could have a genuine debate. Perhaps that would not inject any more reason or content into the contribution of the member for Bass, but this Parliament could deal seriously with issues that relate to the manner in which people's right to protest are looked at. This is an incursion into the liberty of Victorians as it essentially makes the trade union movement — a group of democratic organisations that are regulated more than any other organisation in this country — a scapegoat for this government's political agenda.

If we are going to simply embody politics as legislation, this is bad law. There could be no more compelling argument for that than to look at these move-on powers. They are Orwellian in their nature. Not only does a

member of the police force merely need to suspect on reasonable grounds that a person has committed an offence or is causing a reasonable apprehension of violence to another, it goes on to say that this power also covers those who are 'causing, or likely to cause, an undue obstruction to another'. Essentially this allows the police to exercise in their mind what somebody else might be thinking. At least in *Nineteen Eighty-Four* we understood what thought crime was — it was what was going on in your own head. We have this ridiculous proposition where a secondary obligation is being applied to police. This is wrong, and it is reprehensible that the Parliament should be used in this way.

Mr BAILLIEU (Hawthorn) — I want to make a couple of quick points in response. The people of Victoria understand and treasure the right to protest; so does the government. The people of Victoria also recognise the right of people to go about their legitimate business, as does the government. When the two clash and the right to protest overwhelms the right of people to go about their legitimate business, the extremists are recognised as such by the people of Victoria. They are recognised by this government. The same applies in debate. When members opposite rise and take the sort of approach they have taken, the people of Victoria can see through that. They recognise that this is a bill about balance.

I have to smile with irony at the thought of members opposite wanting to split this bill. They must be blind to the way the previous government operated. I do not recall the splitting of too many bills under the previous government, I have to say.

Mr Pallas interjected.

The DEPUTY SPEAKER — Order! The member for Tarneit will desist from interjecting.

Mr BAILLIEU — Anything but substance from the member for Tarneit, avoiding the fundamental question. The people of Victoria want to preserve the right to protest and the right of people to go about their legitimate business and not have their legitimate business trashed by those who have no regard for the rule of law.

Mr McGUIRE (Broadmeadows) — The issues involved in this bill are too important in the public interest for the level of politics that has been played by the government in joining them today. It is as simple as that. The public interest is quite clear: these two issues should stand apart because there is no joining theme. There is no joining proposition. You have to ask yourself, 'Why has this happened?', because this goes totally against the modus operandi of this government. I have repeatedly raised issues about how narrow its bills have been in perspective and outlook. What do we have now? Two totally disparate propositions being joined for a political purpose. That is the issue at the heart of this.

If you look at timing and context, where are we in the political cycle? What is the government's standing? What are the issues it faces? It is in dire need, trying to whip up a political agenda and a political campaign. Why is that? Because the former Premier is gone. The former Treasurer is gone. The former Minister for Manufacturing, critical for jobs, is gone. The former Minister for Police and Emergency Services is gone. The Minister responsible for IBAC is gone. Credibility is gone. The former Speaker is gone, although he came back today — Banquo's ghost appeared today.

We heard the context of what this is really about from the member for Bass. We also heard from the Treasurer something that goes to a critical point being made on this side. He said that people who are from a local community want to stand up for their rights. They want to protest at Tecoma, and they want to say, 'This is what we historically have had the right to do as citizens of Victoria for decades, through both sides of politics being in power. We have always had the ability to do that. We can stand up for our rights. We can protest'.

But with this legislation the Treasurer has revealed the hidden agenda that has now come forth and that we can now see. He said, 'The protesters should be moved on. They should be subject to the clauses and penalties contained in this bill'. That is not the right thing to do, not in any liberal democracy. We all know that. That is the proposition. If the government wants a better balance and wants legitimate businesses to be able to get on with what they want to do, we support that. However, if the government wants to get the balance right, it should never have put these two issues together in this way. That goes against the modus operandi of this government. This is the exception that proves the point. Why has the government done this?

The coalition is ruthlessly pursuing a politically selfish agenda ahead of the public interest. The public interest is best served by these two totally disconnected concepts being weighed, measured and debated in a rational, unemotional and serious way because both issues deserve that. They do not deserve an approach such as the one experienced by Rab the Ranter:

> Rab the Ranter tore his hair;
> and cursed himself in his despair.

We do not want any more of those sorts of contributions in this house. We want to consider what is important.

The context of the bundling of these two issues is that this is a government trying to bring its fear-and-smear campaign into the Parliament and put it through legislation. That is totally unacceptable with respect to the public interest of the people of Victoria. In my view, that is not the way the Parliament should be misused. I have regard and respect for the member for Hawthorn, but he said, 'That is the way it used to happen'. That is not good enough.

We judge government members on what they do and what they say. What are they doing? Government members are deliberately bundling these issues together when they should be treated separately. They know these issues should be separated. The issues should be weighed, measured and considered on their merits in separate debates. The opposition has said that while it has some problems with the alcohol-exclusion provisions, if the government were to split the bill, it would vote in favour of the alcohol-exclusion provisions. There is the opportunity.

This vote will be a test of whether this government stands in the public interest or in favour of its own narrow political interest, because that is the way the government has set this whole thing up. That is the call that has been made. That is what has been identified by the Treasurer. The admission is on the record, and it speaks for itself.

Mr WYNNE (Richmond) — In relation to clause 1 of the bill, as the shadow Attorney-General has already — —

The DEPUTY SPEAKER — Order! We are not on clause 1. We are debating a motion by the member for Lyndhurst.

Mr WYNNE — Yes, to split the bill. I beg your pardon, Deputy Speaker. The motion from my colleague the shadow Attorney-General that — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The member for Richmond, without assistance on the motion.

Mr WYNNE — The shadow Attorney-General's motion is that the bill be split into two parts. The reason we have moved this motion is that we believe — —

Ms Asher — Do you know where you are?

Mr WYNNE — I certainly know where I am, as opposed to you. Mumbai, Dubai — you could be anywhere.

The DEPUTY SPEAKER — Order! The Leader of the House will not interject, and the member for Richmond knows it is disorderly to respond to interjections.

Mr WYNNE — I take your counsel on these matters, Deputy Speaker, and I am certainly awake.

