PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Thursday, 23 February 2017

(Extract from book 2)

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By authority of the Victorian Government Printer

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The Honourable LINDA DESSAU, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

The ministry

(from 10 November 2016)

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Minister for Industry and Employment, and Minister for Resources	The Hon. W. M. Noonan, MP
Attorney-General and Minister for Racing	The Hon. M. P. Pakula, MP
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Minister for Finance and Minister for Multicultural Affairs	The Hon. R. D. Scott, MP
Minister for Training and Skills, and Minister for Corrections	The Hon. G. A. Tierney, MLC
Minister for Planning	The Hon. R. W. Wynne, MP
Cabinet Secretary	Ms M. Thomas, MP

OFFICE-HOLDERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

Speaker:

The Hon. TELMO LANGUILLER

Deputy Speaker:

Mr D. A. NARDELLA

Acting Speakers:

Mr Angus, Mr Blackwood, Ms Blandthorn, Mr Carbines, Mr Crisp, Mr Dixon, Ms Edwards, Ms Halfpenny, Ms Kilkenny, Mr McCurdy, Mr McGuire, Ms McLeish, Mr Pearson, Ms Ryall, Ms Thomas, Mr Thompson, Ms Thomson, Ms Ward and Mr Watt.

Leader of the Parliamentary Labor Party and Premier:

The Hon. D. M. ANDREWS

Deputy Leader of the Parliamentary Labor Party and Deputy Premier:

The Hon. J. A. MERLINO

Leader of the Parliamentary Liberal Party and Leader of the Opposition:

The Hon. M. J. GUY

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:

The Hon. D. J. HODGETT

Leader of The Nationals:

The Hon. P. L. WALSH

Deputy Leader of The Nationals:

Ms S. RYAN

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

Member	District	Party	Member	District	Party
Allan, Ms Jacinta Marie	Bendigo East	ALP	McLeish, Ms Lucinda Gaye	Eildon	LP
Andrews, Mr Daniel Michael	Mulgrave	ALP	Merlino, Mr James Anthony	Monbulk	ALP
Angus, Mr Neil Andrew Warwick	Forest Hill	LP	Morris, Mr David Charles	Mornington	LP
Asher, Ms Louise	Brighton	LP	Mulder, Mr Terence Wynn [2]	Polwarth	LP
Battin, Mr Bradley William	Gembrook	LP	Napthine, Dr Denis Vincent [3]	South-West Coast	LP
Blackwood, Mr Gary John	Narracan	LP	Nardella, Mr Donato Antonio	Melton	ALP
Blandthorn, Ms Elizabeth Anne	Pascoe Vale	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Britnell, Ms Roma [1]	South-West Coast	LP	Noonan, Mr Wade Matthew	Williamstown	ALP
Brooks, Mr Colin William	Bundoora	ALP	Northe, Mr Russell John	Morwell	Nats
Bull, Mr Joshua Michael	Sunbury	ALP	O'Brien, Mr Daniel David [4]	Gippsland South	Nats
Bull, Mr Timothy Owen	Gippsland East	Nats	O'Brien, Mr Michael Anthony	Malvern	LP
Burgess, Mr Neale Ronald	Hastings	LP	Pakula, Mr Martin Philip	Keysborough	ALP
Carbines, Mr Anthony Richard	Ivanhoe	ALP	Pallas, Mr Timothy Hugh	Werribee	ALP
Carroll, Mr Benjamin Alan	Niddrie	ALP	Paynter, Mr Brian Francis	Bass	LP
Clark, Mr Robert William	Box Hill	LP	Pearson, Mr Daniel James	Essendon	ALP
Couzens, Ms Christine Anne	Geelong	ALP	Perera, Mr Jude	Cranbourne	ALP
Crisp, Mr Peter Laurence	Mildura	Nats	Pesutto, Mr John	Hawthorn	LP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Richardson, Mr Timothy Noel	Mordialloc	ALP
Dimopoulos, Mr Stephen	Oakleigh	ALP	Richardson, Ms Fiona Catherine Alison	Northcote	ALP
Dixon, Mr Martin Francis	Nepean	LP	Riordan, Mr Richard [5]	Polwarth	LP
Donnellan, Mr Luke Anthony	Narre Warren North	ALP	Ryall, Ms Deanne Sharon	Ringwood	LP
Edbrooke, Mr Paul Andrew	Frankston	ALP	Ryan, Mr Peter Julian [6]	Gippsland South	Nats
Edwards, Ms Janice Maree	Bendigo West	ALP	Ryan, Ms Stephanie Maureen	Euroa	Nats
Eren, Mr John Hamdi	Lara	ALP	Sandell, Ms Ellen	Melbourne	Greens
Foley, Mr Martin Peter	Albert Park	ALP	Scott, Mr Robin David	Preston	ALP
Fyffe, Mrs Christine Anne	Evelyn	LP	Sheed, Ms Suzanna	Shepparton	Ind
Garrett, Ms Jane Furneaux	Brunswick	ALP	Smith, Mr Ryan	Warrandyte	LP
Gidley, Mr Michael Xavier Charles	Mount Waverley	LP	Smith, Mr Timothy Colin	Kew	LP
Graley, Ms Judith Ann	Narre Warren South	ALP	Southwick, Mr David James	Caulfield	LP
Green, Ms Danielle Louise	Yan Yean	ALP	Spence, Ms Rosalind Louise	Yuroke	ALP
Guy, Mr Matthew Jason	Bulleen	LP	Staikos, Mr Nicholas	Bentleigh	ALP
Halfpenny, Ms Bronwyn	Thomastown	ALP	Staley, Ms Louise Eileen	Ripon	LP
Hennessy, Ms Jill	Altona	ALP	Suleyman, Ms Natalie	St Albans	ALP
Hibbins, Mr Samuel Peter	Prahran	Greens	Thomas, Ms Mary-Anne	Macedon	ALP
Hodgett, Mr David John	Croydon	LP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Howard, Mr Geoffrey Kemp	Buninyong	ALP	Thomson, Ms Marsha Rose	Footscray	ALP
Hutchins, Ms Natalie Maree Sykes	Sydenham	ALP	Tilley, Mr William John	Benambra	LP
Kairouz, Ms Marlene	Kororoit	ALP	Victoria, Ms Heidi	Bayswater	LP
Katos, Mr Andrew	South Barwon	LP	Wakeling, Mr Nicholas	Ferntree Gully	LP
Kealy, Ms Emma Jayne	Lowan	Nats	Walsh, Mr Peter Lindsay	Murray Plains	Nats
Kilkenny, Ms Sonya	Carrum	ALP	Ward, Ms Vicki	Eltham	ALP
Knight, Ms Sharon Patricia	Wendouree	ALP	Watt, Mr Graham Travis	Burwood	LP
Languiller, Mr Telmo Ramon	Tarneit	ALP	Wells, Mr Kimberley Arthur	Rowville	LP
Lim, Mr Muy Hong	Clarinda	ALP	Williams, Ms Gabrielle	Dandenong	ALP
McCurdy, Mr Timothy Logan	Ovens Valley	Nats	Wynne, Mr Richard William	Richmond	ALP
McGuire, Mr Frank	Broadmeadows	ALP			

[1] Elected 31 October 2015

[2] Resigned 3 September 2015
[3] Resigned 3 September 2015
[4] Elected 14 March 2015
[5] Elected 31 October 2015
[6] Resigned 2 February 2015

PARTY ABBREVIATIONS

ALP — Labor Party; Greens — The Greens;
Ind — Independent; LP — Liberal Party; Nats — The Nationals.

Legislative Assembly committees

Privileges Committee — Ms Allan, Mr Clark, Ms D'Ambrosio, Mr Morris, Ms Neville, Ms Ryan, Ms Sandell, Mr Scott and Mr Wells.

Standing Orders Committee — The Speaker, Ms Allan, Ms Asher, Mr Brooks, Mr Clark, Mr Hibbins, Mr Hodgett, Ms Kairouz, Mr Nardella, Ms Ryan and Ms Sheed.

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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THURSDAY, 23 FEBRUARY 2017

Thursday, 23 February 2017

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

Mr Clark — On a point of order, Speaker, you will of course be aware of the very serious allegations that have been made about you in this morning's *Age* newspaper. They are allegations that go to the heart of the capacity of this house to have confidence in you as our representative and as the upholder of our standards. I think it would be appropriate for you — indeed I would submit that you owe it to the house — to provide the house with a full explanation regarding the matters that have been raised in today's *Age*. Therefore I would ask, Speaker, whether you are in a position to give a commitment to this house that either now or later this day you will provide to the house such a full explanation about those matters and about your future intentions in relation to them.

The SPEAKER — Order! The answer is yes.

PETITIONS

Following petition presented to house:

The Pillars, Mount Martha

To the Legislative Assembly of Victoria:

The petition of residents within the Mornington electorate draws to the attention of the house that the Department of Environment, Land, Water and Planning (DELWP) approves of The Pillars foreshore cliff area of Mount Martha as an ongoing tourist destination, yet fails to provide any safe access routes for the thousands of visitors to The Pillars each year. This causes significant disturbance and distress to local residents.

DELWP has done nothing to date to address the following issues:

erosion of the foreshore due to foot traffic;

damage to native vegetation;

excessive littering in local streets and within the foreshore area;

pedestrian groups wandering along the narrow, winding Esplanade roadway;

unsafe cliff jumping resulting in air ambulance and Mount Martha Life Saving Club intervention;

illegal car parking and antisocial behaviour in local streets, despite ongoing attempts to enforce 'no parking' areas by VicRoads and patrols by council rangers; and

extreme distress to local residents dealing with all of these issues.

The petitioners therefore request that the Legislative Assembly of Victoria call on DELWP to allocate funding to the Mornington Peninsula Shire Council for the construction of a public walking trail or boardwalk, with appropriate amenities, along the cliffside of the Esplanade between South Beach and Stanley Crescent, Mount Martha.

By Mr MORRIS (Mornington) (628 signatures).

Tabled.

Ordered that petition be considered next day on motion of Mr MORRIS (Mornington).

BUSINESS OF THE HOUSE

Adjournment

Ms ALLAN (Minister for Public Transport) — I move:

That the house, at its rising, adjourns until Tuesday, 7 March 2017.

Motion agreed to.

MEMBERS STATEMENTS

Peter Stewart McArthur

Mr HODGETT (Croydon) — I rise to express my condolences for the recent passing of Peter McArthur. A long-term resident of Croydon since 1966, Peter was elected to the Parliament in 1976 as MLA for Ringwood and re-elected in 1979, serving in the Hamer and Thompson governments until 1982. He was the fourth member of his family to pursue a parliamentary career — both his grandfather Peter Campbell McArthur and great-uncle John Neil McArthur represented the former western Victoria district of Villiers and Heytesbury in the Assembly, while his uncle Stewart McArthur was the federal member for Corangamite from 1984 to 2007.

Before entering the Parliament Peter had an extensive career in television and radio broadcasting. A talented public speaker and host, in the 1960s he worked for 3BA Ballarat, overseas in the UK and North America, and for Hobart's 7HO. From 1964 to 1976 he was a familiar TV and radio personality at the ABC. Other local community involvement included his time as a member of the Manvantara Geriatric Rehabilitation Hospital board, management committee roles with Eastern Community Broadcasters and his six years as a City of Croydon councillor between 1970 and 1976, serving as mayor from 1974 to 1975.

Peter was passionate about state rights, the diffusion of power and the preservation of our bicameral

parliamentary system, regarding a contemporary motion to abolish the Legislative Council a dangerous act of political cynicism. After leaving Parliament Peter resumed work with the ABC and later became president of Channel 31. He was a well-liked parliamentarian and community figure who will be missed. I would like to thank Peter for his service to the Parliament of Victoria, the electors of Ringwood and the Liberal Party, and I convey my sincere condolences to his children.

Williamstown Swimming & Life Saving Club

Mr NOONAN (Minister for Industry and Employment) — I am very pleased to congratulate the Williamstown Swimming and Life Saving Club on successfully applying for and receiving a grant from the state's emergency services volunteer sustainability program. I have had the privilege of visiting the club on a number of occasions over the last couple of months to discuss their needs. It goes without saying, but this club is one of the cornerstones of the Williamstown community and probably one of our largest local volunteer organisations. They have existed for almost 100 years, patrolling our local beach and waterways, protecting and saving lives, and running countless programs, including the ever-popular Nippers program.

The club is experiencing unprecedented popularity and is run by a dedicated group of local committee members. I place on record my appreciation for their outstanding work. With this unprecedented growth in club activities comes pressure on club facilities. That is why the $25 000 grant, which I had the pleasure of announcing last Friday at the club, will be so valuable to improve their facilities and provide appropriate storage for their equipment. I know the club will make every one of these dollars count, and I look forward to continuing to work with the club in relation to their future upgrades.

Finally, I want to thank each and every one of the members and volunteers of the club for the work they do, particularly during the summer period to protect our community. Beyond that, the club also does an outstanding job fundraising, running competitions and providing an inclusive club for all.

Country Week tennis tournament

Mr McCURDY (Ovens Valley) — The Country Week tennis tournament in Yarrawonga was another outstanding success this year, hosted by the Yarrawonga Lawn Tennis Club. Full credit goes to the dedicated team of locals who strived and succeeded in running a great tournament on some of the best lawn courts in country Victoria. Special mention goes to Yarrawonga tennis club president Steve York and coordinator Ross Mulquiney for their fantastic work. Tennis Victoria president Gary Clark described Country Week as the world's largest country tennis event. Congratulations to all involved.

King River Brewing

Mr McCURDY — King River Brewing held its official opening on the weekend, and I wish Nathan and Brianna Munt all the very best for their new venture. This business provides another great offering to visitors and local residents in the wonderful King Valley region.

Milawa Bowls Club

Mr McCURDY — The Milawa Bowls Club is a great local club in my electorate. The club was founded in 1957, and people come together to play mixed and social bowls. Unfortunately the club has recently been hit hard by not just one break-in but two. In the first theft they lost an $8000 lawn mower and other equipment. Sadly Mark Allan from the bowls club attended my office last week with the upsetting news the club had again been targeted. This time, equipment totalling $1500 was stolen, including hoses and other items. The club is in a position now where it is difficult for the club members to maintain the green due to the loss of all their equipment. Sadly, the law and order crisis is not just in Melbourne — it is affecting every corner of our state.

Mount Buffalo Chalet

Mr McCURDY — A community meeting on Sunday afternoon clearly articulated the vision for this magnificent building, the Mount Buffalo Chalet. Janelle Boynton and David Jacobson should be applauded for their leadership and commitment to this community asset. I encourage the government to listen to this proposal because it is not based on government funding.

Festival of Glass

Ms NEVILLE (Minister for Police) — Last Sunday, 19 February, the annual Bellarine Festival of Glass was held. The event was once again a resounding success. The festival is a wonderful initiative of the Drysdale and Clifton Springs Community Association and has gone from strength to strength since its inception seven years ago. This year the highlight of the festival were the exhibits and demonstrations given by glass artist Davide Penso from the world renowned Murano Glass of Italy. I am very glad we were all able

to work together to sort out his visa in time. On the Saturday night Davide took part in an evening at Leura Park, where he no doubt enthralled guests with his wonderful skills. He followed up again on Sunday, captivating audiences at the festival. While he is on the Bellarine Peninsula, Davide is also conducting workshops for local glass artisans, who will learn much from this highly skilled artist.

Each year an important part of the festival is the Glass Art Awards that highlight the superb skills of local and national artists. There were a number of categories sponsored by the Drysdale Rotary Club and the Clifton Springs and Curlewis Lions Club. I congratulate not just the winners but all those artists who took part on that day and had their skills on show. I want to take the opportunity to congratulate all those people who volunteered their time to make the festival the success that it was, including Patrick Hughes, Glenda McNaughton, Mercedes Drummond, Doug Carson, Dianne Schofield and Janet Jenkin. It really was a great day for all families, bringing people together from right across the state and some from overseas.

The Pillars, Mount Martha

Mr MORRIS (Mornington) — This morning I presented a petition from residents of the Mornington electorate seeking action from the Andrews government to resolve a problem I have raised in this house before — the management of the out-of-control level of visitation to The Pillars on the Mount Martha coast. The Mornington Peninsula Shire Council, as the land managers, have long sought support and assistance from the government to resolve the issue. In January, after two years of fruitless discussions, the council resolved to close the area to the public. I was present in the gallery during the debate, and I am pleased to say that while the council actively considered handing back their management responsibilities to the state, they did not proceed at this point. Given the total lack of cooperation from the Andrews government, it would not have surprised me had they done so, but at this point they have stopped short.

Last September, in the vain hope of getting some action from the government before Christmas, I raised the matter again by way of an adjournment matter directed to the Minister for Energy, Environment and Climate Change. What was her response? It was:

> … this matter falls within the portfolio responsibilities of the Minister for Roads and Road Safety.

In other words, 'Not my problem'. The only flaw in the minister's reasoning, if you can call it that, was that just days before she signed that response on 25 October she had issued a press release announcing funding, unfortunately a paltry amount, for risk mitigation at The Pillars. The response was not just a brush-off; it was also completely wrong. It is her responsibility.

Minister, the council has demonstrated good faith and the community has demonstrated good faith. It is time to get out of your ministerial office, get into your chauffeur-driven car, get down to Mount Martha and fix the problem.

Broo brewery

Ms KNIGHT (Wendouree) — Every hour in Ballarat is happy hour, with the announcement that Broo Ltd will be building its $100 million brewery in Ballarat. Not only does this mean jobs in construction, but Broo has announced that it will employ more than 100 people in its facility — and what a facility it will be. A visitors centre, the Australian beer museum, and a self-guided tour of the Broo Brewery are just some of the attractions.

Of course after all of that you will need a feed. Broo will be happy to seat you at the Brewery Bar and restaurant. You can feel free to indulge because after you have finished your meal and washed it down with a beer or two, you can walk outside and experience the brewery wetlands and outdoor recreation facilities. There will also be space for cultural activities, concerts, expos and anything else you can think of. If that is not enough, Broo at Ballarat aims to be the world's greenest brewery. This will include a sustainable water source, waste solids to energy production, efficient and best practice waste water treatment and recycling technologies and green renewable electricity sources. It takes 5 litres of water to make 1 litre of beer. Broo will use just 1.2 litres.

This development is fantastic news for Ballarat, and I thank Broo for having the confidence to invest in regional Victoria. The great partnership between the Victorian government and the City of Ballarat has made the Ballarat West employment zone a very attractive proposition for business and industry. The first stage has completely filled and stage 2 is now open for expressions of interest. I am looking forward to welcoming Broo to the neighbourhood and sampling some of their product. Cheers!

Blue Ribbon Foundation

Mr BURGESS (Hastings) — On 17 February it was a pleasure to attend the dedication of a Victoria Police Blue Ribbon Foundation police memorial at the City of Frankston Bowling Club in memory of Constable

Phillip Gordon Fleming. The ceremony, with police honours, was held to dedicate a purpose-built emergency operating theatre at Peninsula Health Frankston as a permanent memorial to Constable Fleming, who was killed on 19 February 1971 when his police vehicle ran off the road and went through a fence and down an embankment. Constable Fleming's family were present at the dedication, and the huge amount of pride they felt was obvious to all.

Western Port Festival

Mr BURGESS — On 18 February I was pleased to be invited to attend the 2017 Western Port Festival gala launch at the Hastings community hall. The event runs from 24 to 26 February. The Western Port Festival is a wonderful festival and all should attend.

Western Port basketball stadium

Mr BURGESS — Last night I attended a public meeting at the Somerville Mechanics Institute Hall to discuss the rebuilding of the Somerville basketball stadium and general local lawlessness. In attendance were local council and local police representatives and more than 60 members of the community. Members of the community have been contacting me, frustrated by the lack of information that has been made available regarding progress on the rebuilding process for the Somerville basketball stadium that was destroyed by fire on 1 May 2016. The council has committed to updating the community more often. The community was also very disappointed, but not surprised, that this government completely and flatly refused to assist in rebuilding this important piece of community infrastructure.

Another crucial community concern voiced at the meeting was the urgent need for Somerville's police station to be opened. The new station opened on 30 September 2015, and while this politically motivated government has directed police to be located in Labor electorates, they have flatly refused to put police in the Somerville police station.

Women in sport

Ms KILKENNY (Carrum) — We are now coming into our fourth week of the AFL Women's season, and I want to congratulate all players for a truly exciting debut year of AFL Women's football. The debut season this year finally elevates Australian women's football to the elite level 100 years after women played their first game of football. Significantly, women's matches are being broadcast live on free-to-air television each weekend. It is great to feel the energy at these grounds — the feeling is palpable — and to see so many women and girls attending to watch their new favourite teams.

Sport is truly a great leveller and, as we now appreciate, a key setting for action on gender equality. Sport helps to challenge gender stereotypes as well as discriminatory attitudes towards women. It is why the Andrews Labor government is doing so much for women's sport in Victoria, and it is paying off.

I was delighted to hear from local sporting clubs in my electorate just how many girls and young women are signing up for sport for the very first time. I met recently with the Bonbeach YCW Junior Football Club. They have never had a female team, so they put the call out for new players. On the very first night 25 girls showed up for training. Only two of them had ever played before, but they are keen. And this year the Skye Cricket Club has fielded their very first all-female team. They have to play in men's jumpers but we are getting them new ones. It is time Victoria became the sporting capital of Australia for women as well as men.

Meeniyan Garlic Festival

Mr D. O'BRIEN (Gippsland South) — It was BYO peppermints at the weekend as an incredible 5000 people attended the inaugural Meeniyan Garlic Festival, celebrating local garlic production and our wonderful local produce. The festival featured everything from kids' games such as garlic and spoon races, and cooking demonstrations by chefs from some of Melbourne and Gippsland's best restaurants to live bands and the Choir of Hard Knocks, and of course wonderful local produce. The queues for the Peruvian-style barbecued Gippsland beef and pork were enormous but worth it, and people from all over the state flocked to sample the best South Gippsland has to offer. The streets of the town were still teeming with people late into Saturday afternoon and the event really put Meeniyan on the map. Well done to the entire community, but particularly to Kirsten, David and Felicity Jones, local garlic producers who run the Meeniyan Store, who came up with the idea.

Mirboo North Italian Festa

Mr D. O'BRIEN — Well done also to the Mirboo North community for the Italian Festa held a week earlier. The weather put a bit of a dampener on the event after last year's massive success, but these events are showcasing Gippsland's finest and bringing tourism and interest to our region.

Foster Primary School

Mr D. O'BRIEN — I was pleased to visit Yarram Primary School last week to see work underway on a new school funded in last year's budget. Nearby, though, is Foster Primary School, which operates out of buildings that are the same vintage as Yarram's — indeed, the same year of construction — and are in need of urgent replacement as well. Foster primary is a great little school, with active support from its parent group and the wider community, but it is falling apart and is riddled with asbestos. Last year the school community and I launched a petition calling for its upgrade to be funded in this year's budget, and I understand hundreds of signatures have been collected. I will be tabling that petition soon. I call on the Andrews Labor government to, at the very least, fund design and development works for Foster Primary School in this year's budget, if it does not provide the full funding needed for a new school.

Multiculturalism

Mr SCOTT (Minister for Multicultural Affairs) — Multiculturalism is this state's strongest aspect, and it has had strong support across the chamber over a long period of time. On 19 February the Andrews government released a multicultural policy statement, *Victorian. And Proud of It.* Multiculturalism is not simply one aspect of our state or our community; multiculturalism is our community. The central piece of the multicultural policy statement is the Victorian values statement, including these universal values: one law for all — that everyone is equal under the law; freedom to be yourself; discrimination is never acceptable; a fair go for all; and it is up to all of us to contribute to a Victoria we can be proud of.

This policy includes policy initiatives such as a $2.3 million awareness campaign to ensure Victorians can know their responsibilities and rights under the law; a right-to-debate initiative to promote civil dialogue among Victorians and strengthen supportive social networks; a digital literacy and digital citizenship program to help young people recognise when they are being manipulated online and drawn to extremism; a $4 million multicultural sports fund; and a $1 million anti-racism action plan.

We are proud of our multicultural policy for the message it sends to our diverse community and to the rest of the nation — a message that says those who contribute belong within our community. We are a welcoming people; we expect everyone to contribute, including newly arrived Victorians.

Multiculturalism

Mr HIBBINS (Prahran) — Victoria prides itself on its tolerant and multicultural society. It is what defines us as a state. That is why it is so disappointing to see the Liberal Party chase One Nation down the rabbit hole with blatantly discriminatory policies. Equating Muslim women who wear a burqa or niqab to members of outlaw motorbike gangs or terror suspects is divisive, insulting and a blatant pitch to votes from the far right.

The Liberals are now considering preferencing One Nation at next year's state election. It was the now Leader of the Opposition who said:

> We have a long tradition of supporting and defending social cohesion and harmony — whether it was standing up to One Nation in the 1990s or other challenges that this state has faced.

Well, this state is facing a challenge of growing and damaging intolerance. If the Leader of the Opposition wants to be true to his own words, it is not just about standing up to One Nation in the 1990s; it is about standing up to One Nation now. It is not good enough to pay lip-service to defend our multicultural society but then trash it when the political opportunity suits.

The Greens have been resolute in opposition to the divisive and hateful approach to politics of Pauline Hanson and Donald Trump. The Liberal Party approach has been to see how they can get a piece of the action. It is inclusive values that unite our state and community, not the values of division and hatred. Now is the time to make a stand in the interests of Victoria.

Ivanhoe electorate infrastructure

Mr CARBINES (Ivanhoe) — I am pleased to make a contribution on two very significant announcements in the Ivanhoe electorate that total over $100 million — in fact, it is something like $130 million. They include the removal of the notorious bottleneck along the Chandler Highway bridge with the duplication of that bridge through Seymour Whyte Constructions, which was announced yesterday, alongside the member for Northcote and the Minister for Roads and Road Safety. Can I say this project has been in the too-hard basket for too long. People said it could not be done, but an Andrews Labor government made that commitment in June 2010, and in government we are delivering it. That project starts in May this year and will be completed in the middle of next year. It will make a huge difference to the people of Ivanhoe East, Ivanhoe and my electorate.

Not only that, but of course just a few months back the minister for roads also announced $18 million to complete the missing Yarra–Darebin trail link in our bicycle network. That $18 million project includes a 200-metre bridge connecting Latrobe Gold Club to Willsmere Park and a 50-metre span over the Yarra River. That Chandler Highway bridge duplication includes a pedestrian and cycling underpass, which is fantastic, but also this Darebin–Yarra trail link will connect communities on the Main Yarra Trail and along the Yarra River in my electorate of Ivanhoe with the city.

These two very significant projects have been in the too-hard basket for too long, and it is an Andrews government that I am very proud to be a part of that is delivering these commitments and these projects for Victorians.

Country Fire Authority Grovedale brigade

Mr KATOS (South Barwon) — Sunday, 12 February, was a special day for the Grovedale Country Fire Authority, a wholly volunteer brigade that was celebrating its 75th anniversary. It was a terrific celebration, with a community open day many families and locals attended to thank and celebrate the brigade for 75 years of keeping our community safe. I personally attended the opening day with my youngest son, Jack, and was amazed at the amount of local support revealed by the attendance at the event. Jack particularly enjoyed playing with the fire hose and also watching the brigade's liquefied petroleum gas flare-off equipment on show. Congratulations to the brigade captain, Robert Clarke, and all the firefighters in attendance for a wonderful day. It is also worth mentioning that the club was paid a visit by Captain Koala, much to the joy of many children, including my son. I congratulate the brigade on 75 years and wish them many more years of excellent service to come.

Water policy

Mr KATOS — I also call on the Andrews government to scrap the water order from the desalination plant. It is an absurd $27 million waste of money. We have Melbourne's water storage sitting at 67.7 per cent, Geelong at 70.7 per cent and Ballarat at 91.9 per cent. Water boards around the state are being asked to consider climate change as part of their future planning, yet to justify the Labor white elephant desalination plant, the government is prepared to burn 150 000 litres of diesel a day, releasing 404 tonnes of carbon into the atmosphere. So much for climate change and the desalination plant.

Glenroy West Primary School

Ms BLANDTHORN (Pascoe Vale) — Last week I had the pleasure of attending the Glenroy West Primary School assembly and present badges to their school leaders. Glenroy West Primary School is a fantastic school in the north of my electorate, and it certainly is representative of the multicultural and diverse community that I represent in Pascoe Vale. I congratulate the principal, Pamela Streete, and the school council president, Naomi Moser, on the work that they do to make this growing school community a fabulous place. I congratulate the school captains, Cayden, Hooria, Paris and Roy, and the house captains: Chapman house, Hiba and Dimple; Clovelly house, Liam and Zarrirah; William house, Anjelo and Savia; and York house, Dinesh and Dua. I also congratulate the student representative council members: Amaan, Aarmish, Bailey, Blake, Chloe, Christopher, Dash, Dimple, Dinesh, Elley, Gifford, Isabelle, Joshua, Koby, Nevatama, Omer, Sara, Sahar, Tapelu and Tilly.

Mr J. Bull interjected.

Ms BLANDTHORN — As the member for Sunbury says, a great team, with Glenroy West bordering on his electorate. May the team take the school community forward and may they have a fabulous year.

Shop 225

Ms BLANDTHORN — I also congratulate Shop 225 — a pizza shop opposite my office on the intersection in Pascoe Vale South. They were one of the pizza places named in the Melbourne's best pizza awards yesterday. I certainly can speak for the vegetarian and vegan options that they offer. They are most definitely a popular haunt with my staff as well.

Murray United Football Club

Mr TILLEY (Benambra) — I would like to take this opportunity to congratulate Wodonga's National Premier League soccer side, Murray United FC. Last weekend the club that was formed just over three years ago with a vision to grow the game and provide an elite and less difficult pathway for emerging soccer stars played a home game in Wodonga in front of more than 1500 spectators. The reason for the bumper crowd was that one of our very own, Melbourne Victory cult hero, Socceroo, world record holder for number of goals in an international and former Wodonga boy Archie Thompson was making his home game debut for the club.

There was a great atmosphere, and despite the fact that the result went against them and Archie hit the crossbar twice in the second half, the promotion of the game and the sport itself was a huge bonus to this fledgling club. This is a great example of regional and rural Victoria leading the way. To get one of the most recognisable soccer players in this country to return to play for his hometown team is a credit to the club and the man himself.

Britt Cox

Mr TILLEY — On another note, while I have the time and opportunity, also last weekend Mount Beauty skier Britt Cox became the first Australian woman to win the Moguls World Cup title. She has dominated the circuit in the Northern Hemisphere winter, winning no less than six times. She wrapped up the title with two races remaining on the calendar.

There are still 10 months to go in the year but I want to quickly knowledge one of the greatest performances and two homegrown local heroes and great participants in their respective sports.

St Albans Lunar New Year Festival

Ms SULEYMAN (St Albans) — This year started with a bang in St Albans. There were fantastic celebrations as part of the Lunar New Year festivities, beginning with the annual St Albans Lunar New Year Festival — an absolutely outstanding event which draws over 20 000 people to St Albans. I would like to thank the St Albans traders group, its president, Sebastian Agricola, and all of the St Albans traders for their contribution to again making the festival a very successful event.

Monmia Primary School

Ms SULEYMAN — On another matter, on 13 February I had the opportunity to attend Monmia Primary School and meet the fantastic school captains for 2017. Education is one of the foundations and pillars for opportunity and pathways. I was extremely impressed to see firsthand the hardworking teachers, in particular the principal, Lorraine Bell, and the parents working together to make Monmia Primary School a school of excellence in the region.

Gymnastics Victoria

Ms SULEYMAN — On a further matter, I had the opportunity to represent the Minister for Sport at the 2017 Gymnastics Victoria family ball and awards night. There are over 200 000 gymnastics participants in Victoria. I would like to congratulate Larissa Miller, who was recently selected to represent Australia at the upcoming Tokyo Olympic Games. A big thanks to the chair of Gymnastics Victoria, Michael O'Neill; to the CEO, Jamie Parsons, who grew up in Sunshine — he is a local boy — and all of the volunteers working across Victoria to keep Victorians active.

Mansfield young citizens

Ms McLEISH (Eildon) — I have said before that Mansfield bats above its weight, and the youth of the town add weight to that belief. On the weekend I attended the opening of the Mansfield Skate Park. This was a fabulous project funded by federal, state and local government as well as the community. The project was driven in the first instance by schoolboy Harry Green. Harry had the vision and did the lobbying. As it happened, Harry was in the USA snowboarding on the day the park opened. However, 15-year-old skateboarding champion Hayley Wilson spoke very well on behalf of the park users in the town.

A FReeZA event was conducted at the same time as the opening of the skate park. I met committee members volunteering — Freya Gunn with the camera, and Julian Holland on the drinks. Also volunteering on the day were Amber Thompson and 10-year-old Mary Ball. I was so impressed to see such commitment to volunteering by these young people.

At the Mansfield Secondary College I was warmly welcomed by the lovely Tilly Lang. I had the opportunity to meet with school captains Amy Dixon-Rielly, Fergus Paterson, Grace Scales and Nathaniel Inch, who were presented with their school jackets. I also met Australian Air Force Cadets Under Officer Owen Brond and Leading Cadet Jaidyn Peck. They were all inspirational.

I also chatted to the remarkable Brittney Allen, who ran 200 kilometres from Mansfield to the Royal Children's Hospital in over a week. Brittney has raised over $47 000 for the maxillofacial unit at the Children's, whose team has treated her sister Zoe all of her life.

In addition I want to commend the young citizens of the year, all very worthy recipients: this year Tim Hume, Liam Wilson last year and Shannon Stephens the year before. They all do wonderful things in their community.

Dandenong electorate level crossings

Ms WILLIAMS (Dandenong) — Last week I visited the work crew at the South Gippsland Highway level crossing as part of an announcement that

preliminary works for the removal of that level crossing had started.

Geotechnical investigations have begun at the site and involve drilling boreholes between 15 and 40 metres deep to gain a better understanding of ground conditions in the area. Preliminary activities at the site will also determine the location and depth of electrical cables, water pipes and other key services. This information will inform the design and engineering of the level crossing removal and help determine which options are feasible going forward.

The South Gippsland Highway is used by more than 30 000 vehicles a day, and there is great excitement in my community about the removal of the level crossing, particularly for workers in the industrial precinct who battle delays each and every day as they move through the precinct in the course of their work. These delays keep people away from their families for longer, and they have a negative impact on business productivity. My community will be glad to see it gone, as will I.

I am also excited about upcoming works for the removal of the Abbotts Road level crossing, which will also bring enormous benefits to local businesses and their workforce. Local business representatives on the business liaison group for this project have done a wonderful job in casting a constructively critical eye over proposed designs. Their expertise has been an enormous help in finding the best solution for this site.

Of course I must also mention that work is well underway on the removal of the Noble Park level crossings. Pylon works have been taking place, and the structure will start to take shape fairly quickly from this point on. Five level crossings are being removed from my immediate area, and work is well underway. This is great news for commuters in Dandenong and great news for local businesses and the workers that sustain them.

Maroondah Hospital

Ms RYALL (Ringwood) — It is a tremendous let-down to the residents of my electorate of Ringwood to learn that the Andrews government will not contribute the required funding to develop the necessary car parking facilities at Maroondah Hospital.

The parking situation has been in crisis, with there having been no commitment for over two years of any funding and no commitment to address the car parking circumstances. People circle the block constantly, desperately trying to locate a suitable car park. The $10 million that is required to build the car park has to be borrowed by Eastern Health from the government and repaid with interest. They are funds that will not be used for healthcare for patients in our community. The costs have been kept lower for patients, visitors and families because Eastern Health have managed their own car parking rather than outsourcing their management. Having to borrow $10 million and repay that over time with interest is expected to increase the parking costs to people.

Cost of living is already a major concern for households with rising bills, especially power with the closure of the Hazelwood power station championed by the Andrews government. This added cost is just another assault on the household budget, particularly at a time when people are already under pressure and stress due to illness.

Ovarian cancer

Ms THOMSON (Footscray) — Yesterday was Teal Ribbon Day. I want to acknowledge the crucial work of Ovarian Cancer Australia and its ambassadors and survivors in raising awareness about this insidious and deadly disease, and for providing support for its victims.

It is really encouraging to see so many members of Parliament wearing their teal ribbons in the chamber. I urge them in this month of February to have Afternoon Teal days where they raise some money to donate to Ovarian Cancer Australia. Ovarian cancer is a very insidious disease. Every year 1550 Australian women are diagnosed with ovarian cancer and 1200 of those women will die.

This year the focus of the Teal Ribbon campaign is to KnowAskAct. That is knowing about the disease, being aware of its symptoms and asking about your family history. If there is a family history of ovarian cancer, women should act by asking their GP if genetic testing is suitable. Although medical advancements are being made, at this stage there is no screening test for ovarian cancer, which is why it is so important that women understand the symptoms. They are abdominal or pelvic pain, increased abdominal size or persistent abdominal bloating, the need to urinate often or urgently and feeling full after eating a small amount. It is important that they follow up these symptoms.

COMMERCIAL PASSENGER VEHICLE INDUSTRY BILL 2017

Statement of compatibility

Ms ALLAN (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 (the charter), I make this statement of compatibility with respect to the Commercial Passenger Vehicle Industry Bill 2017.

In my opinion, the Commercial Passenger Vehicle Industry Bill 2017 (the bill), as introduced to the Legislative Assembly, is compatible with the human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill implements a number of reforms to the commercial passenger vehicle industry, including through a number of amendments to the Transport (Compliance and Miscellaneous) Act 1983 (the TCM act) and other acts.

Key features of the bill include:

imposing a levy in respect of each commercial passenger vehicle service transaction carried out during a return period, including prescribing the amount of the levy and who is liable for the levy, and providing that the commissioner of state revenue (the commissioner) is to collect the levy. The bill also amends the Taxation Administration Act 1997 (the taxation act) to make part 2 of the bill a taxation law for the purposes of that act;

removing annual licence fees for taxi-cabs and licence fees for hire cars;

changing the definition of network services to enable regulation of all persons who provide commercial passenger vehicle booking services.

Human rights issues

The human rights protected by the charter that are relevant to the bill are:

the right to privacy and reputation, as protected under section 13 of the charter;

property rights, as protected under section 20 of the charter;

the presumption of innocence, as protected under section 25(1) of the charter;

the right to a fair hearing, as protected under section 24 of the charter; and

the right not to be tried or punished more than once, as protected under section 26 of the charter.