We seek to split this bill for two important reasons. The first is that the alcohol-exclusion matter ought to be dealt with as a stand-alone question before the house. The shadow Attorney-General has elucidated in great detail in his contribution why we have deep concerns regarding how the alcohol-exclusion matter will be implemented. Indeed he has pointed to some very practical issues about how you would seek to exclude people and what might happen if somebody who may have been excluded may seek to go to a licensed premises. The shadow Attorney-General indicated that at the European restaurant opposite Parliament House, which is a licensed premises, if somebody in this category sought to have a cup of coffee or something like that, they would effectively be in breach of the law. The government has not thought through the practical implications of this exclusion policy and has madly rushed this matter into the Parliament. In our view it is hardly even half-baked.

Mr K. Smith interjected.

Mr WYNNE — 'Rubbish', says the member for Bass.

The DEPUTY SPEAKER — Order! The member for Richmond knows it is disorderly to respond to interjections. The member for Bass should stop interjecting, and I ask the member for Richmond to ignore interjections.

Mr WYNNE — Particularly from the member for Bass in his new role. In relation to the move-on powers, we believe that not only is this proposal completely ill-informed but it will also do great harm. In my earlier contribution I indicated that not only is this a policy that is deeply rooted in the absolute bile and hatred felt by some people on the other side of the house towards organised labour and the trade union movement more generally, a visceral hatred that is exhibited almost every day in question time — —

Mr K. Smith — Not like you. You are afraid of them!

The DEPUTY SPEAKER — Order! The member for Bass will desist.

Mr WYNNE — A visceral hatred is exhibited almost every day in question time by the Premier and other ministers. The appalling performance by the member for Bass today is another example of that. It also goes to the point that these move-on powers may well have significant implications for some of the most vulnerable people in our community.

It is easy for government members to deride organised labour. It is easy for them to deride people who lawfully want to go about their business of articulating their concerns, whether it be in relation to the east–west tunnel or the Tecoma community, but they should spare a thought for the most vulnerable in our community. I refer to Aboriginal people and homeless people, who, under the particular provisions of this legislation, may be deleteriously impacted by this particular proposal. The Attorney-General, who is at the table, should not shake his head. This is a potential outcome, and he knows it, and shame on him for bringing this forward.

House divided on motion:

Ayes, 43

Allan, Ms	Hutchins, Ms
Andrews, Mr	Kairouz, Ms
Barker, Ms	Kanis, Ms
Beattie, Ms	Knight, Ms
Brooks, Mr	Languiller, Mr
Campbell, Ms	Lim, Mr
Carbines, Mr	McGuire, Mr
Carroll, Mr	Madden, Mr
D'Ambrosio, Ms	Merlino, Mr
Donnellan, Mr	Nardella, Mr
Duncan, Ms	Neville, Ms
Edwards, Ms	Noonan, Mr
Eren, Mr	Pakula, Mr
Foley, Mr	Pallas, Mr
Garrett, Ms	Pandazopoulos, Mr
Graley, Ms	Perera, Mr
Green, Ms	Richardson, Ms
Halfpenny, Ms	Scott, Mr
Helper, Mr	Thomson, Ms
Hennessy, Ms	Trezise, Mr
Herbert, Mr	Wynne, Mr
Howard, Mr	

Noes, 44

Angus, Mr	Napthine, Dr
Asher, Ms	Newton-Brown, Mr
Baillieu, Mr	Northe, Mr
Battin, Mr	O'Brien, Mr
Bauer, Mrs	Powell, Mrs
Blackwood, Mr	Ryall, Ms
Bull, Mr	Ryan, Mr
Burgess, Mr	Shaw, Mr
Clark, Mr	Smith, Mr K.
Crisp, Mr	Smith, Mr R.
Delahunty, Mr	Southwick, Mr
Dixon, Mr	Sykes, Dr
Gidley, Mr	Thompson, Mr
Hodgett, Mr	Tilley, Mr
Katos, Mr	Victoria, Ms
Kotsiras, Mr	Wakeling, Mr
McCurdy, Mr	Walsh, Mr
McIntosh, Mr	Watt, Mr
McLeish, Ms	Weller, Mr
Miller, Ms	Wells, Mr
Morris, Mr	Wooldridge, Ms
Mulder, Mr	Wreford, Ms

Motion defeated.

Clause 1

Mr PAKULA (Lyndhurst) — Clause 1 provides that one of the main purposes of the bill is to amend the Summary Offences Act 1966 in relation to directions to move on and to provide for the making of exclusion orders from public places. Since we have heard a lot from members of the government about this being directed only at illegal or unlawful protests, I ask the Attorney-General: does there need to be any determination by any court that a protest or a picket line is illegal or unlawful before the move-on powers are activated?

Mr CLARK (Attorney-General) — I would have thought the honourable member would have been able to resolve his own question in that regard. The amendments made by the bill are amendments to a regime that was introduced by the Labor government. As the honourable member will know, the mechanism is that if a member of the police force reasonably suspects that certain conditions have occurred, then a member of the police force, or under amendment made by this government, a protective services officer in relevant circumstances, can issue a move-on order. As I made clear to the honourable member in concluding the second-reading debate, as was clear from the second-reading speech and as it applies in the case of infringement offences, if somebody disputes the validity and the basis on which a police officer has issued a move-on order, then they are entitled to have their day in court.

That is something with which the honourable member should be very familiar, because it is exactly the same regime as applies in relation to infringement offences. The reason is very clear: when people are engaging in antisocial street behaviour, committing offences in public places, trying to deal drugs in public places or deliberately trying to impede and blockade people as they are going about their lawful business the police need the power to act on the spot. You can have all the laws you like on the statute books otherwise, but if the police do not have a clear and direct power to deal with

the situation on the spot, then the rights of ordinary, law-abiding citizens are being ignored and abrogated.

With everything those on the other side of the chamber have had to say in this debate about wanting to uphold the right to protest, they have never once been able to bring themselves to say that what they want is the right for trade unions, protesters or whoever it may be to break the law or to impede and blockade people while they are going about their lawful business. They want the right to put themselves, their allies or others above the law. That is the nub of this debate.

If opposition members want to argue that, then let them come out and say so, but on this side of the chamber our view is that law-abiding Victorians should be able to go about their business in public places. They should be able to go into a chocolate shop, buy chocolates and leave without having to contend with a horde of people outside, blockading the shop and trying to send that business broke. People who want to go into a coffee shop at the bottom of a high-rise building that happens to have a construction company based in it should be able to do that. That small business should be allowed to have its customers enter and leave the premises without a whole lot of protesters deliberately trying to send that business broke by blockading it so nobody can get near it. That is the sort of rule of law that this side of the chamber is trying to uphold. We are trying to give Victoria Police the power to ensure that the law can be upheld properly and effectively.

The DEPUTY SPEAKER — Order! The time set down for the consideration of items on the government business program has expired, and I am required to put the questions necessary for the passage of the bill.

Clause 1 agreed to.

The DEPUTY SPEAKER — Order! The question is:

That clauses 2 to 9 stand part, the bill be agreed to without amendment and the bill be read a third time.

House divided on question:

Ayes, 44

Angus, Mr
Asher, Ms
Baillieu, Mr
Battin, Mr
Bauer, Mrs
Blackwood, Mr
Bull, Mr
Burgess, Mr
Clark, Mr
Crisp, Mr
Delahunty, Mr
Dixon, Mr
Gidley, Mr
Hodgett, Mr
Katos, Mr
Kotsiras, Mr
McCurdy, Mr
McIntosh, Mr
McLeish, Ms
Miller, Ms
Morris, Mr
Mulder, Mr
Napthine, Dr
Newton-Brown, Mr
Northe, Mr
O'Brien, Mr
Powell, Mrs
Ryall, Ms
Ryan, Mr
Shaw, Mr
Smith, Mr K.
Smith, Mr R.
Southwick, Mr
Sykes, Dr
Thompson, Mr
Tilley, Mr
Victoria, Ms
Wakeling, Mr
Walsh, Mr
Watt, Mr
Weller, Mr
Wells, Mr
Wooldridge, Ms
Wreford, Ms

Noes, 43

Allan, Ms
Andrews, Mr
Barker, Ms
Beattie, Ms
Brooks, Mr
Campbell, Ms
Carbines, Mr
Carroll, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Edwards, Ms
Eren, Mr
Foley, Mr
Garrett, Ms
Graley, Ms
Green, Ms
Halfpenny, Ms
Helper, Mr
Hennessy, Ms
Herbert, Mr
Howard, Mr
Hutchins, Ms
Kairouz, Ms
Kanis, Ms
Knight, Ms
Languiller, Mr
Lim, Mr
McGuire, Mr
Madden, Mr
Merlino, Mr
Nardella, Mr
Neville, Ms
Noonan, Mr
Pakula, Mr
Pallas, Mr
Pandazopoulos, Mr
Perera, Mr
Richardson, Ms
Scott, Mr
Thomson, Ms
Trezise, Mr
Wynne, Mr

Question agreed to.

Third reading

Motion agreed to.

Read third time.

CORRECTIONS LEGISLATION AMENDMENT BILL 2013

Second reading

Debate resumed from 18 February; motion of Mr WELLS (Minister for Police and Emergency Services).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

LEGAL PROFESSION UNIFORM LAW APPLICATION BILL 2013

Second reading

Debate resumed from 19 February; motion of Mr CLARK (Attorney-General).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

SMALL BUSINESS COMMISSIONER AMENDMENT BILL 2013

Second reading

Debate resumed from 18 February; motion of Ms ASHER (Minister for Innovation, Services and Small Business).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

DRUGS, POISONS AND CONTROLLED SUBSTANCES (POPPY CULTIVATION AND PROCESSING) AMENDMENT BILL 2013

Second reading

Debate resumed from 19 February; motion of Mr WALSH (Minister for Agriculture and Food Security).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

TRAVEL AGENTS REPEAL BILL 2013

Second reading

Debate resumed from 6 February; motion of Ms VICTORIA (Minister for Consumer Affairs).

The SPEAKER — Order! The question is:

That this bill be now read a second time and a third time.

House divided on question:

Ayes, 44

Angus, Mr
Asher, Ms
Baillieu, Mr
Battin, Mr
Bauer, Mrs
Blackwood, Mr
Bull, Mr
Burgess, Mr
Clark, Mr
Crisp, Mr
Delahunty, Mr
Dixon, Mr
Gidley, Mr
Hodgett, Mr
Katos, Mr
Kotsiras, Mr
McCurdy, Mr
McIntosh, Mr
McLeish, Ms
Miller, Ms
Morris, Mr
Mulder, Mr
Napthine, Dr
Newton-Brown, Mr
Northe, Mr
O'Brien, Mr
Powell, Mrs
Ryall, Ms
Ryan, Mr
Shaw, Mr
Smith, Mr K.
Smith, Mr R.
Southwick, Mr
Sykes, Dr
Thompson, Mr
Tilley, Mr
Victoria, Ms
Wakeling, Mr
Walsh, Mr
Watt, Mr
Weller, Mr
Wells, Mr
Wooldridge, Ms
Wreford, Ms

Noes, 43

Allan, Ms
Andrews, Mr
Barker, Ms
Beattie, Ms
Brooks, Mr
Campbell, Ms
Carbines, Mr
Carroll, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Edwards, Ms
Eren, Mr
Foley, Mr
Garrett, Ms
Graley, Ms
Green, Ms
Halfpenny, Ms
Helper, Mr
Hennessy, Ms
Herbert, Mr
Howard, Mr
Hutchins, Ms
Kairouz, Ms
Kanis, Ms
Knight, Ms
Languiller, Mr
Lim, Mr
McGuire, Mr
Madden, Mr
Merlino, Mr
Nardella, Mr
Neville, Ms
Noonan, Mr
Pakula, Mr
Pallas, Mr
Pandazopoulos, Mr
Perera, Mr
Richardson, Ms
Scott, Mr
Thomson, Ms
Trezise, Mr
Wynne, Mr

Question agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

Business interrupted under sessional orders.

ADJOURNMENT

The SPEAKER — Order! The question is:

That the house now adjourns.

Bushfire roadblocks

Mr NOONAN (Williamstown) — I wish to raise a matter for the Minister for Police and Emergency Services, who is also the Minister for Bushfire Response. The action I seek is that he draft terms of reference for consideration by this house to refer matters relating to the use of roadblocks during bushfires to the Parliament's Road Safety Committee. The parliamentary Road Safety Committee is well placed to consider matters relating to the use of roadblocks during and after bushfire incidents.