For the reasons outlined below, in my opinion, the bill is compatible with each of these rights.

Provisions implementing reforms to the industry, including amendments to the TCM act

Privacy (section 13)

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

Several clauses of the bill provide the Taxi Services Commission (TSC), who is the licensing authority for the purposes of the TCM act, with broad powers to access the private information of individuals in order to carry out its licensing and regulatory functions. Additionally, the bill provides inspectors with powers to compel the production of information and documents that may interfere with the privacy of individuals.

Clause 46 amends section 169ZA of the TCM act to ensure that the register of taxi industry participants required to be kept by the TSC includes each person who holds an accreditation as a provider of a booking service. Under section 169ZA, the register is required to contain certain prescribed information, including the name and contact details of accredited persons. Under section 169ZB, the TSC must keep a public version of the register that is to be made available for inspection and published on the TSC's website, with the exception of any information to which public access is restricted pursuant to the procedures in the TCM act that allow for a person to apply to have access to their personal information restricted.

Clause 48 of the bill amends section 228RY(1)(b)(ii) of the TCM act, which provides for the ability of a TSC commissioner or taxi compliance officer, for compliance and investigative purposes, to direct a specified person or a provider of a non-cash payment processing service to provide certain information, documents or devices relating to specified matters. It is an offence to fail to comply with such a direction without a reasonable excuse. Although section 228RY(1)(b)(ii) may potentially interfere with a person's right to privacy, the 'reasonable excuse' exception enables a person to refuse to comply with a request for information on the basis of claiming a privilege, such as the common law privilege against self-incrimination, and is therefore protective of the right in section 25(2)(k) of the charter that requires a person not be compelled to testify against themselves.

Clause 64 of the bill amends section 191YD(2) of the TCM act, which provides for the TSC to enter into information sharing arrangements with certain specified agencies, for the purposes of sharing or exchanging information held by the TSC and the relevant agency. Information may only be requested or disclosed to the other party to the extent that the information is reasonably necessary to assist the TSC in the exercise of functions under the TCM act or the Transport Integration Act 2010, or to assist the relevant agency concerned in the exercise of its functions.

Clause 65 of the bill inserts a new section 191YDA into the TCM act, requiring the Chief Commissioner of Police to take all reasonable steps to ensure that the TSC is notified as soon as practicable after they become aware that a notifiable person (i.e. an accredited person or a person who has applied for

accreditation) has been charged with certain offences, and is given details in respect of the charge.

Not all of the information required to be provided to the TSC under these provisions will be of a private nature. However, to the extent that the requirements under the bill may result in an interference with a person's privacy, any such interference will be lawful and not arbitrary. The provisions that require or permit the collection of information are clearly set out in the bill and the TCM act, and are directly related to the TSC's regulatory and enforcement functions. Further, participants in a regulated industry have a reduced expectation of privacy.

The register of taxi industry participants records necessary information to monitor compliance with the licensing scheme and to enable the TSC to fulfil its obligations. The register will also make information about licence holders, or former licence holders, available to the public. This serves the important purpose of promoting transparency, which will in turn protect users of booking services. As such, to the extent that the right to privacy is relevant to the information required to be listed on the register, I believe that any interference with that right is lawful and not arbitrary.

Finally, I note that measures banning or restricting an individual's capacity to gain employment or hold positions can interfere with a person's right to private life, where they affect an individual's ability to develop relationships with the outside world to a very significant degree and create serious difficulties for their capacity to earn their living. This aspect of the right to privacy may appear relevant to clause 50 of the bill that amends section 230DA(2)(d) of the TCM act. This provision permits a court to make an exclusion order preventing a person from providing a booking service or a particular type of booking service, where the person has been found guilty of a particular relevant offence and for the purpose of restricting opportunities to commit further offences. However, I consider that any interference with a person's private life occasioned by this provision is neither arbitrary nor unlawful. The restrictions on the ability to further engage in the regulated industry, who they apply to and in what circumstances, are clearly set out in the bill and are expressly directed at preventing further offence against a relevant law.

For these reasons, I am satisfied that the bill does not limit the right to privacy.

Property rights (section 20)

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law. This right is not limited where there is a law which authorises a deprivation of property, and that law is adequately accessible, clear and certain, and sufficiently precise to enable a person to regulate their conduct.

Certain provisions of the bill provide for the variation or cancellation of relevant registrations or authorities. For example, clause 52 inserts a new section 157A(2AB) into the TCM act, providing that the TSC may, by notice in writing to an authority holder, suspend or revoke the authority if satisfied, on the balance of probabilities, that the authority holder has contravened a requirement applying to the authority holder under the bill, or the taxation act (as applied by the bill). This however is subject to section 157(3), which provides the licensing authority shall not suspend or revoke a licence or permit pursuant to that section unless the holder of the licence or permit has been given a reasonable opportunity to show cause why the licence or permit should not be suspended or revoked.

Statutory rights, such as those arising from registration or a licence to participate in a regulated industry, are inherently subject to change and, for this reason, are less likely to be found to be proprietary rights. In these circumstances, I am of the opinion that the provision for altering conditions of registration, cancelling or alteration of a registration or an authority under the bill will not amount to a deprivation of property. Even if it did, it is clear that such a deprivation would be in accordance with law.

Further, I am satisfied that the right in section 20 of the charter is not relevant to clause 16 of the bill, which provides for the cancellation of the registration of persons liable to pay the levy by the commissioner by written notice for any reason the commissioner thinks sufficient. Although the bill requires persons who are liable for the levy to be registered, whether a person is registered or not does not affect the person's liability for the levy. As such, the ability for the commissioner to cancel a person's registration does not affect a person's proprietary rights or interests. The purpose of the general cancellation provision in clause 16 is to enable the commissioner to manage the database of persons liable to pay the levy, to ensure it is up to date and accurately captures persons from whom a levy can be expected. This express power will ensure that the commissioner has the power to remove lapsed registrations from the database, rectify errors that may result in incorrect registrations, and to ensure the accuracy of the database where cancellation is required for compliance purposes (for example, to prevent a provider who has left the industry or had their accreditation revoked from appearing to remain providers by being registered).

As discussed above in relation to the privacy right, clause 48 amends section 228RY(1)(b)(ii) of the TCM act relating to the ability for a TSC commissioner or a taxi compliance officer to direct a specified person or a provider of a non-cash payment processing service to provide to him or her information, documents or devices. Such a direction can only be given for compliance and investigative purposes. A TSC commissioner or officer may seize and remove any document, device or other thing that is produced that they believe, on reasonable grounds, provides or may provide evidence of a contravention of a commercial passenger vehicle law or breach of a civil penalty provision. Where the provisions permit the seizure or taking items or documents, the powers of TSC commissioners and officers are strictly confined and directly related to enforcing compliance with the TCM act.

Accordingly, I am satisfied that any deprivation of property pursuant to these powers will be in accordance with law and, consequently, will not limit the right in section 20 of the charter.

Presumption of innocence (section 25(1))

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

As discussed above, clause 65 of the bill inserts a new section 191YDA into the TCM act, requiring the Chief Commissioner of Police to take all reasonable steps to ensure that the TSC is notified as soon as practicable after the chief

commissioner becomes aware that a notifiable person (i.e. an accredited person or a person who has applied for accreditation) has been charged with certain offences, and is given details in respect of the charge.

Because the prescribed information includes details of certain criminal charges that may have not yet been determined by a court, it may appear that the right to be presumed innocent is relevant. However, any decision made by the TSC under the TCM act in light of the information provided by the chief commissioner does not amount to a finding or public statement that a person is guilty of the pending criminal charge, nor can it adversely affect the outcome of a person's criminal trial. The purpose of requiring notification of pending charges is to ensure the accredited persons or applicants are suitable, and to minimise security risks. Accordingly, I consider that new section 191YDA does not limit the right to be presumed innocent in section 25(1) of the charter.

The right in section 25(1) is also 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 66 of the bill amends the existing offence provision in section 225 of the TCM act to include the TSC in the definition of 'officer' for the purposes of the offences in sections 225(2) and 225(3). Section 225(2) provides that a person must not, without reasonable excuse, assault or incite or encourage any other person to assault an officer or an officer's assistant. The offence in section 225(3) provides that a person must not, without reasonable excuse, resist, obstruct, hinder or refuse to comply with a lawful request or direction of an officer or an officer's assistant.

In my view, defences of 'reasonable excuse' do not transfer the legal burden of proof and therefore do not limit the presumption of innocence. Once the defendant has adduced or pointed to some evidence that would establish the excuse on balance, the burden then shifts back to the prosecution to prove on the balance of probabilities the absence of the excuse raised, as well as each element of the offence. The matters that may form the basis of the defence of reasonable excuse will be peculiarly within the defendant's knowledge. Furthermore, the burdens do not relate to essential elements of the offences and are only imposed on the defendant to raise facts that support the existence of an exception, defence or excuse.

The right in section 25(1) of the charter may also be relevant to clause 67 of the bill, which amends the evidentiary provisions contained in section 230(4) of the TCM act. This amendment operates to include the chief executive officer or an employee of the TSC in the category of persons under whose hand any notice, statement, certificate or other document will be deemed admissible in evidence in any proceedings and, in the absence of evidence to the contrary, shall be proof of the matters in the relevant notice, statement or certificate. The purpose of section 230 is to streamline prosecutions under the TCM act by removing the requirement that evidence be led in relation to what are likely be non-controversial matters that can be adequately established by documentary evidence.

In my opinion, section 230(4) of the TCM act does not create a reverse legal onus as it only requires a defendant to raise evidence that contradicts the presumption that the matters certified in the notice, statement or certificate are true. Once they do so, the burden shifts back to the prosecution to establish the elements of the offence, including any matters contained in the notice, statement or certificate.

For these reasons, I am satisfied that the provisions are compatible with the right in section 25(1) of the charter.

Fair hearing (section 24(1))

Section 24(1) of the charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The charter right to a fair hearing is not limited to judicial proceedings and can include administrative proceedings. The fair hearing right encompasses the concept of procedural fairness, which includes the requirement that a party have a reasonable opportunity to put their case under conditions which do not place that party at a substantial disadvantage relative to their opponent.

This right may be relevant to clause 67 of the bill, which — as described above — amends the evidentiary provisions in section 230(4) if the TCM act. To the extent that section 230 of the TCM act affects the manner in which evidence is led by deeming notices, statements or certificates to be taken as prima facie evidence of the matters contained in those documents, I am of the opinion this does not limit the right in section 24. The purpose of section 230 is to streamline prosecutions under the TCM act, and the matters that can be certified are non-controversial given the statutory context. Further, an accused may still lead evidence to the contrary challenging the evidence that is certified. Finally, clause 230 does not interfere with a court's ability to conduct its proceedings as it sees fit, including the manner in which it evaluates the evidence of an alleged contravention, or the manner in which it affords procedural fairness after the charge is brought.

Right not to be tried or punished more than once (section 26)

Section 26 of the charter provides that a person has the right not to be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law. The right in section 26 of the charter has been interpreted as applying only to punishments of a criminal nature and does not preclude the imposition of civil consequences for the same conduct.

A number of provisions in the bill relate to provisions in the TCM act that create consequences for persons under that act where they are found guilty of certain, specified criminal offences. For example, clause 39 amends section 132D(1)(ab) of the TCM act that provides mandatory refusal of accreditation where the applicant (or relevant person in relation to the applicant) is found guilty of a certain offence, which are incompatible with the expectations that apply to a booking service provider. Clause 40 amends section 132E of the TCM act, which creates a presumption in favour of refusing an application for accreditation where an applicant or relevant person is found guilty of certain offences, unless the TSC is satisfied that the applicant has demonstrated that the issue of the accreditation is appropriate having regard to the purpose of accreditation.

Where an action or a restriction under these provisions of the TCM act follows a conviction or finding of guilt for an offence under another provision, a question arises as to whether a disciplinary action constitutes double punishment for the purposes of the right in section 26 of the charter.

The actions that may be taken by the TSC in these contexts are of a regulatory nature and are for the purpose of protecting the integrity of the licensing scheme by ensuring there is appropriate accountability, rather than being aimed at punishing the accredited persons or applicants. The powers under the provisions are supervisory and protective in nature and any such action does not amount to a finding of criminal guilt. Further, even if some of the actions that may be taken against a licensee under these provisions did amount to a sanction, those sanctions are not of a criminal nature and the right in section 26 of the charter does not preclude imposition of civil consequences for the same conduct.

I therefore consider that the bill is compatible with section 26 of the charter.

Amendments relating the application of the taxation act

Part 2 of the bill imposes a levy in respect of each commercial passenger vehicle service transaction. The amendment to the taxation act in clause 75 of the bill provides that the taxation act applies to the levy in part 2 of the bill. It is therefore necessary to consider the human rights issues raised by the provisions of the taxation act, to the extent that they apply to part 2 of the bill.

Property rights (section 20)

Investigation powers of tax officers

As stated above, the bill applies the taxation act to the commercial passenger vehicle service transaction levy. Part 9 of the taxation act provides authorised tax officers with investigation powers to administer and enforce taxation laws, which will include the bill. The right in section 20 of the charter is relevant to a number of powers which provide for tax officers to enter certain premises, and to seize or take items. These powers are discussed in detail below, in relation to the right to privacy.

I consider that the right in section 20 will not be limited by these powers, because any deprivation of property will occur in accordance with law. The circumstances in which inspectors or authorised persons are permitted to seize or take items or documents are provided for by clear legislative provisions, and the powers are strictly confined. The items that may be taken or seized are relevant to and connected with enforcing compliance with the bill. For instance, a magistrate may only issue a search warrant if satisfied by evidence on oath or affidavit that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, a particular thing on the premises that may be relevant to the administration or execution of a taxation law. Further, under section 77 of the taxation act, a document or thing may only be searched for, seized or secured against interference if it is described in the warrant issued by a magistrate.

The powers of an authorised officer include, under section 76 of the taxation act, the power to seize a document or thing where the officer has reason to believe or suspect it is necessary to do so in order to prevent its concealment, loss, destruction or alteration. Similarly, section 83 of the taxation act provides that an authorised officer may seize a storage device and the equipment necessary to access information on the device if the officer believes, on reasonable grounds, that the storage device contains information relevant to the administration of a taxation law and it is not otherwise practicable to access the information on the device.

In my opinion, sections 76 and 83 of the taxation act, as applied by clause 6 of the bill, do not limit the right in section 20 of the charter because they are sufficiently confined and structured, accessible and formulated precisely such that any deprivation occurs in accordance with the law. Further, these provisions guard against any permanent interference with property where no offence has been committed. For example, the taxation act provides that reasonable steps must be taken to return a document or thing that is seized if the reason for its seizure no longer exists (s 84), and the document or thing seized must be returned within the retention period of 60 days, unless the retention period is extended by an order of the Magistrates Court (s 85).

For the above reasons, in my opinion the provisions of the bill are compatible with the right to property in section 20 of the charter.

Privacy (section 13(a))

As noted above, an interference with privacy will limit the right in section 13(a) of the charter if it is an unlawful or arbitrary interference.

Requirement to provide information in returns

Clause 15 of the bill obliges a person who is liable to pay the levy to periodically lodge a return with the commissioner of state revenue. Section 10 of the taxation act, as applied to the levy by clause 6 of the bill, provides that a taxpayer must provide in this return all information necessary for a proper assessment of tax liability, including any further information not otherwise required under a taxation law.

It is expected that most returns will be submitted by entities, rather than individuals, and not all of the information required to be provided in a return will be personal information. However, to the extent that the collection of personal information under clause 15 of the bill may result in an interference with a person's privacy, any such interference will be lawful and not arbitrary. These provisions do not require that a person's personal information be published, and only require the provision of information necessary to achieve the purpose of the regime. Accordingly, in my view they do not limit the right to privacy.

Section 92(1)(e) of the taxation act permits a tax officer to disclose information obtained under or in relation to the administration of a taxation law to a listed 'authorised recipient'. Clause 77 of the bill amends section 92(1)(e) of the taxation act to include the TSC as an authorised recipient for the purpose of administering part 2 of the bill and any regulations made under the bill once enacted. While the commissioner will be solely responsible for administering the levy and exercising powers under the taxation act, the TSC will more broadly have responsibility for the enacted bill that will impose the levy. The commissioner will need to provide information that is obtained under or in relation to the administration of the levy to the TSC for the purpose of assisting the TSC to administer the regime established by the bill. The type of information that may be disclosed includes, but is not limited to, information regarding registration, lodgements of returns and payments by levy

payers, taxation defaults by levy payers, and applications for objection, appeal and review under part 10 of the taxation act by registered levy payers.

To the extent that clause 77 interferes with a natural person's right to privacy, I consider that interference to be neither arbitrary nor unlawful. This amendment ensures that the TSC can exercise its regulatory and enforcement functions in accordance with legislation. I therefore consider that this clause does not limit the right to privacy.

Investigation powers of tax officers

As noted above, part 9 of the taxation act, as applied by the amendment in clause 75 of the bill, provides the commissioner of state revenue and authorised tax officers with investigation powers to administer and enforce taxation laws, including the levy. The following investigation powers may interfere with the right to privacy, as well as the right not to impart information, which forms part of the right to freedom of expression under s 15 of the charter:

- section 73 of the taxation act provides that the commissioner of state revenue may, by written notice, require a person to provide the commissioner with information, produce a document or thing in the person's possession, or to attend and give evidence under oath;

- section 76 of the taxation act provides that an authorised officer may, at any reasonable time, enter and search any premises, and inspect, photograph or make copies of any document on the premises;

- section 77 of the taxation act provides that an authorised officer may apply to a magistrate for a search warrant in relation to a premises, including a residence, if the authorised officer considers on reasonable grounds that there is, or may be within the next 72 hours, on the premises a particular thing that may be relevant to the administration or execution of a taxation law;

- section 83 provides that an authorised officer may, or may require an employee of the occupier to, operate equipment on the premises to obtain information from a storage device that the authorised officer believes, on reasonable grounds, contains information relevant to the administration of a taxation law;

- section 86 of the taxation act provides that an authorised officer may, to the extent it is reasonably necessary to do so for the administration or execution of a taxation law, require a person to give information, produce or provide documents and things, and give reasonable assistance, to the authorised officer.

In each provision that permits inspectors to exercise powers of entry and search, the powers of inspectors and other authorised persons are clearly set out in the taxation act and are strictly confined by reference to their purpose. They are also subject to appropriate legislative safeguards. In particular:

- a warrantless search under section 76 of the taxation act cannot be conducted in respect of premises used for residential purposes except with the written consent of the occupier of the premises (section 76(6)). An authorised officer may not exercise a power under section 76 unless the officer produces, on request, his or her identity card (section 76(5));

- a search warrant issued by a magistrate under section 73 of the taxation act must specify the premises to be searched, a description of the thing for which the search is made, any conditions to which the warrant is subject, whether entry is authorised to be made at any time or during specified hours, and must specify a day not later than seven days after its issue after which the warrant ceases to have effect (section 77(3)). Where entry under warrant or pursuant to court order occurs, an authorised officer must issue an announcement and give persons on the premises an opportunity to allow entry, unless the officer believes on reasonable grounds that immediate entry is necessary to ensure the safety of a person, or ensure the effective execution of the search warrant is not frustrated (section 78). The authorised officer is also required to identify himself or herself and must give a copy of the warrant to the occupier of the premises (section 79);

- further, division 3 of part 9 of the taxation act includes broad confidentiality obligations that prohibit authorised tax officers from disclosing information obtained in relation to their functions, except as permitted under the taxation act.

The amendment in clause 75 of the bill also applies s 92 of the taxation act, which permits the disclosure of information obtained in the administration of a taxation law, to the bill. Specifically, s 92(1) permits the disclosure of such information for several different purposes, including in accordance with a statutory provision, in connection with the administration or execution of a statutory provision or a taxation law, to an authorised recipient such as the Ombudsman or a police officer, or in connection with the administration of a legal proceeding arising out of a recognised law. Further, s 92A of the taxation act permits the disclosure of 'minimum information' in respect of a dutiable transaction, as defined under the Duties Act 2000. As with the search and seizure powers of authorised officers under this part, these permitted disclosures are strictly confined to their legitimate purposes and are subject to considerable legislative safeguards. In particular, s 94 of the taxation act prohibits 'secondary disclosure', that is, disclosure of any information provided under s 92, unless it is for the purpose of enforcing a law or protecting public revenue. Further, s 95 provides that an authorised officer is not required to disclose or produce in court any such information unless it is necessary for the purposes of the administration of a taxation law, or to enable a person to exercise a function imposed on the person by law.

Accordingly, to the extent that these investigation powers could interfere with a person's privacy, any interference would not constitute an unlawful or arbitrary interference.

Feasibility studies

Part 10A of the taxation act concerns the commissioner of state revenue's power to conduct 'feasibility studies' in the public interest. Section 116B under the part provides that the commissioner of state revenue may, by written notice, require a person to provide the commissioner with information for the purpose of a feasibility study. Section 116G provides that a person may disclose information obtained under part 10A to a person employed or engaged by the Department of Treasury

and Finance (DTF), or employed or engaged in the administration or execution of a taxation law.

In my view, neither the power to obtain, nor disclose information obtained, for the purpose of a feasibility study limits the right to privacy, as each power is subject to considerable legislative safeguards. For example, in requiring information under s 116B, the commissioner of state revenue must notify the person the purpose for which the information is sought, and to whom the information is to be provided. Information obtained cannot be used for any purpose other than the conduct of a feasibility study (s 116D), and the privilege against self-incrimination is preserved by s 116C. Pursuant to s 116G of the taxation act, disclosure of information obtained under part 10A is only permitted to a DTF employee, or a person employed or engaged in the administration of a taxation law, if the disclosure is for the purpose of the conduct of a feasibility study. Section 116E otherwise prohibits the disclosure of information obtained under part 10A of the taxation act, and classifies such information as 'exempt documents' for the purposes of the Freedom of Information Act 1982. Furthermore, information obtained under part 10A is not admissible as evidence against any person in civil or criminal proceedings (s 116F).

Presumption of innocence (section 25(1))

Defences of reasonable excuse

The right to be presumed innocent may be considered relevant to a number of offences under the taxation act that place an evidential burden on the defendant, and which apply to the levy as a result of the amendment in clause 75 of the bill.

> As outlined above, section 73 of the taxation act empowers the commissioner of state revenue to issue a written notice requiring a person to provide information, produce a document or thing, or give evidence. Section 73A provides that the commissioner of state revenue may certify to the Supreme Court that a person has failed to comply with a requirement of a notice issued under s 73. The Supreme Court may inquire into the case and may order the person to comply with the requirement in the notice. Section 73A(4) provides that a person who, without reasonable excuse, fails to comply with an order of the Supreme Court under s 73A(2), is guilty of an offence.
>
> Section 88 of the taxation act makes it an offence for a person, without reasonable excuse, to refuse or fail to comply with a requirement made or to answer a question of an authorised officer asked in accordance with sections 81 or 86 of the act.
>
> Section 90 establishes a defence of reasonable compliance for offences relating to the investigation powers of authorised tax officers under part 9 of the taxation act. It provides that a person is not guilty of an offence if the court hearing the charge is satisfied that the person could not, by the exercise of reasonable diligence, have complied with the requirement to which the charge relates, or that the person complied with the requirement to the extent that he or she was able to do so.

Although these provisions require a defendant to raise evidence of a matter in order to rely on a defence, I am satisfied that the provisions impose an evidential, rather than legal burden. Courts in other jurisdictions have generally taken the approach that an evidential onus on a defendant to raise a defence does not limit the presumption of innocence. The defences and excuses provided relate to matters within the knowledge of the defendant, which is appropriate in circumstances where placing the onus on the prosecution would involve the proof of a negative which would be very difficult.

For the above reasons, I am satisfied that these provisions of the taxation act, as applied to the levy under clause 6 of the bill, do not limit the right to be presumed innocent in section 25(1) of the charter.

Failure to exercise due diligence

The right to be presumed innocent is also relevant to section 130C of the taxation act, which establishes the criminal liability of an officer of a body corporate for the failure to exercise due diligence in certain circumstances. That section provides that if a body corporate commits a specified offence, namely giving false or misleading information to tax officers contrary to s 57(1), tax evasion contrary to s 61, or making an unauthorised endorsement of an instrument contrary to s 268 of the Duties Act 2000, an officer of the body corporate is also deemed to have committed the offence. Section 130C(3) provides that it is a defence to a charge for an officer of a body corporate to prove that he or she exercised due diligence to prevent the commission of the offence by the body corporate.

The defence in 130C(3) of the taxation act imposes a legal burden on the defendant. However, I am nevertheless of the view that the imposition of a legal burden to rely on the defence of due diligence is compatible with the right to presumption of innocence in the section 25(1) of the charter, as any limits on the right will be reasonably justified under section 7(2) of the charter. The provision applies only to a narrow range of offences of dishonesty, and only to officers of a body corporate as persons who carry on a specific role and possess significant authority and influence over the body corporate. The provision of commercial passenger vehicle services is a regulated industry, and special responsibilities and obligations apply to persons who participate in this industry.

Courts in other jurisdictions have held that the presumption of innocence may be subject to limits particularly where, as here, the offence is of a regulatory nature. Further, a defence is available for the benefit of an accused to escape liability where they have taken reasonable steps to ensure compliance, in respect of what could otherwise be an absolute or strict liability offence.

The purposes of these provisions is to ensure compliance with the commercial passenger vehicle service levy by deterring intentional acts of dishonesty in the administration of the levy. A person who elects to undertake a position as officer of a body corporate accepts that they will be subject to certain requirements under the bill and the taxation act, and will be expected to be able to demonstrate their compliance with these requirements. This includes the expectation that an officer of a body corporate can demonstrate compliance with a requirement to exercise due diligence to prevent the commission of these offences of dishonesty by the body corporate.

Moreover, whether an officer of a body corporate has exercised due diligence is a matter peculiarly within the

knowledge of that person. Such persons are best placed to prove whether they exercised due diligence. Conversely, it would be very difficult for the prosecution to prove the matter in the negative.

Accordingly, I am of the view that section 130C(3) of the taxation act, as applied by the amendment in clause 75 of the bill, is compatible with the charter's right to the presumption of innocence.

Self-incrimination (section 25(2)(k))

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

As outlined above, section 86 of the taxation act, which applies to the commercial passenger vehicle service levy pursuant to the amendment included in clause 75 of the bill, provides that an authorised taxation officer may, in the exercise of his or her investigative functions, require a person to give information, produce or provide documents and things, and give reasonable assistance, to the authorised officer. It is an offence to fail to comply with a requirement made or to answer a question under this section. Section 87(1) limits the right to protection against self-incrimination by providing that a person is not excused from answering a question, providing information or producing a document or thing on the ground that to do so might tend to incriminate the person or make the person liable to a penalty. Section 87(2) provides that, if a person objects to answering a question, providing information or producing a document or thing, the answer, information, document or thing is not admissible in any criminal proceeding other than proceedings for an offence against a taxation law, or proceedings for an offence in the nature of perjury.

In my view, section 87 of the taxation act is a reasonable limit on the right to protection against self-incrimination under section 7(2) of the charter. The ability of an authorised officer to require a person to give information or answer questions is necessary for the proper administration of the commercial passenger vehicle levy scheme. To this end, I note that the information, answers or documents obtained are only admissible in proceedings for an offence relating to the proper administration of the commercial passenger vehicle levy scheme, and section 87(2) of the taxation act otherwise preserves both the direct use immunity and derivative use immunity.

Further, with respect to the power of an authorised officer to require the production of documents, I note that at common law, the protection accorded to the compelled production of pre-existing documents is considerably weaker than the protection accorded to oral testimony or to documents brought into existence to comply with a request for information. This is particularly so in the context of regulated industry, where documents or records are required to be produced during the course of a person's participation in that industry and exist for the dominant purpose of demonstrating that person's compliance with his or her relevant duties and obligations. The duty to provide documents in this context is consistent with the reasonable expectations of these individuals as persons who operate within a regulated scheme.

I am of the view that there are no less restrictive means available to achieve the purpose of enabling the proper administration of the regulatory scheme, as providing an immunity that applies to the offence of perjury or an offence under the bill or the taxation act would unreasonably obstruct the role of the authorised person to investigate compliance with the scheme. Accordingly, I consider that this clause is compatible with the right not to be compelled to testify against oneself in section 25(2)(k) of the charter.

Fair hearing (section 24(1))

Clause 79 of the bill inserts a new subsection (6) into section 135 of the taxation act to provide that it is the intention of sections 5, 12(4), 18(1), 96(2) and 100(4) of the taxation act, as those sections apply after the commencement of clause 79, to alter or vary section 85 of the Constitution Act 1975. These provisions preclude the Supreme Court and the Victorian Civil and Administrative Tribunal from entertaining proceedings of a kind to which these sections apply, except as provided by those sections.

A central purpose of this bill is to bring the commercial passenger vehicle service levy in under the taxation act. Section 5 of the taxation act defines the meaning of non-reviewable in relation to the taxation act, which will now also apply to the levy imposed under the bill. 'Non-reviewable' is referred to in sections 12(4) and 100(4) of the taxation act.

The reasons for limiting the jurisdiction of the Supreme Court in relation to a compromise assessment under section 12 of the taxation act are that agreement has been reached between the commissioner of state revenue and the taxpayer on the taxpayer's liability, and the purpose of the section would not be achieved if the decision were reviewable. Section 18 of the taxation act establishes a procedure, the adherence to which is a condition precedent to taking any further action for recovering refunds. The purpose of the provisions is to give the commissioner the opportunity to consider a refund application before any collateral legal action can be taken. The purpose of these provisions would not be achieved if the commissioner's actions were subject to judicial review.

Division 1 of part 10 of the taxation act establishes an exclusive code for dealing with objections, and this division will also apply the levy in respect of each commercial passenger vehicle service transaction under this bill. This code establishes the rights of objectors in a statutory framework and precludes any collateral actions for judicial review of the commissioner of state revenue's assessment or decision of a type referred to in section 96(1) of the taxation act. The objections and appeals provisions of part 10 of the taxation act establish that review of assessments is only to be undertaken in accordance with an exclusive code identified in that part. The purpose of these provisions would not be achieved if any question concerning an assessment or decision referred to in section 96(1) was subject to judicial review except such judicial review as provided by division 2, part 10 of the taxation act.

A power is provided to the commissioner of state revenue under section 100 of the taxation act, which provides the commissioner with discretion to allow an objection to be lodged even though out of time. This decision is non-reviewable to ensure the efficient administration of the act and to enable outstanding issues relating to assessments to be concluded expeditiously.

In this context, I am satisfied that, to the extent that limiting the jurisdiction of the Supreme Court may limit a person's fair hearing rights as protected under section 24(1) of the charter, any such limit would be demonstrably justified. The classification of certain decisions under the taxation act as 'non-reviewable' is directly related to the particular statutory purpose and context of those particular decisions, and the act provides an alternative regime for dealing with objections, which is necessary for the efficient discharge of the commissioner's functions under the taxation act, which will now include the administration of the commercial passenger vehicle service levy.

Accordingly, I confirm that the bill is, in my opinion, compatible with the right in section 24(1) of the charter.

The Hon Jacinta Allan, MP
Minister for Public Transport

Second reading

Ms ALLAN (Minister for Public Transport) — I move:

That this bill be now read a second time.

Speech as follows, except for statement under section 85(5) of the Constitution Act 1975 incorporated into *Hansard* under standing orders:

The bill will implement legislative changes needed to implement the first stage of reforms announced by the government on 23 August 2016.

Globally, the commercial passenger vehicle industry is changing as technology emerges. But this bill is not just a response to the emergence of ridesharing.

The reforms will result in Australia's first fully open and competitive commercial passenger vehicle industry — a major step toward an industry that competes on a level playing field and puts passengers first while protecting the existing industry.

Significant numbers of new service providers are expected to enter the market. Some have already announced their plans, others are keenly awaiting the passage of this bill. The government is in no doubt that the reforms in this bill will lead to new investment and new jobs.

New services will provide greater consumer choice and increased competition will drive improvements in service quality as well as placing downward pressure on fares.

The bill will enable rideshare vehicle owners to apply to the Taxi Services Commission for a hire car licence without having to pay excessive licence fees. By providing for the regulation of ridesharing in this way the bill puts in place a regulatory framework to ensure the safety of ridesharing passengers.

This bill establishes a $2 per trip levy to fund the financial assistance to be provided to the existing industry and provides for improved services to be provided to the mobility impaired.

The bill will completely abolish annual taxi fees of up to $23 000 and hire car licence fees of up to $40 000, making it more simple and affordable for new providers to enter the market and operate a vehicle. These financial barriers to entry into the commercial passenger vehicle industry have impeded the supply of services, competition and innovation in the industry for decades.

The consumer will be the main beneficiary of these changes, without any need to accept reductions in regulatory standards. All of the regulatory requirements that really matter, those that relate to public safety, will remain in place.

Commercial passenger vehicles are subject to roadside safety inspections at any time and all will continue to be required to undergo an annual roadworthy inspection.

Drivers of commercial passenger vehicles will still need to undergo criminal background checks before being permitted to drive and data sharing between the Taxis Services Commission and Victoria Police will continue to ensure that drivers found guilty of disqualifying offences are removed from the industry so they do not pose a threat to the travelling public.

These requirements will be vigorously enforced. As will the requirement for the providers of booking services to be accredited.

The bill changes the definition of booking service so that all providers of booking services are required to be accredited, regardless of whether they are providing bookings to taxis or hire cars and regardless of whether booking services are provided through traditional phone and message services or through electronically automated means.

Accredited booking service providers are required to maintain prescribed records and make these available to the Taxi Service Commission on request. Accredited booking service providers are also required to implement complaints handling systems that comply with the requirements of the prescribed Australian standard. This includes the requirement for service providers to respond to all complaints received and to take action to address service failures, for example, by taking disciplinary action against drivers.

Unclear and fragmented accountabilities for service delivery and service quality in the taxi industry have led to the poor service outcomes that make taxi businesses vulnerable to the commercial threats resulting from new competition. The taxi industry must take responsibility for addressing these problems. However, the government recognises the significant nature of the structural system and cultural adjustments existing taxi and hire car industry participants must make.

The bill will establish a levy equivalent to $2 per commercial passenger vehicle trip to help fund a fair and reasonable transition package for the taxi and hire car industry, as well as the continued provision of accessible services for members of the community who are mobility impaired.

The cost savings to taxi and hire car operators resulting from abolition of taxi and hire car licence fees and the introduction of competition and flexible fares means the levy may not

necessarily be passed on to consumers. Booking service providers and trip providers will absorb or pass on the costs of the levy as they see fit in the new competitive environment.

What is clear from the assessments that have been undertaken on behalf of the government is that there will be significant net benefits for consumers from reform, despite the introduction of the levy. Other reforms to follow will further reduce red tape, enhance regulatory efficiency and effectiveness and deliver more benefits to consumers over time.

The bill requires providers of commercial passenger vehicle services to lodge returns on the number of trips they provide. Returns can be completed using trip record information that is already required to be kept at the same time as business activity statements are completed. For these reasons, compliance costs are expected to be low.

The bill makes the commissioner of state revenue responsible for the collection of the levy. The bill also provides that the Taxation Administration Act 1997 applies to the collection of the levy.

There are already extensive powers made available to the commissioner of state revenue under the Taxation Administration Act 1997 to collect and enforce the levy. These will be complemented by new offence provisions and new powers made available under the bill.

Failure to comply with payment of the levy can result in:

interest and penalty tax being applied;

prosecution of offenders resulting in significant financial penalties; and

removal of accreditation, which provides the right to participate in the industry.

Continued operation without accreditation can result in the enforcement of injunctions and the imprisonment of persons who do not comply.

The $2 trip levy enables financial assistance to be provided to the existing industry. Existing commercial passenger vehicle licence holders have been impacted by the changes in their industry. The government acknowledges that the value of licences have reduced significantly in recent years and the revenue that can be obtained from licences has likewise declined. The levy is required to provide the revenue to fund financial assistance to the existing industry.

The bill puts in place the first building blocks for a new act that will provide for the regulation of the commercial passenger vehicle industry in the future. A second bill, subject to the passage of this bill, will be introduced in mid-2017 to complete the new Commercial Passenger Vehicle Industry Act 2017 and repeal the existing parts of the Transport (Compliance and Miscellaneous) Act 1983.

I will now provide an overview of the bill.

Part 1 of the bill deals with preliminary matters including purpose, commencement and definitions, including the new definition of booking service.

Clause 6 makes it clear that the clauses that provide for the imposition of the commercial passenger vehicle service levy are to read together with the Taxation Administration Act 1997, because that act will provide for the administration and enforcement of the levy.

Clause 8 provides for the Commercial Passenger Vehicle Industry Act to have extraterritorial operation in circumstances where part of a commercial passenger vehicle service is provided outside of Victoria and when a booking service is provided wholly or partly outside Victoria, whether in or outside Australia. The clause recognises that booking services may be provided from anywhere in the world and makes it clear that the act applies outside Victoria to the full extent of the extraterritorial legislative power of the Parliament.

Part 2 provides for the imposition of the commercial passenger vehicle service levy.

Clause 10 specifies legal liability for the levy.

For a booked commercial passenger vehicle service, the provider of the booking service is responsible for the payment of the levy.

For an unbooked commercial passenger vehicle service, the provider of the service is responsible for the payment of the levy, noting that if the provider of an unbooked commercial passenger vehicle service has an affiliation agreement with the provider of booking services, then the booking service provider will complete returns and pay the levy on behalf of the affiliated trip provider for unbooked services provided in the return period. If the accredited trip provider does not pay the levy payable to the person the provider is affiliated with, then Clause 19 provides that person with the power to recover the levy payable from the affiliated trip provider as a debt due in a court of competent jurisdiction.

Clause 11 provides for the levy to by collected by the commissioner of state revenue.

Clause 12 sets the levy at $2 and provides for indexation of this amount over time. Clause 12 also provides for regulations to be made in the future to reduce the amount of the levy to a figure that is less than $2. This is intended to enable the levy to be reduced when revenue generated through the levy recovers the cost of the government's transitional assistance package.

Clause 13 specifies that a return is required for each financial quarter ('return period'), noting that regulations may be used to change the frequency of returns. Clause 15 specifies that a return must be lodged within 30 days of the end of the return period. Clause 16 specifies that payment is also due within 30 days of the end of the return period.