Recent fires, including the Mickleham-Kilmore fires and the Grampians fires, have again demonstrated some problems with road closures, particularly in the days following those fires. There were reports of desperate farmers being unable to access their properties to feed or destroy starving or injured livestock. Some of those who stayed to defend their properties were driving up to roadblocks to receive basics such as food, fuel for generators and clean water from family members on the other side of the roadblocks.

The committee could hear from people from bushfire-affected areas about their experiences and could work towards making recommendations that would improve the system of roadblocks. This could be a constructive development, approached in a bipartisan way, to offer ways to overcome a complex challenge for our emergency services. Public safety must be the predominate factor informing the location of roadblocks and the length of time that they are in place, but there is also a need to apply common sense and compassion in those situations.

There is a concern that roadblocks can unnecessarily prevent bushfire victims from saving what little livelihood they have left. If the roads are too dangerous, then we must have them closed, and the community accepts that, but when you hear of people having to wait for days on end after the fires have passed to access their properties and calling the media and begging for help, then something must be done.

In making what I believe to be a constructive request of the minister, I refer to the commentary in the *2009 Victorian Bushfires Royal Commission — Interim Report* in which the problems associated with roadblocks in the aftermath of the tragic Black Saturday fires of that year are outlined. The report gives examples of people who had stayed to defend their properties and who were then unable to leave to get basic supplies because they were not permitted to return through roadblocks. Others were denied access to their homes after the fires because they were without identification. As a result, many people circumvented roadblocks by finding alternative, and often more dangerous, routes back to their properties. The commission's report states on page 274:

> While the current guidelines appear clear enough, what they lack is sufficient flexibility for police officers on roadblocks to exercise common sense and good judgement as to who should be permitted to pass, and helpful guidance to assist the exercise of some discretion.

That was in 2009. Five years on it seems little has changed. That is why I hope the minister will support calls for an inquiry that can be conducted in a bipartisan way ahead of next season's bushfires.

Carrum Downs Secondary College

Mrs BAUER (Carrum) — I wish to raise a matter for the Minister for Education. The action I seek is for the minister to visit Carrum Downs Secondary College to meet staff and students and tour the school to see the curriculum in action. Last week I had the pleasure of visiting the school to speak to senior staff — all women, by the way — about the school curriculum, issues and future plans, and I was very impressed by what this relatively new school has to offer.

Established in 2004, Carrum Downs Secondary College is located in McCormicks Road and currently has 936 students in years 7 to 12. It has a commitment to whole-school applied learning, ensuring that students are constantly challenged intellectually and encouraged to make connections between what they learn and how it can be applied in the real world. This practical and beneficial approach to teaching has resulted in the development of a comprehensive curriculum which offers students a well-rounded education that will stand them in good stead in building a successful and fulfilling life. I was pleased to meet some of these fine young students earlier this month when a group of year 11 legal studies students visited Parliament House.

In the past two years Carrum Downs Secondary College has had among the highest Victorian certificate of applied learning (VCAL) enrolments in the state, with more than 500 year 10, 11 and 12 students being enrolled in at least one VCAL unit, providing them with invaluable hands-on experience. As well as this, the school offers five vocational education and training certificates on campus: in hair, beauty, children's services, fitness and hospitality. It also offers school apprenticeships in landscaping and conservation, a year 6 scholarship program and a select entry program with a music focus. Middle school students are also targeted in an integrated program which focuses on pathways using the core subjects of literacy and numeracy.

In the past decade Carrum Downs Secondary College has endeavoured to instil in its students its core messages of responsibility for one's actions, acting with integrity, mutual respect, focusing on learning and achieving one's personal best. The college and its students have been recognised with a number of awards.

The school is also involved in a comprehensive range of extracurricular activities, including competing in the Australian Mathematics Competition and the human-powered vehicle competition along with debating, mentoring, music, performing arts and sports. Local camps and overseas study tours are also available, including camps for year 7s, VCAL students and year 12s. Places visited include Cambodia, the USA, central Australia, Wilsons Promontory, Japan and Sydney.

Facilitating this broad program for a growing student population is a challenge, and an upgrade of the school's performing arts centre and gymnasium is a priority for the school. The school would welcome the opportunity for the minister to join me on a visit to this impressive school. While the minister is visiting Carrum Downs Secondary College, he may even decide to join me for a trim in the in-house hair salon.

Minister for Education

Mr BROOKS (Bundoora) — I also wish to raise a matter for the attention of the Minister for Education. The specific action I seek from the minister is that he apologise to Victorian business BDS & Associates, the education building design specialists. Members may have seen an article in the *Herald Sun* of Tuesday, 18 February, stating that the minister was embarrassed by reports that a school rebuild in the Mitcham electorate had seen the removal of a recently refurbished school hall. The refurbishment of the school hall had cost $700 000, and the hall was knocked over as part of an upgrade to Mount Pleasant Road Primary School and Kindergarten.

I have no problems at all with the upgrade of a Victorian school. That is great, even if that money is coming from maintenance funds. The upgrade took up 10 per cent of the total maintenance funds allocated by the government last year. However, as an excuse for the knocking over of that school hall, which was freshly painted, renovated and refurbished, the minister said the hall was in poor condition. In this place earlier this week the member for Mitcham stated that the building was structurally unsound. These are outrageous allegations to make about the work that was performed on that school hall.

BDS & Associates has been working with schools and the education department for some 15 years. I do not know anyone from that company. However, if that architectural company remains on the Department of Education and Early Childhood Development's principal consultancy register — if it is a preferred provider of these services — I would expect that the minister would not denigrate the work that the company does or try to use the company as a scapegoat. It is important that the minister fess up that there was a problem with the process. It seems members of the school community overwhelmingly wanted to keep the recently refurbished hall. The department and the minister stepped in. We do not know what kind of interference took place, but a decision was made to knock over a perfectly good school hall and have it replaced in the design process.

Kneeler Design Architects, which did the master plan for the school upgrade, provided two clear options for the school community to proceed with. One option was with the retention of the refurbished hall, and one was without. The minister's suggestion that there was no other option than to proceed with knocking over that school hall is nothing but a falsehood. It is incumbent upon the minister to come in and clear the good name of BDS & Associates. He should apologise to the company and take full responsibility for this stuff-up.