Clause 14 specifies that persons liable to pay the levy must be registered with the commissioner of state revenue. Clause 17 provides the commissioner with the power to cancel a person's registration by notice to the person. Clause 18 specifies that a person who no longer expects to be liable to pay the levy must give notice to the commissioner of state revenue with the effect of the notice being to cancel the person's registration.

In accordance with clause 6, part 2 is to be read in conjunction with the Taxation Administration Act 1997. That act:

obliges persons liable to pay the levy to keep proper records;

provides the commissioner of state revenue with the powers to make assessments and undertake investigations;

makes it an offence to not lodge returns, provide false and misleading information, wilfully destroy records, deliberately omit information and commit tax evasion;

specifies the rates of interest and penalty tax and when they apply; and

specifies when objections, review and appeals may be made.

Part 3, division 1 of the bill implements the government's licensing reforms by making amendments to the Transport (Compliance and Miscellaneous) Act 1983 to:

remove the requirement for the payment of specified taxi and hire car licence fees;

abolish restricted hire vehicle and special purpose vehicle licence types;

streamline the application process for taxi-cab and hire car licences;

provide for existing restricted hire and special purpose licences to be taken to be the hire car licences when the licensing reforms come into effect;

provide for existing perpetual licences to be revoked and for licence holders or, where relevant, licence assignees, to be issued with new taxi-cab licences when the licensing reforms come into effect; and

repeal redundant provisions relating to the establishment of trading arrangements for the transfer and trading of taxi-cab licences.

Part 3, division 2 provides for the new definition of booking service specified in part 1 to be inserted into the Transport (Compliance and Miscellaneous) Act 1983 to replace the term 'taxi-cab network service'. A number of consequential changes are made to replace all references to taxi-cab network services with a reference to booking service. The effect of these changes is that providers of booking services to hire cars will need to be accredited. This includes body corporates such as Uber because rideshare services are commercial passenger vehicle services and Uber provides booking services to enable ride-share services to be undertaken.

Part 3, division 2 also provides:

for the creation of a new offence to accept a request from the provider of a booking service where the person knows, or ought reasonably to know, that the provider is not accredited or has had its accreditation cancelled; and

a new power to seek an injunction from the Supreme Court to prohibit a person from engaging in a broad range of activities that could lead to a contravention of the new offence.

The new offence and the new injunctions power are intended to support the enforcement of accreditation requirements for booking service providers.

Part 3, division 3 provides the Taxi Services Commission with power to take administrative action against persons if satisfied that, on the balance of probabilities, the authority holder has contravened a requirement relating to the commercial passenger vehicle service levy. Administrative action undertaken by the Taxi Service Commission may be needed to support the enforcement of levy requirements specified under part 2 or under the Taxation Administration Act 1997.

Part 3, division 4 makes amendments to support the efficient and effective administration of the Transport (Compliance and Miscellaneous) Act 1983 prior to the commencement of the Commercial Passenger Vehicle Industry Act. Key amendments include providing the Taxi Services Commission with the power to grant exemptions in specified circumstances and the imposition of a new duty on Victoria Police to notify the Taxi Services Commission when accredited persons, including drivers, have committed offences and to provide the details of the offences committed. This information is needed by the Taxi Services Commission to fulfil its functions in relation to the accreditation of drivers and other persons. Victoria Police has already been providing this information on request. The new duty makes it clear that this data sharing must continue to support the integrity of, in particular, the driver accreditation system.

Part 4 of the bill provides for related amendments to be made to other acts.

Clause 70 amends the Transport Integration Act 2010 to reduce the administrative burden on transport bodies when issuing, granting, giving or renewing certain specified transport authorisations under transport legislation.

Clause 71 makes a further amendment to the Transport Integration Act 2010 to enable the government to appoint a third person to the Taxi Services Commission. This amendment will enable the government to appoint a person to the commission who is dedicated to improving the delivery of services to the disability sector.

Clauses 72 and 73 make amendments to the Bus Safety Act 2009 to remove uncertainty and the potential for regulatory duplication by ensuring that taxi-cabs that are physically similar to buses are regulated as taxi-cabs.

Clause 74 amends the Road Safety Act 1986 to give employees of the Taxis Services Commission and persons authorised in writing by the Taxi Services Commission the power to inspect motor vehicles and trailers and issue defect notices and fines. Officers of the Taxis Service Commission already have the power to inspect commercial passenger vehicles and prohibit defective vehicles from being used as commercial passenger vehicles. However, officers of the Taxi Services Commission do not have the power to outrightly prohibit the use of vehicles that are found to be unsafe. This is counter to the aims of protecting the safety of other road users. The amendment will address the gap in powers.

Division 4 of part 4 of the bill includes amendments to the Taxation Administration Act 1997 that are consequential to the establishment of the commercial passenger vehicle service levy.

I draw the members' attention specifically to clause 79 of the bill. This clause of the bill proposes to limit the jurisdiction of the Supreme Court. Accordingly, I provide the following statement.

Section 85(5) of the Constitution Act 1975

Ms ALLAN — I wish to make a statement under section 85(5) of the Constitution Act 1975 of the reasons for altering or varying that section by this bill.

Clause 79 of the bill inserts a new subsection (6) into section 135 of the Taxation Administration Act 1997 to provide that it is the intention of sections 5, 12(4), 18(1), 96(2) and 100(4) of the Taxation Administration Act 1997, as those sections apply after the commencement of clause 79, to alter or vary section 85 of the Constitution Act 1975.

A purpose of this bill is to bring the commercial passenger vehicle service levy under the Taxation Administration Act 1997. This bill provides that for the purposes of the Taxation Administration Act 1997, part 2 of the Commercial Passenger Vehicle Industry Act 2017 and any regulations made under that act for the purposes of that part is a 'taxation law'.

Part 2 of the Commercial Passenger Vehicle Industry Bill, if enacted, will impose a levy equivalent to $2 per commercial passenger vehicle service provided on those that are responsible for undertaking commercial passenger vehicle service transactions.

Section 5 of the Taxation Administration Act 1997 defines the meaning of non-reviewable decision in relation to the Taxation Administration Act 1997 which will also apply to the commercial passenger vehicle service levy. No court, including the Supreme Court, has jurisdiction or power to entertain any question as to the validity or correctness of a non-reviewable decision. Sections 12(4) and 100(4) of the Taxation Administration Act 1997 provide that certain decisions under those sections are non-reviewable decisions. Those decisions might relate to the commercial passenger vehicle levy.

Section 18(1) of the Taxation Administration Act 1997 prevents proceedings being brought in the Supreme Court for the refund or recovery of a tax except as provided in part 4 of that act. As the commercial passenger vehicle service levy is a tax for the purposes of section 18(1), proceedings for its refund or recovery would be similarly limited.

Section 96(2) of the Taxation Administration Act 1997 prevents a court (including the Supreme Court) considering any question concerning an assessment of a tax except as provided by part 10 of that act. As the commercial passenger vehicle service levy is a tax for the purposes of section 96(2), proceedings in relation to assessments of levies would be similarly limited.

It is desirable that the legislative regime under the Taxation Administration Act 1997 applies to a commercial passenger vehicle service levy in the same way as it does in relation to any other tax. However, section 85 of the Constitution Act 1975 confers unlimited jurisdiction on the Supreme Court. Accordingly, in order to ensure that the jurisdiction of the Supreme Court is limited in relation to such levies in the same way as it is in relation to other taxes, it is necessary to provide that it is the intention of sections 5, 12(4), 18(1), 96(2) and 100(4) of the Taxation Administration Act 1997 to alter or vary section 85 of the Constitution Act 1975.

Incorporated speech continues:

> Without the passage of this bill rideshare service providers will continue to not comply with regulatory requirements and the safety of ridesharing passengers will be at risk. Without the levy, there will be less opportunity to improve services for people with a disability and there will be no transitional financial assistance for the existing industry.
>
> I commend the bill to the house.

Debate adjourned on motion of Mr HODGETT (Croydon).

Ms ALLAN (Minister for Public Transport) — I move:

> That the debate be adjourned for two weeks.

I will just make a couple of brief comments on the purpose of adjourning the bill for two weeks. I understand the shadow minister is going to potentially oppose an amendment to that question of two weeks. It is standard procedure for the second-reading debate on bills to be deferred for two weeks following the second-reading speech. I understand that the argument that is going to be put forward by the shadow minister is on the basis that this is a complex piece of legislation, which is right, and that the opposition need time to consider this bill.

I am a bit bewildered as to why the opposition needs more time to consider this bill, given they have already stated publicly that they oppose this piece of legislation. They have already signalled their opposition to this legislation. I note that representatives of parties in the upper house have indicated that they wish to see this bill go to an upper house committee for further consideration, which I am entirely comfortable with. I can understand why they would want that to happen. There is no doubt going to be additional scrutiny during that period of time, and I am sure the Liberal Party will be represented on that committee, which will achieve the desired outcome that the shadow minister is looking

for in terms of additional scrutiny. Given those factors, I am suggesting that the period of time be two weeks.

Mr HODGETT (Croydon) — I move:

That the word 'two' be omitted with the view of inserting in its place the word 'four'.

I will make a few brief comments. The Liberals and Nationals seek four weeks in which to properly consult with the community, with taxi and rideshare users, with stakeholders such as taxi and rideshare companies, drivers, owners and investors, and with sectors such as tourism and disability services regarding this important bill that has just finally, belatedly, been introduced.

It is an important piece of legislation. I understand the protocol where normally a bill is introduced and a two-week period is given. This has gone on for a long, long time and affects a number of people. Having for the first time seen the bill today, we wish to have a four-week period in which to consult with the many, many stakeholders that this affects.

On 22 June 2016 the *Herald Sun* proclaimed that Uber would be regulated in Victoria. This alone affects not just Uber users but 18 000 Uber drivers. It also affects the taxi industry, with in excess of 5000 Victorian licences. In the article there was reference to how a private members bill would be debated that day in the other place. The Minister for Public Transport commented that the Andrews Labor government would use the parliamentary winter break to put the plan together and hoped to move forward when members returned in two months. But what happened? That was last winter. Here we are, nearly at the end of summer, and months have transpired. Arrangements regarding taxis and ridesharing affect passengers, who have made some 35 million-plus trips per annum in Victorian taxis and a growing number of trips through Uber, along with hire car and special vehicle patrons.

The Labor government has been working on regulation of ridesharing and whether or not compensation is paid to taxi or other licence holders since last March 2015. Other states have long passed us by. The minister is correct in that this is an important piece of legislation, and, yes, we have gone and made some comments in relation to this, but we have made comments regarding what we knew of legislation — what we had read in the press or what the government had said. We do have concerns around the compensation package and the adequacy of that package, and we want to have a close look at that. We do have concerns about the $2 tax that the government is proposing. We believe that will slug some of the most vulnerable in our community — the pensioners that might get a taxi down to the doctor's appointment or the local supermarket to do their shopping. With those $6 or $8 trips, this could add $4 return on it.

I have had some discussions with the minister. We understand that a compensation package must be paid for, but we would like to look at the modelling for that, so we would seek a detailed briefing on it to try to get information and see where our position lands. Two weeks is a very tight period in which to do that. It is a very tight period to consult with all those in the industry — taxis, ridesharing, owners, operators et cetera. Therefore we are seeking four weeks in which to properly consult. The minister never kept to her commitment to proceed with this by August 2016. Now six months later she introduces a bill with a huge tax — $2 a trip, indexed by CPI, without a sunset clause — hitting every taxi and rideshare user and other stakeholders.

The Liberal-Nationals want to consult with the whole Victorian community, including a diverse range of users and stakeholders who have contacted us to express their concerns, priorities and hopes. We understand the difficulty of trying to introduce a package that will provide fair compensation. It has to be funded for without slugging people with a $2 tax, adding to the cost of living. That is difficult to introduce, we understand that, and we are happy to work with government to try to get a better outcome here. We are the last state to introduce ridesharing legislation. Every other state has taken a position and has managed to do it. I note in Queensland that the government has introduced ridesharing without a levy. I notice in New South Wales they have introduced ridesharing with a $1 levy. Here we are introducing it with a $2 levy. We want to have the opportunity to look at other models to get the best outcome possible for all our users.

The Liberal-Nationals cannot properly do this in a fortnight. This is typical of a Labor government. They want to bulldoze the legislation through both houses without due regard for proper consultation. We have seen this with sky rail; we have seen this with the Werribee youth justice jail. There is no consultation. The government just bulldozes these sorts of things through, makes decisions and does not consult properly with the community. We are seeking assurance from the government that the legislation will not be debated until 21 March.

Mr BROOKS (Bundoora) — I have just a few brief comments on this motion. The contribution by the member opposite sounded reasonable, but those who have been watching this issue as it has been unfolding

over the years would know that the opposition have had plenty of time to do the work they are now saying they want to do so as to be in a position to properly debate the bill before the house. Rather than the pure motives that were being put by the member opposite, it appears that the Liberal Party, as is its wont, took a very long lazy summer holiday instead of doing the policy work that was required in this particular space.

As the minister notes in her second-reading speech, this bill implements the changes that were announced back on 23 August 2016, so those opposite have had the long summer period to look at the changes that were being put forward by the government and to do the consultation they say they now want to do. It is very reasonable after some months for the government to introduce a piece of legislation into this house and to want to move forward with it in the usual course that we would normally do.

It is worth noting also that those opposite were in government for four years, and when we on this side of the house came to government, we were faced with the taxi and ridesharing sector having been left in a complete regulatory mess. The Andrews government has had to clean up and try to put right sectors that were left by those opposite without any clear direction. This is a delaying tactic so that those opposite can extract some political pain from the government. They want to play games with this.

It is important for us to move carefully but as quickly as possible on this particular matter. It is important to ensure that there is certainty for people who use ridesharing services and people who operate ridesharing services, so this legislation needs to move through as promptly as it possibly can. It is also important to ensure that consumers and people in the taxi industry have certainty about the direction of the government.

As the minister clearly outlined, parties have said that when this legislation is before the upper house, they will seek that it be dealt with in committee, so there will obviously be an opportunity for some of these matters to be considered in more detail in that place. Therefore the extra two-week delay in this house is completely unwarranted.

Mr CLARK (Box Hill) — I support the amendment to alter the period of adjournment of debate on this bill to four weeks. It is, as the Deputy Leader of the Liberal Party has made clear, a very complex bill. We have had the bizarre argument from the member opposite, the member for Bundoora, that this could have been consulted on over summer. The opposition and the community have only seen this bill in the last few minutes, and it is a bit difficult to consult on a bill that is not actually available. Of course you can have preliminary discussions and of course that is what the opposition has been doing, but you can only consult on the bill once you have actually got it in front of you.

The fact that the government was saying last year that they were going to get the bill ready and brought into Parliament as soon as the winter break was over, when it has actually taken six months or more for the bill to arrive in this place, shows the complexity of the legislation. It shows the amount of time, effort and attention that the government has had to put into compiling it, yet they are saying, 'You guys can just have two weeks and you can come back and debate it'. We have been saying for a long time that the government needs to get on with this, but there has also got to be a sense of proportion in terms of how that is done. If it has taken the government so long to get the bill to the house, they are better off allowing the opposition, as well as the Greens party and the Independent in this house, the time to look at this bill, undertake the consultation and then come back and have a decent and constructive debate on it.

Other speakers on the government side have said, 'Why do we bother spending time doing it in this house? The upper house is going to take it into the committee stage and all the work will be done there, so let's just rush it through this place. There's no need to take any time at this point'. This falls into exactly the same trap that the government has fallen into time and time again in refusing to honour its own election promise about consideration of bills in detail. This is a bill for which both the minister and the shadow minister are in this house. Time and time again we see that when that occurs, and when there are matters of detail to be examined, it is better for these matters to be considered in detail where the minister responsible and the shadow minister responsible are — in the same house, in the Assembly — and they can go through the bill in detail.

It would actually be a more effective use of time by this entire Parliament to get the issues identified and resolved more quickly than if the government simply bundles the legislation through this place and says, 'Let the upper house do all the work'. The Minister for Public Transport is responsible for the bill. She should make sure that it is properly considered in this house. For that to occur there needs to be a reasonable amount of time for the opposition and the minor parties to examine the bill, to take advice on the bill and to consult on the bill.

Indeed if you look at past practice across governments of all persuasions, when there have been complex pieces of legislation coming into this Parliament, sensible governments have allowed time on these matters. This is a classic example of more haste, less speed. If the government actually wanted to be sensible about getting this bill done correctly and in a way that is going to be fair to rideshare and fair to the taxi industry, then they would allow the time that the opposition needs to properly consult on this bill. For those reasons, I ask them to think again and agree to the amendment that has been moved.

Ms THOMSON (Footscray) — This is a very disingenuous attempt by the opposition to try to stall the bill from being debated in this house. The issues contained within the bill have been known for months and months and months. The opposition has made it very clear that it is going to oppose the major parts of this bill; it is not that they want to go out and consult and find out what their position will be. They have made it very clear that they will oppose it. On that basis this is disingenuous. This is about prolonging the opportunity to whip up concern in the community rather than trying to work through a piece of legislation that is trying to deal with a very complex issue around ensuring that there is some compensation for taxidrivers, taxi licence owners and those in the industry, and also accepting that the world is changing and that we need to meet those needs in some legislative form. This disingenuous position that the Liberals have taken is outrageous.

If you really cared about the taxi industry, then you would not need these four weeks because you would have been talking to those licence holders. You would have been talking to the industry. You would have been trying to understand what is going on. This is not easy; I accept that this is not easy. My family have taxi licences. My brother is in the industry now. I know this issue is difficult. I know it is really hard. There is no easy solution. But to say that you need four weeks to consult when this has been out there for so long — —

Honourable members interjecting.

Ms THOMSON — No, this is about fearmongering. That is what this is about. This is about fearmongering. You could not give two hoots about people in the sector — —

The ACTING SPEAKER (**Mr Dixon**) — Order!

Ms THOMSON — Sorry, through the Chair. The opposition could not give two hoots about the sector. They did not care about them when they were in government, and they certainly would not have come back with a compensation package if they were in government now. They would not have consulted them at all. They would have brought in the legislation. It would have been done and dusted and those who held licences would have been left high and dry.

That is not the attitude we took when we came in. We wanted to fairly compensate the sector as best we could. This is the mechanism to do that. This is the mechanism that will allow compensation for those who most deserve it and who are most in need. Therefore the opposition, who want to play games with this sector, who want to raise fear and to continue doing so for four more weeks and then continue in the other house, should be ashamed of themselves.

Mr WATT (Burwood) — I rise to support the amendment of the Deputy Leader of the Opposition to extend the adjournment period to four weeks. The member for Footscray talked about disingenuousness; disingenuous is when you try to say you need to ram it through in two weeks when you have actually had this policy idea since June last year. They talk about fearmongering. We do not have to worry about fearmongering, because there are many people in the industry who are in serious fear. It is not about fearmongering. When I was on the steps of Parliament House with the taxi licence holders, it was not me who was fear mongering; they were worried about the future of their investments. They were worried about the fact that the government was not talking to them.

Those people tell me that they tried to have conversations with the minister and that they tried to have conversations with the Premier, but at no point have they had any consultation. Government members say that the opposition should have been consulting with the taxi licence holders. I agree, the opposition should have been consulting with them — and we were. That is why I have got thousands of signatures on a petition asking for the government to properly compensate taxi licence holders.

To say that we should have only two weeks is extremely disingenuous on the government's part when you consider the fact that the government originally said that they were going to consult by only giving taxi licence holders — I think this was the original proposal that I heard back in June last year — $100 000 for the first licence, $50 000 for the second licence and nothing after that. I think there was also talk at that time about an eight-year period, so a person who has a licence would have to wait eight years before they would get all their money off the government. That then changed, and I think it changed to what I was hearing, which was

$100 000 for the first, $50 000 for the next three, and then they say 'Barley, Charlie' for the rest. We are talking about a period of two years, but this money is not compensation for the acquisition of somebody's licence, which is essentially an asset. This is compensation for loss of income, loss of revenue.

The problem that I have got is that there is no way that I am going to get back to those thousands of people who have contacted me either via email, via phone or by simply signing my petition. There is simply no way that within two weeks I am going to be able to have serious consultations about the application of this bill. Four weeks is a much more reasonable period. Considering the fact that the government has had some eight months from when they made the announcement and they tabled the bill, I find it quite disconcerting that the government would actually try to hoodwink the opposition and taxi licence holders in this regard.

I have got to say that I have serious concerns about some of the things that are in the bill, such as there being no sunset clause, such as the $2 fee on every ride, which is also — —

Mr Katos — Tax.

Mr WATT — Or $2 tax. Sorry, as the member for South Barwon reminds me, it is a tax.

Mr Katos — 'No new taxes'.

Mr WATT — No new taxes — but the $2 tax hits those people who can least afford it. If you are a regular taxi passenger and you go just down to the shops — because you do not have a car and you are just travelling down to the supermarket — it might be a $6 or an $8 taxi ride, but the government is going to slug you $2 on top of that.

I have concerns about the application of some of the things within the bill, but the main thing that I have an issue with is the lack of consultation. The only thing the government understands about consultation is the first three letters — 'con'. They talked about consultation around the Werribee youth jail after they made the decision. They talked about consulting on sky rail after they made the decision. They talked about consultation on the Markham housing estate in my own electorate, but they refused to hand over plans to the council so that the council could actually consider the proposal. It is the same thing with this particular bill.

The government expects the opposition to consult without actually seeing what the bill does. I am not sure how I can have reasonable consultations with stakeholders in the industry without seeing the bill. I have been consulting with them for a very long time. Now we actually have to consult about the minute detail of the bill and how that will affect them. We cannot do that without the bill. Two weeks is not long enough, and I know those in the taxi industry agree with me.

House divided on omission (members in favour vote no):

Ayes, 45

Allan, Ms	Knight, Ms
Andrews, Mr	Lim, Mr
Blandthorn, Ms	McGuire, Mr
Brooks, Mr	Merlino, Mr
Bull, Mr J.	Nardella, Mr
Carbines, Mr	Neville, Ms
Carroll, Mr	Noonan, Mr
Couzens, Ms	Pakula, Mr
D'Ambrosio, Ms	Pallas, Mr
Dimopoulos, Mr	Pearson, Mr
Donnellan, Mr	Perera, Mr
Edbrooke, Mr	Richardson, Mr
Edwards, Ms	Richardson, Ms
Eren, Mr	Scott, Mr
Foley, Mr	Spence, Ms
Graley, Ms	Staikos, Mr
Green, Ms	Suleyman, Ms
Halfpenny, Ms	Thomas, Ms
Hibbins, Mr	Thomson, Ms
Howard, Mr	Ward, Ms
Hutchins, Ms	Williams, Ms
Kairouz, Ms	Wynne, Mr
Kilkenny, Ms	

Noes, 37

Angus, Mr	Northe, Mr
Asher, Ms	O'Brien, Mr D.
Battin, Mr	O'Brien, Mr M.
Blackwood, Mr	Pesutto, Mr
Britnell, Ms	Riordan, Mr
Bull, Mr T.	Ryall, Ms
Burgess, Mr	Ryan, Ms
Clark, Mr	Sheed, Ms
Crisp, Mr	Smith, Mr R.
Dixon, Mr	Smith, Mr T.
Fyffe, Mrs	Staley, Ms
Gidley, Mr	Thompson, Mr
Guy, Mr	Tilley, Mr
Hodgett, Mr	Victoria, Ms
Katos, Mr	Wakeling, Mr
Kealy, Ms	Walsh, Mr
McCurdy, Mr	Watt, Mr
McLeish, Ms	Wells, Mr
Morris, Mr	

Amendment defeated.

Motion agreed to and debate adjourned until Thursday, 9 March.

FAIR WORK (COMMONWEALTH POWERS) AMENDMENT BILL 2017

Second reading

Debate resumed from 9 February; motion of Ms HUTCHINS (Minister for Industrial Relations).

Mr CLARK (Box Hill) — This is a bill that gives the government the power to agree to include in enterprise bargaining agreements (EBAs) for most public sector employers provisions regarding the number, identity or appointment of public sector employees. In other words, it is a bill to allow the government to include in EBAs provisions in which the government commits itself and future governments to matters such as minimum staffing levels and restrictions or union involvement in matters such as recruitment policies, appointments, promotions and selection of employees.

The government has been extraordinarily low-key in the way it has introduced this bill. Ordinarily the Andrews government will boast endlessly about the smallest thing that it does. But here the government has gone to great lengths to make it appear that this is a minor and routine bill when in fact the bill has far-reaching implications for the ability of the current government or any future Victorian government to function as a government of a sovereign state.

Despite all the government's efforts to sneak this bill through the Parliament, what this bill is about is that if it is passed, the sorts of restrictive EBA provisions and sweeping powers given to unions that were challenged by the Country Fire Authority (CFA) in the Federal Court — and indeed many of the even greater restrictions and union powers that the Premier has agreed with Peter Marshall to give to the United Firefighters Union (UFU) — will be able to be locked into EBAs across the entire Victorian public sector, including with core government departments. In other words, this is a bill that is going to allow a Labor government to lock in such restrictions in almost any EBA and thereby threatens to see the Andrews government agreeing to UFU-style restrictive practices and control across the entire public sector.

We have already seen the enormous division and destruction that have been caused to our emergency services by giving union bosses like Peter Marshall this sort of control over the minutest detail of the functioning of organisations on which these sorts of restrictive practices have been inflicted. Now we run the risk of this sort of control being introduced into core government departments and into almost every other service and every other function provided by the Victorian government.

So what exactly does the bill do? The bill gives the government the power to do these sorts of deals and lock these sorts of restrictions into EBAs by reducing the scope of one of the current exclusions in Victoria's referral of its industrial relations powers to the commonwealth.

Mr Pearson interjected.

The ACTING SPEAKER (**Mr Dixon**) — Order! The member for Essendon!

Mr CLARK — By reducing this exclusion, the government's intention is to expand the referral of powers and thereby allow the state or a public sector entity to agree to include in most EBAs binding provisions on these matters — as it is classically put, on the number, identity or appointment of employees.

Mr Pearson interjected.

The ACTING SPEAKER (**Mr Dixon**) — Order! The member for Essendon!

Mr CLARK — The bill will also allow the Fair Work Commission to arbitrate a dispute about the operation of agreed EBA provisions if the EBA itself provides for such arbitration. What makes the government's secrecy about this bill even more surprising is that the bill in fact implements a Labor Party election commitment, and yet they are trying to go low-key on one of their own election commitments.

Mr Pearson interjected.

The ACTING SPEAKER (**Mr Dixon**) — Order! The member for Essendon, that is three times. You have said more than the member speaking, so could you be quiet.

Mr CLARK — The then Labor opposition wrote to the Community and Public Sector Union (CPSU), and I presume many other unions, ahead of the 2014 state election and gave some commitments. Let me quote from the letter the then opposition leader, now the Premier, sent to Ms Karen Batt, secretary of the CPSU:

> Labor will make a partial referral to the commonwealth to allow matters that form part of an enterprise agreement approved pursuant to division 4, part 2-4 of the commonwealth Fair Work Act. This will:
>
> > give jurisdiction to the Fair Work Commission to approve an agreement containing the otherwise excluded subject matter;

> not give jurisdiction to the Fair Work Commission to make a workplace determination which effectively imposes upon the parties the terms of an enterprise agreement;
>
> excludes the possibility of the Fair Work Commission having power to subsequently make an award which contains matters which have been excluded in an enterprise agreement; and
>
> ensures to the extent that the subject matter is contained in a certified enterprise agreement, the terms of that enterprise agreement can be enforced by the Federal Court or Federal Circuit Court, including to impose civil penalties and other orders upon public sector bodies in respect of breaches.

This commitment that the then Labor opposition gave was intended to overcome the longstanding constitutional principle that commonwealth law cannot substantially burden a state's capacity to function. It is a principle known as the Melbourne Corporation principle. It was elaborated on in an industrial relations context by the *re AEU* case. It reflects the High Court's recognition that it is inappropriate under the Australian constitutional structure for commonwealth law to be able to interfere with the capacity of sovereign state governments to function, to do their job. It is classically expressed in an industrial context that a commonwealth law cannot restrict a state government's ability to determine the number, identity or appointment of its employees. However, if the state refers such a power to the commonwealth, then this limitation on the commonwealth's power is circumvented, and that is what this bill seeks to do by scaling back the current restriction on the referral of powers in the Fair Work (Commonwealth Powers) Act 2009.

At the time the Labor Party gave this commitment it was a commitment that would have operated across the whole Victorian government sector, but a decision in early 2015 by the full Federal Court in *United Firefighters' Union of Australia v. Country Fire Authority* [2015] FCAFC 1 held that EBA provisions voluntarily agreed to by the state or a public sector entity do not substantially burden the state's capacity to govern, and thus commonwealth law on EBAs applies automatically to such bodies — that is, it applies to corporations to which commonwealth Corporations Law powers apply.

I have to say that I am not convinced that the full Federal Court was correct in its ruling, because if even a voluntarily entered-into EBA becomes binding on a state under commonwealth law, that is a restriction on that state's sovereignty. It might not immediately burden the state's capacity to function, given it was voluntarily agreed to, but it certainly restricts and therefore burdens the state's future freedom to act and thus its capacity to function.

You always have to be careful with analogies, but one could perhaps draw an analogy with planning scheme amendments. On the full Federal Court's reasoning it could be argued that it would not burden the state for commonwealth law to make binding on a state a planning scheme that the state voluntarily approved. However, by making it impossible for the state ever to change that planning scheme, save in compliance with commonwealth law, the ability of the state to function as a sovereign entity would be made subject to that commonwealth law and be very much restricted. Nonetheless, for the time being at least, the decision of the full Federal Court applies in this area.

However, the power that the full Federal Court has held the commonwealth possesses over voluntarily entered-into EBAs only applies, by force of commonwealth constitutional power, to public sector entities that are corporations. Commonwealth law can only apply such EBA provisions to non-constitutional corporation public sector employers, like government departments if that power has been referred to the commonwealth, which is not the case under Victoria's current referral, and that is what the bill is about. For that reason the bill is seeking to wind back limitations on Victoria's referral of powers to the commonwealth over all public sector employers, including those that are not constitutional corporations, so as to allow them to be bound by agreed EBA provisions about the number, identity and appointment of their employees. That is, incidentally, how the government justifies the somewhat obscure claim it made in introducing the bill that the bill puts all Victorian public sector employees on the same footing.

Labor argues that it is appropriate that state and public sector employers should be bound under commonwealth law by voluntarily entered-into EBA provisions. However, the government's inconsistency with this argument is shown by the fact that the bill still withholds wide areas from being able to be covered by commonwealth law, such as matters relating to executives, ministers and ministerial staff, judges and law enforcement officers, or matters that would allow individual employment contracts. So in other words, the Andrews government accepts that there is no objection in principle to there being limits on the extent to which the state should make itself subject to commonwealth law; they just want to remove these particular limits so they can use the EBAs to give sweeping powers over the functioning of the public sector to their union mates.

Labor's inconsistency in this regard is also shown by the fact that when they were last in office, at the time of the passage in 2009 of the act that they are now amending, the then Labor government supported matters relating to the number, identity or appointment of employees not being referred to the commonwealth. So if the Bracks and Brumby governments were not prepared to hand over these powers, why is the Andrews government moving to do so? In short, it is because they are well and truly in the pocket of powerful and ambitious union officials who are determined to reap their reward for helping Labor win office in 2014.

This bill is designed to let Labor agree with its union mates on EBA clauses that will lock in massive levels of bureaucratic employment and restrictive work practices, rather than providing better services to the public, and which will give unions UFU-style control powers across the entire public sector.

The coalition is a big believer that all bona fide agreements should be honoured. We are certainly not about tearing up legally binding contracts, as the Premier when opposition leader said he would do with the east–west link agreement. However, no state should be surrendering sovereignty and allowing its future capacity to function to be restricted by commonwealth law. Previous Victorian governments, both coalition governments and Labor governments, have rightly recognised that this should not be happening — that no state should surrender its sovereignty over matters that go to the heart of its ability to function, such as the number, identity and appointment of its employees. But the Andrews government is determined to ignore good sense and determined to ignore good government in order to deliver to those officials who helped it get elected.

Let us look in a bit more detail at the sorts of powers that we are talking about here. Even going back to 2010 the EBA the then Labor government entered into gave huge powers to the United Firefighters Union over the functioning of the CFA — powers that have been misused and exploited by the UFU to impose a massive handbrake on innovation and modernisation within the CFA. There are absurd restrictions on any changes to the classifications of employees who can do particular work, regardless of changes in technology and new and better ways to do things in. There were rigid and inflexible restrictions on the number of employees per shift and bizarre restrictions on the ability even to recruit highly qualified staff from interstate fire services.

If the Premier and Peter Marshall were able to get their way, we would now be seeing even more restrictions on our firefighting services, such as the dispatch of minimum numbers of firefighters before firefighting operations can commence; requirements for minimum numbers of professional firefighters on appliances, unless agreed exceptions apply; no cross-crewing without UFU agreement; continued restrictions on outside recruitment; and prohibitions on part-time employment. We have seen time and time again how the UFU have abused these powers to impede the operations of the CFA and to undermine CFA volunteers.

Legislation such as we are now considering threatens to impose similar restrictions on the capacity to manage public sector employers right across the state and of course comes with consequent rising costs and rising burdens on taxpayers. One only needs to look at what has happened in just the first two years of the Andrews government to see the massive increases in bureaucracy that have already been inflicted on Victorians. Last month the Victorian Public Sector Commission published *The State of the Public Sector in Victoria 2015–16*, and when compared with the figures as at June 2014 the results are stark.

Mr Pearson interjected.

Mr CLARK — I commend the member for Essendon to have a good look at those figures. If you look at the change in full-time equivalent employment from 2014 to 2016, you see the size of the total Victorian public sector is up 5.1 per cent. Within that, total public service executives are up 6.9 per cent, the total public service is up 10.2 per cent and the total Victorian public service grade classifications — in other words, general public servants — are up 11.3 per cent. The total administrative officers within the Victorian public sector are a massive 47.9 per cent.

I heard an interjection earlier about health care. Well, if you look at the generality of the increase in public healthcare staff, it is up 4.2 per cent; it is barely in line with population growth. But then, if you look at public healthcare administration and clerical staff, that component is up by 8.4 per cent, so yet again the increases are being channelled into bureaucracy in priority to frontline service delivery. It is the same story within Victoria Police, where public servants under the chief commissioner are up 16.5 per cent over that two-year period but actual police numbers — in other words, the police occupational group — are up by only 1.7 per cent over that two-year period, meaning a cut in police numbers per capita, which is

something that this side of the house has been pointing out time and time again.

What is at the core of driving this bill is that the Andrews government is beholden to union officials. What is worse, these are union officials, many of whose prime priority is not their members but their personal and political ambitions. Unfortunately within the union movement today we are seeing union officials of the left who are extracting whatever they can by using violence and threats, as within the Construction, Forestry, Mining and Energy Union.

Honourable members interjecting.

The ACTING SPEAKER (**Mr Dixon**) — Order! The member for Essendon!

Mr CLARK — And we have seen that union officials of the right extract whatever they can by selling out their workers, as with Mr Melhem from the Legislative Council and many others. Both of these attitudes have permeated into the Victorian parliamentary Labor Party. It is clear that union officials of both the left and the right are exercising power over the current government and that they do not hesitate to use their direct access to ministers to demand and get whatever they want. Of course you cannot blame union officials for seeking to get direct access, and indeed you cannot even blame ministers for meeting with union officials, but what you can blame ministers for is, firstly, tearing up due process; secondly, undermining the government's own industrial relations professionals; and thirdly, caving in to unreasonable demands.

A classic example of that is the demands of Peter Marshall and the firefighters union. There was a demand that we saw now sometime back that was a foretaste of things to come, when the UFU demanded of government that the Metropolitan Fire Brigade (MFB) be ordered to drop proceedings against a senior MFB fire officer and union member of allegations of having pornographic material on his work computer.

That demand to override the MFB's handling of the issue was made to a senior adviser in the Premier's office, who went straight to the Minister for Industrial Relations' chief of staff, who then went to the Minister for Emergency Services with the request and with the expectation that the minister would issue a direction to the MFB for those proceedings. Now, of course when the proposal to give such a ministerial direction reached the emergency services minister she very sensibly refused to give it, and it was just as well for the government and for probity and for good governance that she did.

However, Snowball has now been driven out of the animal farm and into exile, and the fact that both the Premier's office and the industrial relations minister's office saw nothing wrong with giving in to a demand for such intervention shows dramatically the culture of union dominance that exists within the Andrews government, as does the fact that Peter Marshall was so affronted by the minister's refusal to give him what he wanted that he sent an extraordinary diatribe to every member of the Labor caucus, a diatribe that of course ended up in the media. Regrettably subsequent events with the CFA and the MFB have shown that that instance was little more than a foretaste of things to come.

We have seen time and time again, as I referred to earlier, the sorts of sweeping powers the Premier was prepared to give to the UFU in selling out the CFA and its volunteers. Now, while that power to the CFA has received the most prominence, unfortunately it is just one example amongst many. The Rail, Tram and Bus Union (RTBU), for instance, has been successful in blocking work practice reform on the railways. Metro Trains Melbourne sought to bring work practices into the 21st century, such as by ending rorts like requiring a fully qualified train driver to sit around waiting to move a few trains and shift them slowly in and out of a maintenance shed. They wanted the metro system to be divided into separately operating lines so that delays did not flow through from one line to another, but when the RTBU did not like that they put their pressure on the Minister for Public Transport, who in turn pressured Metro. In the end the only reforms that Metro could get were minimal, probably barely enough to allow the government's level crossing program to be able to proceed without delay.

We have also seen the ability of Trades Hall to phone up the Minister for Industrial Relations to call on her to come and address a rally.

Business interrupted under sessional orders.

PERSONAL EXPLANATION

The Speaker

The SPEAKER — Order! The member for Box Hill earlier made a point of order requesting that the Speaker provide an explanation to the house in relation to matters that have been in the public domain today. The Chair of course forms the view that the Chair owes that explanation to the house, and I wish to make the following statement.

I wish to advise the house that complex family matters relating to marriage, children and parents led me to rent a property at Queenscliff. In changing my principal place of residence I fully accept that my claims for allowances, whilst within the rules, do not meet community expectations. I recognise that the community expects us to be prudent in the expenditure of public funds. The claims for a second residence allowance in these circumstances do not accord with those expectations. I apologise for this error of judgement that does not meet community expectations. I apologise to the Premier, I apologise to the Leader of the Opposition and to the house, and I intend to make a full reimbursement of this allowance to the Parliament.

It is time for me to interrupt business under sessional orders for questions without notice and ministers statements, and I ask the Clerk to ring the bells.

ABSENCE OF MINISTER

Mr ANDREWS (Premier) — The Minister for Health, who is also the Minister for Ambulance Services, will be absent from question time today, and the Minister for Mental Health will answer any questions on her behalf.

Mr Clark — On a point of order, Speaker, prior to your ringing of the bells you made a statement to the Parliament about the allegations that were raised in this morning's newspapers, and we appreciate the statement that you made and the apology that you tendered. I think it would assist in the house being fully informed about your statement and would give confidence to all members of the Parliament, and indeed to the broader community, that the rules have been adhered to if you would be prepared to make public the documentation relating to the matters that you have explained to the house — matters such as the relevant allowance claims forms, drivers logs and other relevant documentation. We understand the explanation that you have given, but that explanation in turn raises further questions. I believe in terms of accountability and demonstration of what you have told the house that it would be appropriate for you to make these documents public and available to members of the house.

The SPEAKER — Order! The manager of opposition business makes a point of order and requests a range of documents. It is the intention of the Chair to refer these matters to the internal audit committee.

Mr Clark — On a further point of order, Speaker, on a separate matter, it has come to my attention that earlier today the Premier gained access to the Parliament building through a side entrance and through a door which I understand has been designated as an exit door only and so designated — —

Honourable members interjecting.

The SPEAKER — Order! The Chair is on his feet. The manager of opposition business is entitled to make a point of order. The manager of opposition business will continue.

Mr Clark — These side doors have been designated as exit-only for reasons of security. All members will be familiar with that fact, and members who have been in this house for some time will be familiar with the changes and the restrictions that were made very clear to members, that they needed to observe for the sake of security. The freedom of movement that we previously were able to enjoy unfortunately has had to be curtailed in the interests of security. If this has been violated — —

Honourable members interjecting.

The SPEAKER — Order! The manager of opposition business is entitled to silence.

Mr Clark — If this appears to have been violated earlier today, whether to avoid the media or for whatever other reason, that does raise serious implications. I would ask you, Speaker, to ensure that this incident is fully investigated and that any necessary steps are taken to ensure that the security and integrity of this building is upheld.

Honourable members interjecting.

The SPEAKER — Order! The Chair takes this matter on notice.

QUESTIONS WITHOUT NOTICE and MINISTERS STATEMENTS

Bail laws

Mr GUY (Leader of the Opposition) — My question is to the Premier. With the Chief Commissioner of Police advising the Public Accounts and Estimates Committee that in the 2015–16 financial year there were 18 155 breaches of bail — a record high of almost 50 bail breaches every single day — Premier, will you tell all Victorians why did you weaken bail laws last year, and why will you not immediately tighten them now?

Mr ANDREWS (Premier) — I thank the Leader of the Opposition for his question. As is customary, it is full of errors. There was no weakening of bail laws

under this government. In fact, they have been tightened. On the issue — —

Honourable members interjecting.

The SPEAKER — Order! The opposition asked a substantive question of the Premier. The Premier is entitled to respond to that important question in silence. The Premier, to continue.

Mr ANDREWS — On the issue of immediate action, I would make the point — as I have before, but I will repeat it again for those opposite; they may not have realised this, they may not have been listening — that the government in the wake of the Bourke Street tragedy — —

Mr Guy — Has done nothing.

Honourable members interjecting.

The SPEAKER — Order! Opposition members will come to order.

Mr ANDREWS — The Leader of the Opposition, I do hope Hansard caught that. I really do hope Hansard caught that, because it will once and for all prove that no road is too low for the Leader of the Opposition.

Honourable members interjecting.

The SPEAKER — Order! Members will come to order. The Premier will continue to respond to the Leader of the Opposition on a substantive question in silence.

Mr ANDREWS — As I was saying, Speaker, in relation to immediate action in the wake of the Bourke Street tragedy, just days after that, the government determined that former Director of Public Prosecutions (DPP) Coghlan would be engaged to provide full advice to the government on a suite of reforms to the bail laws. I make no apology for that approach. I will not be advised on bail law changes from those opposite. We will instead get the advice from the former DPP.

I would again remind those opposite that, when confronted by the tragic death of Jill Meagher, an 11-month process was established by those opposite, and it was supported by the then opposition. They now seek to criticise a process that will run for not more than — —

Honourable members interjecting.

The SPEAKER — Order! The Chair is unable to hear Premier. The Premier to continue, in silence.

Mr Clark — On a point of order, Speaker, the Premier is both debating the issue and misleading the house. The previous government acted ahead of the outcome of the Callinan review in tackling parole measures. The Premier should stop misleading the house and cease debating the issue.

Ms Allan — On the point of order, Speaker, the Premier could not have been more relevant to the question that was asked by those opposite. The Premier at the outset outlined to the Leader of the Opposition the basis of his question was factually wrong and provided the information to the house. They may not like the answer that the Premier has given, but he is being entirely relevant in relation to the standing orders.

Honourable members interjecting.

The SPEAKER — Order! Opposition and government members will allow the member for Hawthorn to make a point of order in silence.

Honourable members interjecting.

Mr Pesutto — On the point of order, Speaker, the opposition's question was very simple, about why the Premier legalised the breaching of bail by juveniles last year — —

Honourable members interjecting.

The SPEAKER — Order! It is Thursday, and the Chair certainly understands what a day it is. However, rules remain. Standing orders and practices of this house will remain. The Chair does not uphold the point of order as suggested by the member for Hawthorn.

Mr ANDREWS — We will receive that advice from Mr Coghlan, and then we will put before the Parliament any and all changes that need to be made to make our bail laws stronger and to keep our community safe. I had hoped that there would be bipartisan support for such changes. Clearly I was mistaken.

Supplementary question

Mr GUY (Leader of the Opposition) — The chief commissioner said to PAEC that:

> We had in that particular 2015–16 year, 18 155 breach of bail condition offences. Of those … contravention of a condition of bail — breaching a condition — and 764 offences regarding committing an indictable offence while on bail.

Premier, those indictable offences could include drug trafficking or causing serious injury while out on bail. What have been the benefits to Victorians of your government weakening bail laws in 2016?

Mr ANDREWS (Premier) — I think the Leader of the Opposition would find, if he were to take some time to read the Bail Act, that committing an indictable offence while on bail remains an offence for adults and for children. Yet again — —

Honourable members interjecting.

The SPEAKER — Order! The Premier will resume his seat. The Leader of the Opposition will come to order. The Chair must be able to hear the Premier. The Premier to continue, in silence.

Mr ANDREWS — The point here is we are going to get the advice that we need to make the changes that are necessary. While the government is making the changes to keep our state safe, no doubt those opposite will continue to play their grubby political games.

Ministers statements: Richmond High School

Mr ANDREWS (Premier) — I was very pleased to join the Minister for Education and Deputy Premier and of course the hardworking local member for Richmond, my honourable friend the Minister for Planning, on Tuesday to mark the beginning of construction of a brand-new Richmond High School that will be open for students at the beginning of the academic year next year.

You might ask yourself: why is it that this government has to go and build a new secondary school in Richmond, an established community, a proud and growing community? Why would you have to go in and build a new school in a community like that?

I will tell you why: it is because Jeff Kennett closed it in 1992. Three hundred and fifty schools were closed by my esteemed predecessor and 7000 teachers were sacked. This is a great project. Maybe we will invite former Premier Kennett to the opening. Maybe he can come to the opening. Maybe he will have a different view on education these days.

It is one of 42 brand-new schools that are in the pipeline at the moment, 10 of which opened this term. We have more than 1000 projects, large and small, at schools right across the state, creating thousands of jobs and making sure that every Victorian student gets the life opportunities they are entitled to, that every child gets every chance and that in the education state kids are getting a first-rate education in first-rate facilities.

Honourable members interjecting.

Mr ANDREWS — Those opposite interject, and that only confirms they know nothing about building anything. It is the cuts-and-closure brigade.

Youth justice centres

Mr M. O'BRIEN (Malvern) — My question is to the Treasurer. Treasurer, your government has stated that the Werribee jail site was selected based on a detailed business case that looked at a range of sites and evaluated them against an extensive set of criteria. With the Werribee employment precinct marketed as 'a national employment and innovation cluster', is it not a fact that putting a prison in the middle of this location will destroy the value and the viability of what should be the centre of Melbourne's new west?

Mr PALLAS (Treasurer) — I thank the member for Malvern for his question. This is an easy one to answer. The answer to that question is no.

Supplementary question

Mr M. O'BRIEN (Malvern) — Treasurer, is it not a fact that the site you have identified for this new jail is currently an industrial 1 zone where correctional facilities are a prohibited use, primarily due to the proximity to existing and new housing?

Mr PALLAS (Treasurer) — Once again I thank the member for Malvern for his question. The issue goes to the planning scheme and the appropriate use of this land. I refer that matter to the Minister for Planning.

Ministers statements: energy industry employment

Ms D'AMBROSIO (Minister for Energy, Environment and Climate Change) — I am absolutely delighted to update the house on our government's plans to grow jobs and investment right across regional Victoria. Through Victoria's renewable energy targets we will deliver 5400 megawatts of new energy supply and create 11 000 new jobs — 11 000 new jobs that the Leader of the Opposition has promised to axe. That is not our way. We are — —

Honourable members interjecting.

The SPEAKER — Order! The Chair should be able to continue to hear the minister. The Chair was unable to do so. I request that members come to order to allow the minister to make a ministers statement, in silence.

Ms D'AMBROSIO — We are wasting no time whatsoever. Last year we commissioned two new wind farms that are now being built, creating more than 320 new jobs in north-western Victoria. I am sure that the member for Lowan should be welcoming that. Let us not forget about our option for 75 megawatts of new solar plants for Victoria that will create a further

300 jobs. That is 300 new jobs that are likely to go to the electorates of Mildura and Murray Plains. Despite this the Leader of the Opposition — —

Honourable members interjecting.

The SPEAKER — Order! The minister to continue, in silence.

Ms D'AMBROSIO — They do not like good news, even when it is in their own electorates for their own communities. There will be 300 new jobs in Mildura and Murray Plains. Despite this their commitment is to scrap our Victorian renewable energy targets.

Let us talk more about wind farms and jobs. The member for Ripon should be celebrating — 173 more jobs in her electorate. Let us not forget the member for Polwarth. Another two wind farms — 370 jobs in Polwarth. Those opposite have no plan other than to destroy jobs. That is their way. Instead we are getting on with creating jobs — new jobs, clean energy jobs, affordable energy, reliable energy — thousands of jobs for Victorians right across our great state.

Youth justice centres

Mr M. O'BRIEN (Malvern) — My question is to the Treasurer. Noting that the government has kept the bidding process open for two years for the 400-hectare major development parcel at the East Werribee employment precinct, I ask: given the government did not tell either the local council or neighbouring residents before the public announcement, on what date did you advise the bidders for this billion-dollar site that you will be building a prison for violent offenders right next door to the land you are trying to sell them?

Mr PALLAS (Treasurer) — I thank the member for Malvern for his question again. Can I be very clear about this: we advised the public and everybody else at the point that a decision was made on a preferred location. The preferred location is as has been stated. Can I also make it clear that Australian Education City (AEC) have approached the Victorian Planning Authority and indicated to them that they are interested in pursuing investment opportunities arising out of the delivery of a juvenile detention centre in Werribee.

Honourable members interjecting.

Supplementary question

Mr M. O'BRIEN (Malvern) — Treasurer, most people would regard siting a large juvenile prison next door to an investment as being something that would decrease the value of it. Given your performance in this house yesterday, do you also expect this house to believe that this prison is actually going to increase the value of the East Werribee employment precinct?

Mr PALLAS (Treasurer) — I do not know what most people's opinions are about this. I do know as a matter of fact what Australian Education City and its investors' position is, because they actually wrote to Mr Paul Byrne, the lead director of the Victorian Planning Authority. In that letter, which I am happy to table, AEC made the following comments:

> Further to our proposal at last week's VPA and DTF meeting, in relation to the recently announced youth justice centre which may be situated proximate to the East Werribee employment precinct, Australian Education City would appreciate the opportunity to work with the Victorian government alongside two of our partners.
>
> AEC believe that the state may be best served by an integrated youth justice centre incorporating skills training, and other — —

The SPEAKER — Order! The Treasurer's time has now expired.

Honourable members interjecting.

The SPEAKER — Order! The Chair is on his feet. The Treasurer will provide that document to the Clerk.

Ministers statements: western suburbs roads

Mr DONNELLAN (Minister for Roads and Road Safety) — It is an honour today to have the privilege to update the house on the Andrews government's work on congested roads in the outer western suburbs. We know from the outer suburban arterial roads (OSARs) package we announced, which is a $1.8 billion investment, that the west is very much excited about the mighty OSARs. They know that this is a policy that is fleet-footed and visionary, very much like the Treasurer's football team, the Western Bulldogs.

This project will deliver duplications and widening works on Dunnings Road, Palmers Road, Derrimut Road, Leakes Road, Dohertys Road, Forsyth Road and Duncans Road. This package will very much change and transform the outer suburbs, and this is very much about a government that very much wants to be a participant in the growth process in the outer west. We know from this project there will be thousands of jobs delivered. We know in the last two years we have delivered and facilitated 120 000 jobs. I know what the outer western suburbs are excited about. It is certainly not playing banjos with Bernie Finn from the Legislative Council. It is about delivering jobs. It is about real jobs and real opportunities.

We know that if we keep growing at 3.3 per cent, we will deliver enormous jobs opportunities across the state. We certainly do not accept a 0.8 per cent gross state product growth rate, which we had in 2013–14, as anything but totally unacceptable. We know that was what the member for Malvern offered when he had the levers the last time.

Mr Hodgett — On a point of order, Speaker, the minister is defying sessional order 5. There have been a number of changes to sessional orders in this place. The most recent is so that stupid and incompetent ministers that cannot talk about anything new in their portfolios can get away with talking about anything in their portfolios. I would ask you to bring this minister back to complying with sessional order 5.

Ms Allan — On the point of order, Speaker, I think given the unprofessional way the shadow minister provided that point of order to the house it should be treated with the contempt it deserves. However, on the point of substance, sessional order 5 does provide for a minister to make a statement of up to 2 minutes on matters relating to his portfolio. That is exactly what the minister was doing. Again, those opposite are more used to blocking and stopping job-creating projects rather than supporting them.

The SPEAKER — Order! The minister will come back to making a ministers statement.

Mr DONNELLAN — We know the west is very excited by that 3.3 per cent growth rate because they know that what we are here to do is deliver jobs. We certainly will not be delivering Wally the Wombat-type growth rates of 0.8 per cent — not a whole number. It was a pretty, pretty ordinary, slovenly effort that the member for Malvern, when he had the levers of Treasury, delivered to the community. We know we have to work hard to deliver the jobs and the — —

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

Youth justice centres

Mr M. O'BRIEN (Malvern) — My question is to the Treasurer. Treasurer, given you misled Parliament yesterday about the Werribee jail, you have misled the people of Wyndham and you have destroyed all confidence in the integrity of your government's processes, will you now release the preliminary business case — —

Ms Allan — On a point of order, Speaker, in the shadow Treasurer's question he has made allegations that can only be made via a substantive motion, and I ask you to ask him to rephrase his question.

Honourable members interjecting.

The SPEAKER — Order! The member for Rowville and the Leader of the House will come to order and allow the manager of opposition business to contribute to the point of order.

Mr Clark — On the point of order, Speaker, the Leader of the House is completely wrong in her assertion. The statement made by the member for Malvern was that the Treasurer had misled the house in question time yesterday. That is exactly the fact. The Treasurer in fact came to the house and made a personal explanation because he had misled the house. So the question is entirely in order.

Honourable members interjecting.

The SPEAKER — Order! The member for Malvern did not suggest that the Treasurer had deliberately misled the house. There is no point of order.

Mr M. O'BRIEN — Treasurer, given you misled the house yesterday about the Werribee jail, you have misled the people of Wyndham and you have destroyed all confidence in the integrity of your government's processes, will you now release — —

Honourable members interjecting.

The SPEAKER — Order! All members will come to order. The member for Malvern is entitled to continue his question.

Mr M. O'BRIEN — Treasurer, given you misled Parliament yesterday about the Werribee jail, you have misled the people of Wyndham and you have destroyed all confidence in the integrity of your government's processes, will you now release the preliminary business case, the final business case and all associated documents surrounding this tawdry, dishonest process?

Honourable members interjecting.

The SPEAKER — Order! The Minister for Roads and Road Safety will come to order.

Mr PALLAS (Treasurer) — I thank the member for Malvern for his question. Imagine getting lectures on integrity from the bloke who signed a secret side letter behind the backs of the Victorian people — —

Honourable members interjecting.

The SPEAKER — Order! The Treasurer is entitled to silence. Government and opposition members will allow that to occur.

Mr PALLAS — It defies belief that this bloke's bloated arrogance could allow him to get up in this place and ask such a question. But, Speaker, let us be — —

Mr Hodgett — On a point of order, Speaker, the Treasurer is debating the question. I would ask you to bring him back to answering the question.

The SPEAKER — Order! The Treasurer will come back to answering the question.

Mr PALLAS — With regard to the issues before the chamber yesterday and again today, can I be very clear: this government is and remains committed to a genuine process of engagement with the people of the Werribee community. Can I also make the point that the member for Malvern has misled the house around the issues of Australian Education City and their investment potential, which the letter before the house makes very clear.

Mr Hodgett — On a point of order, Speaker, the question had nothing to do with the member for Malvern. I renew my point of order. The Treasurer is debating the question, and I would ask you to bring him back to answering the question.

The SPEAKER — Order! The Chair requests that the Treasurer return to answering the question.

Mr PALLAS — We will produce such material as is appropriate in order to properly engage the community around the decisions that the government has made with regard to the preferred location.

Honourable members interjecting.

The SPEAKER — Order! The member for Malvern on a supplementary question to the Treasurer.

Honourable members interjecting.

The SPEAKER — Order! The member for Frankston is warned.

Supplementary question

Mr M. O'BRIEN (Malvern) — Treasurer, you will not release the details about the Werribee jail. You change your story from day to day about what you did and did not know. You refused to face your constituents at the recent community rally. How can Wyndham residents have any faith that as Treasurer you are telling them the truth, or will you continue to behave like a sycophantic bootlicker to this Premier despite his contempt for you and your constituents?

Mr PALLAS (Treasurer) — The member for Malvern has got the memory of a goldfish and the integrity of an amoeba. We have got a lot of people who are very busy — —

Mr Hodgett — On a point of order, Speaker, the question again had nothing to do with the member for Malvern. Question time is not an opportunity for the Treasurer to attack the member for Malvern, and I would ask you to bring him back to answering the question.

Ms Allan — On the point of order, Speaker, the Deputy Leader of the Opposition is doing a fabulous job of demonstrating he is one of the very few numbers the member for Malvern has. However, the point of order that he is making — —

Honourable members interjecting.

The SPEAKER — Order! The Leader of the House will bring herself to making the point of order.

Ms Allan — Speaker, these topics get a bit touchy over there, don't they?

The SPEAKER — Order! The Leader of the House will make the point of order.

Ms Allan — Again, they love throwing an insult at a female member on this side of the house, don't they? They are never happier than when they are giving an insult to females on this side of the house! The supplementary question that was asked by the shadow Treasurer was full of bile and inaccuracies, and I think the Treasurer is entitled to treat it with the contempt it deserves.

Honourable members interjecting.

The SPEAKER — Order! The Deputy Premier will come to order. The Leader of the Opposition! The Chair upholds the point of order.

Mr PALLAS — It was a little hard to actually glean whether there was a question involved there, but if the fundamental thrust of the question was: am I a fan and supporter of the work that the Premier and his government are doing for the western suburbs, unashamedly I am, because when those opposite made no investment in the west, this government has been there. Ten per cent of all capital investment in education is going on in the west at the moment. There is

$1.8 billion in Wyndham alone in arterial roads, as we have heard. So am I a fan of the Premier? Yes, because this government has integrity and diligence — —

Honourable members interjecting.

The SPEAKER — Order! The Treasurer will resume his seat. The Treasurer has concluded his answer.

Ministers statements: infrastructure projects

Mr NOONAN (Minister for Industry and Employment) — Today I am very pleased to update the house on our record investment in infrastructure and the jobs that are being created through that record infrastructure.

Questions and statements interrupted.

SUSPENSION OF MEMBER

Member for Kew

The SPEAKER — Order! The member for Kew will withdraw himself from the house for the period of 1 hour. He has persistently interjected.

Honourable member for Kew withdrew from chamber.

QUESTIONS WITHOUT NOTICE and MINISTERS STATEMENTS

Ministers statements: infrastructure projects

Questions and statements resumed.

Mr NOONAN — Last week I had the great pleasure of joining the Premier at a precast factory in Pakenham, a very big facility based in the south-east, which is an area hit by the automotive closure — —

Honourable members interjecting.

The SPEAKER — Order! The member for Warrandyte will now come to order.

Mr NOONAN — This is a factory that has the task of building the 2200 concrete segments for the Caulfield to Dandenong level crossing removal project. What a great — —

Mr Andrews — Nine level crossings.

Mr NOONAN — Nine level crossings are being removed. At this particular precast factory 200 jobs have been created. Steel fixers, welders, concreters and plant operators are all working out of this precast facility. This is on top of the 100 jobs that were created during the construction of the facility. Overall, and this has been mentioned in the Parliament before, the Caulfield to Dandenong level crossing removal project will generate 2000 jobs, and pleasingly this project will create 233 apprentice and trainee jobs.

I am also aware that early estimates on the Melbourne Metro project reveal that there will be up to 1000 apprentice and trainee jobs during the construction life of the project. You would think everyone would be supportive of creating these jobs, but no. Some are outright opposed to these particular projects. Those opposite are taking the mantle of opposition to new heights by opposing projects that will create more than 26 000 jobs. They are standing in the way of these key projects and these key investments. Get out of the way!

Youth justice centres

Mr GUY (Leader of the Opposition) — My question is to the Premier. Premier, your Treasurer and your minister have left the door open for you to admit that you have got the location of this new youth jail wrong. Will you for once — just once in your career — finally admit you have got it wrong? Wyndham is not the location for a new youth jail. Tell the people of Wyndham you will find a new, more suitable site than just 400 metres from their homes.

Honourable members interjecting.

The SPEAKER — Order! Government members will allow the Premier to respond to the Leader of the Opposition, in silence, on a substantive question.

Mr ANDREWS (Premier) — I thank the Leader of the Opposition for his question. As the minister with responsibility for youth justice matters in the other place has made clear, as I think the Treasurer has made clear and as any number of members of the government have made clear, this is a preferred location. The council, for instance, have indicated that they believe there are other more suitable sites. The government is working with them in good faith.

Honourable members interjecting.

The SPEAKER — Order! The member for Ringwood will come to order, and the member is warned.

Mr ANDREWS — That is what people would expect, and that is what the government is doing.

Supplementary question

Mr GUY (Leader of the Opposition) — Premier, stop playing political games — —

Honourable members interjecting.

The SPEAKER — Order! Government members! The Chair is on his feet. The Leader of the Opposition is entitled to silence when endeavouring to put a supplementary question to the Premier.

Mr GUY — Premier, you are playing political games with tricky words. Just tell the people of Wyndham straight: is there actually any chance that you will move this facility from the City of Wyndham — yes or no?

Honourable members interjecting.

The SPEAKER — Order! Government members will come to order.

Mr ANDREWS (Premier) — The Leader of the Opposition has gone from putting the punchline first to then getting all angry. He is all angry now. I have nothing to add to my earlier comprehensive answer. We are working with the council in good faith, we are working with the community in good faith and that is exactly the way we will continue. And I have concluded my answer.

Mr Guy — On a point of order, Speaker, you can require the Premier to give a written answer to this house. This was a very simple question: yes or no. Is there any chance that this prison will be moved from the City of Wyndham: yes or no? The Premier did not answer that question. I ask you to require him to give a written statement to this house to answer that question clearly.

Ms Allan — On the point of order, Speaker, I would ask that you rule the point of order out of order from the Leader of the Opposition. The Premier answered the question directly.

Honourable members interjecting.

The SPEAKER — Order! The Leader of the House is entitled to silence when making a point of order. The Chair will withdraw members if they do not allow that to happen.

Ms Allan — He answered it directly and clearly, and I appreciate the Leader of the Opposition may not have heard the answer because he was too busy calling the Premier names across the chamber. Perhaps the Premier should not need to comply with the standing order that the Leader of the Opposition is asking him to.

Mr Walsh — On the point of order, Speaker, I would ask you to uphold the point of order by the Leader of the Opposition. It was a very clear question about clarifying for the people of the City of Wyndham as to whether there is any chance of moving the facility or not, because there have been so many different answers that have come from that side of the house and from the upper house this week. City of Wyndham residents deserve an answer to this question, and I would ask you to uphold the point of order and have the Premier provide a written response.

Mr Pakula — On the point of order, Speaker, the substance of the Leader of the Opposition's question was whether there was a chance that this facility might ultimately be located elsewhere. The Premier in his answer referred to comments by Minister Mikakos, the Treasurer and him that said there was a preferred location but that consultation was ongoing, including with council, about alternative sites. So in substance the question has absolutely been answered.

Mr Clark — On the point of order, Speaker, the Attorney-General has misrepresented the question that was asked by the Leader of the Opposition. The specific aspect of the opposition leader's question was whether or not there was any opportunity for this facility to be relocated out of Wyndham. That is the point that the Leader of the Opposition seeks a response on. It is ironic in the context of a question about shifty answers that the Premier's answer did not address the question that was asked. He simply said, 'We will continue to talk to the City of Wyndham'. The reason that this sessional order was created was to achieve the objective of getting direct answers to direct questions, and this is a classic instance of where an answer has not been given, which is why I ask you therefore to instruct the Premier to provide a written answer.

The SPEAKER — Order! The Chair does not uphold the point of order. The Premier was responsive.

Ministers statements: penalty rates

Ms HUTCHINS (Minister for Industrial Relations) — I rise to update the house on the government's work to protect our weekend workers here in this state. They are real people with real stories. While the coalition and their mates in Canberra want to cut take-home pay for many of our most vulnerable workers, this government stands up for those workers.

Honourable members interjecting.

The SPEAKER — Order! The member for Eltham will come to order.

Ms HUTCHINS — It is with much anguish that during the time that we have been in this house I report that the Fair Work Commission has handed down its decision on Sunday penalty rates. It has decided to cut Sunday penalty rates for hospitality, fast-food and retail workers.

Honourable members interjecting.

Ms HUTCHINS — Because those across the way want to talk about real people, how about we do just that, except the real people I want to talk about are not stock photo-type people; these are real people. Let me tell you about Rebecca Smith. Rebecca Smith is 26 years old. She is in her second year of midwifery but supporting herself through university by working weekends with a catering company. She said earlier today that for her, penalty rates are the difference between being able to buy books for school or not. She gives up her weekends because she knows that the extra money will help her to get through university. She is not wealthy — she gives up her Sundays because she is desperate.

With those cuts to those Sunday penalty rates likely to see between $2000 and $5000 in annual salaries cut for weekend workers, we know there are going to be a lot more workers out there affected by this.

Only yesterday the Reserve Bank of Australia expressed concern about the lack of private sector wages growth, and this decision to cut penalty rates will have flow-on effects to other industries.

Mr Clark — On a point of order, Speaker, prior to question time in response to my raising with you the issue of whether you would make certain documents public in relation to the allegations against you in today's *Age*, you indicated that you would be referring the matter to the audit committee for examination. It has come to attention that you are in fact the chair of the audit committee, and I would submit with respect that it would not be appropriate in those circumstances for this matter to be referred to the audit committee, and I would submit that instead the more appropriate process would be for you to invite this house to refer the matter to the Privileges Committee. That was of course the process that was followed previously in relation to a former member for Frankston, and it would seem appropriate that it be followed likewise in relation to your matter.

The SPEAKER — Order! The Chair does not intend to be a part of that audit committee. The Chair will make himself absent from that process, and the President will be the person to chair the entire examination of those documents and any other matters that are related to allowances of that kind.

CONSTITUENCY QUESTIONS

Mornington electorate

Mr MORRIS (Mornington) — (12 291) My question is for the Minister for Energy, Environment and Climate Change. This morning I raised the issue of the Andrews government's neglect of the Mount Martha foreshore reserve. I now raise the issue of the government's neglect of the Mornington foreshore reserve. Shire Hall Beach is a small and lovely beach at the fringe of the Mornington Harbour precinct. Sadly the usually pleasant sandy aspect is currently nothing more than a collection of exposed rocks, totally unsuitable for the families and children that usually frequent the area. I ask: what action has the minister taken to ensure that there is no further degradation of Shire Hall Beach at Mornington?

Narre Warren South electorate

Ms GRALEY (Narre Warren South) — (12 292) My question is to the Minister for Roads and Road Safety, and it concerns the intersection of Pound and Shrives roads, Hampton Park. I ask: what stage has the Andrews Labor government's much-needed project to upgrade the intersection of Pound and Shrives roads reached? I am regularly contacted by local residents who are very excited about the project but remain frustrated at the congestion and regular incidents they must contend with. Under the previous failed Liberal government nothing was done, so I am much happier now that the Andrews Labor government is getting on with improving and upgrading our local roads.

Morwell electorate

Mr NORTHE (Morwell) — (12 293) My constituency question is to the Premier. Premier, what is the latest information with regard to your government finding new employment for those workers and contractors who have already lost their job or will lose their job very soon given the closure of the Hazelwood power station on 31 March? People in the Latrobe Valley are acutely aware of Labor's policy to close Hazelwood, but, Premier, your party also said it would close the station gradually, and that is not happening. It is also well recognised that the current state government ripped an extra $252 million of taxes out of Latrobe Valley generators in last year's budget, so there is no doubt at all that Labor wants Hazelwood

closed. Workers and contractors are seeking two outcomes: close Hazelwood gradually, as your party promised, and initiate a pooled redundancy scheme. These people and their families want and need a real job, not just tokenistic words from your government. I therefore ask the Premier on behalf of workers and contractors: what new jobs will they be employed in post 31 March 2017?

Pascoe Vale electorate

Ms BLANDTHORN (Pascoe Vale) — (12 294) My constituency question is for the Minister for Roads and Road Safety, and I ask him: what has been done to ensure that there is clear and adequate signage in place along the Moonee Ponds Creek Trail while works are being undertaken to build the noise walls in Glenroy and Gowanbrae? As he knows, work is now underway to build these noise walls, and certainly this construction has been long awaited by the residents of Glenroy and Gowanbrae, many of whom are very much looking forward to the alleviation of the noise and therefore an enhanced quality of life. However, the Premier would also be aware that there are unavoidable detours in place while the works are being undertaken, and the Moreland and Moonee Valley bicycle user groups have brought to my attention the question of adequate signage, so I ask the Premier: what has been done to ensure that there is adequate signage to promote the route during the temporary closures for the cyclists along the trail?

South Barwon electorate

Mr KATOS (South Barwon) — (12 295) My constituency question is to the Minister for Roads and Road Safety. Minister, when will VicRoads work with local landholders to rectify funding to private property in Marshall that has occurred as a result of the Breakwater Bridge realignment project to create a flood relief culvert? On 24 November last year on the adjournment I asked the minister this very question. On 16 January this year the minister responded, saying:

> I have been advised that VicRoads discussed the issue with the property owners shortly after the recent flood event and committed to working with the property owners … to clarify the cause and resolve the flooding issue.

Minister, VicRoads has done nothing, and the property owners are fearful that more flooding will occur to their properties this winter and spring as a result of your inaction and incompetence. Work should be going on now to prevent potential flooding later in the year. Minister, if you are not prepared to help these people, then simply tell the truth, which is that you really could not care less about them.

Macedon electorate

Ms THOMAS (Macedon) — (12 296) My question is to the Minister for Sport. What has the Andrews Labor government been doing to increase the participation rates in sport in regional and rural communities like mine? I understand that both the Macedon Football Netball Club and the Trentham District Football Netball Club have applied for grant funding under the country football and netball program. This program supports clubs to upgrade their facilities. Through my time as the member for Macedon I have had the pleasure of meeting both members of these clubs and their supporters, and what I can tell the house is that these clubs are at the centre of community life. I would like to support both of these clubs in their applications. Across my electorate football-netball clubs bring people together, engage our young people and encourage participation of women and girls in sport. I support the grant applications made by both the Macedon Cats and the Trentham Saints, and I ask that the minister do the same.

Prahran electorate

Mr HIBBINS (Prahran) — (12 297) My question is to the Minister for Roads and Road Safety, and I ask: what is the latest information on the St Kilda Road safety improvement study? The study was announced in August 2015 and was to look at separated bike lanes along St Kilda Road. There was supposed to be a proposal to be made available for consultation by late 2016, which did not occur. We had reports in the *Age* of 19 February stating that the project has been delayed for an unknown period of time to get further information on the potential impact on car and truck traffic of bike lanes.

St Kilda Road is one of Melbourne's busiest, but also one of our most dangerous bike routes. Separated bike lanes are needed to ensure the safety of cyclists, and it is also an opportunity to create a world-class cycling route from the south to the city centre. Cyclists are understandably frustrated over the lack of action on separated bike lanes, which have been proposed by both Port Phillip and Melbourne city councils. Reallocating road space from cars to bikes will always raise some concerns, but in this case it is essential to deliver a safe, world-class cycling route. Our transport network works efficiently when we have more people on bikes, reducing traffic and congestion. Safety is the paramount consideration for many would-be cyclists, particularly women. I urge the minister to build these bike lanes.

Niddrie electorate

Mr CARROLL (Niddrie) — (12 298) My constituency question is for the Minister for Training and Skills in the other place, and I ask: how will students in my electorate benefit from the approval of $10 million from the Andrews Labor government's TAFE Rescue Fund to build a new purpose-built Sunshine skills hub at the new Victoria Polytechnic at Victoria University?

The $35 million centre is jointly funded by Victoria University, which is providing $20 million, and the Ian Potter Foundation, which is providing $5 million. The Labor government is making sure locals in Melbourne's north-west have the best access to training, facilities and equipment, which my constituents will benefit from. Education and training is very important public investment that we can make to meet the needs of the 21st century. I am very keen to see how this centre will benefit students from my electorate of Niddrie.

Sandringham electorate

Mr THOMPSON (Sandringham) — (12 299) My constituency question is directed to the Minister for Public Transport. In the Beach Road corridor there is an increasingly high volume of traffic, both vehicles and bicycles. Also within the Beaumaris-Black Rock area there are minimum interventions, either by way of traffic islands or traffic lights, to facilitate people being able to cross the road. One person was seriously injured a while back by a cyclist while crossing Beach Road. There are a number of retired medical health professionals who are very keen to see some interventions installed. I ask whether the minister will be able to review, through VicRoads, the best locations along Beach Road that might help guide the installation of interventions.

The DEPUTY SPEAKER — Order! The honourable member has referred this particular constituency question to the Minister for Public Transport. The portfolio of public transport does not deal with VicRoads, so therefore I rule the question out of order.

Thomastown electorate

Ms HALFPENNY (Thomastown) — (12 300) My constituency question is to the Minister for Suburban Development. Can the minister inform me of the recent fantastic announcement of growth areas infrastructure contribution funding for the Merri Creek Marran Baba parklands? How will the $1.7 million that is to be spent on park upgrades, cycling and walking tracks benefit those living in my electorate?

FAIR WORK (COMMONWEALTH POWERS) AMENDMENT BILL 2017

Second reading

Debate resumed.

Mr CLARK (Box Hill) — Prior to question time I was making the point that we have seen the ability of Trades Hall to phone the Minister for Industrial Relations and call on her to come along and address a rally attacking one of Melbourne's best-known companies, Carlton & United Breweries. So instead of the minister telling the unions to resolve their grievances within the law and take their case to the Fair Work Commission, we saw Victoria's Minister for Industrial Relations urging on a picket line an industrial action completely outside the Fair Work Act 2009 — indeed industrial action that has been accompanied by assaults, threats and criminal damage.

Last but certainly not least we have seen the ability of the Community and Public Sector Union (CPSU) to wield huge power over the Andrews government. The government has had legislation before Parliament seeking to dismiss Victoria's privacy and data protection commissioner from office and to do so midway through his statutory five-year term and without compensation. He is not being dismissed due to any proven or even alleged misconduct. One really has to wonder as to exactly what the mix of motives is that underlie this move, but one thing that he believes, and has said so publicly, is it is because he has dared to stand up to the CPSU when they sought to prevent him from taking action against a non-performing staff member.

This is what the Andrews government is prepared to do to a senior manager who stands up to a union. It is the sort of conduct that sends the message right through the public service that the best way to keep your job is to simply give the unions whatever your minister wants you to give them. Of course when ministers want to give union officials almost anything they want, however unreasonable, this is enormously destructive of good government and the public interest. Instead of having a government that puts the interests of union officials and aspiring ALP operatives ahead of the public interest, what Victoria needs is a government that will bring fairness, balance and common sense to industrial relations.

When it comes to public sector workplace relations, the starting point should be that public sector employees are one of the community's greatest assets. State

governments are service delivery organisations. Just like any service delivery enterprise — indeed just like almost every enterprise — the success of state governments in delivering the services the community is looking for depends on the skills and dedication of its workforce. The state government here in Victoria is fortunate to have many outstanding people in its workforce at all levels, from frontline police, nurses and teachers through to senior public servants, who serve the community with enormous dedication and professionalism, often working very long hours.

Thus any government should want to provide fair and reasonable wages and conditions to Victoria's public sector workers, with work practices that allow people to do their jobs in the best possible way and provide the best possible services for clients, customers and the community, while not placing unreasonable workload demands on workers. Of course there can be differing views about what is fair and reasonable, and valuing people's contributions does not mean everybody can be paid what they think they are worth. But valuing people's contributions means that discussions about these matters should take place on a positive, open and constructive basis, looking at all aspects of how the community is being served and how service is to be recognised and remunerated.