Shire of Towong tracking system

Mr TILLEY (Benambra) — I wish to raise a matter for the attention of the Minister for Innovation, Services and Small Business in regard to the innovation of the Insight 360 system, which has been created by the Towong Shire Council. The action I seek is that the minister investigate the possibility of providing financial assistance to Towong Shire Council to get the system produced commercially to provide an additional

income stream for Towong Shire Council and to allow other councils to enjoy the savings delivered by the system.

Insight 360 is a unique GPS tracking solution developed in house at Towong Shire Council by Dave Barry, who at the time was the director of community and corporate services. I have to congratulate Mr Barry because he has recently been appointed the chief executive officer of Alpine Shire Council. This is a terrific appointment by Alpine Shire Council, and I know he will do an excellent job. I commend his previous work at Towong Shire Council, particularly the Insight 360 system he developed to track machinery and vehicles belonging to local councils.

The development of the project represents real innovation from Victoria's second-smallest council. It has delivered significant efficiencies, such as increasing road maintenance plant utilisation by 108 per cent, reducing road maintenance costs by 15 per cent and achieving light vehicle fleet savings of $130 000. Members can imagine how much further local governments could spread the country roads and bridges program funding provided by this coalition government if they were using Insight 360.

These are recurring savings that enable this small council to reallocate money to deliver important services in country Victoria. Insight 360 also has wide-ranging benefits in reducing council red tape, improving occupational health and safety and assisting with emergency response. The Shire of Towong has been invited to present on the product at no less than 23 conferences and was a category winner at the National Awards for Local Government and a finalist at the Excellence in eGovernment Awards.

Through its focus on eliminating wasteful practices, Towong shire has achieved recurring savings in excess of $300 000 per annum. I ask members to consider for a moment this saving in context. A 1 per cent increase in rates across the Towong shire would generate an income increase of just over $50 000, so the value of the savings is clear. If the Insight 360 local government-specific solution were implemented across the sector, it is estimated that savings in excess of $250 million per annum could be realised through fundamental efficiency gains. The local government sector faces significant financial and environmental sustainability challenges, so using technology to drive reform and deliver efficiencies is vital. It is critical that projects such as this are financially supported by the Victorian government in order for Towong Shire Council to assist other councils in achieving productivity and cost-saving outcomes.

City of Monash school sites

Mr LIM (Clayton) — My adjournment matter is for the Minister for Planning. The action I seek is that the minister explain why planning appeal rights have been taken away from the residents in my electorate who live near four sensitive former school sites. The minister recently advised Monash City Council that he has decided to rezone five vacant school sites in the city of Monash. Four of these are in my electorate: the former Monash Special Development School at 1 Renver Road, Clayton; the former Clayton Primary School at 29 Browns Road, Clayton; the former Clayton West Primary School at 10 Alvina Street, Oakleigh South; and the former Oakleigh South Primary School at 1 Beryl Avenue, Oakleigh South.

I am informed by the Monash council that because the minister has chosen to apply a development plan overlay over each site residents will not have any appeal rights to the Victorian Civil and Administrative Tribunal (VCAT). This is in stark contrast to the rights that residents in other parts of the city of Monash and in Melbourne have to appeal to VCAT any planning decisions that affect them. I want the minister to explain to the hardworking families living in my electorate why their legal rights to object to future planning decisions in relation to these sites have been taken away. He should explain why they are now in a position that is different to that of almost every other resident of Victoria.

The minister has taken this course despite significant opposition from Monash council. The council, through its lawyers, Maddocks, made substantial submissions to the minister that it was not fair or appropriate to strip planning appeal rights from local residents. The minister must explain why he has ignored the council's position. There has been no consultation with residents about any of these four sites. No-one has asked my constituents what they think. It is totally unreasonable for the minister to unilaterally intervene and significantly alter universal legal rights in these circumstances. This is particularly so given that these sites are all owned by the Victorian government. It smacks of a conflict of interest for the minister to remove residents' appeal rights to make it easier for the government to flog off these sites to unscrupulous developers chasing yield and a quick buck.

Residents of my electorate deserve an explanation as to why they are being treated as second-class citizens and why it is that such iconic and significant sites in our local area need to be shielded from the usual planning processes and scrutiny.

Gippsland further education programs

Mr BULL (Gippsland East) — I raise a matter for the attention of the Minister for Higher Education and Skills. The action I seek is that the minister travel to the remote township of Buchan in East Gippsland and launch two programs at the Buchan Neighbourhood House. The reason for my request is that the Buchan Neighbourhood House received two capacity grants from the Adult, Community and Further Education Board for the Gippsland Learn and Connect program and the 180 Degrees of Reflection program. I would like the minister to see firsthand how these programs, which are very important to rural and regional Victoria and East Gippsland, will operate.

The first of these programs, Gippsland Learn and Connect, aims to work in partnership with a range of educational providers in Gippsland to develop an online delivery model that will offer training to smaller and often isolated Gippsland communities, and we have quite a few of those. The other program, which supports Learn Local organisations in East Gippsland, aims to develop the use of an online site for people to meet and share information and resources, so these two programs go hand in hand. These sorts of programs are important in communities that are a long way from the commercial centres in East Gippsland. Our landscape is dotted with many very small communities with literally hundreds of kilometres not only between communities but between the communities and major retail and commercial centres.

These programs highlight how important the use of technology is to such areas, particularly in relation to educational needs and requirements. This includes having the ability to partner with major educational organisations and registered training organisations not only in the East Gippsland region but also across Victoria. As I am sure members of the house realise, the Buchan community, like many other small rural and regional communities in East Gippsland, has been in the spotlight in recent weeks with the ongoing bushfire threat. Indeed just half an hour ago I received advice that yet again another of those communities is now under threat. These communities are in need of some good news, and I encourage the minister to launch these two new programs at the Buchan Neighbourhood House. They will be of great benefit to the local community.

Transport Accident Commission employment

Mr TREZISE (Geelong) — I raise an urgent matter with the Assistant Treasurer as the minister responsible for the Transport Accident Commission (TAC). The action I seek is that the Assistant Treasurer immediately and urgently intervene in the TAC decision to sack a reported 70 staff as of 30 June this year. In raising this issue I used the words 'reported 70 staff jobs' because I have been advised by worker representatives that there are 165 employees on contract at the TAC and that they are all concerned for their immediate future.