While regrettably much of the union movement has become corrupted and has sold out the interests of members to the political ambitions of their officials, there are many instances where union officials do want to do the right thing by their members and do want to ensure that the interests of their members are not prejudiced or overlooked. A sensible employer needs to recognise that is the case, and be prepared to engage with union officials in such instances as the legitimate representatives of their members.

So of course it is important for any government to be reasonable when union officials are reasonable — indeed even if they are not being reasonable — but it is also important for any government to be firm in protecting the public interest and the interests of workers when union officials are being unreasonable or putting their own personal or political interests ahead of workers' interests. This is where time and time again the Andrews government has failed to live up to its responsibilities, failed to stand up to the public interest, failed to say no to those aspiring ALP operatives who have put their interests ahead of their workers' interests or have made demands that are completely unreasonable or unacceptable in the public interest. This is the track record of the Andrews government, and they should not be given the powers they are seeking through this bill.

Ms WILLIAMS (Dandenong) — It is a pleasure to rise in support of the Fair Work (Commonwealth Powers) Amendment Bill 2017, despite the fist waving and the hysteria from those opposite. This bill fulfils a commitment this government made before the election to expand the range of matters that can be bargained over and included in a public sector enterprise agreement made under the Fair Work (Commonwealth Powers) Act 2009. As it stands, and as a result of the *United Firefighters' Union of Australia v. Country Fire Authority* case, some public sector employers and employees are already able to bargain and reach an agreement on the number, identity or appointment of employees in the public sector, but this does not apply to all public sector employers and employees.

So following this decision what we effectively ended up with was a situation where there was an inconsistency between public sector bodies that are constitutional corporations and the ones that are not. The ones that are constitutional corporations can currently include a broader range of things in their enterprise bargaining agreements — and they comprise over half of the employees in the public sector — but the rest cannot, and that is about 130 000 employees who work for non-constitutional corporations, such as the Victorian public service, teaching services, school support and school councils. They currently do not have the same rights effectively. This is what this bill is about, and the inconsistency is clearly not desirable.

What this bill before us here today will do is to amend the Fair Work (Commonwealth Powers) Act, which is a referral act, to enable all public sector employees and employers to bargain over and reach agreement on these terms. This may include terms such as minimum staffing levels, restrictions on how staff are to be engaged or the number of casual, seasonal or fixed-term employees at a workplace. The bill will ensure that those 130 000 employees I just mentioned will have the same rights as everyone else, and this will ensure a greater level of fairness and consistency in the agreement-making process across the Victorian public sector. We also hope it will encourage better cooperation and collaboration between government and its workforce.

The amendments to the referral act will effectively remove existing limitations that prevent some public sector employees from making an enterprise agreement containing a matter that pertains to the terms I just referred to — that is, in the number, identity or appointment of employees in the public sector — and it also will ensure these terms can be enforced by the parties through the courts. It is also important to note that this bill will not permit a matter

that pertains to these terms to be imposed on the government, which means these terms cannot be imposed on the government by way of, say, a modern award, a workplace determination or a transfer of business obligation.

Allowing for bargaining on these matters does not mean that a department or agency is or can be compelled to agree to a new clause in an enterprise agreement, and it will not allow the Fair Work Commission to impose new clauses on parties where an agreement cannot be reached.

The bill does not affect other excluded matters that currently exist in the legislation — exclusions such as those that pertain to redundancy, those that pertain to executive and senior appointments or those that pertain to, say, the appointment of ministerial officers. These remain as they are.

The bill will also not change the state of play in relation to law enforcement officers, including police officers, protective services officers and reservists. However, it will extend to public sector employees at Victoria Police, for example, Victorian public service staff and police custody officers. The reason it does not extend to law enforcement officers is to ensure the integrity and operational independence of state laws and Victoria Police operations.

Many of the clauses that can now be included in public sector agreements will make workplaces safer and jobs more secure. We know that this is not something that those opposite are terribly interested in. For example, it will allow for the inclusion of courses that specify minimum numbers of employees per shift or specify, say, ranks and locations for a shift. It will also allow the inclusion of clauses that state, for example, that an employer must advertise vacancies internally before seeking external applicants. This is something that I know matters to a lot of workers who want an opportunity to be able to put their hand up for jobs within their workplace. It might include, for example, clauses that ensure that fixed-term employment cannot be used to undermine job security or conditions, or that secondment or lateral entry cannot be used to diminish promotional opportunities available to existing or ongoing staff.

These causes are fundamentally about job security for Victorian workers, and we know this is something Victorian workers value, and they value it strongly. They value it strongly particularly in an age of greater casualisation across many sectors. This is why it is very important to a lot of Victorian workers.

You will hear those of us on this side of the house speak a lot about jobs. You will also see that we have done a very good job in creating jobs. We do not just talk; we act. I can go through the stats: you have heard them a thousand times before, but they are important because each one of those jobs represents somebody's life and it represents somebody's family, a family that is given much more independence and freedom in their lives as a result of a job and the opportunities that provides.

We have created more jobs in the last 12 months than the previous government did in four years, let alone the number of jobs we have created in the past two years. It is quite phenomenal. It is no wonder that when we talk about jobs on this side of the house those opposite fall silent or they start chattering to each other — or, if they are sitting at the dispatch box over there, they turn their backs. It is no wonder because they have a shameful record on the jobs front. But it is not enough for us on this side that it be any job — we have demonstrated a commitment to creating fair, secure and good-quality jobs for Victorians. The Victorian people deserve nothing less.

What we have seen on the other side of the house are yet more attempts to erode workers' rights, to erode conditions. As always, their comments on this bill have demonstrated that what they stand for is essentially a race to the bottom. We saw that with the member for Box Hill waving his fists and fearmongering about the unions. It is all 'reds under the beds' stuff that we have heard a thousand times before. Sadly, I am not surprised to hear those things, and neither are the Victorian workers who have heard them sing this song a million times. They have seen those opposite trade away their rights a million times. They have seen those opposite do their best to strip their wages, to make them work longer for less money because that is what those opposite stand for.

The Victorian people have seen it all before, and countless times they have made it clear that they are sick of it. Well, we are sick of it on this side of the house too. It is easy to take the position that those opposite take when you are a silver-spooner, when you have never experienced job insecurity or had your wages stripped. It is easy to take that position when you have got no experience of the real world. It is easy to take that position when you are the one sitting at the big desk, when you are the one taking expensive holidays and counting your money like Scrooge McDuck. But believe it or not, these issues have real-life impact for many, many Victorian workers who care about their job security and who care about their conditions — workers who want to feel valued

by government, who want their representatives to understand the pressure they are under. And that is not a lot to ask. It is not a lot to ask your representatives to understand the pressures you are under and the insecurity that you might face in your workplace.

Those opposite also ignore the employers who want to deliver a quality service, the employers who want to oversee a happy and quality operation, those who want an environment that fosters a loyal and committed workforce. Let us not forget those employers too, because they are out there. You disregard these employers when you take these wildly ideologically driven stances without proper consideration and without thought. Not just in relation to this bill, but to others that have come before this place. As soon as the 'union' word is mentioned, the comments from those opposite drive this debate to a level and depth of horror, really, for the average worker that people do not deserve, and we are sick of hearing it. It is kneejerk ideological conservatism. That is what we hear every time we have a conversation about industrial relations or about agreements or about unions — every single time, we hear the same rubbish from those opposite.

In conclusion, this bill is about fairness and it is about consistency. It is about creating high-quality and secure work environments. It will not operate retrospectively. It will not disturb current enterprise agreements which have been approved by the Fair Work Commission, and this will have no bearing on the enterprise agreements this government finalised last year.

This bill is at the heart of what a good Labor government stands for. Unfortunately, that brings out the worst in those opposite. It brings out all those issues I have gone through, and it brings out all those comments, all that nastiness, all that vitriol that is the very reason that I joined the Labor Party in the first place. On that note, I commend the bill to the house.

Mr CRISP (Mildura) — I rise to make a contribution to the Fair Work (Commonwealth Powers) Amendment Bill 2017. The provisions in this bill essentially limit a current exclusion of Victoria's referral of industrial relations powers to the commonwealth to allow the state or a public centre entity to agree to include in most enterprise bargaining agreements (EBAs) binding provisions relating to the number, identity and appointment of employees; to continue to exclude the power of the Fair Work Commission to impose provisions regarding the number, identity or appointment of public service employees by way of arbitration of an EBA or an award; and to allow the Fair Work Commission to arbitrate a dispute about the operation of an agreed EBA, provided the EBA provides for such arbitration.

It is a very interesting bill, and I do want to pay tribute to the member for Box Hill for his very thorough examination of this. I also think that it is a bill with some quite serious consequences, and therefore it has flown under the radar very, very well. So there are some issues with this bill. The bill gives effect to the ALP's election commitment to legislate so that EBA provisions agreed to by the state or a public sector entity on matters such as staffing levels and who is employed or promoted are enforceable under the Fair Work Act 2009. This commitment was intended to overcome the constitutional principle that the commonwealth cannot substantially burden a state's capacity to function — the Melbourne Corporation principle, which the member for Box Hill spoke about in some detail — such as by restricting the government's ability to determine the number, identity or appointment of its employees.

This flows on very quickly to the Country Fire Authority (CFA) issue. As a result of the early 2015 decision of the full Federal Court in *United Firefighters' Union of Australia v. Country Fire Authority* [2015] FCA FC 1, the EBA provisions voluntarily agreed to are already binding on public sector employers that are constitutional corporations, such as the CFA was held to be. Such employers are bound because the full court ruled that voluntarily agreed EBA provisions do not substantially burden the state's capacity to govern and thus commonwealth law on EBAs applies automatically to such bodies through the commonwealth's corporations power. This is a very far-reaching decision for a lot of people, and it is fairly important that what it means is understood, particularly for Victoria and for how we structure our public service.

However, the commonwealth law can only apply such EBA provisions to non-constitutional corporation public sector employers — that is, the government departments — if that power has been referred to the commonwealth, which is not the case under Victoria's current referral. For this reason the bill winds back the limitation on Victoria's referral of powers to the commonwealth over public sector employers who are not constitutional corporations so as to allow them to be bound by agreed EBA provisions about the number, identity and appointment of their employees. This means that if the bill is passed, the sort of restrictive EBA provisions unsuccessfully challenged by the CFA in the Federal Court, or which the Premier has agreed to with Peter Marshall, will be able to be locked into EBAs across the public sector, such as those with core public servants.

The EBA restrictions challenged in the CFA case included not allowing changes to the classifications of employees who could do particular work, which is clause 26 in the CFA EBA; not allowing changes to the number of employees per shift, which is clause 27 in the CFA EBA; and restrictions on lateral entry, external recruitment and secondments, which are clauses 28 and 122 of the EBA. In particular this would exclude, in my view, the cross-fertilisation of being able to bring people in from outside the Victorian public service experience to further enhance our service provision to the public of Victoria.

In short, the Labor government is allowing itself to be locked into restrictions for almost all the EBA conditions and United Firefighters Union (UFU)-style restrictive practices and controls across the entire public sector. Labor justifies the bill in the various ways that we have just heard from the previous speaker. However, really this bill also locks in not only this government but future governments to these sorts of work practices. The coalition does believe that bona fide agreements should be honoured and not torn up, as the government did with the east–west link. However, as a matter of principle, no state should allow its future capacity to function to be restricted by commonwealth law, and that leaves us in a very difficult position.

I think this bill is designed to let Labor agree with its union mates on EBA clauses that will lock in massive levels of bureaucratic employment and restrictive work practices rather than provide better service to the public, and it will give unions UFU-style control powers over the public sector, and that is very much what concerns country people. It has been very much in the forefront of their minds — the CFA and the CFA's role in country Victoria. It is based on volunteers, and it is those volunteers that keep most of our population safe. It is based on the availability of those volunteers who are distributed across country Victoria and who must keep country Victoria safe at no notice, and they are the backbone of country life. The CFA is an important institution across country Victoria, and in many of my smaller communities it is the only organisation left and is thus very important, so it should not be threatened in any way, shape or form.

This bill will entrench UFU practices and reward them across all aspects of country Victoria, and that too expands into the delivery of services across country Victoria. The public service is there to serve the public, and what this bill does is feed into a very popular thought out there amongst people in country Victoria and, I am sure, elsewhere that if this occurs, then it is a major step towards the public service servicing itself. It is going to be very, very hard to have our public services continue to function with the integrity and confidence they need in our country areas. So this is a very serious issue.

Perhaps on a lighter note, we have all been entertained by the antics of Sir Humphrey, but this bill will be a good cause to stop laughing about the antics of Sir Humphrey and will feed the discontent in my electorate with the public service. It is something we really should be avoiding.

When we look at the name of this bill, the Fair Work (Commonwealth Powers) Amendment Bill 2017, and the Fair Work Commission, I think there are better things we could have done with our time. One of those would be to deal with the exploitation of backpackers in our Victorian economy. We have had an inquiry into that matter, the Forsyth inquiry, and there are recommendations that are clear. When we are looking at where we want the commonwealth to better use its fair work powers and how we should manage those into the future, I think it would be better to look at how we could provide the Fair Work Commission with the powers they need to investigate and act in these alleged allegations — well, they are not alleged; they have been well proven — by certain operators in that sector, which is basically called the backpacking sector.

We also need the commonwealth to be involved in that area. In my electorate, which butts up against both New South Wales and South Australia, we need to avoid border hopping so that we prevent rogue operators from moving to New South Wales or to South Australia but continuing to service Victoria under certain sections in our constitution that allow for free interstate trade. We have one or maybe two bad apples in the backpacker barrel operating out of Mildura. What we do not want is that barrel just shifting across the river or across a state border and continuing to operate. I think our time would have been better spent addressing the concerns of people in country Victoria than debating the provisions of this bill. With that, The Nationals in coalition are opposing this bill.

Mr PEARSON (Essendon) — What joy it gives me to speak on the Fair Work (Commonwealth Powers) Amendment Bill 2017. I will give away my age. I, like the very handsome member for Oakleigh, came of age in the 1990s. It is fair to say that the 1990s were characterised by the dismantling of centralised wage fixing and the establishment of enterprise bargaining arrangements. I think enterprise bargaining arrangements are important, because what effectively they did, and what our forebears decided at the time, was recognise the fact that you needed to have a degree of flexibility in the way in which individual workplaces

conduct themselves. I think it would be fair to say that there would be a high correlation between having enterprise bargaining agreements in place and the fact that we have not had a recession since the 1991–92 financial year. In fact one of the reasons why the economy has grown so prodigiously over the course of that time, under I might say both Labor and coalition administrations, has been the ability of individual workplaces to craft industrial agreements that reflect the needs and requirements of those industries they work in, of those workplaces where they are struck and for the benefits of management and staff.

I recall having a conversation with John Gillam, who until recently was the chief executive officer of Bunnings. John Gillam, I would have to say in my experience of working in the private sector, is one of the most adroit, adept, astute, industrious, thoughtful, considered people I have come across in business. I found it very interesting to speak with him about industrial relations in his workplace. He said to me that very early on in the piece they recognised that they would sell more hammers at Bunnings on a Sunday than on a Tuesday. His response to that was to sit down, negotiate with the Shop, Distributive and Allied Employees Association and say, 'We'll do you a deal. You're not getting double time and a half on a Sunday'. I think it might have been either time and a half or double time on the weekend, and it was offset with a higher base wage. John Gillam recognised the fact that an organisation like Bunnings has its own unique characteristics which requires a tailored response.

The agreement that came into play was not struck in the last five years. I think you would find it would have been struck in the early 1990s when Bunnings came in and took over the old McEwans business that had gone into receivership in the last great recession. And what have we seen in the course of that time? We have seen Bunnings grow and grow — prosper — and its workforce prosper. Bunnings has become a dominant household brand.

In actual fact I will tell this story. There was a gentleman who started at the Sunshine store in 1994. That store was opened by a former Premier of this state, Jeff Kennett. This guy worked on the tools in the first big box store. In 2007 he retired. The Wesfarmers model had a high focus on return on capital expenditure, and they ensured that shares were allocated to their workforce to share the upside. This is modern, progressive, sophisticated capitalism. It is not dragging the workers out the back and giving them the rounds of the kitchen, like you had with the master-servant provisions. This was modern, progressive capitalism at play.

This individual worker retired in 2007 and was contacted by human resources and was asked, 'What do you want to do with your shares?'. This worker had no idea that he had been receiving these shares each year. I think he had probably just got the paperwork and threw it in the bin, which is probably what my father-in-law would do. Six weeks later he rang me up crying because of the fact that he had received a cheque for $165 000 — 165 grand! Thirteen years on the tools, 13 years working away, and he got 165 grand. He sold his shares before the global financial crisis. That is modern, progressive capitalism. That is the basis for a civilised society.

I listened with great interest to the member for Box Hill's contribution. I will put on the record that I do respect the member for Box Hill. We do not agree on much, but honestly! You can tell this bloke came of age in the 1970s. He is the patron saint of centralised wage fixing. 'Don't worry about enterprise bargaining agreements. No, we don't want those. You can all just have this one size fits all. You get your unions, and you get them all to toddle off to the Australian Industrial Relations Commission and say, "Please, sir, can I have some more?", and you have the employer saying, "No, you can't do that", and we will just agree on across-the-board wage increases — you know, 2.5 per cent or 3 per cent'.

Is it any wonder why the economy ran into a ditch in the 1970s with stagflation under Fraser? It is just laughable. I place on the record that he does come here prepared. He is prepared to argue the case for those opposite far more succinctly and successfully than some others opposite, but honestly! We have gone past that. We should not be saying, 'Let's go back to centralised wage fixing. Let's turn around and just basically say we'll have a one-size-fits-all approach for every single organisation in the public sector in Victoria'. It is just laughable.

The reality is that workforces are changing. They are more sophisticated now than what they were. The skills required are very, very specialised across the public sector. You cannot turn around and basically just pluck someone out of a government department or agency, put them into some other public sector entity and expect that they are going to be able to do the job and do it well. In actual fact you are looking at a plethora of diverse workplaces, and you need to have that level of diversity and appropriate industrial instruments to reflect that.

I listened to a 20-minute rant from the member for Box Hill against all the perceived sins of every public sector union with public enemy number one being the United

Firefighters Union. It is just laughable. It is this bogeyman of the union movement, and not being particularly sophisticated and not being particularly thoughtful and considered. I also find it quite fascinating that one of the theses presented by the member for Box Hill was being critical of handing additional powers to the federal government. This I find very curious. I would like to say that I am broadly in favour of having a uniform national approach to industrial relations. Having an approach where you have got separate state awards across separate jurisdictions — and again I refer to a company like Wesfarmers or Bunnings — does not make any sense. You want to have one unified approach to industrial relations across separate workforces where you can.

What I find interesting, though, is that the member for Box is railing against that, saying, 'We shouldn't be handing more power to Canberra'. The member for Box Hill was a member of this place — he has been a member of this place since 1988 — and he sat on this side of the house in 1996 and referred all the state industrial powers to the federal government as soon as John Howard was elected. That was one of the first actions of the Kennett government after they were re-elected on 30 March 1996. They got up their industrial relations powers and they just handed them all over lock, stock and barrel to their federal colleagues. Again, I place on the record that I think that ultimately having one unified national industrial relations instrument, where practical and appropriate, is desirable. But I am not coming in here like the member for Box Hill and saying, 'It is terrible giving powers to Canberra. We must resist that; we must assert our state rights'. He voted for this. This is what he wanted. He got up and he voted and he supported the position of the Kennett government.

The bill before the house is a sensible approach. It fulfils what the government took to the election in 2014 about trying to address some of these inconsistencies. I note that the member for Hawthorn was yelling from the other side of the chamber that Bracksy would not have done it. The reality is that these matters have since been clarified by the full court of the Federal Court. The full court of the Federal Court has clarified these matters and we have responded. Again, I quote to the member for Hawthorn and the member for Box Hill John Maynard Keynes, who said 'When the facts change, I change'. The reality is that we have greater certainty and greater clarity on the way in which the jurisdictions operate and we are responding accordingly.

It is important that we try to remedy the disparity that exists between public sector employees of constitutional corporations and those of non-constitutional corporations. But the reality is, and let there be no mistake, one of the reasons we have not had a recession since 1991 is the fact that we have had a very strong and flexible enterprise bargaining agreement. Those opposite want to take us back to the 1970s. You are stuck in the 1970s with your flares and your polyester suits. You want to go back to the days of wide lapels, centralised wage fixing and stagflation. You are stuck in the 1970s, and that is where you belong. I commend the bill to the house.

Mr WAKELING (Ferntree Gully) — It was interesting to listen to the contribution from the member for Essendon because when you pare it back what he was doing was standing in this place and actually supporting the Kennett government's referral to Canberra. That is the first takeaway. The second and more interesting takeaway for me is I think this is the first time I have heard a Labor member of Parliament actually support the reduction of weekend penalty rates. It is the first time I have heard a Labor member of Parliament actually agreeing to a reduction in weekend penalty rates — the member for Essendon said that he supported an enterprise agreement that was struck by Bunnings which actually reduced the weekend penalty rate and increased the hourly rate of pay as a form of compensation.

I just segue from that comment by the member for Essendon to a comment that was made today by the Minister for Industrial Relations when she criticised companies for reducing weekend penalty rates. I think on the government side you have actually got confusion. You have got the minister sitting at the table, the Minister for Finance, championing the fact that the Labor government opposes the reduction of weekend penalty rates, but you then have the member for Essendon supporting an agreement that was struck by the Shop, Distributive and Allied Employees Association I think he said, from memory. I do not know if the member for Pascoe Vale was an industrial officer with the union at the time so I will not draw her into that negotiation. Let me just say that it was very interesting to hear that negotiation.

I, like many in this house, have actually worked in the field of industrial relations. I was proud to work in the field for over 15 years. In my previous role as a national industrial advocate I negotiated enterprise agreements around the country with a range of union officials. Some were very good negotiators and stood up for their workplaces; others were less so. In fact I recall on numerous occasions negotiating agreements with the now Attorney-General. We actually had very robust debates, but at the end of the day we managed

to negotiate and resolve and settle a range of industrial agreements.

I was, however, involved in a major industrial case which was called Campaign 2003. That was an agreement where the Electrical Trades Union (ETU) sought to introduce a 36-hour week into the industrial arena in the manufacturing sector and engaged my company as the vehicle to try to have that provision introduced. That saw an industrial dispute occur where the ETU organised for their staff to be in a caravan at the front of their workplace for a period of six months. That was an appalling situation. During negotiations with representatives of the ETU it was put to us very simply that there was an island and there was the mainland and their members were sitting on the island. Their members would be swimming to the mainland, and between the island and the mainland were a whole lot of sharks and along the way some of their members might disappear, but those who got to the mainland were the ones who were going to benefit from the campaign.

That was an appalling negotiation. The upshot of it was that the Australian Workers Union (AWU), which represented the metalworkers within that organisation, actually went in and negotiated with the company a separate agreement which provided a significant benefit for its metalworker staff and which in effect set the agreement for the site. It forced the ETU's hand and the ETU was left with no other option than to accept the new provisions that were agreed to by the AWU. The upshot of it was that a number of staff — —

Ms Thomas interjected.

Mr WAKELING — I love to take up the interjections of those opposite. I will not name the person but a well-known person within the Labor Party was the person from the AWU who was involved in those negotiations. That person had made it very clear to us that what the ETU was seeking to do was unreasonable and they agreed there needed to be an appropriate settlement. What was achieved? An appropriate settlement. That is what happens when you have negotiations occurring between employers and employees which are done in good faith, which are not done to push a political barrow and which are not done to achieve a political outcome at the expense of the members.

The unfortunate situation for the ETU in that circumstance was that not only did their members lose their salaries for six months but many of them did not retain their employment. What happened was the management of the company were ex-electrical workers. They took over control of the site when the union was out on strike, and they themselves said, 'Do you know what? We've recognised that the workload of this plant can be done with a reduced number of staff'. The irony is that if the union had not taken that approach, that would not have been the outcome.

I worked for a labour hire company at the time and some of the workers who were out on strike for six months and who were retrenched came to our office seeking employment at another site because they were then out of work. The irony was that we then had to try to help workers who had been on strike find work in another workplace because they were victims of the tactics of the ETU.

It was the right in the 1980s — the hard right, as they were described at the time by people like former Prime Minister Bob Hawke — that were the ones that were driving the need for enterprise bargaining. In fact it was the centralised wage fixation system, which was in operation in the 1980s, which had the accords. Various accords were put in place with a centralised wage fixation system, and it was the right that was actually arguing against the accords and saying that negotiations should be devolved to the enterprise level. At the time organisations like the HR Nicholls Society and others that were championing these thoughts were called troglodytes. It was said that there was no place in the industrial landscape for enterprise negotiation. Fast-forward 20 years and you now have the left as the champions for enterprise bargaining in this country.

We firmly believe in the benefits of enterprise bargaining. We firmly believe in the rights of negotiating enterprise agreements, because in an organisation you should have the capacity to negotiate enterprise agreements. But the bill before the house is seeking to go well beyond that. The bill before the house is not about negotiation of conditions that affect employment relationships in the traditional sense. This is a bill that is seeking to go further into the area of policy development of the government of the day. Let us be under no illusion: Steve Bracks and John Brumby wanted a provision in place which would enable them to ensure that they could implement policy decisions at a departmental level without them being impacted at an enterprise bargaining level. The EBAs specifically negotiated terms and conditions that affected the employment conditions pertaining to employees in a particular organisation. Areas of policy, which are determined by the government of the day, could be implemented at a departmental level at the whim of the government.

Clearly when a party wins power on a policy platform they have the right to implement those policies. That is what Steve Bracks supported. That is what John Brumby supported. Steve Bracks and John Brumby did not support this. You have got an ideological government in place that is more focused on driving ideology than on enabling governments to implement policies. You have got to be careful about what you wish for, because if you are taking away the capacity of governments to implement their own policies, you are going to rue going down this path. We support enterprise bargaining. In fact it was the right that championed its cause.

Ms COUZENS (Geelong) — I am pleased to rise to speak on the Fair Work (Commonwealth Powers) Amendment Bill 2017. Thank God for the Andrews Labor government. The previous government did nothing for workers in this state in the four years they were in power. Their hatred for workers and their hatred for unions was reflected in the fact that they did nothing for workers in those four years. I know the people of Geelong will be happy with this bill. They will be happy because they had major concerns and major issues during the four years of those opposite but nothing was done. There were continual disputes over agreements. So I think this bill is welcomed by my electorate.

The amendments to the referral act, the Fair Work (Commonwealth Powers) Act 2009, will provide a greater level of openness and fairness in the bargaining and enterprise agreement making processes for the Victorian public sector. This bill continues the process begun by those opposite under the Kennett government and continued by the last Labor government to refer industrial relation powers to the federal government. This step is being taken because there is currently an inconsistency between public sector bodies that are constitutional corporations and ones that are not. The ones that are can currently include a broader range of things in their enterprise agreements.

The bill implements the government's pre-election commitment to expand the range of matters that can be bargained over and included in public sector enterprise agreements, making it consistent between workforces. The bill enables public sector employers and their employees to bargain over, and reach agreement on, the number, identity or appointment of employees in the public sector. This includes terms such as minimum staffing levels, restrictions on how staff are to be engaged and the number of casual, seasonal or fixed-term employees at a workplace. Public sector employees will be able to take protected industrial action in support of such claims. Opening up the bargaining does not mean agencies can be compelled to agree to new clauses in an enterprise agreement. The Fair Work Commission will not have jurisdiction to impose such terms on parties to an agreement.

The bill supports the efforts of public sector workers and their unions to bargain collectively and encourages collaboration between the government and the public sector. Unlike those opposite, we do not go to war with our valuable public sector workers; we recognise and respect the vital contribution they make to our state every day. We know the record of those opposite: cutting more than 4400 Victorian public service jobs, leaving a stack of expired agreements and engaging in damaging approaches during bargaining. Their hatred for workers was well known. As I said, during the lead-up to the 2014 election there were many public servants that came to me and said, 'It's terrible what is happening within the sector'.

Today is a tragic day for workers across this country given the decision of the federal government to cut Sunday penalty rates for workers not only in Victoria but right across the country. This is so damaging. The opposition here in Victoria and the federal government have given no consideration to the impact that will have on working people in this country and in this state. Penalty rates are something that many workers in our community rely on. I have family members who will be severely impacted by the fact that they will no longer get penalty rates. They work in the retail and hospitality industries, just like lots of other people do, and the impact on them will be enormous. It is just a reflection of Liberal governments and their approach to dealing with working people. It is a very poor reflection on them.

I think they will pay dearly for that decision, but the concern is that it will not stop there — that it will continue and they will start cutting more and more penalty rates to the point where there are no penalty rates left. I think the misconception that cutting penalty rates will create more jobs is just ridiculous. We have already had employers coming out saying, 'We won't employ more people. We'll just make more money'.

I think it is such a damaging thing for many people in my electorate. Many people in my electorate rely very much on penalty rates to put food on the table or, as we heard from the minister this morning, to buy their school books or their university books to keep them going. They rely on those penalty rates enormously to put food on the table and to pay the basic living costs that they would not otherwise be able to afford. It is downgrading our wages to a point where people are not going to be able to survive. Even for people in full-time work who rely on penalty rates, because their pay is so

low for their normal hours of works, those penalty rates are what keep them with their head slightly above water. I think this is so damaging, and those opposite and the federal government should be totally ashamed of themselves for what they are doing to low-income workers in our state and across — —

Ms Ryall — Can you get back to the bill?

Ms COUZENS — I am talking about the bill. The former Liberal government adopted a litigious and aggressive approach to try to use sneaky judicial arguments to undermine existing enterprise agreements. They would take an existing agreement that both the employer and the employees had negotiated and agreed to and waste taxpayers money trying to undermine it and challenge its enforceability in higher courts. Again, this was an attack on working people and an attack on unions. As I said earlier, public servants in my electorate were continually raising these issues with me, saying that all they wanted was a fair go and a decent agreement. Unfortunately under those opposite there was no intention of giving them a fair go.

Much of what we are hearing from the opposition today is really a union-bashing exercise, which they are really good at. I want to put on record that for me the union movement have fought for decent wages and they have fought for occupational health and safety so that workers got home safely every day from work. You should be ashamed of yourselves for what you are doing to working people and for damaging the basic rights of people in this state.

Ms Graley — They want a decent living.

Ms COUZENS — Yes, that is right: creating a decent living for people. Many of the clauses will now be able to be included in public sector agreements to serve to make workplaces safer and jobs more secure for Victorians, which is exactly what workers in this state want. For example, it will now be valid to include clauses that specify minimum numbers of employees per shift or specify ranks and locations for shifts. These clauses are often written in to ensure safer workplaces or to ensure the quality of service delivery. It will now also be valid to include clauses that state that the employer will employ an extra specified number of new employees over the life of the agreement. Secondment and lateral entry will not be used to diminish the promotional opportunities available to existing ongoing staff. Employers must advise vacancies internally before seeking external applicants. Fixed-term employment will not be used to undermine job security or rosters and conditions of ongoing employees.

These are some of the many issues that have been raised with me by constituents who work in the public service in Geelong. Seasonal employees can only be appointed for set periods of three to eight months at specific locations. The intention behind these clauses is often to ensure greater job security for Victorian workers, which is exactly what this government is on about. This is only becoming more relevant as our workplaces are changing. This government is committed to ensuring jobs for Victorians. It is also committed to ensuring fair, secure and good-quality jobs for Victorians. I commend the bill to the house.

Sitting suspended 12.59 p.m. until 2.02 p.m.

Mr BATTIN (Gembrook) — It gives me pleasure to rise on behalf of the opposition to speak on the Fair Work (Commonwealth Powers) Amendment Bill 2017. This bill will effectively mean Victoria will hand off a lot of power. One of our major concerns is in the area I cover, which is emergency services. We have had an ongoing issue around emergency services, particularly with the United Firefighters Union (UFU), who are currently trying to put forward an enterprise bargaining agreement (EBA) that has been endorsed and signed off by the current government and which will effectively hand over control of the Country Fire Authority (CFA) to the union.

The union are not in a position to take control. When you are talking about issues of safety, when you are talking about issues that affect our volunteers, when you are talking about issues of response times in our state, we need to ensure that we have got things like surge capacity across our state. When you are handing off power to a union that has focused on — as they rightfully should — their employees, they must take into consideration how that is going to affect the volunteers.

Today I was in Strangers Corridor and by coincidence I met with someone who was here visiting with the member for Narracan. The person I spoke with, Duncan Holman, is a very proud member of the CFA. Believe it or not, next year Duncan will celebrate 80 years of service with the CFA, which is outstanding. I do not think there is anyone here who would not say that serving 80 years with the same organisation is an outstanding achievement. Duncan has been with the CFA since he was 14 years old, and for all that time he has been a volunteer. I spoke to Duncan and heard about his history and what he has done for his local community since he started back in 1938. He fought in the 1939 campaign fires. He saw Ash Wednesday. He saw Black Saturday. But he said one of the things that has stuck with him are the car accidents, particularly

down at Longwarry, not far from the highway. He has seen the results of those accidents and says that they will stay with him forever.

Duncan will be celebrating his 94th birthday tomorrow, so we wish him a happy birthday. He also raised a concern. He said the CFA today is different from what it was. Obviously when Duncan started the CFA did not exist in its current form, but he is not overly impressed with the changes. Some of the changes that Duncan is worried about are the changes in control of the system that he has so proudly served for the last 79 years, a system where the chief fire officer was the person in charge of the daily operations of that service.

This was a system where the chief, if required, could move staff, volunteers and trucks around and make decisions about infrastructure. They made decisions on where they needed appliances and they made decisions on how best to respond. They also worked with volunteers and career staff to ensure they had best practice training and they consulted with everybody involved.

What we are seeing at the moment within the United Firefighters Union is that they are trying to put themselves on top of that process. They do not want the opportunity for the chief to have a say — they want to remove that control from the Chief Fire Officer. They want to change the structure of the CFA again, and we have a government that is allowing them to do it.

Those changes are fundamental to what will happen to the CFA in the future. When you are talking about 'consult and agree' clauses in an EBA that are there purely as veto clauses to stop the chief being able to do what they need to do to protect the community, that is an absolute disgrace. They have 50 clauses like this inside the EBA that they have put through to Fair Work Australia and now this government is trying to do anything it can to avoid the scrutiny of Fair Work Australia.

At the last election the Turnbull government committed to supporting the volunteers, and they have done that. They brought in legislation that those opposite told us over and over again, 'You're bringing in legislation. It's a waste of time. It's so weak and it won't help anybody'. What the government has found is that the legislation brought in by Malcolm Turnbull is so strong and effective that it is now having to work with the UFU on secret deals to get around it, including recently putting through an amendment to the 2010 EBA to increase allowances and add new allowances rather than putting this through the process of Fair Work Australia to ensure a desired outcome, one good for the future.

This has raised the concerns of the volunteers. This legislation is going to push this through further. Our volunteers are worried that if control is handed over and you have got a government working with the United Firefighters Union, that is going to effectively destroy the CFA. The government will not stand up and put on record what they are going to do. Are they going to separate CFA volunteers from career firefighters? Are they going to change the boundaries of the Metropolitan Fire Brigade?

In the past they have said 'no'. Now they have no answer. Are they going to tell volunteers at stations like Warrnambool, Ballarat, Pakenham, Dandenong, Hallam and Mildura that they are no longer welcome so they can force through an EBA on behalf of 1000 career firefighters? Are they going to tell those volunteers that they are not welcome back at those stations just so they can push through an EBA that is a bad deal and that everybody has said is unlawful? The Human Rights Commission have criticised it and 60 000 volunteers will continue to criticise it if it goes through. What we are looking for is a government that stands up for and side by side with our volunteers.

If we get into government, I can tell you now that the first thing we will do is guarantee volunteers are safe. We will guarantee volunteer surge capacity for the future. We must guarantee volunteer surge capacity for the future. Volunteer Fire Brigades Victoria (VFBV) have done a lot of work on this. They have looked at the future of surge capacity and how it affects everyday people, particularly around the growth areas of Melbourne, where volunteers go out and help our regional and rural cousins during times of need. That will be gone if the government continues on its current path of destroying the CFA in Victoria; the response and surge capacity will be gone.

We have a Minister for Emergency Services who spends more time trying to bag the VFBV, saying they are working for the Liberal Party and doing all these wonderful things out there for us rather than actually standing up for what they should be doing, when the VFBV is there for the welfare of our volunteers in this state. That is what the VFBV are there for. They are there to make sure that our volunteers get the welfare that they need. They are there to do exactly what volunteers need — —

Ms Halfpenny interjected.

Mr BATTIN — I note the member for Thomastown would not quite understand this, having no volunteers in her electorate, but the volunteers are — —

Ms Halfpenny — Yes, there are.

Mr BATTIN — In your electorate? Volunteers are so vital within the CFA and we need them throughout the whole state. Let us go back to the former Minister for Emergency Services, who headed up the article and was the voice for surge capacity. And what happened to the former Minister for Emergency Services who stood up for volunteers, who said she was going to protect their rights, who stood up to the Premier and said, 'Premier, we've got to stick by the volunteers no matter what Peter Marshall and the unions say. We've got to stick by them and make sure that we do not sign an unlawful EBA'? The answer to where the former minister went from there? Well, she was bullied out of cabinet. She was bullied out of cabinet to make sure that they could force it through.

You know what? No-one else in that cabinet had the courage to stand up in relation to the CFA. Not one person on that frontbench had the courage to stand up to the Premier and say, 'We need to protect volunteers. We need to make sure we have the surge capacity required across the state. We need to make sure that every volunteer is protected, and we are not going to bow to the pressure of the United Firefighters Union and Peter Marshall'.

That is why a bill like this gives more power to those unions for the future. We have seen what it has done with the UFU, and we cannot afford that in Victoria. We have a great state supported by 60 000 CFA volunteers. We have also got the volunteers at the State Emergency Service and Life Saving Victoria. And what we do not need are unions using standover tactics, pressuring a government and forcing through what they want and jeopardising and risking the safety of all Victorians. That is why we will oppose this bill.

Ms D'AMBROSIO (Minister for Energy, Environment and Climate Change) — It is predictable. It is always predictable what they are going to say. No wonder they are sitting on that side and we are over here. We have got plans, we are committed, we have got values and we are making sure that they underpin every single decision that we make. That is why I am absolutely delighted to speak on this bill. The Fair Work (Commonwealth Powers) Amendment Bill 2017 is a fantastic bill that has been brought here by the Minister for Industrial Relations, and I recognise the fantastic work that she has undertaken in the past two years. She is a top minister and a great asset to this government and the people of Victoria.