I raise this as a matter of urgency because only this week Geelong lost 800 jobs at Alcoa in addition to the 500 jobs lost at Ford, the 300 jobs lost at Avalon and the dark cloud hanging over the employees at Shell. All week we have heard the Premier and his cabinet — the government — promise to work with Geelong to save jobs. However, instead of saving jobs, to the contrary and hypocritically, in the same week that it feigns concern for Geelong jobs we have one of the government's own departments announcing it will sack 70 of its employees. This afternoon I provide this litmus test for the Premier and the Assistant Treasurer to show if they are fair dinkum about Geelong jobs. Here is a chance to directly save the jobs of 70 of Geelong's workers. The government cannot have it both ways. It cannot come to Geelong and on the one hand cry crocodile tears over the loss of Geelong jobs and on the other hand sack 70 of its employees in the same week.

What makes this situation even worse for the TAC employees is that some of them uprooted their families when they took up full-time employment with TAC after it moved to Geelong. Following this they were persuaded to give up their full-time employment and take up contract positions on the understanding that the positions would be ongoing. This afternoon I urge the Assistant Treasurer to immediately intervene in this manner and direct TAC, at the very least, to explore every possible option to ensure that the TAC staff who are currently under a real threat of redundancy are retained and effectively employed by the commission. While the minister is at it, perhaps he can clarify whether we are talking about 70 employees or 165 employees. Now is the minister's chance to stand up and save 70 jobs in the Geelong region.

Western Port boating safety

Mr K. SMITH (Bass) — I raise a matter for the Minister for Ports — and I am glad to see that he is in the chamber, as always. I request that the minister come down to the magnificent Bass Coast at Western Port and the fabulous coastline we have there along Bass Strait to have a look at some of the facilities we have for local recreational fishermen and to establish the need to improve facilities that were neglected over the last 11 years under the Labor government.

The coastline at Western Port, as the minister would be aware, is a fisherman's paradise, with fishing available from boats, jetties, beaches, rocks and anywhere else that you can dangle a line and pull out a fish. The opportunities for fishermen in that area to enjoy recreational fishing are good, but of course, as the minister would be aware, they have to have good facilities to be able to enjoy their fishing. Western Port is a great nursery for all sorts of species of fish, including King George whiting, which are absolutely beautiful; sharks; flathead, which I think is one of the most underrated fish that comes out of the sea; snapper; trout; squid; flounder; and garfish — and the list just keeps going on.

Mrs Bauer — Crabs.

Mr K. SMITH — Yes, they get crabs down there too. Recreational fishermen have to be able to launch their boats in safety, and if they get into any trouble, they need rescue organisations available to come out and rescue them. When the minister is down there we will visit some of the groups in the area, such as the State Emergency Service unit so that he can see what a great committee they have got and observe the commitment of the volunteers in the area. In fact it will be a great pleasure to show him some of the recreational fishing spots that I will be using when my retirement comes around at the end of year.

One of the sad things about Western Port is that a few years back Labor Premier Steve Bracks sold out to Rex Hunt and banned commercial fishermen from the area. The guys who were there fishing and supplying all the local restaurants, pubs, clubs and that sort of thing are not able to do that anymore. Only about four or five of them actually had licences to fish there. I ask the minister to come down to inspect what we have got as far as facilities are concerned, and while he is there I will make sure that he has a really good time.

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

Family violence death review

Ms GREEN (Yan Yean) — I wish to raise a matter for the attention of the Attorney-General. The action I seek is for the restoration of funding to the Coroners Court to conduct the Victorian systemic review of family violence deaths. We hear a lot about crime on our streets, but sometimes it is all too easy to ignore the horrible crimes that occur quietly in our homes. The facts are shocking. Three-quarters of all assaults against women happen in the home, and half all Australian women will experience physical or sexual violence in their lifetime. One woman a week loses her life in this country at the hands of an intimate partner. We know that family violence has devastating consequences for women, children and men, and that it affects every culture and group in our society. It is a fundamental responsibility of government to do all it can to ensure that its people are protected from harm.

The impact on women and children who experience violence is devastating and immeasurable. Research, most recently from the 2009 KPMG study, indicates that the cost of this violence to the Victorian community is $3.4 billion. Family violence victims and women at risk deserve a comprehensive, sustained and cross-sectoral government commitment to tackling and preventing this crime. Importantly we need to understand the circumstances of these horrific deaths. When they occur we need to review the circumstances to see how we can learn from them and, further, how we can prevent such deaths in the future.

Governments should rightly be judged on the decisions they make and the priorities they set. I think it is of concern that this review would cost only $250 000 per year when some of the decisions this government has made include providing $300 000 a year for local graffiti prevention. Graffiti is a problem, but it costs $300 000 a year compared to $250 000 a year to review these deaths. The government also provides $268 000 per train station, a total of $17.7 million, to provide toilets for protective services officers. I do not believe there have been any violent deaths in recent years on our train system, but violent deaths are experienced by women and children on a regular basis. These are priorities that could be dealt with in a different way.

Amazingly, a couple of days ago I heard on radio and read in the *Dandenong Leader* that this government is spending $50 000 to upgrade and fireproof a rabbit orphanage in the Dandenong Ranges. I put it to the Attorney-General that there are certainly examples of things that have been funded that are not nearly as valuable as the family death review and will not provide the support needed to protect women and children in this community. I urge him to restore funding to the family death review in the Coroners Court.

AESP Contract Coffee Roasters

Mr WAKELING (Ferntree Gully) — I raise a matter for the Minister for Manufacturing. The action I seek is for the minister to visit the Knox community, specifically to meet with AESP Contract Coffee Roasters, which is located in Knoxfield. AESP is an outstanding business that is making significant

headway in the production of coffee. Having been part of the global coffee industry and heavily involved in food science, development and manufacturing since 1991, AESP Contract Coffee Roasters built a state-of-the-art coffee roasting facility in Knoxfield in 2012. The organisation is led by Ferntree Gully local Justin Metcalf, who is a World Barista Championship judge.