The bill will enable public sector employers and their employees to bargain over and reach agreement on a wide range of matters relating to employees in the public sector. This includes considerations such as minimum staffing levels, restrictions on how staff are to be engaged and the number of casual, seasonal or fixed-term employees at a workplace. These are some of the key facets of this bill. The bill also fulfils the government's pre-election commitment to expand the range of matters that can be bargained over. It will provide a greater level of transparency and fairness in bargaining and enterprise agreement-making processes for the Victorian public sector.

As all members in this chamber know, we are the state's largest employer. Some of us in this chamber are always wanting to shrink that and sack a lot of people, but we remain the state's largest employer. It is incumbent therefore on the Victorian government to set an example by recognising, valuing and rewarding the vital work of the Victorian public service and all of its agencies. Those opposite will of course disagree and oppose. Their record when in government was a shameful one in this regard. Let us not forget how they treated our paramedics and our nurses and how they sacked thousands of public servants. Not this government. Our government, under the Premier, will work with our employees to continue delivering the best possible public services and support to all Victorians.

This bill fixes the inconsistency between different public sector bodies — ones that are constitutional corporations and ones that are not. We are fixing this non-level playing field and creating an equal playing field for all public sector workers. Over half of all employees in the public sector can already bargain on a range of matters and include them in their agreements, but the rest cannot. This bill has no effect on the 140 000 employees of constitutional corporations, including public hospitals, TAFEs and water corporations. It will, however, have a beneficial effect on the 130 000-odd employees who work for non-constitutional corporations. This includes the Victorian public service, teaching services, school support and school councils. We are legislating to equal their rights with those of their counterparts in the parts of government considered constitutional corporations.

This bill covers many clauses which will now be able to be included in public sector agreements. This includes validating clauses that specify, for example, the minimum numbers of employees per shift, the ranks of staff and the locations of shifts. Clauses like these will ensure quality of service delivery and safer workplaces for the public service workers that Victorians expect and require. They deserve that, and our government is ensuring that we deliver that respect and that quality

assurance in terms of service delivery and safer workplaces.

Further to that, the bill also enables clauses to be included in public sector workers' agreements to address the issue of job security, and it importantly takes concrete steps towards offering a solution. This is very good because it is about allowing negotiations to happen — and all of the creative juices and negotiations and ideas that come out of that — but it is ultimately about being able to offer a solution and the practical steps that actually lead to a positive, successful conclusion of negotiations. An example of these expanded measures is the requirement for employers to advertise vacancies internally before they seek external applicants. That is a practice that is applied in many, many workplaces across many industries. Having it here, provided for in legislation, is a fantastic enshrinement of what is a really important principle of fairness and access to other work and other opportunities within a particular workplace. There will also be the option to have a requirement that seasonal employees can only be appointed for set periods of between three and eight months at specific locations.

This government certainly is working to grow jobs for all Victorians. We know that, we have heard that, and every single day there is a new story about jobs being created in this state. Let us be absolutely clear: this is happening because of our government's agenda to grow investment, grow confidence and grow capacity so that we can actually get more jobs created and more Victorians enjoying all of the benefits that come from employment. That means being able to spend more time with their families — quality time doing quality activities with their families — being able to pay their bills and being able to think ahead and plan ahead in terms of what they need as families and what they want to achieve. All of these things underpin every action of this government.

We are working to grow jobs for all Victorians — good, quality jobs that are fair and secure for all Victorians. I am proud that this government believes in working collaboratively with the public sector unions to resolve workplace problems and deliver improvements across the public sector. That is why this bill encourages collaboration between the government and the public sector workers and their unions to bargain collectively. The difference between this government and those opposite is very clear. We do not go to war with our valuable public sector workers. We recognise and respect the vital contribution they make every single day to our state.

We know the legacy of those opposite. The former Liberal government adopted a litigious and aggressive approach, driven purely by ideology, and tried to use sneaky jurisdictional arguments to undermine existing enterprise agreements. They wasted taxpayer money trying to undermine existing agreements that both the employer and employee had negotiated and agreed to by challenging their enforceability in higher courts. So you have the workforce and you have employers actually agreeing on a way forward, and those opposite want to throw hand grenades. That is their way, because they are driven by ideology. They do not believe in the rights of working people. They do not believe in collective bargaining through their unions of choice. Everything that this government does is a testament to its values, and everything they did when in government is a true testament to their values — their lack of values — when it comes to supporting people in the workforce and the way that they choose to bargain.

In a single day 4200 jobs were slashed under the previous government through its falsely named sustainable government initiative. Those who were left were overworked, and labour hire workers were brought in, often at greater cost. So these people who claim that they are the economic managers do not care. Frankly all of that means nothing in their ideological pursuit and their hatred for working people being able to get a decent and fair return for a day's work — a decent day's work. Industrial disputes grew under that coalition government.

I wish I had more time, because I have a lot more that I want to say, but I do want to reflect on a decision that was made today by the Fair Work Commission. I alert the member for Ferntree Gully that there are a number of people in his own electorate who are actually doing it really tough. I would have thought the member would have found it fitting to have actually spoken on behalf of his constituents today in what is a very important — —

Mr Morris — On a point of order, Acting Speaker, while the two issues — the penalty arrangements and the bill — both have Fair Work related to them, that is the only connection. There is no connection to this bill, and I ask that you bring the minister back to the bill.

The ACTING SPEAKER (Ms Blandthorn) — Order! There is no point of order.

Ms D'AMBROSIO — This is why it is important to make sure that people get a fair return for the work that they do and for the value of the work that they give. Seventy-three-year-old John Kiely is a bartender at Ferntree Gully. He said, and I quote directly from his

remarks — I thank the Minister for Industrial Relations for alerting me to this — that penalty rates:

> … help us with the daily cost of living. I should be on the pension, but I'm not because it wouldn't be enough.
>
> While CEO pay keeps going up and up, the lowest paid workers in Australia are expected to take a pay cut. That's disgusting.

Absolutely. That is why our government is so absolutely proud to have this bill here, and we commend it to every single person in this house.

Ms RYALL (Ringwood) — I rise to make a contribution on the Fair Work (Commonwealth Powers) Amendment Bill 2017. This bill seeks to amend the Fair Work (Commonwealth Powers) Act 2009 by enabling public sector employees of non-constitutional corporations, such as government departments, to bargain collectively and enter into enterprise agreements on subject matter pertaining to number, identity and appointment of employees. It also allows for such matters to be referred to the Fair Work Commission for arbitration, provided such method of arbitration is an agreed term of that enterprise bargaining agreement (EBA).

Effectively public sector employees under this amendment will have the right to enter into those enterprise bargaining agreements that may impose certain restrictions and obligations on those non-constitutional organisations, those corporations — the employers — with respect to operational and organisational matters. They include things like staffing levels, minimum qualification requirements, promotion processes and other employment-related criteria.

From the opposition's perspective, this is a bill that we oppose. At the outset it is important to state that this side of the house recognises that bona fide agreements should be honoured, unlike what we saw with the ripping up of the east–west link contract. It is also important to note that the future capacity to function as a state should not be restricted by the commonwealth. A concern here too is that those opposite, Labor Party members, in conjunction with their union mates, create EBA clauses that actually lock in the bloating of bureaucracy and restrictive work practices rather than concentrating on what the public service purely exists for — that is, service to the public. In service to the public we need to make sure, and Victorians expect, that the service is efficient and that the productivity exists to get outcomes in a timely manner and in a way that Victorians who are paying for those services expect.

We have seen some dishonest scare campaigns in industrial relations matters, and so we need to make sure that when we are talking about negotiations and relationships, and certainly relationships between employers and employees, it is a give and take situation. The member for Dandenong mentioned the importance of job security. I have been both a public servant and an employer in various parts of my prepolitics life, so I understand how hard we work as public servants in order to create the outcomes expected of us by the public, but it is also important to remember, as I do as a former public servant — and I am a public servant now — that it is the taxpayer that pays for the work that is undertaken and the taxpayer that has an expectation of the service that is being provided.

Obviously we would always work to ensure satisfaction with the services that we provide, but at the same time we need to make sure as a state we are sustainable, through good times and bad, and unfortunately there are bad times — and the member for Essendon talked about Paul Keating's recession that we had to have — and times do get tough. I remember we were paying 17 per cent mortgage interest rates as a result during that recession.

The point is that during tough times the state still has to be able to afford to meet its responsibilities. Therefore we cannot have United Firefighters Union-type intimidation and drawn-out bullying of people to get an outcome that many might consider is unrealistic. It is absolutely important that people negotiate in good faith and on a give and take basis, but certainly we need to be able to afford, through good times and bad, the bureaucracy — both the frontline and the back-office bureaucracy — of the public service and the public sector to be able to ensure that the public, which pays the wages, is absolutely sustained and sustainable.

To that end, therefore, any request for an increase of power that might have an impact on the increase of cost to the taxpayer has to be done with that in mind. It has to be done in the context of affordability and making sure that people do get a fair day's pay for a fair day's work but, at the same time, that it is a give and take relationship with an understanding of what the roles are to be fulfilled and the outcomes that are required.

The member for Essendon talked about Bunnings and the reduction of penalty rates that it negotiated with the Shop, Distributive and Allied Employees Association. He talked about the characteristics of the negotiation to achieve that. In terms of that relationship, which he said he supported — he supported the outcome — there was obviously give and take on both sides for that to be achieved.

As I said, as an employer and as somebody who has lived off a credit card in terms of trying to expand a business to create more jobs for other people, I know what it is like to lose sleep. I knew that it was going to take a couple of years to pay off that credit card bill and to make sure that my employees were rewarded fairly and justly. But at the same time I know the obligations on employers, and in this instance on the taxpayer, have to be affordable and have to be sustainable. It is a two-way street. In talking about sharing the upside, and I think the member for Essendon talked about sharing the upside, we have to make sure that there is an upside. I do not know with the United Firefighters Union situation whether many Victorians have recognised the upside for them out of that negotiation. It has to be fair and reasonable, with negotiation on both sides and with an upside for everybody.

The member for Essendon also talked about workforces that are changing, and I agree that workforces are changing. Efficiencies, new ways of doing things, looking at outcomes and looking at productivity are evermore important when you have got changing circumstances and a lot of innovation happening. What we do not want are restrictive practices that actually hamper that innovation and hamper those new efficiencies and identified methods of improving productivity. We do not want to be drawn back to old ways of doing things when new ways are coming forward. What we do need is a responsive, efficient and effective public service where we actually work together, where there are relationships and where we do get outcomes.

I have heard those opposite make incessant attacks on this side. I think they are completely unwarranted because many of us on this side of the house have been both employees and employers and have actually risked stuff to create jobs. It is one thing to sit on the other side, where you have been able to take from the members of the union as an MP and from the taxpayer purse through political offices as political staffers. They attack members on this side of the house who have actually been in situations where they have had to give and take. It is a long shot for those opposite, who live for class envy and to create division instead of actually working towards a unified approach to getting good outcomes for the taxpayer and good outcomes for both the employer and the employee — the public servant in this instance. We should not have a situation where there are restrictive work practices that inhibit and are unaffordable for this state.

Ms HALFPENNY (Thomastown) — Of course it is no surprise that the Liberal-National coalition is opposing this bill. I am sure that they see it as their job to make sure that the lives of working people are as miserable as possible and with as few rights and freedoms as possible. They would be very happy to have children still working down the mines and sweeping out chimneys, pregnant women working in lead factories and all working people living in one-room shacks with dirt floors. But luckily for us workers have unions, they have the Labor Party and they have their own collective strength.

The Liberal-National opposition is opposing this bill, just like they opposed the introduction of health and safety legislation in the 1980s, workers compensation laws and increases in wages, public holidays and annual leave. Opposition speakers have tried to say that somehow this legislation is all about the Country Fire Authority (CFA) and the United Firefighters Union. That is the most ridiculous thing to say and shows that they do not understand this legislation and working people at all. This is nothing to do with a CFA agenda and all to do with righting a wrong and ensuring that public sector workers are treated equally with all other workers, even those within the public sector.

Opposition speakers such as the member for Gembrook have talked about the CFA, and I just want to correct a couple of things. There is a CFA volunteer brigade in the Thomastown electorate. I have been there many times. I have to say that they are a very dedicated and hardworking crew. That brigade really is working well and strongly for the community. Now on all things we may not see eye to eye, but I tell you, I certainly respect them and I think they have grudging respect perhaps for the work that is being done in the area. The roundabout just in front of the CFA premises is about to be upgraded to traffic lights, which is a thing they have been asking for probably for the last six years, including under the Liberal government. These lights are going to make it much safer for them when getting their appliances in and out and will also assist the community with the terrible congestion in the area.

This legislation is really righting a wrong that came about during the Kennett era when Jeff Kennett basically wiped out the state industrial relations system by referring many of those powers to the commonwealth. That meant that certain rights that workers had had in the public sector were removed, such as the right not to make huge gains and breakthroughs in wages or conditions or efficiencies but the right to bargain, to negotiate — not always winning, but sometimes going both ways — around things that had a direct effect on them and their lives. It was things like workload, things like the jobs that people should be doing, things like nurse-to-patient ratios. These are the sort of things that they will now be able to negotiate

with these changes to the legislation. In terms of the example of nurse-to-patient ratios, of course that is already in an enterprise bargaining agreement and is not related to this legislation. But these are the sort of things that public servants can now negotiate with their employer to make in some cases the workplace better and in some cases make general services to customers and the public much more efficient and better.

This is legislation that really just ensures that the rights of working people in the public sector are equal amongst others in the public sector, as well as maintaining rights that workers throughout the state of Victoria have had for many, many years. It does not change things in terms of the way work will be done unless it is negotiated and agreed. It does not change the way people do business. All it means is that there can be the ability to negotiate and there is respect on both sides. So it is not a one-way street like the Liberal-National coalition would like to see, where workers are subjugated to the whims and wishes of their employers no matter whether they are fair or reasonable or not. This is about giving working people, whether they are in the public sector or the private sector, the same rights in terms of having a say and requiring consultation over the way they work in their workplace.

This is a really good bill. These issues have been talked about for many, many years. I know that public sector workers and their unions will be so happy to finally see this legislation pass. I commend the Minister for Industrial Relations on her great negotiating abilities and her ability to bring this legislation at last to this Parliament in order to see the rights of public sector workers restored.

Mr MORRIS (Mornington) — This is a bill with only one purpose, and that purpose is to lock successive governments into the Premier's profligate public sector wages policy, to lock them in for government after government after government. The sad thing is if only members opposite could realise that if they actually stick up for the public interest and for ordinary Victorians, instead of their mates, those people who they owe a debt to for getting them onto the Treasury bench, then they might actually get returned next time. But no, they are not interested in doing that. They are interested in looking after their union mates, and they are hoping the public will not notice. But fortunately they will.

It is clear from today's debate that government members know that they are not standing up for the community. They know they are doing the wrong thing. They know that their mates, the Premier's mates, will be the winners from this legislation. They know that the public interest and ordinary Victorians will be the losers. If you look at the types of agreements that have been negotiated by this government, the sorts of things that have been put into them, it is little wonder that the public simply does not trust them in this regard. We have seen 19 per cent increases on all allowances for the Country Fire Authority (CFA), delayed pay increases, $5000 in expenses because of court and tribunal proceedings, sports vouchers, allowances for those who live outside difficult to fill areas. When the question was asked in the outcomes hearings, the relevant individual had to ask, 'What is a difficult to fill area?'. There have been awareness programs with further loadings; road accident rescues, further loadings; extra significant amounts for having to travel a modest distance; plus of course the killer, a qualified firefighter rate for communications controllers, 34 per cent bonus That is the type of agreement we are seeing negotiated by this government.

We need look no further than what has happened as a consequence to public sector wage costs to see the impact of this. In 2014–15 the public sector wage costs were $18-and-a-bit billion. In the 2016–17 budget they had shot up by 15.2 per cent to $21.3 billion, and they are expected to reach $23.7 billion by 2019–20. Yet when the mid-year budget review was released, there was a $1.2 billion hit on wage costs in just seven months. You cannot sustain that for a couple of years, let alone over a number of governments. It simply does not work.

Apparently this government has not learned its lesson. It has not learned that an enterprise agreement has to cut both ways. You have got to have benefits for the employees, but you have also got to have productivity gains. It is not a one-sided process, and unfortunately the sorts of deals that have been negotiated — each and every one of the deals that has been negotiated under this government — have been extremely one-sided. It has been all about one side to the exclusion of the public interest, in every case.

It is clear some members of the government do not like these grubby deals. They will not talk about the bill. They will not talk about the fact — —

Ms Hutchins — We put out a press release!

Mr MORRIS — I am not talking about your press releases, I am talking about this debate, because there has been from the government benches almost no mention of the bill. There was a ruling earlier, which I will not refer to because it might be construed as maligning the Chair, which allowed further matters,

extraneous matters, to continue to be raised, because the substance of this bill is anathema to most government members.

In fact there has been no legitimate effort or legitimate attempt to justify this corrupt public rip-off. All we have heard in this debate is about penalty rates, which are entirely irrelevant to this discussion. All we have heard are the words of class warfare, and there is no place for class warfare or for this sort of ideology in the state. All we have heard in this debate is about how members on this side are supposedly union-haters, and that is an outright lie. But that is typical of the Premier, it is typical of the government he leads, and it is typical of the backbench rabble that he commands, sitting over there. They are not prepared to stand up for the public interest. They are not prepared to even try to justify this appalling piece of legislation.

The coalition understands that this was an ALP election commitment, but we also understand that if this bill is passed, the types of provisions that the Premier has agreed with Peter Marshall — the types of provisions that allow United Firefighters Union (UFU)-style restrictions, UFU-style restrictive practices and UFU-style controls, the sorts of agreements that have delivered those things to the CFA — will be open slather across the public sector.

I contrast that view and I contrast the measures contained in this bill with the provisions that were in the bill — now the principal act — introduced by Labor under John Brumby in 2009. In 2009 the Labor Party understood that governments were elected to govern. In 2009 they understood that management should be allowed to appropriately manage the organisations they are there to run and they are paid to run. In 2009 the Labor Party understood that genuine productivity gains could be negotiated and could be implemented with the workforce. But this government simply does not understand those basic facts. Those things are all in the principal act, and they are all things that are being removed by this bill, because under this bill productivity goes out the window. They have put the foxes in charge of the henhouse.

Seriously, what union leader worth their salt would agree to a cut in numbers, no matter how great the productivity gain, no matter how beneficial to the organisation, no matter the dividend to the community as a whole? They simply would not, because it would lower their membership. Once staffing numbers are included in enterprise agreements the genie is out of the bottle, absolutely.

I conclude by reiterating a point that has been made by a number of coalition speakers today, and that is to make it explicitly clear that no matter how distasteful we might find any agreement negotiated by this Labor government, unlike the Premier, we are not in the business of tearing up signed agreements, tearing up signed contracts. We not in the business of setting aside bona fide agreements. Let us not have any scare campaigns on this score. Let us not have these Labor backbenchers running out to their communities and telling lies about the intentions of the opposition. This is bad public policy, it is bad legislation and it should not pass the Parliament.

Ms WARD (Eltham) — Can I say in response to the member for Mornington: it is never bad policy to look after the rights of workers. It is never bad policy; it is Labor policy and it is the policy of this government to always look after the rights of workers, because it is the workers who do the work in this state, it is the workers who keep this economy going and it is the workers who work, and they are the ones that we are here to look after. That is exactly what this legislation does, and I commend the minister for the hard work that she has done in putting this legislation together.

It allows public sector employees that are covered by the act to bargain over and reach agreement on simple areas like minimum staffing levels, restrictions on how staff are to be engaged and the number of casual, seasonal or fixed-term employees. I can tell you that these things are very important to workers, especially around the areas of casualisation and seasonal and fixed-term contracts. These are the things that do not give people secure employment, these are the things that do not give people certainty and these are the things that make it very hard for people to get ahead economically, so of course we want to legislate to make sure that there is a level playing field to help these workers bargain and negotiate to ensure their economic viability, because this is what a Labor government wants.

A Labor government wants economic justice. We want social justice, but we also want economic justice, and when we have got those opposite catcalling out to us, 'You've never employed anyone', well, I tell you what: we work. On this side of the house we are workers. We work, and we want workers to be paid properly. We want them to be paid well, and we want them to be paid fairly. We want workers in this state to have a living wage. We do not want the working poor. We want people to have good, viable, meaningful work that rewards them for what they do. We want their labour to be recognised, respected and rewarded, and rewarded with fair and equal payment. So when we have got those opposite bellyaching about us never having been employers, well, they do not know who we are and they do not know who Victorians are, because Victorians are workers. Employers are workers; they work for their

living. They are all workers, and they are working to the advantage of themselves and this state, and I call those opposite out for their ridiculous position of rejecting this bill. They should instead support this bill, because they should support workers.

There will be 140 000 workers affected by this legislation. There will be 140 000 Victorian workers able to negotiate for a better outcome for themselves and their families. Only a party like the Liberals would get in the way of someone wanting to bargain for a decent working wage for themselves and their families. Why would you put in a roadblock? Why would you argue against that? Do you know why they would? Because they do not support things like penalty rates. They do not think that on a Sunday when you are spending time away from your family you should be paid extra. They do not think that mums who stay home during the day to look after their young children and then work evenings in supermarkets or work weekends in coffee shops to help supplement their family income should get paid because they cannot take their kids to netball or because they cannot be home on the couch on a Saturday night with their kids watching a movie. They do not think that those people should be paid extra, and they think that way because they do not care about Victorian workers one iota.

They prance around — they ponce around — but they do not care. They do not put Victorian workers first. They never have, and they never will. It is outrageous, and they should be ashamed of their position. They should be ashamed to not support this legislation, because this legislation is worth supporting. There will be 140 000 Victorian workers supported by this legislation. This is not about their petty battles with the United Firefighters Union, this is not about their petty pointscoring with the Country Fire Authority and this is not about their petty pointscoring about not being able to come to an agreement with paramedics. This is not what this is about. They want to keep everything down at a base level. They want to drag debate down. They want to drag it down and take away from the integrity of what this government is trying to achieve, and I am happy to say that not one person on this side of the house has allowed those opposite to drag it down into the gutter, where their policies lie.

What we have done is lift this state — and this legislation helps to lift this state — up to the level that it deserves to be on, which is that of a progressive state, a hardworking state and an economically just state, because when we have an economically just state we have a healthy state, we have a productive state and we have a state that lifts for the good of all Victorians. I tell those opposite: wake up to yourselves, get on board, look after Victorian workers and stop looking after yourselves. I commend this legislation to the house.

Debate adjourned on motion of Ms HUTCHINS (Minister for Industrial Relations).

Debate adjourned until later this day.

ELECTRICITY SAFETY AMENDMENT (BUSHFIRE MITIGATION CIVIL PENALTIES SCHEME) BILL 2017

Second reading

Debate resumed from 9 February; motion of Ms D'AMBROSIO (Minister for Energy, Environment and Climate Change).

Mr M. O'BRIEN (Malvern) — I am pleased to speak on the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017. In doing so I note to the house that I am taking carriage of this matter for the opposition on behalf of the member for Caulfield. My colleague and friend unfortunately has had to take leave from the house this week due to the passing of his father very recently. We certainly wish him all the best in very trying circumstances.

The Black Saturday bushfires on 7 February 2009 were a tragic event — an event which none of us who were members of this house or indeed any Victorian of age will forget very quickly, if ever. A total of 173 people died. A subsequent royal commission called for by the former Brumby Labor government found as a matter of fact that ignitions caused by powerlines resulted in fires which caused the loss of 159 of those 173 lives that were lost. In seeking to understand the causes of the tragic events of Black Saturday, the 2009 Victorian Bushfires Royal Commission examined a whole variety of matters and came up with 67 separate recommendations, which were presented to the government and to the public.

The coalition, in opposition at the time, committed that we would implement each and every one of those 67 recommendations. We thought, and we still think, that it is incumbent on every Victorian to do whatever we can reasonably do in order to make sure that those tragic events are never repeated.

The government of the day did not accept all of the 67 recommendations. There were some recommendations that the government did not agree to implement. Amongst those recommendations which the former Labor government did not pursue were recommendation 27 and recommendation 32.

Recommendation 27 of the bushfires royal commission is that:

> The state amend the regulations under Victoria's Electricity Safety Act 1998 and otherwise take such steps as may be required to give effect to the following:
>
> > the progressive replacement of all SWER (single-wire earth return) powerlines in Victoria with aerial bundled cable, underground cabling or other technology that delivers greatly reduced bushfire risk. The replacement program should be completed in the areas of highest bushfire risk within 10 years and should continue in areas of lower bushfire risk as the lines reach the end of their engineering lives
> >
> > the progressive replacement of all 22-kilovolt distribution feeders with aerial bundled cabling, underground cabling or other technology that delivers greatly reduced bushfire risk as the feeders reach the end of their engineering lives. Priority should be given to distribution feeders in the areas of highest bushfire risk.

Recommendation 32 is:

> The state (through Energy Safe Victoria) require distribution businesses to do the following:
>
> > disable the reclose function on the automatic circuit reclosers on all SWER lines for the six weeks of greatest risk in every fire season
> >
> > adjust the reclose function on the automatic circuit reclosers on all 22-kilovolt feeders on all total fire ban days to permit only one reclose attempt before lockout.

The then Brumby Labor government said that it was not going to implement these recommendations, because it was all too hard and it was all too expensive. The figure of $40 billion was thrown around by the Premier, by the then energy minister, Peter Batchelor, and by other members of the Labor government. The fact is that they walked away from key recommendations of the bushfires royal commission. They said it was too hard and too expensive.

Well, Victorians deserve better than that sort of defeatist attitude. Victorians deserve better than that, and that is why it took the Liberal and National parties to have the courage to say we will implement each one of those 67 recommendations. As the shadow minister for energy at the time, I knew there was a way that we could work through those recommendations, particularly in relation to making powerlines safer and deliver on those recommendations. We went to the 2010 election promising as a down payment, if you like, a $50 million Safer Electricity Assets Fund. That was a down payment because we knew the work needed to start. The former Labor government had allocated not $50 million, not $5 million; they had given Victorians nothing. Not a single dollar had Labor budgeted to improve the safety of powerlines in the most bushfire prone areas, despite knowing what the royal commission had said, which was that 159 of 173 lives lost were as a result of fires caused by powerlines.

When we got to office we expanded the remit of the Powerline Bushfire Safety Taskforce (PBST). We said, 'Your job is not to find ways to avoid implementing those recommendations. Your job is to find a way to implement those recommendations and to guide us through how we can deliver on recommendations 27 and 32'. I pay great credit to the membership of the Powerline Bushfire Safety Taskforce, led by Tim Orton, an independent chair. Its membership included representatives of the electricity distribution businesses — Jemena, Powercor, SP AusNet, United Energy — representatives of the Country Fire Authority (CFA), technical experts, risk management experts and others. As energy minister I worked very closely with the PBST because I did think this was something that Victorians had to do. We had to achieve this outcome. The Powerline Bushfire Safety Taskforce reported to me and to the government on 30 September 2011, and in December that year the coalition government released its response.

What the PBST said to the government and said to Victorians was that the bushfires royal commission recommendations could be implemented in a way which substantially improved the safety of powerlines in bushfire-prone areas and, moreover, that it could be done in a way which was affordable and which was not going to have a completely outrageous effect on people's power bills that would make the impact one which Victorian families simply could not bear. I think the recommendations of the PBST were excellent then and are excellent now.

I will very briefly refer to some of the summary of that PBST report, because it goes to the mischief that they were trying to address through their recommendations. This is quoting from the Powerline Bushfire Safety Taskforce summary and the government's response to it. It says:

> Unlike the wiring in a house, however, electricity distribution networks are vast, and are exposed to the elements. This means these networks experience a large number of faults — the majority of which are transient in nature (e.g. a branch which contacts a wire in high winds, then blows off). Consequently devices are required which shut off power in the event of a fault, but then restore power (reclose) quickly if the fault has cleared.
>
> Automatic circuit reclosers, or ACRs, are one such device. ACRs can be set to attempt a number of recloses and for varying time intervals. The more reclose attempts allowed, and the longer the gap between attempts, the less the impact will be on customer reliability.

> What the royal commission found — and the task force confirmed through laboratory testing — is that under the most dangerous fire conditions even one or two reclose attempts may be sufficient to start a fire. However, limiting reclose attempts will increase the risk of customers losing supply. Optimally, therefore, reclose attempts would only be modified in response to high bushfire risk.

The response goes on. It notes:

> The task force identified two types of equipment which satisfy these requirements:
>
> > Remotely controlled automatic circuit reclosers … and
> >
> > Rapid earth fault current limiters (REFCLs).

These are, if I can put it in layman's terms, almost like forms of safety switches that operate on single-wire earth return lines or safety switches that operate on 22-kilovolt transmission lines. It is absolutely essential that, if a tree or something else comes into contact with those lines that can cause a fire, the circuit can be cut off immediately so as to prevent a fire from occurring. But nor do we want to see situations where power is cut off for no good reason. We certainly never want to get to the situation I think we have seen in South Australia, and possibly other states, where on high bushfire days entire areas are pre-emptively cut off from their electricity supplies in order to avoid any chance of a fire starting.

It is probably worthwhile noting, given the tragic loss of life on Black Saturday, that more people died in that period as a result of heat-related illnesses. While bushfire is dreadful and can and does kill people, lack of access to power where that power supports air conditioners, fans and other things which can keep people cool, particularly people who have vulnerable health conditions, can be just as deadly as a bushfire, so it was really important that the government got the balance right. We needed to improve the safety of these powerlines in a way which could reduce the risk of starting fires but also in such a way which did not kill the reliability of the electricity system, because that would pose its own fatal risks to people who rely on equipment, whether it is life support systems or something as basic as a fridge, a fan or an air-conditioning unit.

In our response to accept all the recommendations of the Powerline Bushfire Safety Taskforce we announced that we would be embarking on a package to roll out the use of automatic circuit reclosers and rapid earth fault current limiters in the most bushfire prone areas. We were advised that this would lead to a 64 per cent reduction in bushfire starts over 10 years. The cost for households in most areas which would be affected would be a cumulative total over the 10 years, starting at $1.30 in the first year and rising up to about $13 in the last year. It was something that was certainly manageable and something which would lead to nearly a two-thirds reduction in the risk of bushfire starts but something that would not have the sorts of impacts on reliability that in themselves could have a risk of death.

As the shadow minister for energy and resources one of the things I was most proud of in my nearly two and half years of service in that role was to take on something which was a challenging recommendation from the bushfires royal commission. I do not pretend for a second that it was not a challenge, but I did not think the response of the Labor government at the time to say it was all too hard and walk away was the right way. We needed to find a way through it. We needed to find a way to be true to the recommendation, to deliver that improvement in safety and to do it in a way which did not hit households and businesses with bills they could not afford but that actually did improve the safety and reliability of the system, and we did it.

We released that response on 29 December 2011 because we did say we would do it before the end of that year, only to be met with attacks. I refer to an article in the *Australian* of 30 December 2011:

> Opposition bushfire response spokeswoman Lily D'Ambrosio said the government had broken its election promise to replace all power lines. 'This is one of the most dishonest announcements to be seen by any Victorian government in a hell of a long time', Ms D'Ambrosio said.

We had the member for Mill Park — now the Minister for Energy, Environment and Climate Change, bizarrely enough — complaining that our response as a coalition was dishonest.

Honourable members interjecting.

Mr M. O'BRIEN — I hear the response from government members that it was. What have you done differently? The answer is nothing, absolutely nothing. They have done nothing differently. They have said, 'Thank you very much, Liberal-Nationals government. Thank you for doing all this hard work. Thank you for doing these things that we didn't have the courage or the wit or the brains to put together. Thanks for doing all that hard work. We're going to criticise it when you announce it, but when we get into government we're not going to change a thing. We're going to do exactly what you have done, and moreover we're going to try and claim it as our own'. What absolute hypocrisy. They were not up to it in government, they criticised it when they were in opposition and they try and claim the benefit of it now they are back in government.

When you look at this bill before the house, what you will see is that it implements exactly what I outlined as the government response in December 2011. How many extra dollars has this government put into bushfire safety apart from the $750 million package that I announced? Nothing, not a single dollar, not one cent. That is how much members opposite care about bushfire safety. That is how much they care about bushfire-affected communities. If they thought that the coalition's announcement was inadequate, why did they not put more money into it? Why did they not change it? Why have they picked it up lock, stock and barrel? The answer is that this is just a political outfit; they do not know anything about governing. They do not know anything about making the hard decisions to make Victorians safer — not a bit, not a jot.

The coalition does not oppose this bill. As I said, this bill implements as a program things which were laid out by the opposition five years ago. It was criticised by the then opposition, by the Labor Party, but they have been so critical of it they have done nothing to change it since then.

This bill seeks to implement a path, a mandate, for electricity distribution businesses to roll out the use of safer technology in bushfire-prone areas. I will very briefly refer back to the royal commission recommendations because some of the criticisms that came from the member for Mill Park included that the royal commission said you should bury all the powerlines. The royal commission did not say that, and I will read it into the record once again for those who might be hard of hearing or need to be reminded. The royal commission called for:

> the progressive replacement of all SWER (single-wire earth return) powerlines in Victoria with aerial bundled cable —

which is not undergrounding —

> underground cabling —

that is one option —

> or other technology that delivers greatly reduced bushfire risk.

That is exactly what the REFCLs and the ACRs are. The $750 million package that the coalition announced, which Labor has now tried to adopt as its own, provided $500 million to be spent by distribution businesses on the rollout of that ACR and REFCL technology to improve the safety of those powerlines, a $200 million fund for undergrounding of powerlines in the areas where that was most needed, a $40 million fund to improve the reliability of electricity supply, particularly for vulnerable people and communities — such as, for example, in nursing homes, where they need to have the power on all the time even in bushfire times — and a $10 million further research fund.

The rollout of technology that delivers greatly reduced bushfire risk is exactly what the royal commission called for, and any member opposite who gets up and claims, 'The royal commission said you've got to bury every powerline, and you didn't do it; you broke your promise', cannot read, because that is not what the royal commission called for. I encourage them to read the words that the royal commission no doubt spent considerable time pondering before it committed them to paper.

This bill provides that specified distribution businesses, in this case SP AusNet, Powercor and Jemena, must demonstrate compliance with enhanced fault detection and suppression standards on all of their 22-kilovolt powerlines that emanate from their share of 45 targeted zoned substations in rural and regional Victoria. The bill requires the businesses to deliver these upgrades according to a points system, and the businesses must achieve 30 points of zoned substations rollout by 1 May 2019, 55 points by 1 May 2021 and all residual points by 2023.

The obligation does not specify a type of technology, but the distribution businesses may meet the prescribed fault detection and suppression capability by deploying rapid earth fault current limiters. The bill also specifies that the distribution businesses must construct or replace high-voltage bare wire powerlines in 33 specified electric line construction areas either by undergrounding or constructing covered conductors. These powerlines must be compliant with this standard upon inspection by Energy Safe Victoria. The bill requires that the distribution businesses deliver all remaining single-wire earth return powerlines automatic circuit reclosers by 31 December 2020.

The bill provides for a staged rollout of this safety-improving technology on single-wire earth return lines and 22-kilovolt lines effectively in three tranches — two years, two years and two years. On that point the coalition does not demur. We said this should be done within a 10-year period when we announced it in 2011. I think the government has probably slowed things down slightly, but this should be something which the community can get behind in terms of making sure we get this rollout happening as quickly as possible.

The bill also provides for civil penalties to be applied to the electricity distribution businesses if they do not meet the time lines, so there is certainly going to be a financial imperative on the distribution businesses to

meet these time lines. I understand that despite the fact that the previous government tried to work closely with the distribution businesses to get this work happening, the current government has not perhaps worked quite as closely. In fact I understand the distribution businesses did not know about this bill entering the Parliament until in some cases the night before and in some cases after it was introduced.

The distribution businesses are not the enemy. I do not think they should be seen as the enemy. They should be seen as partners in trying to improve the safety of powerlines. While I know as energy minister I had a few run-ins with distribution businesses — we do not always see eye to eye, and certainly I did not always see eye to eye with them — I think this is a program which would be better implemented if there was a bit more consultation happening with the businesses, rather than just dropping things on them out of the clear blue sky. The level of civil penalties could be significant. There can be a maximum of $2 million for each point under the total required for each delivery milestone, and $5500 for each day of non-compliance that follows.

There are things in this bill which we may not have necessarily put in entirely ourselves, but on the whole the bill seeks to improve safety in bushfire-prone areas. While the time line is perhaps trying to make up for some of the government's lost time — some might say the time line is ambitious — we think it is important that safety in these areas be delivered as quickly as possible. Many of us were here in 2009 and remember the devastation of Black Saturday — whether members were here or not, Victorians remember it — and we cannot afford to have that happen again.

On that basis, the coalition does not oppose this bill. I appreciate that other members wish to speak, so I will resist the temptation to continue my remarks and I will wind this up. I pay tribute to the work the member for Caulfield has done in relation to this bill and to his work in carrying the mantle as spokesman for the coalition on electricity and energy matters. I think this bill will improve powerline bushfire safety, and anything which can contribute to Victoria being safer and to the avoidance of a repeat of Black Saturday is something which all Victorians should take some confidence in.

Ms GREEN (Yan Yean) — I join the debate on the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017, and I do so noting that it is just a bit over eight years since the tragedy of Black Saturday, in which so many Victorians were dreadfully impacted and 173 lost their lives. The large majority of the lives lost were lost due to the failure of electricity distribution assets. In my own community a fire began in Saunders Road, Kilmore East, and 117 members of my local community lost their lives. That was certainly the reason why that fire began.

I want to thank the Minister for Energy, Environment and Climate Change for her diligence in bringing this bill to the house. I know that like me she has a great deal of understanding of the impact of those Black Saturday fires. Indeed both our electorates share a boundary with Plenty Gorge Park, and there was a 100-hectare fire in Plenty Gorge that almost no-one knows about because fortunately no lives or property were lost. With a wind change, however, it could have been completely different. There were ember attacks from that fire in backyards in Mill Park, right in the heart of the minister's electorate, and she very much understands that.

I think it was sad but not surprising that the lead speaker from the opposition took such an aggressive stance in his contribution, throwing around blame, as is his wont — 'Look over there. They're bad, we're good. Gee, I was good as a minister' — but that is the sort of thing we expect from the member for Malvern.

I might make a few comments about what occurred on the watch of those opposite — during the years 2010 to 2014 — which did not support bushfire communities and which did not mitigate against the risk of fires. I would remind the member for Malvern and others on the other side that you do not mitigate fire risk by slashing the budget and staffing of Parks Victoria. You certainly do not mitigate fire risk by handing that responsibility over to the National Party, ensuring that parks are not able to be properly maintained to support communities living around those parks. You also do not mitigate fire risk by slashing the fire services budget by $66 million, which is what those opposite did.

Mr M. O'Brien interjected.

Ms GREEN — You had your turn, member for Malvern, and you are now on the opposition benches. You also do not mitigate fire risk by slashing the education budget, including ensuring the loss of each and every single staff member in the emergency management branch within the education department, whose task it was to support schools to mitigate future emergencies like this and to actually — —

Ms McLeish interjected.

Ms GREEN — What did you do about Strathewen or any of those other schools? The member for Eildon interjects, when she did not stand up at all — —

Mrs Fyffe — On a point of order, Acting Speaker, I would ask that you bring the member back to speaking on the bill, not just attacking members of the opposition.

The ACTING SPEAKER (**Ms Kilkenny**) — Order! There is no point of order.

Ms GREEN — I am speaking after the lead speaker for the opposition, and there were a number of comments made about so-called failings of Labor in government, whether pre-2010 or post-2014. In terms of mitigating fire risk, you do not cut the budgets of government agencies that have a responsibility and an obligation to support communities and to protect them against fire. That is my point, member for Eildon. You were silent on numerous occasions every time budgets were cut in the electorate that was so gutted by the fires of Black Saturday — —

Mrs Fyffe — On a point of order, Acting Speaker, I would ask that you direct the member to address references through the Chair.

The ACTING SPEAKER (Ms Kilkenny) — Order! I thank the member. Yes, I will ask the member to direct her comments through the Chair.

Ms GREEN — Thank you for your ruling, Acting Speaker. As I said, it is instructive that this bill was introduced in the month of the eighth anniversary of the Black Saturday fires. The Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill is needed because a bushfire can be literally a matter of life and death, and strong compliance measures are essential to ensure electricity distribution businesses do the right thing. This bill introduces a compliance regime that will ensure that electricity distribution businesses deliver these safety benefits for Victorians. The bill provides that distribution businesses can be liable for civil penalties if they fail to meet the safety standards and time lines required by the existing bushfire mitigation regulations. These penalties reflect the seriousness with which Victorian people expect the distribution businesses to take their bushfire safety responsibilities. These compliance measures are a last resort that the director of energy safety or the Minister for Energy, Environment and Climate Change may employ against electricity distribution businesses which fail to meet their bushfire mitigation obligations.

These penalties include $2 million for every point under the total required for each delivery milestone for the 45 zone substations and $5500 for every day of non-compliance following. An initial penalty of $350 000 for every kilometre of installed powerline in the 33 specified electric line construction areas that has been found to be non-compliant with the new standards, with a $1000 penalty for every kilometre each day after. There is a $50 000 penalty for each single-wire earth return automatic circuit recloser not installed to standard, and $150 for each day following. As a measure of last resort, these enforcement powers are not intended to be used lightly or capriciously. The bill specifically provides for extensions and exemptions where there are valid reasons for delay or change to the technical operation requirements for specific installations. In this way the bill ensures that the technology agreed to by the business is deployed to the best of their abilities in the time frames they agreed to and at the appropriate standards to prevent bushfires.

The member for Malvern also referred to ensuring that there is stability in the network and that consumers have access to electricity and the grid. I would remind the member for Malvern that there were a huge number of blackouts during his tenure and that of those opposite when in government. Let us not forget that. They presided over record customer electricity disconnections last time they were in government. Over the past five or six summers the largest number of inquiries that have been made to my office have been about interruption to supply and blackouts, so a regime is needed to ensure that not only is safety adhered to but that distributors are actually delivering power when it is needed and that consumers are not endangered by loss of power and are able to protect themselves and continue their business.

I do not believe that those opposite were actually tough in that respect in protecting consumers. On this side of the house we are always more concerned than the other side about protecting consumers and about having effective regimes to ensure that they are protected, which is why we have a task force set up with oversight by John Thwaites and Terry Mulder which will ensure there is no price gouging. I commend the bill to the house.

Mr T. BULL (Gippsland East) — I rise to make a contribution on the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017, and state that the coalition has always been strongly committed to bushfire mitigation and ensuring the community's safety. In response to the comments by the member for Yan Yean that we cut the Country Fire Authority (CFA) budget, the documentation is there to show that every CFA budget under the coalition — every one — was significantly higher than the last Labor budget in 2009–10. Every one was significantly higher.

In my electorate of Gippsland East the threat of fire is constant. It is not a case of if it is going to arrive but when, and communities will always experience fire. This bill addresses one aspect of fire mitigation. It is my firm view that we need to undertake more controlled burning in regions like mine, and I will discuss that a little bit later. As the shadow Treasurer has pointed out, in 2011 it was in fact the former coalition government that announced a $750 million powerline bushfire safety program. The program included a government contribution of up to $200 million over 10 years towards the replacement of the most dangerous powerlines in the state that would otherwise have not been replaced.

While this bill imposes additional bushfire mitigation requirements on the major electricity companies, one aspect of concern that has been raised is the lack of consultation with those companies regarding the contents of the bill. This should have occurred given that distributors, which will be made to undertake these works, do face large punitive fines if they do not achieve what they are meant to. In a period of rising power prices due to the closure of Hazelwood there have been concerns raised that the costs of this may be passed on to customers. Of course we have seen the results of what wildfire can do within this state. It can be devastating, and it can be heartbreaking. While this bill is certainly a step in the right direction to improve standards relating to powerlines, we must look at protecting our towns, communities and landscape by doing more fuel reduction burning as well. Things will always go wrong, and it will not always be powerlines or human-initiated fire that create these blazes that we often see raging through our landscape. Lightning strikes, for instance, are a major fire starter, and that is why in line with these improvements we need to take other mitigation measures.

While levels of controlled fuel burning did improve under the previous coalition government, we have increasing fuel loads in the bush that in the right conditions will raze the forest. Many studies have shown that the extent of fire lighting by Indigenous Australians was significant, with one estimate being that 40 people inhabiting 3000 hectares would light on average 5000 fires annually. That is an enormous number of fires lit annually to control the landscape. They developed firestick farming, which created a variety of habitats to meet a variety of needs, including hunting, removing woody regrowth and protecting rainforests and other specific habitats.

There is also considerable evidence that while fuel reduction burns may not always halt a bushfire under severe conditions — we are well aware of that — they do have a moderating effect on the fire and allow for control when conditions improve. In putting fuel reduction burning into context with firefighting under extreme conditions, New South Wales State Forests worker John Fisher summed it up well when he told a New South Wales bushfires inquiry that:

> The opponents of fuel reduction burning fail to realise the operational difficulty of fighting a wildfire in extreme conditions. The only option or tool that State Forests NSW has available is the manipulation of fuel in the fire triangle …

that triangle being ignition, air and fuel — the three things required for fire. He goes on to say:

> Even in a fuel-reduced area, on extreme days there is no question that fires would burn through those fuels as well, but the moderating effect of that fuel reduction activity is quite profound and is quite useful in the periods of the day when those extreme fire behaviours wane. We use that through the nightshift to effect further fuel reduction burnings or back-burns, as you have seen, and that provides us with a safe and effective means to control fires on our estate.

Here is a man who is at the forefront of fighting fires in this country espousing the benefits of fuel reduction burning. This fellow knows what he is talking about.

Closer to home, in East Gippsland we have seen the benefits of fuel reduction burns as recently as in the Tostaree fires in 2011. An inquiry after the 2011 Tostaree fire — which occurred in the area between Lakes Entrance and Orbost — concluded that the network of previous fuel reduction burns in and around the Tostaree area was an important element of the control and containment strategies used on the fire. The network of previous fuel reduction burns was a major element of the control strategy for this fire. Those people that want to reduce the levels of fuel reduction burns — they are often people living in the inner city on concrete — do not understand the importance of this fire control measure in rural and regional areas in relation to asset protection.

But it is not just about protecting assets or communities. The firestick approach of regular cool burns also looks after our natural landscape. It is a practice that was put in place by our earliest Australians — our Aboriginal Australians — and has been around for thousands and thousands of years. That has been the focus of recent firestick information and education days in Victoria and these more regular cool burns — environmental burns, fuel reduction burns — are something that I very strongly encourage the government to investigate.

I will finish my contribution now by saying that I hope this practice is thoroughly looked at as a future way of conducting more fuel reduction burns and making the community safer in the great state of Victoria.

Ms EDWARDS (Bendigo West) — I am pleased to rise to make a contribution on the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017. Acting Speaker, as you would have heard from previous speakers, this bill is about implementing the further recommendations of the 2009 Victorian Bushfires Royal Commission. As people in this house may remember, there were a total of eight recommendations regarding electricity assets and to date seven of those have been fully met. The remaining one, recommendation 27, refers to the replacement of existing powerlines with new, safer assets. With the introduction of this bill this recommendation will be fully met and the legacy of enhanced powerline safety secure for Victorians.

The other point we need to make about this bill is that — while I note that the member for Malvern was quite keen on doing some political pointscoring around bushfires and the recommendations — I think it is pertinent to remind members that many, many people lost their lives on Black Saturday and this is actually about protecting people's lives and assets. I would not have thought that this was a time for political attacks about who introduced what, when and where. On that point I think it is also pertinent to make note of the fact that under this government the powerline bushfire safety program has been advanced in its delivery by two years. That means that all of Victoria will be safer a lot earlier.

It is also pertinent to say that under this government the fire factor regime has been targeted to allocate operations to the highest bushfire-risk areas. It is a weighted and considered approach rather than a blanket, full-state approach.

At the time of Black Saturday I was working for the then Minister for Police and Emergency Service. I think we can all recall how traumatic that day and the following days and weeks were for many of the ministers in that government and also for many, many Victorians. Of course my city of Bendigo was not immune. Indeed we experienced an unprecedented and catastrophic event as those firestorms raged through our city. The Bracewell Street fire, as it came to be known, swept quickly and with very little warning through the north-west of the city. The wind gusts at the time were up to 80 kilometres an hour and temperatures were in the mid-40s. The fire took the life of one resident along with numerous pets and wildlife. It destroyed 58 homes, countless sheds and outbuildings, cars, boats and caravans. In a very few short hours it devastated an area of almost 500 hectares and came very close to spreading to the centre of Bendigo, our CBD. It is very clear that it changed the lives of many people forever. The fire in Bendigo on Black Saturday was not started by downed powerlines, unlike many across the state. Nevertheless I think it is really important for all communities to have confidence in the fact that as a government we are now legislating to ensure that powerlines will no longer be the cause of major bushfires. In fact the undergrounding and the introduction of rapid earth fault current limiters and other measures will create a less than 80 per cent chance of electricity wires causing a fire once they are implemented.

Importantly this bill will enable civil penalties to be applied to electricity companies which fail to implement the technology — which, I might add, was developed right here in Victoria — to prevent those powerlines from causing fires. The distribution businesses will be required to install adjustable automatic circuit reclosers, which help detect faults and reduce the fire risk on single-phase powerlines. The regulations were developed in very close consultation with the network businesses. The distribution businesses have also worked with government to test and further develop these bushfire risk mitigation technologies to meet the bushfire mitigation standards.

The penalties listed in this piece of legislation are meant to be measures of last resort, and I think it is important to make that point. These enforcement powers are not intended to be used lightly nor are they intended to be used capriciously. The bill specifically provides for extensions and exemptions where there are valid reasons for delays or changes to the technical operation requirements for specific installations. The penalties include $2 million for every point under the total required for each delivery milestone for the 45 zoned substations, and $5500 for every day of non-compliance following; an initial penalty of $350 000 for every kilometre of installed powerline in the 33 electric line construction areas that have been found to be non-compliant with the new standards, with $1000 for every kilometre each day after; and $50 000 for each single-wire earth return automatic circuit recloser not installed to standard, and $150 for each day following.

By applying these civic compliance measures the bill simply ensures that the technology agreed to by the businesses is deployed to the best of their abilities, in the time frames they agreed to and at the appropriate standards to prevent bushfires. Basically that is the bottom line. It is about making sure that they comply with the standards that we have put in place to protect our Victorian communities. I know there are other members who want to speak on this bill, so I commend the bill to the house.

Mr WELLS (Rowville) — I rise to join the debate on the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017. I guess everyone in the house remembers certain things and certain events in their life, and Black Saturday was certainly one of those events. At home in Wantirna that afternoon the temperature gauge was sitting at 46 degrees. It was absolutely incredible. I went to speak at a Chinese function that night. I left the Chinese function not realising the severity of what had actually happened. On the way home I was listening to 3AW and the callers outlining just how bad the fires were. People found themselves stuck in places and were waiting for the Parks Victoria and Country Fire Authority (CFA) volunteers to try to get paths open so that they could get out of those towns quickly and with their lives intact. Unfortunately of course that did not happen everywhere.

I just want to pick up a point made by the member for Yan Yean. I know I should not do this, but the facts are very clear: for every year that we were in government between 2010 and 2014, there was an increase — a record increase — in the amount of money that was given to the Metropolitan Fire Brigade (MFB) and to the CFA. The reason I know the United Firefighters Union (UFU) have such control over Labor members is that they keep using the number $66 million, and $66 million is the same number that Peter Marshall uses at the UFU. It is parroted by Labor members. If it was another figure, I would know that they had mixed up their numbers and had not read the budget papers correctly.

When it comes to the budget papers, I am still waiting for there to be one Labor member of Parliament who is able to come into the house to show where there was a cut. They have not been able to do that. They have been in office for two and a half years and they have not been able to do that, but they still go around telling the story that there was a $66 million cut. It is wrong. There was a record budget in the MFB and the CFA every single year.

This bill is in relation to bushfire mitigation, and the shadow Treasurer made it very clear that, when he was the Minister for Energy and Resources in the previous coalition government, the coalition put in a lot of time and effort into bushfire mitigation, especially when it came to powerlines. When the bushfire recommendations came down — there were 67 of them — the coalition government accepted the whole 67. Yes, it was difficult, but we felt that it was absolutely necessary to make sure that Victoria was as safe as possible in regard to bushfires.

Like the member for Gippsland East, who grew up around the Bairnsdale and Metung area, I grew up around Bairnsdale. Every summer we knew that we were going to get hit by bushfires — absolutely every single year, almost without fail. It is not acceptable to have a powerline system that is not safe. When you look at the 159 of the 173 lives that were lost because of faulty powerlines, you start to think that we have got to do something efficiently and as quickly as possible. We found ourselves in the situation of having to deal with two extra recommendations that the previous Labor government would not pick up — recommendations 27 and 32 — which made sure that we were going to make Victoria safe.

This bill details significant compliance activities that are required to be introduced by power companies. That is a good move. High-voltage powerlines must be constructed or replaced or be put underground and single-wire earth return lines, where possible, are to be fitted with powerline automatic circuit reclosers by 31 December 2020 — absolutely crucial things that need to be done.

It is disappointing that we cannot see — and the shadow minister mentioned this — where there has been consultation with the stakeholders. It seems very odd. If you were going to make such significant changes, you would make those changes in consultation with the stakeholders to make sure that they had a full understanding of the compliance that is required and the roles that they need to fulfil to make this legislation work and work properly.

It is also worth noting that when the bushfires royal commission implementation monitor, Neil Comrie, spoke about the way the previous coalition government was implementing the recommendations, he noted in his final report in 2014:

> It is pleasing to record that Victoria is now, for a broad range of reasons, including the implementation of the VBRC recommendations, in a much better state of preparedness to deal with the threat of bushfire and other natural disasters than it was on Black Saturday.

He then went on to say:

> … positive progress of the powerline reform program under the direction of the powerline bushfire safety oversight committee …

So they were good, positive steps. We are hoping that Victoria is a safer place as a result of this legislation, although we do note that with the lack of consultation, we are in a position where we do not oppose.

Mr HOWARD (Buninyong) — I am certainly also pleased to speak on the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017. As has been pointed out, this month marks the eighth anniversary of the horrendous Black Saturday bushfires. I imagine every member in this house can remember what they were doing on that particular day and remember the news as it came in with regard to how dramatic and how horrifying the effects and the outcomes of that day were across this state.

In my electorate of Buninyong of course there are a number of areas that have high bush content both within the Ballarat area — Mount Clear and Mount Helen — and also in the Anakie ranges, Enfield, Wombat forest and many parts across my electorate. There is a lot of farming grassland, which of course is also prone to bushfires. So there were not many parts of the state where people did not start to think, 'What do we do as a result of this awful event?'. We had the 2009 Victorian Bushfires Royal Commission, and a number of recommendations came out of that.

I note the member for Malvern has proudly said that the coalition accepted all of the recommendations of the royal commission, whereas our government at the time said it had concerns about some of the recommendations. There were issues that needed to be reflected upon, whether that was in regard to fuel reduction burns or other areas. There was a recommendation to replace all of the single-wire earth return wiring across the state. We said that would put a substantial cost back onto electricity users — families — across the state, and it was a matter of how we worked through a process to best ensure that our electricity cabling was going to be safe and that we could ensure it would not cause future bushfires.

This legislation in fact would not be necessary if the then coalition government had addressed this issue fully as it said it would. It shows that there is a long way to go. It was always going to be a slow process, or a process that would take time, before we could ensure that we would replace both the single-wire earth return wiring across the countryside where that older-style wiring was still in place and also replace high-voltage bare-wire powerlines in specific locations where we identified fire risks — and 33 specific locations were identified.

This bill then places those high, clearer requirements on our electricity distribution networks to ensure that they follow through a process of replacing that wiring either by undergrounding, by area bundle cabling or by constructing a covered conducting system to ensure that the wiring will be safe in those areas where we have identified bushfire risk. That is a key component of this legislation: to set in place clear guidelines for what those power companies need to do on a regular basis each year now until all of that is done by 31 December 2020.

We have also required the distribution companies to report back on how they are complying with all of the other issues such as ensuring that we have appropriate circuit reclosers. It is important to have a system for identifying faults when they occur and have the opportunity to close circuits when necessary, and to ensure that we improve the reliability so that we can identify faults if they do occur. We try to prevent any faults from happening but we need to identify faults when they take place — or at least the power companies need to do so — and address them as quickly as possible to assure people across this state, where we know fire risk continues to be a significant concern, that they can rest in the knowledge that this government, the Andrews government, is taking further action.

The bill ensures that the power companies, having such a responsibility over that fire risk that we saw exposed through the Black Saturday fires, do take their responsibilities seriously and that there is a continuous approach to ensure that they take more and more action to close off those risks that we still identify. It is a slow and costly process, but it needs to be done, and this government is clearly onto it.

I note the member for Gippsland East talked about fuel reduction burns. In my brief contribution I want to say in regard to the bushfires royal commission's recommendations of percentage burns that I am pleased to see that we are taking an approach of not just looking at conducting fuel reduction burns in a broadbrush percentage of Crown land but of recognising that we need to do it on a risk assessment basis, that burning in one area is not as effective as burning in another. We know that there are also great risks when you do fuel reduction burns. They need to be done under the right conditions or they can indeed get away and cause greater harm than the risks we are trying to overcome.

Clearly the point of this legislation is that the Andrews government is on track. We are looking ahead to all fire seasons to see how we can improve our legislation and tighten up the requirements for power companies in this case. We also want to work through processes within Parks Victoria, the Department of Environment, Land, Water and Planning and other areas of the state to ensure that we are continuing to be active in seeking to keep this state safe against further bushfire risks.

Ms McLEISH (Eildon) — I am pleased to contribute to the debate on the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017 that is before the house. This bill amends the Electricity Safety Act 1998 to impose bushfire mitigation requirements on major electricity companies. With regard to those requirements it establishes a civil penalty enforcement regime. Why is this necessary? Clearly we know that problems can occur with bushfires in regard to electricity infrastructure, and this is about minimising the risk to the community and minimising the bushfire risk.

Failures of infrastructure can lead to bushfires, which can have devastating effects. We saw that occur on Black Saturday just over eight years ago, when 173 lives were lost. But 159 of those were due to fires caused by powerline failures.

The 2009 Victorian Bushfires Royal Commission made a number of recommendations to the then Brumby government; not all of them were adopted. In fact, those around bushfire powerline safety were seen as perhaps too challenging and too costly, including that all single-wire earth return power cables were to be replaced with aerial bundled cables or to be buried underground.

Also I want to record that the then Premier and then police commissioner were pretty hard on the fact that these fires were caused by arson and people were described as arson 'terrorists'. The fact that powerlines had been spotted down in Murrindindi was ignored and the finger was well and truly pointed at Ronnie Philpott. Talk about ruining somebody's life. It has come out, as we saw through the class action, that it was a powerline failure, not arson, that led to the Murrindindi fire.

Upon coming into government Premier Baillieu promised to implement every recommendation of the royal commission's final report, as well as recommendations of the powerline bushfire safety task force. These included a number of recommendations around powerline safety.

In December 2011 I accompanied the former energy minister when he announced the program that would be undertaken. That works program was to reduce the risk to electricity assets, and it was to involve government agencies and the electricity distribution businesses. There was to be an investment of $500 million in new generation electrical asset protection and control equipment, among a number of other things. The cost was to be borne by the electricity distribution businesses. There would be strict controls and oversight arrangements to make sure that this could be cost effective.

I have watched the rollout. It is underway in my electorate quite a lot. We have had the undergrounding of cables between Don Valley and Healesville. We have had bundling of cables in the Upper Yarra quite extensively, and the rapid earth fault current limiters — the trip switches — have been installed at Woori Yallock, with another one coming on in Woori Yallock and one in Rubicon. Spacer cables have been implemented as well. So a lot of this work is already being undertaken in my electorate; a big part of my electorate is regarded as being a very high bushfire risk.

The requirements that are put forward in this bill comprise a very rigorous timetable. It is quite demanding and it might be quite challenging for the distributors, but I do know that they have known since December 2011 that this was going to be happening. They did not know perhaps that the penalty scheme was coming on. They found that out by telephone the night before, which I think is extremely unfair. There was very little engagement with the energy distributors at this point — we had worked very constructively with them over time — and I think that is very typical of this government's attitude towards third parties and consultation.

With the work that is being undertaken, certainly a lot of this work is new. In Europe the rapid earth fault current limiters have been installed as a means of improving the regularity of power supply. We are looking at a slightly different context here and it is certainly new. It might be quite difficult but, as I said, they have known for quite some time that they have had opportunities to start working and testing this.

I am concerned that there have been a number of planned outages which have not actually gone ahead. What bugs the community more is the number of constant unplanned outages. It got to the point that at one time the doctors surgery in Warburton was advised by the Department of Health and Human Services that it would no longer be able to carry vaccinations because it could not be guaranteed a reliable power source. There are lots of cafes and other small businesses that have lost considerable money with the loss of product and stock through these outages.

I think having these penalties in place will force the distributors to actually look very closely at what they do, how they do it and where they can be very efficient and productive in terms of how they allocate their resources. Sending trucks out in slippery areas in the middle of winter when the work cannot be done is

perhaps not the best use of their time. I do caution that there are a number of elements here that will be challenging for the power companies.

Mr J. BULL (Sunbury) — I am also very pleased to have the opportunity to contribute to the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017. This is a very important piece of legislation and it goes to the heart of safety for each and every Victorian.

The 2009 Black Saturday bushfires caused a level of devastation rarely seen in this state. I, like many, can remember exactly where I was on the day when I learned of the lives lost and the devastation caused. The fires occurred during extreme bushfire weather conditions and resulted in Australia's highest ever loss of life from a bushfire: 173 people died and 414 people were injured. As many as 400 individual fires were recorded on 7 February 2009. It really was the worst possible day. We know that the fires commenced from several localities, including in Melbourne, and many parts of Victoria also recorded their highest temperatures since records began in 1859.

I do recall in the lead-up to the day the then Premier, John Brumby, was quoted in the media as having said:

> It's just as bad a day as you can imagine and on top of that the state is just tinder-dry. People need to exercise real common sense tomorrow.

The then Premier went on to state that it was expected to be the worst day ever seen in the state in terms of fire conditions.

In the wake of such devastation the 2009 Victorian Bushfires Royal Commission recommended the rollout of bushfire protection technologies to reduce the risk of powerline-started bushfires and to increase safety for Victorians through this process. Powerline-started fires were responsible for 159 of the 173 lives lost and contributed to the loss of 2000 homes. To lose everything on that day — all of your possessions, everything that meant so much to you — would have been incredibly devastating.

We know that Bernard Teague, AO, Ron McLeod and Susan Pascoe in the royal commission report state that:

> The 2009 Victorian Bushfires Royal Commission was an important part of ensuring that those lessons are clearly defined and learnt. The commission conducted an extensive investigation into the causes of, the preparation for, the response to and the impact of the fires that burned throughout Victoria in late January and February 2009. As commissioners, we concentrated on gaining an understanding of precisely what took place and how the risks of such a tragedy recurring might be reduced.

We have heard this afternoon that a number of key recommendations were made by the bushfires royal commission. It was an incredibly powerful and important piece of work that was done, and the recommendations were certainly something that was of great interest to many right across the state. The importance of taking preventative, precautionary measures to protect lives and property from the threat of bushfires cannot be underestimated. As members of Parliament and the government we need to ensure that we take all measures to reduce the risks associated with power providers because these can literally be a matter of life and death and it is vital that strong compliance measures are enforced.

I am aware that there are other speakers on this bill and other business to deal with in the house this afternoon. I want to take the opportunity, though, to thank our extremely hardworking emergency services staff and volunteers at the Country Fire Authority, the Metropolitan Fire Brigade, Victoria Police, the State Emergency Service and supporting agencies. I have got no doubt that these agencies will be supportive of this legislation as it enhances and protects the safety of all Victorians, in particular in our rural and regional areas — we have certainly heard from many of our rural and regional members on this bill. Just a few weeks ago these agencies worked very hard in my electorate to stop the Diggers Rest grassfire. It was through the great coordination of these agencies, through Emergency Management Victoria, that support was provided to all of those residents that were affected and essentially in the path of a fast-moving grassfire.

The Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill introduces a compliance regime that will ensure that electricity distribution businesses deliver these safety benefits for all Victorians. It is a bill that ensures distribution businesses can be liable for civil penalties if they fail to meet the safety standards and time lines required by the existing bushfire mitigation regulations. Certainly we have heard about the extent and level of penalties that can be imposed by government, and these are very important penalties. We know that these are very important measures.

We know that when it comes to the protection of lives and property, these are the things that this government stands for. I am certainly very proud of this legislation. We do live in a dangerous environment and we should never forget how quickly conditions can change. This is an important piece of legislation, and I commend it to the house.

Ms SHEED (Shepparton) — I am pleased to have the opportunity to make a short contribution in relation to the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017. This is a bill which relates primarily to enforcement of bushfire mitigation requirements for electricity distribution companies. I note that it follows on from recommendation 27 of the 2009 Victorian Bushfires Royal Commission. Given what we now know about how the Black Saturday bushfires started, recommendation 27 is of critical importance. To paraphrase, it is the recommendation for the progressive replacement of all single-wire powerlines in Victoria with aerial-bundled cable, underground cabling or other technology that delivers greatly reduced bushfire risk. It further recommends that this task be undertaken within 10 years and continue to roll out in areas with lower bushfire risks as lines reach their use-by dates.

Black Saturday is certainly etched in my memory also. As the day wore on I was shocked to feel the heat that was outside. It felt ominous, and of course we had had warnings days before. We stayed inside and we had ABC Radio 774 on. It was chilling to start hearing the news of the fires that had started, and of course it was not until much later that the understanding of the devastation that had occurred to our neighbouring communities came to us. As the final figures came in over the following days and weeks it was shocking to realise that 173 people had lost their lives in those fires. It was also particularly shocking to much later find out — from information supplied by the royal commission — that powerlines were responsible for 159 of the lives that were lost. There were also 2000 homes lost, and $4.4 billion in property damage was suffered by Victorians at that time.

As time passes and to some extent we put the horror of that behind us, it is easy sometimes to forget the importance of fulfilling recommendations, but I am very pleased to see that this house has over a number of years consistently rolled out the recommendations of the royal commission, and these are some of the last recommendations being fulfilled now.

Bushfires are very much a part of the Australian landscape. Where I live, in my electorate, we had the Wunghnu bushfires only two or three years ago. They were fast grassfires of an entirely different nature to the Black Saturday bushfires, which went through large forested areas. But we also have forest in my electorate, and that is the Barmah National Park, and people in my electorate talk to me often about their fear of fire in that park because of the lack of attention to it. I have heard the member for Gippsland East talk about controlled burning and about the need to keep our forest areas cleaned up a bit and to look after them when we can to avoid the intensity and ferocity of fire that can occur if we do not attend to them in that way.

We have a Country Fire Authority (CFA) unit in Barmah and in Nathalia, and they would be the first to be called in if our national park at Barmah caught on fire. It is 70 000 acres of forest land, and on hot, dry days it is just a tinderbox. I would like to acknowledge our CFA volunteers throughout the state, and particularly my area, for the enormous amount of effort and work they put into so willingly protecting our local communities.

The powerlines are just a part of what needs to be done, though, and it is the controlled burning, it is the cleaning of our forest floors and it is the chopping down of saplings that are unnecessarily growing that are also important. While on the one hand we have removed logging from our forests and we have removed cattle from our forests, that was done on the understanding that other protective works would be done and that we would be turning these areas into very valuable tourism opportunities. That actually has not happened, and I would urge the government to consider the resourcing of Parks Victoria to actually undertake a lot of the work that the Victorian Environmental Assessment Council had anticipated would happen when it did its report some time ago. This is important, but so many other areas of fire mitigation are too. I commend the bill to the house.

Debate adjourned on motion of Mr NOONAN (Minister for Industry and Employment).

Debate adjourned until later this day.

CRIMES (MENTAL IMPAIRMENT AND UNFITNESS TO BE TRIED) AMENDMENT BILL 2016

Second reading

Debate resumed from 22 February; motion of Mr PAKULA (Attorney-General); and Mr PESUTTO's amendment:

That all the words after 'That' be omitted with the view of inserting in their place the words

'this bill be withdrawn and redrafted to —

(1) take into account further consultation about the substantive matters of the bill; and

(2) retain the procedural components of the bill so the operational improvements identified in the Victorian Law Reform Commission's *Review of*

the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 can be achieved'.

The ACTING SPEAKER (**Mr Angus**) — Order! The minister has moved that the bill be read a second time. The member for Hawthorn has moved a reasoned amendment to this motion. He has proposed to omit all the words after 'That' with the view of inserting in their place the words set out on the notice paper. Members supporting the member for Hawthorn's amendment should vote no. The question is:

That the words proposed to be omitted stand part of the motion.

House divided on omission (members in favour vote no):

Ayes, 46

Allan, Ms	Knight, Ms
Andrews, Mr	Lim, Mr
Blandthorn, Ms	McGuire, Mr
Brooks, Mr	Merlino, Mr
Bull, Mr J.	Nardella, Mr
Carbines, Mr	Neville, Ms
Carroll, Mr	Noonan, Mr
Couzens, Ms	Pakula, Mr
D'Ambrosio, Ms	Pallas, Mr
Dimopoulos, Mr	Pearson, Mr
Donnellan, Mr	Perera, Mr
Edbrooke, Mr	Richardson, Mr
Edwards, Ms	Richardson, Ms
Eren, Mr	Scott, Mr
Foley, Mr	Sheed, Ms
Graley, Ms	Spence, Ms
Green, Ms	Staikos, Mr
Halfpenny, Ms	Suleyman, Ms
Hibbins, Mr	Thomas, Ms
Howard, Mr	Thomson, Ms
Hutchins, Ms	Ward, Ms
Kairouz, Ms	Williams, Ms
Kilkenny, Ms	Wynne, Mr

Noes, 34

Angus, Mr	O'Brien, Mr D.
Battin, Mr	O'Brien, Mr M.
Blackwood, Mr	Paynter, Mr
Britnell, Ms	Pesutto, Mr
Bull, Mr T.	Riordan, Mr
Burgess, Mr	Ryall, Ms
Clark, Mr	Ryan, Ms
Crisp, Mr	Smith, Mr R.
Dixon, Mr	Smith, Mr T.
Fyffe, Mrs	Staley, Ms
Gidley, Mr	Thompson, Mr
Hodgett, Mr	Tilley, Mr
Katos, Mr	Victoria, Ms
McCurdy, Mr	Wakeling, Mr
McLeish, Ms	Walsh, Mr
Morris, Mr	Watt, Mr
Northe, Mr	Wells, Mr

Amendment defeated.

House divided on motion:

Ayes, 46

Allan, Ms	Knight, Ms
Andrews, Mr	Lim, Mr
Blandthorn, Ms	McGuire, Mr
Brooks, Mr	Merlino, Mr
Bull, Mr J.	Nardella, Mr
Carbines, Mr	Neville, Ms
Carroll, Mr	Noonan, Mr
Couzens, Ms	Pakula, Mr
D'Ambrosio, Ms	Pallas, Mr
Dimopoulos, Mr	Pearson, Mr
Donnellan, Mr	Perera, Mr
Edbrooke, Mr	Richardson, Mr
Edwards, Ms	Richardson, Ms
Eren, Mr	Scott, Mr
Foley, Mr	Sheed, Ms
Graley, Ms	Spence, Ms
Green, Ms	Staikos, Mr
Halfpenny, Ms	Suleyman, Ms
Hibbins, Mr	Thomas, Ms
Howard, Mr	Thomson, Ms
Hutchins, Ms	Ward, Ms
Kairouz, Ms	Williams, Ms
Kilkenny, Ms	Wynne, Mr

Noes, 34

Angus, Mr	O'Brien, Mr D.
Battin, Mr	O'Brien, Mr M.
Blackwood, Mr	Paynter, Mr
Britnell, Ms	Pesutto, Mr
Bull, Mr T.	Riordan, Mr
Burgess, Mr	Ryall, Ms
Clark, Mr	Ryan, Ms
Crisp, Mr	Smith, Mr R.
Dixon, Mr	Smith, Mr T.
Fyffe, Mrs	Staley, Ms
Gidley, Mr	Thompson, Mr
Hodgett, Mr	Tilley, Mr
Katos, Mr	Victoria, Ms
McCurdy, Mr	Wakeling, Mr
McLeish, Ms	Walsh, Mr
Morris, Mr	Watt, Mr
Northe, Mr	Wells, Mr

Motion agreed to.

Read second time.

Consideration in detail

Clauses 1 to 4 agreed to.

Clause 5

Mr PESUTTO (Hawthorn) — I wanted to ask the Attorney-General about clause 5 and the proposals for new sections 3A, 3B and 3C. Starting with 3A, many people have asked me what the meaning and effect of 3A will be in practice. I acknowledge that, in a consistent manner with the Victorian Law Reform Commission recommendations, what is proposed in the bill at one level, it is clear, is that it tries to exclude from the definition of mental impairment a temporary disorder or disturbance of an otherwise healthy mind

caused by an external event. If I have understood everything I have read and heard about this provision, that is intended to preclude somebody who self-induces, for example, by consuming ice, thereby committing a criminal act and then tyring to invoke mental impairment as a defence. One thing that is certainly not clear at all from the example that is attached to new subsection (1) of proposed new section 3A is what in effect this will mean. The example provides that:

> A person who experiences psychosis as a result of the consumption of a psychoactive drug does not have a mental impairment for the purposes of this Act unless the consumption of the drug has triggered an underlying mental condition that exists independently of the effects of the drug.

It has been raised with me, and I too have to confess I have some lingering concerns about what that definition might allow in practice. I was hoping the Attorney-General might be able to expand on some of those risks about whether people who do consume a drug that triggers an underlying condition might therefore be able to argue that the underlying condition triggered existed independently of the drug or alcohol consumed.

Mr PAKULA (Attorney-General) — With the indulgence of both the house and the member for Hawthorn, I will certainly come to answer his question, but I would like to make some initial comments of a more general sense given that I have not had an opportunity to do so since the member for Hawthorn's second-reading contribution.

I want to say at the outset that the government does not treat the concerns raised by the opposition in a cavalier way. We recognise that this is a complex piece of legislation, and we recognise that, even though the government is in large part either implementing a recommendation of the Victorian Law Reform Commission (VLRC) or indeed in some respects we have declined to implement a recommendation of the law reform commission, there are still some changes in definitions and codification of matters that it is appropriate for people to want some clarification on.

I would characterise the member for Hawthorn's contribution yesterday as being in some respects a bit of a grab bag of not particularly clearly defined concerns, but the sort of thing that instead one does when one wants to suggest there are a range of risks. If one of those suggestions happens to come to pass, one is able to say 'I told you so'. I do not impute bad motives to the member for Hawthorn in saying that, but it is not as if the concerns that were expressed were specifically defined.

The government did not support the reasoned amendment because we believe the reasoned amendment effectively takes those concerns too far — that is, withdrawing and redrafting the bill appears to the government to be an unnecessarily harsh response to concerns that may or may not have validity. I would suggest to the member for Hawthorn an alternative course of action. Presuming this bill passes the third reading some time later day, it will then be transmitted to the upper house, and the opportunity does exist for matters in the Legislative Council to be referred to a legislation committee for examination. I say to the member for Hawthorn now that, if the opposition in the Legislative Council were to propose that this bill be remitted to a legislation committee for examination and report, the government would not oppose such a motion.

Given that this is not the most time-critical bill but there are some elements of it that are time critical, I would ask that those be dealt with a degree of expedition. I am happy to have further conversations with the member for Hawthorn about that between now and the next sitting week and to convey in writing the offer I have just made. I hope that is accepted in the spirit in which it is offered because none of us wants to see any kind of negative outcome via inadvertence. I say that quite genuinely.

In regard to the question of mental impairment, let me say the following to the member for Hawthorn. The terms of reference that were provided to the VLRC by the member for Box Hill when he was the Attorney-General did specifically ask the law reform commission to consider whether the act should define mental impairment and, if so, how it should be defined. I would characterise the definition that is in the legislation now as being a reflection of current practice and a clarification of the common-law approach. Under common law, the person needs to have a disease of the mind, and that is not limited to mental illness.