AESP has grown substantially and now boasts clients around the world. One of its major Australian clients is Coles Supermarkets. If anyone purchases ground coffee at a Coles supermarket, they should know that the product sold under the Coles Finest Selection brand is produced at Knoxfield in the Knox community. Justin and his team source fair trade beans, then blend and roast according to clients' needs. The Coles Finest Selection brand of coffee is available throughout Australia and has certainly been a significant success.

AESP has the capacity to source, blend and package coffee according to its clients' needs, whether it be for a national franchise, a wholesaler, retailer or a local cafe; some members may have visited Muzz Buzz Drive-thru Coffee in one of a number of locations, which is also a client of AESP.

With the expertise of the organisation producing fantastic coffee, which has been highly regarded around the world, it is important that we look at opportunities to help expand this business. The organisation is seeking opportunities to expand its business into overseas markets and, given the capacity of this local business, I believe the minister would be very impressed with the quality, standards and state-of-the-art facilities that Justin and his team offer. I am sure that, at the very least, they would be more than pleased to provide the minister with a coffee and to taste the various aromas that they produce.

This government is very committed to promoting industry. The Minister for Innovation, Services and Small Business has helped lead upwards of 65 trade missions, with the assistance of other ministers, and that has led to around $4.1 billion of investment and export. This is an opportunity to build on that. Accordingly I ask the Minister for Manufacturing to take action, to come out to Knoxfield and to meet with AESP Contract Coffee Roasters and to look at export opportunities for this great organisation.

Responses

Mr DIXON (Minister for Education) — The member for Carrum asked me to visit Carrum Downs Secondary College. The member for Carrum is a great advocate for the schools in her electorate, and she has told me much about Carrum Downs Secondary College and the good work that is going on there. There is nothing like going to a school, meeting the people and seeing the programs in action, so I am more than happy to take up the invitation. She did invite me to perhaps take part in a trim. That will not take long with my head of hair, but I am more than happy to put myself at the mercy of those students. I look forward to making a time with the member, and my office will contact her regarding a date.

The member for Bundoora asked me to apologise to a building company. If any apologies are due, they should be coming from the member. Let me tell members about Mount Pleasant Road Primary School. Mount Pleasant Road Primary School was totally neglected by the previous government. It had received no maintenance for 11 years, and in the end it was so bad that an independent auditor said, 'This school has to be totally rebuilt'. That shows how it was left — totally abandoned by the previous government. A minister of the previous government literally lived over the fence from the school and watched it rot, day by day, and did not intervene.

Fortunately we have a good member for Mitcham now. She raised the issue, we sent the auditors in, and the cost was estimated at $5 million. The member for Bundoora says, 'Isn't it shocking? We used 10 per cent of our emergency maintenance money last year to fix up the school'. That just shows how bad the school was. I am proud to say that we are rebuilding that school. The member said that I should apologise because I have slighted BDS, the builders. A multipurpose centre at the school was upgraded as part of the Building the Education Revolution (BER) program a few years ago, and $700 000 was spent. They did a very good job on renovating — not rebuilding — the surface problems of the carpet, the paint and those sorts of things that needed to be done. However, the school gave away the rest of its BER money because it was under the impression from the previous government that it would be rebuilt. But no, it was the coalition that did that. The Mount Pleasant school was left high and dry like many other schools around the state.

So $700 000 was spent on just tidying up this multipurpose hall. When we had to then rebuild the school it was realised, first of all, that the independent audit that was done on the school and on that hall rated it as poor. We are not talking about structural issues. This is not a building that was rebuilt; it was $700 000 spent just on renovating it. In fact the certificate of occupancy that was given to that hall meant that it

could not be used for large groups of children in any case. It was not possible to have a fundraiser in there or a concert, an assembly or ball games as part of physical education. It was almost a useless room, and therefore it was not a fit-for-purpose facility.

The school therefore made the decision, when it had received the $5 million from the coalition government, on what it would rebuild and how it would rebuild, and that decision included the fact that, if the school retained this room that had been repainted and re-carpeted, they could not use it anyway, so why have it there? Therefore the school decided, on advice from builders and architects — independent advice and an independent audit — that it no longer wanted that building there. It is a shame, but it was totally neglected like the rest of the school and that is why it could not remain there. I cannot believe the member is asking me to apologise for 11 years of Labor neglect of a school that was literally falling down!

The previous government actually reduced maintenance money. It had all the money in the world, all the income in the world, and it reduced maintenance money. In the end if you keep doing that, your schools actually fall down. The coalition government has had to come in, in times of economic restraint, and rebuild that school. That is why we had to spend 10 per cent of the maintenance money. The school was so bad that if we did not do that we could not have had children in it. I recall that in the western suburbs Galvin Park Secondary College was another example of a school that just fell down, and $14 million had to be spent by this government, in a Labor heartland, on a school totally neglected by the previous government.

Therefore it is the member who should apologise, get his facts right and talk to the school community. Those in the Mount Pleasant school community are the ones who, on good independent advice, decided that the building was no longer fit for purpose. When we allow schools to do the things they want to do in building rather than implementing top-down interference such as BER and the Victorian Schools Plan, they recycle a whole lot of the materials and use them in new buildings, which is fantastic.

I will finish by referring to the photo that was in the local paper. The newly carpeted and painted room had doors leading into it which could not even open and close. They were totally useless. I do not know how they took the photo. The photographer must have climbed in through the window to take it. That is not a good building. It is no longer fit for purpose because it was neglected. It is a great example of what this government has had to do. We have had to do the hard work in fixing up the neglect of the previous government. The member for Mitcham has been a great member, representing her local schools, and I am proud that we are rebuilding Mount Pleasant Road Primary School.

Mr CLARK (Attorney-General) — The member for Yan Yean raised an issue about the systemic investigation of family violence deaths being undertaken in the Coroners Court. This is an issue that has been raised on numerous previous occasions, and it is one to which I have responded on numerous previous occasions.

The short response to the member is that the previous government provided short-term additional funding to the Coroners Court to commence the work of this review. That funding expired during the term of the previous Labor government and was not renewed. Instead, as often happens with programs that are initiated with funding, the previous government expected that this program would continue as part of the general funding the previous government provided to the Coroners Court, and that is in fact what happened. The program and the work of the Coroners Court in relation to the systemic investigation of the causes of family violence deaths is something that has been supported by this government.