I would say that the exclusion for drugs and alcohol is also reflective of the current law, which says that a person cannot access the defence if their mental impairment is wholly due to an extraordinary external event, whether that be a blow to the head or the consumption of intoxicating substances. The note is there to provide guidance to the court as to how the exclusion applies to a person whose mental functioning is impaired solely as a result of drugs and alcohol. The government's strong view is that no additional people will be able to access the defence based on the statutory definition which is, as we say, a reflection of current practice and a clarification of the common-law approach.

Mr PESUTTO (Hawthorn) — I thank the Attorney-General for his comments. I will certainly take them on board in the spirit in which he conveyed the suggestion of a Legislative Council committee in the way he described. We will certainly take that under consideration.

Turning to new section 3B of the principal act and the introduction of the concept of unacceptable risk, I want to get the Attorney-General's thoughts on whether there is any intention for that term to either expand or constrain in any way the circumstances which might lead, for example, to earlier release or a variation of a custodial supervision order to a non-custodial supervision. Is it intended to produce, for example, a more lenient approach or a more cautious approach in the way decisions are made?

I simply say that because the language of the current act is serious endangerment. I am not suggesting that the government wants to treat this matter lightly — I certainly accept it does not — but I am just trying to get a sense of whether, in using the term 'unacceptable risk', it will produce, as I said, either a more lenient or a more restrictive approach to decision-making in terms of how potent the factor of community safety is in those decisions.

Before allowing the Attorney-General to respond, in terms of my contribution on this bill yesterday, I was very conscious of the fact that we are dealing with a bill and a subject matter which, like all of these matters, is very difficult and perhaps made more sensitive and delicate because we are talking about people who, forgetting the cases at the margin, are seriously disturbed and have committed atrocious acts. I think the community can accept they are deeply sad for a whole range of reasons and that there are some additional considerations that apply when we consider culpability in those circumstances. I acknowledge what the Attorney-General said, but my comments were couched in those terms to reflect the realities of the subject matter that we are dealing with.

Mr PAKULA (Attorney-General) — I thank the member for Hawthorn for his question. I can say quite categorically that the change in phraseology is not designed to, in his words, create a more lenient regime. At the moment, as he says, the decision-makers under this act are required to consider whether people will be seriously endangered. The use of the term 'unacceptable risk' — and I do not mean to necessarily lean on recommendations because, as the member has pointed out previously, and as I have always said myself, it is for government to make these determinations — is a recommendation of the law reform commission. It recommends that we move to that different test, which is a more modern test.

The court will simply be required to consider whether granting leave would result in an unacceptable risk of that person causing serious harm to another person. I would indicate to the member for Hawthorn that that wording already applies to other categories of leave and it already applies in regard to the question of an appropriate level of supervision. For example, the statutory test that is being proposed in the bill is similar, if not identical, to the statutory test which applies to sex offender supervision and, might I say, bail. We think, given that it is a term which is already well understood, it does give clearer guidance to decision-makers about how to balance the questions before them. It is a more modern definition and it is used in a range of other acts. But again it may be the sort of matter which the opposition may want to seek further advice on if the suggestion I have made with regard to an upper house committee is taken up.

Mr PESUTTO (Hawthorn) (*By leave*) — This is perhaps as much a question as a comment but I would be interested in the Attorney-General's views; I fully understand that he has given these matters his deepest consideration. I did raise the issue in my second-reading contribution yesterday that one of the things in the bill we certainly oppose is the withdrawal of the Attorney-General from many of the clauses which presently permit the Attorney-General to make applications to the court.

I raised in my remarks what I thought was an important point in that the bill does not confer on the Attorney-General any decision-making power necessarily in relation to those matters and I can envisage circumstances where the independent Director of Public Prosecutions (DPP) — and we have a very good system; the DPP is very independent — will certainly consider a range of matters when deciding whether to make applications or take particular positions in proceedings. It is readily to be envisaged that there could be circumstances where there is an interest that the DPP has very consciously, carefully and deliberately decided not to pursue but the Attorney-General feels is a legitimate interest that should be ventilated before the court.

I suppose my question is more acknowledging that — I am sure the government feels very strongly about this — but asking whether there would be any consideration, maybe, to reconsidering that because it is not a power as such, it is just an ability to be a voice in a hearing before a court and it is ultimately a judicial decision.

Mr PAKULA (Attorney-General) — I would somewhat facetiously suggest that it sounds to me like the member for Hawthorn has been put up to that by the DPP. I would have hoped that the member for Box Hill sitting next to him might have suggested mercy on this point given that the member for Box Hill would have had to deal with dozens if not hundreds of Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 applications in the four years that he was the Attorney-General.

I think it was implicit in my opening remarks that the government is prepared and indeed welcoming of a process whereby some of these matters can be further ventilated by the legislation committee — forgive me for not knowing exact name of the relevant legislation committee in the upper house; they change reasonably regularly. Given that the government has indicated a preparedness to have these matters considered further by an upper house committee, I think it follows that we are obviously prepared to give consideration to anything that that upper house committee might say.

In regard to the thinking behind the change that is proposed in the bill, it is the government's view that the role of representing the interests of the community can be most effectively carried out by the DPP. The Attorney-General is in all of these matters provided with advice on each and every matter by the Victorian Government Solicitor's Office, but the DPP is best equipped, given their expertise, their knowledge and indeed the contact that they have with victims.

Having said that, it is also the case that the bill still envisages that other parties could make application and be allowed by the court to appear in a given matter, and that does include the Attorney-General. If there was a matter of the nature that the member for Hawthorn describes, it would still be possible for the Attorney-General to seek to be heard and it would be a matter for the court to decide whether that was appropriate.

Clause agreed to; clauses 6 and 7 agreed to.

Clause 8

Mr PESUTTO (Hawthorn) — I just want to engage the Attorney-General on clause 8 and the question of fitness to stand trial. This is one of the matters I adverted to in my comments yesterday. Compared with section 6 of the current act it does appear not only in the language of the subsections to proposed new section 6 of the act but also the addition, if I am not mistaken, of at least one extra ground that the scope of unfitness will be broader as a result of clause 6, and I want to engage the Attorney-General on whether and to what extent that expansion is intended and what it will result in.

One of the reasons I ask is that my understanding is that in South Australia recently they have had occasion to look at whether a similar type of provision dealing with mental impairment has produced a wider cohort of people who can establish unfitness to stand trial. Could the Attorney-General address that issue, not just in terms of the text itself but the fact that there is, at least on my reading, one additional ground? Some of the language has changed of course from section to clause so it is not an identical match but it does appear that there is at least one additional ground.

Mr PAKULA (Attorney-General) — I rely on my previous comments in regard to being happy to have this examined in greater detail. Let me simply say more directly in relation to the member for Hawthorn's invitation that the reframe test implements recommendation 15 of the law reform commission report. It is correct that there are numerically a larger number of factors in the test, but I would contest any assertion that simply having (a) through (g) rather than (a) through (f), as it might have been previously, means that there would be more people who would be able to access a finding of unfitness to plead.

The fact is that the tests have been redrafted, but the new focus of the test is effectively that the court has to be satisfied that the person cannot receive a fair trial because they are unable to do one of the things listed. So there are new grounds. Some grounds have been removed. Numerically there are seven grounds consecutively listed rather than six, but we would not agree that that fact alone means that more people would be able to access a finding of unfitness.

Clause agreed to; clauses 9 to 13 agreed to.

Clause 14

Mr PESUTTO (Hawthorn) — I just want to draw the Attorney-General's attention to the proposed new section 14A. Obviously this is picking up a recommendation of the law reform commission, but it is a significant change that an accused will, as a result of the bill, be able to appeal against a finding that she or he is fit to stand trial. This ability does not exist at the moment. Does the Attorney-General have any information or advice on what that is likely to do in terms of the number of appeals?

I understand and appreciate that he may not have the information on hand at the moment. It is something he can certainly turn his mind to later. But on behalf of my

colleagues I would be very interested in getting a sense — roughly, from year to year — of the number of findings of fitness. If an appeal right is to be conferred, as the bill purports to do, it is pretty safe to assume that most accused persons who are found fit to stand trial but who for forensic reasons or other reasons want to contest that will probably appeal. So it is important to get a sense of what that might mean in terms of the number of appeals, if you simply work on how many are rejected every year or through a period.

Mr PAKULA (Attorney-General) — I can confirm for the member for Hawthorn that I do not have on hand the number of fitness findings that are made in any given year, but we may be able to provide that information, with a bit of notice, at another time. Obviously any question about how many of those might seek to appeal would be highly speculative, and I do not intend to engage in speculation.

I understand the reason for raising the question, and I would make two points simply: as has already been indicated by the member for Hawthorn, this was a recommendation — recommendation 76 — of the law reform commission. It is designed to provide an opportunity to correct any significant errors in the initial decision and protect against miscarriages of justice. I should indicate and note that, as I am sure the member for Hawthorn has already seen for himself, an appeal will only be able to be conducted with leave of the Court of Appeal.

Mr PESUTTO (Hawthorn) — I have one final question in relation to this clause in light of subclause 2(b) of proposed new section 14A, which allows an accused to appeal against a finding that she or he is not fit to plead guilty to the charge. I have to be candid that this is kind of a way of backtracking on the clause I missed before. It is really just something that I would ask the Attorney-General to consider. Unless he wishes to, he does not need to address it at length. One of the issues in terms of the fitness to plead, which I said yesterday we think is by and large a positive addition, is what are called safeguards in terms of the accused being legally represented and requesting it. I think that is the language of the fitness to plead conditions. The conditions proposed for a fitness to plead guilty proposal are that the accused is represented by a lawyer and that the court is requested to do so by the lawyer for the accused.

The only reason I raise that is, as in my debate remarks yesterday, I can envisage circumstances where it might be patently obvious to everybody in the courtroom that an accused is not fit to stand trial but may well be fit to plead guilty. Given that you have got judicial oversight of the whole process, I wonder whether the Attorney-General might consider, in light of his comments about the Legislative Council, which I will take on board — this may be something that can be referred off there — whether you actually need the safeguards and whether there might be a circumstance that is exceptional where the court might think that despite the fact that the accused has made a very deliberate forensic choice to sack a lawyer or simply not to request a fitness to plead proposal, it might defeat what we think is a worthwhile objective in having a fitness to plead section in the act. It is just something I ask the Attorney-General to consider.

Mr PAKULA (Attorney-General) — I renew my general preparedness to be considerate of things that the member for Hawthorn suggests. I would say in regard to the question of representation by a lawyer that it was again a recommendation of the law reform commission. As I assume the member for Hawthorn would agree is almost always the case, if not always the case, it is generally desirable for persons who are before the court, particularly with a serious matter, to be legally represented because the interests of justice are better acquitted when the person who may have his or her liberty deprived is represented by a lawyer. From a practical point of view there is always a greater risk of matters being appealed and/or overturned in future if the person who is before the court is not legally represented.

As a general statement, it is desirable for those people facing potentially serious charges, or where there are potentially serious consequences for those persons, to be legally represented. It is a fundamental element of our legal system. As I say, I make that as a general comment. In regard to the specifics of the matter and to specifically respond to the question raised by the member for Hawthorn, yes, as I have indicated in regard to other matters, if this is something that is further ventilated in proceedings that might occur in the other chamber, of course the government would give that consideration.

Mr CLARK (Box Hill) — I raise a specific matter regarding the proposed new section 14C, which deals with the circumstance of setting aside a finding of unfitness to stand trial. The explanatory memorandum demonstrates the importance of having such a power in the circumstance where it becomes clear that the accused has in fact pretended or feigned to be unfit earlier on when the accused subsequently goes before a special hearing. However, the explanatory memorandum on page 21 says explicitly that this new power, and I quote:

> … does not affect cases where a person properly found unfit becomes fit during an adjournment.

So the question is: if you have got a situation where correctly a person was found unfit to stand trial but then subsequently does become fit to stand trial, why should the person then not be sent back to stand trial? Why is this provision confined only to a situation where the person feigned unfitness in the first place? There may be good reason for that that I am not aware of that may have been covered in the commission's recommendations or in the department's consideration, but it does seem to me to be a reasonable question to ask why the power should not be cast more broadly in the way I have outlined.

Mr PAKULA (Attorney-General) — With the indulgence of the house I will just seek some advice. I am going to choose my words carefully because I do not want to provide any information that might be misleading.

My advice is that this is drafted in the way it is because it is not considered appropriate for the appeal provisions to circumvent other parts of the act that deal with the question of what should occur if someone is expected to become fit to stand trial within the next 12 months. In those circumstances there are provisions, I am advised, in the act that would allow matters to be adjourned in the expectation of someone becoming fit within a 12-month period. The wording that the member for Box Hill has pointed out is designed to create a situation where those provisions are not circumvented. Having said that, I am happy to provide the member with a more coherent explanation at a later time.

Clause agreed to; clause 15 agreed to.

Clause 16

Mr PESUTTO (Hawthorn) — I wanted to ask the Attorney-General about this new provision which allows for an accused to be excused from attending. I understand the reasons why the law reform commission made this recommendation. I can understand the merits of that and understand what it is trying to do. The concern that I was touching upon yesterday and which I will reiterate here is that I think this needs to be treated with the utmost care and caution — and I am not trying to patronise the law reform commission or anyone else — because I can readily see how people could be affected, not just the victims directly impacted by a violent event, for example, but the wider family could be deeply offended and the community also could be deeply offended, if an approach is taken where decisions are made to excuse the accused from attending a hearing.

I think we would all generally accept, maybe to differing extents, that one of the things that victims in particular and their support networks would expect, and rightly so, is that if they are subject to a heinous act, they will see the accused being held accountable. Again, I am sensitive to circumstances where someone could be deeply disturbed, and it could in fact be even more traumatic to have them there, but I am just expressing a note of caution that if this were to be applied by the courts in the manner intended, which in the language of the second-reading speech is to ease the trauma or impact of the process on the accused — I hope I have not got that wrong — then it is readily to be envisaged that the wider community and victims in particular could be deeply offended by that. I wanted to ask the attorney how he sees this operating in practice.

Mr PAKULA (Attorney-General) — Can I say that I do not necessarily take issue with the member of Hawthorn's characterisation to this extent that there might well be circumstances where excusing the accused from attending a special hearing may cause upset to victims and to the wider community, but equally it is possible that the attendance of the accused at a special hearing causes further deterioration of the mental health of the accused and therefore causes delay and that that delay indeed might cause upset to the victims.

I suppose this becomes a question of whether or not we are prepared to accept the judgement of the court and the DPP on these matters. Yes, the member for Hawthorn is right that there might be circumstances where the victim of the crime may suffer as a result of the special hearing going ahead without the accused present. Equally it is possible that the victim may suffer if the special hearing goes ahead with the accused present, depending on the circumstances of the individual matter, which is why we think we have struck the appropriate balance, which is that the judge can only excuse the accused from being present with the consent of both parties. We would assume that in that case the Office of Public Prosecutions would take into account the views of the victim in determining whether or not to provide consent.

I understand the rationale for the member's question, but given that we are in a situation where attendance of the accused may cause distress in some cases and where the non-attendance of the accused may cause distress in some circumstances, we think that the appropriate balance is to allow the court to grant the excusing of the accused, but only where both parties agree, and in the absence of that agreement that excuse cannot be granted.

Clause agreed to; clauses 17 to 27 agreed to.

Clause 28

Mr PESUTTO (Hawthorn) — In the same vein as my question about the courts excusing the accused from attending, I wanted to just engage the Attorney-General in the short time that I have left on a record of subsequent offending order. Again, I understand the reasoning, I understand the basis for it and indeed in some cases I can see the arguments for using a record of subsequent offending order rather than additional supervision orders, whether custodial or non-custodial. However, the concern I have with this clause is similar to the concern about non-attendance at hearings or trials. I can understand how the Victorian public and certainly those more closely associated with the events to which a record of subsequent offending order might apply may be deeply alienated or offended by the idea that somebody has committed a further act of wrongdoing, particularly, say, somebody who is on a non-custodial order who commits an act of wrongdoing and who then simply gets hit with a record. This could cause deep offence not just to those immediately associated with the events but also the broader community. I am simply asking whether the government will have a good look at that. I can understand it is probably very committed to it and that the court ultimately will decide whether it is appropriate.

Mr PAKULA (Attorney-General) — Just quickly, the short answer to the question, like all the questions about whether we are prepared to look at things, is yes. I should indicate that a record of subsequent offending order will only be made if a person is already subject to a supervision order and the court considers it appropriate, so I think that deals with the second part of the member for Hawthorn's question. All supervision orders are indefinite, therefore the decision to make a record of subsequent offending order will not mean that there are no consequences attached to further wrongdoing. The court must take into account a record of subsequent offending order when deciding whether to vary or revoke the existing supervision order.

Clause agreed to; clause 29 agreed to.

The DEPUTY SPEAKER — Order! The time allocated for consideration of items on the government business program has expired, and I am required to interrupt business.

Clauses 30 to 152 agreed to.

Third reading

Motion agreed to.

Read third time.

FAIR WORK (COMMONWEALTH POWERS) AMENDMENT BILL 2017

Second reading

Debate resumed from earlier this day; motion of Ms HUTCHINS (Minister for Industrial Relations).

The DEPUTY SPEAKER — Order! The question is:

That the bill be now read a second and third time.

House divided on question:

Ayes, 45

Allan, Ms
Andrews, Mr
Blandthorn, Ms
Brooks, Mr
Bull, Mr J.
Carbines, Mr
Carroll, Mr
Couzens, Ms
D'Ambrosio, Ms
Dimopoulos, Mr
Donnellan, Mr
Edbrooke, Mr
Edwards, Ms
Eren, Mr
Foley, Mr
Graley, Ms
Green, Ms
Halfpenny, Ms
Hibbins, Mr
Howard, Mr
Hutchins, Ms
Kairouz, Ms
Kilkenny, Ms
Knight, Ms
Lim, Mr
McGuire, Mr
Merlino, Mr
Nardella, Mr
Neville, Ms
Noonan, Mr
Pakula, Mr
Pallas, Mr
Pearson, Mr
Perera, Mr
Richardson, Mr
Richardson, Ms
Scott, Mr
Spence, Ms
Staikos, Mr
Suleyman, Ms
Thomas, Ms
Thomson, Ms
Ward, Ms
Williams, Ms
Wynne, Mr

Noes, 35

Angus, Mr
Battin, Mr
Blackwood, Mr
Britnell, Ms
Bull, Mr T.
Burgess, Mr
Clark, Mr
Crisp, Mr
Dixon, Mr
Fyffe, Mrs
Gidley, Mr
Guy, Mr
Hodgett, Mr
Katos, Mr
McCurdy, Mr
McLeish, Ms
Morris, Mr
Northe, Mr
O'Brien, Mr D.
O'Brien, Mr M.
Paynter, Mr
Pesutto, Mr
Riordan, Mr
Ryall, Ms
Ryan, Ms
Smith, Mr R.
Smith, Mr T.
Staley, Ms
Thompson, Mr
Tilley, Mr
Victoria, Ms
Wakeling, Mr
Walsh, Mr
Watt, Mr
Wells, Mr

Question agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

ELECTRICITY SAFETY AMENDMENT (BUSHFIRE MITIGATION CIVIL PENALTIES SCHEME) BILL 2017

Second reading

Debate resumed from earlier this day; motion of Ms D'AMBROSIO (Minister for Energy, Environment and Climate Change).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

CONSUMER ACTS AMENDMENT BILL 2016

Second reading

Debate resumed from 22 February; motion of Ms KAIROUZ (Minister for Consumer Affairs, Gaming and Liquor Regulation).

Motion 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.

Wantirna Heights school site

Ms VICTORIA (Bayswater) — (12 301) I rise to ask the Minister for Education to take immediate action to secure the former Wantirna Heights school site in Kingloch Parade, Wantirna, and pay a visit there with me.

After the Liberal-Nationals coalition built the new P–12 Eastern Ranges School to give specialised education to children with autism, the standard program for assessing whether the disused site would be retained took place. The site was declared surplus to the Department of Education and Training's needs. The process was then for the buildings and land to be offered to Victorian government departments or, if it was not needed or suitable for their needs, it would be offered to Knox City Council. If Knox did not want it for community purposes, then it would be offered by tender for other purposes — for example, for housing development.

In 2014 the site was known to be no longer needed by the education department. In August and October 2015 I brought up the future use and the deteriorating state of the buildings and grounds, here in this very chamber. I note from the minister's response to one of my adjournment matters, on 15 September 2015, that, when I talked about security, he said:

> … I have asked the department to review security measures at the site.

The minister also said:

> The Department of Education and Training is currently reviewing the status of the site to determine its potential for future educational requirements, and I will make a decision on its future once this review has been completed.

We know now that that in fact had been completed and it has been declared surplus.

I read now that the department intends to demolish these solid buildings, which were built very strongly to stop further vandalism. This is exactly what happened at the old Mount View campus at Boronia, a school the minister knew only too well, given that it was within the former boundaries of his electorate. In that case literally millions of dollars of state taxpayers assets were razed because he could not keep the site safe, cutting power and therefore the security system; he was told by me, the community and the media. It would have been perfect to convert the solid brick buildings into an aged-care facility or a similar worthwhile development.

The Wantirna Heights school buildings are equally robust and perfectly suited to usage by a community organisation such as Knox U3A, which has hundreds upon hundreds of over-50s eager to expand their knowledge and which has outgrown its current location. I implore the minister to visit the site with me before he orders the bulldozers to demolish these perfectly sound buildings and to see for himself what a disgrace it would be for history to repeat itself because of a lack of management and forward thinking.

Thompsons Road duplication

Mr PERERA (Cranbourne) — (12 302) The matter I raise is for the Minister for Roads and Road

Safety. I ask the minister to explain the action the government is taking to upgrade Thompsons Road, the major arterial road in my electorate of Cranbourne. Leading into the 2014 state election the then Andrews Labor opposition promised that, if elected, Labor would ensure Thompsons Road was duplicated between EastLink and Clyde Road in Cranbourne. On top of this, Labor promised to remove the notorious level crossing along Thompsons Road right near Merinda Park railway station.

Thompsons Road is a very busy road indeed. Over 26 000 people use Thompsons Road every day, with many of them unfortunately spending more time on the road and less time with the people that count in their lives — their families. Only Labor believes in taking action when it comes to Thompsons Road. During the last term Labor was in government we listened to the local community and gainfully commenced the much-needed duplication of Thompsons Road. Thompsons Road was widened between the South Gippsland Highway and Narre Warren-Cranbourne Road with an investment of $22 million, and Thompsons Road was widened between the Mornington Peninsula Freeway and the Frankston-Dandenong Road with another strong investment of $30.5 million.

Over $52 million was duly invested in upgrading Thompsons Road by the previous Labor government, but what did the Baillieu-Napthine coalition do to finish the job during their term of government? Nothing. That is what they did: nothing. While our local area was growing and growing, the Baillieu-Napthine governments turned their backs on the 26 000 motorists that use Thompsons Road every day. Not a red cent was invested by the Liberals in completing the fine work of the previous Labor government.

What the Liberals did during the 2014 election campaign was to make a desperate announcement on the run to duplicate Thompsons Road a couple of weeks out from the election. What a desperate stunt from a much-wounded government of the time with no vision. The local community saw right through this as a political ploy and a desperate stunt.

The much-needed works along Thompsons Road complement the fine work that is also being delivered along the Monash Freeway as we speak, and the announcement that a Labor government will upgrade the intersection of South Gippsland Highway, Evans Road and Hallam Road with traffic signals. I call on the Minister for Roads and Road Safety to advise the Cranbourne community what action the Andrews Labor government is taking to improve Thompsons Road, this main arterial that runs through the electorate of Cranbourne.

Water policy

Mr WALSH (Murray Plains) — (12 303) My adjournment matter is for the Minister for Water. I call on the minister to conduct a formal review of the carryover rules for water in northern Victoria so that Victorian irrigators do not continue to have their annual allocation reduced by the outcomes of those current rules.

Carryover was introduced in the mid-2000s to allow irrigators to manage some of the risk of access to water allocations from one irrigation season to the next. But after a number of years of operation it is now clear that the carryover rules are actually reducing the amount of water available to irrigators in any given year.

As storage levels rise, water entitlement holders' carryover is placed in a spill account, which is only accessible when the risk of a spill is low at some time throughout the season. This year, particularly on the Murray, that did not happen until recently. If there is a spill event — that is, the storages overflow — as did happen on the Hume this year, water that is in the spill account is lost by those particular irrigators. It is also lost, obviously, by the environmental water holder. But the environmental water holder received some benefit from that spill in downstream flows.

As I said, when a spill like that happens, the environment gets those downstream benefits, not only from their spill water, but also from the irrigators' spill water, whereas the irrigators get absolutely no benefit from that water once it is going down the river. We had an issue raised by the member for Mildura in this place last year when irrigators in his area around the Sunraysia district were losing water out of their spill account. Three months later it was going to run past Mildura, but they were not going to be able to access that.

There is a strongly held view that because of those irrigation storages being held higher, particularly because of environmental water carryover, the risk of spills is greater. That means there is an increased risk that irrigators will lose their water, but there will be downstream benefits for the environment. I believe the environment is benefiting to the tune of something like 200 gigalitres of water per year because of the perverse outcomes from irrigators via these current rules. No credit is given to meeting the Murray-Darling Basin plan water recovery targets by this particular water,

hence the urgent need for a review of the Victorian carryover rules, which are unfair to irrigators.

As I said, they lose something like 200 gigalitres a year of water that just goes down the river, but it does deliver a benefit to the environment and should be used to make some credits for the Murray-Darling Basin plan if the rules are not changed. In the strongest possible terms I urge the Minister for Water to have an urgent review of the carryover rules so that they are fair in the future to both irrigators and the environment.

Racecourse Road, Flemington, pedestrian lights

Mr PEARSON (Essendon) — (12 304) I direct my adjournment matter to the Minister for Roads and Road Safety. The action I seek is for a meeting to occur between me, residents and VicRoads to discuss the light sequence outside the Woolworths Newmarket Plaza shopping centre in Racecourse Road, Flemington.

A commuter recently lost their life at tram stop 26 outside the shopping centre while waiting for the 57 tram. Stephen Alomes, who is a constituent, met with me and raised these concerns, and in particular the length of time that the pedestrian light crossing sequence that operates on Racecourse Road is green. Residents are keen to see the crossing made safer, and I would welcome a meeting on site with VicRoads and concerned residents.

Torquay boundary structure plan

Mr KATOS (South Barwon) — (12 305) My adjournment matter this evening is for the Minister for Planning. The action I seek is that the minister not accept the C114 Spring Creek precinct structure plan panel's recommendations that the area west of Torquay's western boundary be included as 'urban growth potential' and be a 'strategic investigation area'.

Former Labor Minister for Planning Justin Madden in 2009 moved Torquay's western town boundary 1 kilometre west of Duffields Road. At the time the then Labor-dominated Surf Coast Shire Council accepted this and said and did nothing about it. However, after the election of the coalition government in 2010, all of a sudden the Labor councillors on Surf Coast Shire Council found their voice and commenced amendment C66, which included moving the western town boundary back to where it originally was.

In the letter accompanying the gazettal of C66 the then planning minister, now Leader of the Opposition, said:

> For the remaining land zoned farming in Spring Creek beyond the first kilometre area to Bellbrae, I support council's continued planning for a suitable location for a green break between Torquay, Jan Juc and Bellbrae. I understand council will be undertaking a strategic planning exercise to determine the uses to be encouraged in this area compatible with this objective …

The panel report for the C114 Spring Creek structure plan handed down on 23 January this year on page 33 recommends the following:

> 4.5 Recommendations
>
> 3. Council include 'urban growth potential' for the balance of Spring Creek with appropriate community engagement as part of its rural hinterland futures project.
>
> 4. Provide a notation on the precinct structure plan showing the area south-west of the precinct structure plan boundary as a 'strategic investigation area'.

The C114 panel's recommendation is inconsistent with the original intention of the minister's decision in C66, which is to preserve a green break between 1 kilometre west of Duffields Road and Bellbrae, and to not have residential development in this area.

The Surf Coast shire is yet to make a decision on C114, and I would also encourage it to remove these recommendations seeking to open the door to further expansion of Torquay's western town boundary for residential development. The minister needs to understand that the Torquay, Jan Juc and Bellbrae communities do not want any further residential development 1 kilometre west of Duffields Road. I call on the minister to ensure that no residential development occurs in this area.

Rate capping policy

Ms GRALEY (Narre Warren South) — (12 306) My adjournment matter is for the Minister for Local Government, and it concerns the Fair Go rates system. The action I seek is that the minister visit my electorate and meet with local residents to discuss the impact of rate capping in our community — a community that for too long was burdened with excessive and unnecessary rate rises year after year.

Every time rate notices were issued my office would be contacted by countless local residents who were frustrated and angry to be facing another rate hike — not to mention incorrect rates on some occasions. That is why I was so pleased when the Andrews Labor government introduced the Fair Go rate system, which ensured that the average rate increase for local residents for 2016–17 was capped at 2.5 per cent. It was a big change and one that local residents have welcomed.

Unsurprisingly, the City of Casey sought a higher rate cap of 3.47 per cent, spending thousands of ratepayers dollars on their application. It was all to no avail as the Essential Services Commission found that the council had the financial capacity to do its job without the proposed higher cap, including its capital works program. Despite this damning finding, it appears that the City of Casey is preparing to again waste ratepayers money on another application for a higher rate cap.

At a recent council meeting a majority of councillors provisionally endorsed council officers continuing to plan for a possible, and let us be honest, very likely application for a rate cap variation. Only councillors Tim Jackson, Rex Flannery, Steve Beardon and Geoff Ablett stood up for local residents and refused to support the push, despite not one councillor campaigning for higher rates at the recent council elections. Let us look at what some of these councillors actually said during the campaign.

Cr Damien Rosario said:

> I pledge to continue to be responsible with our rates and to control rate rises.

Cr Amanda Stapledon said:

> The cost of living is also a priority, together with strengthening the economy, growing local jobs and keeping rates low.

Cr Susan Serey said:

> I'll continue to push for lower rates, keeping council expenditure down, and focus on delivering more efficient services.

It is always easier to make excuses and run scare campaigns to hide from your own poor performance and failure to deliver. Mayor Sam Aziz claimed in a recent article in the *Berwick News* that because of the rate cap council is:

> … facing a cumulative black hole of around $200 million over the decade to 2025.

Yet there was no problem finding $125 million for Bunjil Place. I wonder which services had to be cut and how many assets have recently been sold to fund that. Conveniently council has the Fair Go Rates system to use as an excuse and hide behind. Too bad that local residents can see straight through the poor excuse. They deserve better. They deserve a fair go, and that is exactly what we are delivering through rate capping. We have put an end to the massive and unnecessary rate rises of the past and helped ease the cost-of-living pressure on local residents and their families. I look forward to the minister coming to my electorate.

South Yarra railway station

Mr HIBBINS (Prahran) — (12 307) My adjournment matter is for the Minister for Public Transport, and the action I seek is for the minister to upgrade South Yarra railway station. I have had an overwhelming response to my recent community survey seeking views on what is needed in a station upgrade, with over 800 responses received so far. I am happy to report some of the results to the chamber. For the existing station the clear priority for commuters is a northern entrance with a platform overpass. The station currently has one overcrowded entrance. To reach the station, residents in the Forrest Hill growth area and Melbourne High School students need to traverse the congested footpath outside the station and a dangerous, busy, uncontrolled, unmarked crossing at Yarra Street.

A small section of land has been set aside at the end of Yarra Lane to accommodate a second entrance to be built. This would relieve the crush that occurs daily outside the station and give Melbourne High School students and Forrest Hill residents safe and convenient access to the station. As well, it would be a second option for passengers wishing to transfer between platforms that would be disability-access compliant, unlike the current ramps. Such an entrance with a platform overpass is a significant undertaking that would require substantial funding, but it would be similar to the platform overpasses that have been built as part of the North Melbourne and also Footscray stations.

Other priorities for South Yarra commuters are maintaining the heritage character of the station, expanding the current foyer — and I note the previous project to expand the foyer was proposed and then abandoned under the previous government — and a safe pedestrian crossing at both Yarra Street and Malvern Road, as well as an increase in train and connecting tram frequency given the current overcrowding that occurs on the Sandringham and Frankston lines and on the number 8 tram. I have also called for a task force to be established, made up of local government, relevant authorities, traders and residents, to lead and guide the upgrade process. The community has spoken loud and clear: an upgrade to South Yarra station is needed. I urge the government to upgrade the station.

Gaffney–Sussex streets, Pascoe Vale

Ms BLANDTHORN (Pascoe Vale) — (12 308) My adjournment matter is for the attention of the Minister for Roads and Road Safety, and the action I seek is that the minister visit the current roundabout at the intersection of Gaffney Street and Sussex Street on the border of

Coburg North and Pascoe Vale to meet with local residents and see firsthand the road safety issues that arise at this intersection. I was pleased to discuss this matter with the minister this afternoon, and I know from his previous work in the area before he was in this place that he certainly understands that Gaffney and Sussex streets are very busy roads that cross right through the middle of the district that I represent.

There are already three schools on Gaffney Street — Pascoe Vale Primary School, Coburg Special Development School and St Oliver Plunkett's School — as well as a fourth school quite close to the precinct, Coburg North Primary School. As well there has been a lot of development in recent times along Gaffney Street. There is a new homemaker precinct that has a Bunnings as well as some other big retail outlets, and there is the new Coles village on the corner of the very intersection in question.

It has always been a busy precinct, but the changing nature of the area has made it more so. At the moment we are seeing traffic banking all the way up and down Sussex Street and up and down Gaffney Street. It is a very dangerous precinct for pedestrians and cyclists, as well as for motorists. Motorists are taking silly risks trying to get through this precinct. They are looking for any gap and they are rushing through it, often to the detriment of themselves, other car traffic, foot traffic and bikes.

I recently met with local residents Sarah Jefford, Troy Nutley and Genevieve Maguire to discuss their concerns. They live in some of the first houses right off the roundabout. Sarah certainly made the point to me that with her home office at the front of her house she has come to learn the sounds of cars colliding with each other, how bad the accident will be and how quickly she needs to dial the emergency services number. I know that the minister understands this issue; he has told me as such. I ask that he join me in a visit to the roundabout to witness the situation and to meet with local residents to discuss their concerns.

Yarra Boulevard, Kew

Mr T. SMITH (Kew) — (12 309) My adjournment matter this evening is for the Minister for Police, and the action I seek from the minister is for her to meet with George Mihailides, who is the leader of the cycling action group which was complaining about the tack attacks on Yarra Boulevard at Kew, representatives from VicRoads, local police inspector Steve Noy, and representatives from Parks Victoria. This group has a similar composition to a group I met with before Christmas at a forum hosted by Victoria Police at VicRoads where lawlessness around Yarra Boulevard was raised — lawlessness in the parks, lawlessness on the roads and lawlessness in the surrounding streets.

The tacks are but one issue that arises in that part of my electorate. There are rave parties that are occurring in the parklands at night and local residents are complaining about the noise. There are assaults on wildlife. Graffiti abounds in public areas. It is a very dark area of a night. There is no closed-circuit television at all, and the street lighting is poor. I think if the police minister was to meet with representatives of the cycling community and the local community, and indeed other relevant agencies, that would be an important step to solving what has been an ongoing issue in that part of my electorate for almost three years now, where individuals have been laying tacks which have been bursting the tyres of cyclists, causing a great degree of harm, damage and concern.

I have raised this now on a number of occasions, Deputy Speaker, and I am sure you are becoming very well versed in this issue because I always seem to raise it when you are in the chair. I simply make the point that the police minister now really has to step in. I have also raised this matter with the Minister for Roads and Road Safety who has been very forthcoming with regard to resources from VicRoads. I thank the Minister for Roads and Road Safety for his efforts in enabling Yarra Boulevard to be swept magnetically six days a week to clean up the tacks, but the perpetrators have still not been caught. It is simply unacceptable that that part of my electorate has the level of concern from local residents that it currently does.

Betrayal of Trust report recommendations

Mr McGUIRE (Broadmeadows) — (12 310) The Victorian Parliament's *Betrayal of Trust* report exposed the heinous abuse of children and provided a blueprint for the subsequent royal commission. The government committed to implementing all of the recommendations made in the Family and Community Development Committee's report, including a redress scheme. The Attorney-General has indicated Victoria's preference for a national redress scheme, following a recommendation in September 2015 from the Royal Commission into Institutional Responses to Child Sexual Abuse.

The action I seek is for the Attorney-General to provide an update on the progress being made toward such a scheme. I raise this matter on behalf of Gabrielle Short and my constituent Wendy Dyckhoff who are acting for the forgotten Australians. Just to give the context of

their concerns, they argue that there is confusion and concern among forgotten Australians who participated in the Victorian inquiry into all forms of abuse, and they are concerned that, as they perceive it, the rules may have changed and that the Victorian government will now be working with the federal system, which only covers sexual abuse. They are concerned to establish what will happen to those who participated in the Victorian inquiry into all forms of abuse.

One of the propositions that they have argued is that redress will be a long time coming and many of the survivors are sick or dying and will not live to see the day that redress is implemented, so they want this to be put before the Victorian Parliament and the Attorney-General.

Responses

Ms ALLAN (Minister for Public Transport) — The member for Prahran raised a matter regarding his and his community's desire for an upgrade to the South Yarra train station. The member for Prahran and I have had a few discussions about this very issue during the course of this week, so I will confess to not being entirely surprised that he has raised it this evening during the adjournment debate. I have said this to the member for Prahran, and I have also said it publicly on a couple of occasions now: I understand that there is both a desire and indeed a need from the community who use the South Yarra station to see that station upgraded, as has been identified through his contribution and the petition that he has organised in his local community.

The member for Prahran talked about some of the challenges with more and more people living in the area and wanting to use public transport. It is an area that is well serviced by trains in and out of South Yarra, so it is no surprise that there are more and more people using those trains. I have indicated publicly that we understand that there is a need for an examination of further works to be done. I am considering how best to progress that and hope that the member for Prahran can pass on to passengers who use the station and the broader community that the government understands this is an issue. We understand that a range of factors need to go into how we address that, and as that work is done I will be able to provide further information.

Nine members raised a range of matters for a range of ministers, and they will be referred to those ministers for their action and response.

House adjourned 5.34 p.m. until Tuesday, 7 March.