We have supported the work of the Coroners Court in ensuring that there is a systemic review of family violence deaths. That work is continuing, and just as occurred under the previous government, it has continued as part of the global funding provided to the Coroners Court by this government. We have, on many previous occasions, reiterated our commitment to support the court in its systemic investigation of family violence deaths, and that is exactly what we have done.

So the government does support that work. We have supported it in the past, we continue to support it and the Coroners Court supports it, and the issue that the member for Yan Yean and others have raised on previous occasions in relation to separate funding is a misunderstanding of the issue. Separate funding was provided on a short-term basis by the previous government. Under the previous government that separate funding ceased, and the work has continued as part of the overall funding provided to the Coroners Court. I expect the Coroners Court will continue to undertake that work.

Mr HODGETT (Minister for Ports) — I rise this evening to respond to the adjournment matter raised by the member for Bass. As the member outlined in the adjournment debate this evening, his electorate of Bass

has a number of picturesque coastal towns that are popular beach, fishing and boating sites for locals and tourists alike. We recognise that these things generate enormous economic and social benefits for both the local community and the state, and the coalition government values the benefits our waterways provide.

The member for Bass not only tonight but on many occasions has raised a number of important matters with me in relation to his electorate of Bass, and I can inform the house and the member that it is certainly a priority of the coalition government to ensure that all waterways are safe and accessible for Victorians. The annual funding commitment of the boating safety and facilities program — the BSFP — provides much-needed funding for the boating sector. This ongoing commitment proves that the coalition recognises the importance of improving boating infrastructure and safe access.

I take the opportunity in my response tonight to inform the hardworking, decent and honest member for Bass that four projects within his electorate have been successful in being recommended for funding under the BSFP. The coalition government will provide funding for the Bass Coast Shire Council to construct a new jetty at the Cowes boat ramp to support the launching and retrieving of vessels. The current condition of the facility at Cowes prevents its full utilisation and requires users to move to Newhaven and Rhyll. The Bass Coast council will also be supported to undertake a feasibility study to investigate whether the Mahers Landing facility should be upgraded to relieve pressure on Inverloch, which is a very popular boat launching area.

A project for the Corinella Foreshore Committee of Management has also been recommended to upgrade the finger jetty at the Corinella boat ramp. This will enable the committee to undertake critical remediation works to ensure that the jetty is safe and accessible.

Equally as important as boating infrastructure, and provided for in the BSFP, is support for our vital volunteer search and rescue bodies. The Inverloch State Emergency Service (SES) unit has been successful in its application for a navigation rescue package to improve the safety of its offshore rescue operations. This will include upgrades to its chart plotter, compass and radar. The volunteer SES does an outstanding job right across the state, and that is largely due to the commitment of the hardworking volunteers. The coalition is very proud to have the opportunity to support the SES unit at Inverloch, and I am pleased to announce that these projects have been recommended for funding under the boating safety and facilities program.

I am committed to continue working to improve the provision of boating infrastructure and facilities, and I look forward to visiting the electorate of Bass and spending some time with the hardworking member for Bass. I look forward to maximising our time visiting the sites of the projects I have mentioned this evening as well as the places the member has raised with me.

The member for Ferntree Gully has asked me in my capacity as Minister for Manufacturing to visit AESP Contract Coffee Roasters in Knoxfield. I know the member takes a strong interest in his local businesses and manufacturers, and he often raises matters with me. The member has talked to me in great detail about what this coffee business is achieving and has told me that it is expanding into overseas markets. I want to let the member for Ferntree Gully know that I am aware of world barista judge Justin Metcalf, and I certainly look forward to meeting him on a visit to the Ferntree Gully electorate.

I would be pleased to visit AESP in Knoxfield to explore potential domestic and overseas opportunities for this great business, and I commend the member for Ferntree Gully for his interest in this business as well as many others. I look forward to visiting this business with the member for Ferntree Gully.

Ms ASHER (Minister for Innovation, Services and Small Business) — The member for Benambra raised a particularly interesting matter with me in relation to Towong Shire Council. I congratulate the council on its initiative, which is particularly significant given that it is, as the member said, the second-smallest shire in the state.

The Victorian government delivers on a range of programs which support innovation and the effective use of new technologies. These include but are not limited to the innovation voucher program. This provides a voucher that is exchanged with a supplier for access to innovation and research and development-related facilities, training, goods, services, advice or expertise. A second example of a funded program is one called Driving Business Innovation. This is a $16 million program over four years and was announced in last year's budget. It supports Victorian businesses to develop new products and services for government customers. I also have the Technology Innovation Fund in my department, which provides support to projects that harness advances in technology to manage information, deliver new or improved

services or strengthen citizen engagement with government.

Not all of these programs are open to local government bodies. However, the member would be interested to know that the Technology Innovation Fund, which is under the administration of Mr Rich-Phillips, the Minister for Technology, may under certain circumstances support councils to improve their service delivery by using new technologies such as broadband, cloud technology and smartphone apps. I encourage the council to contact my department, and we will be prepared to facilitate that. Likewise, the council may want to contact the Victorian government business office in the region to see if any additional assistance can be made available. I would suggest that would be a particularly good starting point for the hardworking member for Benambra, who is always on the lookout to advantage both governmental institutions and the private sector in his electorate.

The member for Williamstown raised a matter for the Minister for Police and Emergency Services and asked that the minister provide some terms of reference for the Road Safety Committee in relation to the use of roadblocks during and after fire events, and I will refer that matter to the minister.

The member for Clayton raised a matter for the Minister for Planning concerning a decision in relation to rezoning vacant school sites. I will refer that matter to the Minister for Planning.

The member for Gippsland East raised a matter for the Minister for Higher Education and Skills, which was an invitation for the minister to visit Buchan Neighbourhood House in particular and to launch two specific programs. Again, the hardworking member for Gippsland East is a strong advocate for his community, and I will pass that matter on to the Minister for Higher Education and Skills.

The member for Geelong raised a matter for the Assistant Treasurer in relation to Transport Accident Commission contractors, and I will pass that matter on to the Assistant Treasurer.

The SPEAKER — Order! The house is adjourned until the next day of sitting.

House adjourned 4.57 p.m. until Tuesday, 11 March.