

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE ASSEMBLY  
FIFTY-EIGHTH PARLIAMENT  
FIRST SESSION**

**Thursday, 9 February 2017**

**(Extract from book 1)**

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## **The Lieutenant-Governor**

The Honourable Justice MARILYN WARREN, AC, QC

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(from 10 November 2016)

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Minister for Training and Skills, and Minister for Corrections . . . . .	The Hon. G. A. Tierney, MLC
Minister for Planning . . . . .	The Hon. R. W. Wynne, MP
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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**

<b>Member</b>	<b>District</b>	<b>Party</b>	<b>Member</b>	<b>District</b>	<b>Party</b>
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 <sup>2</sup>	Polwarth	LP
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Britnell, Ms Roma <sup>1</sup>	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 <sup>4</sup>	Gippsland South	Nats
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Halfpenny, Ms Bronwyn	Thomastown	ALP	Staley, Ms Louise Eileen	Ripon	LP
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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
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Kilkenny, Ms Sonya	Carrum	ALP	Ward, Ms Vicki	Eltham	ALP
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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			

<sup>1</sup> Elected 31 October 2015

<sup>2</sup> Resigned 3 September 2015

<sup>3</sup> Resigned 3 September 2015

<sup>4</sup> Elected 14 March 2015

<sup>5</sup> Elected 31 October 2015

<sup>6</sup> 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 Elasmarr 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, 9 February 2017**

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

**SHADOW MINISTRY**

**Mr WALSH (Murray Plains)** — I would just like to inform the house of some changes to the shadow ministry. I welcome the member for Lowan to the shadow ministry, and she will have the portfolios of mental health, consumer affairs and seniors. The member for Gippsland East will continue with the portfolios of disability, racing and housing. The member for Ovens Valley will add liquor and gaming to his responsibilities, and I will add regional development to my responsibilities.

**PETITIONS**

**Following petitions presented to house:**

**Horace Petty estate, Prahran**

To the Legislative Assembly of Victoria:

The petition of residents of Horace Petty Estate draws to the attention of the house the health hazard created by pigeon infestation including substantial amounts of pigeon faeces on windows, buildings and grounds at Horace Petty Estate.

The petitioners therefore request that the Legislative Assembly of Victoria:

place pigeon deterrents on all ledges and roosting spots;

take all necessary action to prevent pigeon infestation at Horace Petty Estate.

**By Mr HIBBINS (Prahran) (87 signatures).**

**Inkerman Heights, St Kilda**

To the Legislative Assembly of Victoria:

The petition of residents of Inkerman Heights, 150 Inkerman Street, St Kilda, draws to the attention of the house the health hazard created by pigeon infestation including substantial amounts of pigeon faeces on windows, buildings and grounds at Inkerman Heights.

The petitioners therefore request that the Legislative Assembly of Victoria:

place pigeon deterrents on all ledges and roosting spots;

take all necessary action to prevent pigeon infestation at Inkerman Heights.

**By Mr HIBBINS (Prahran) (38 signatures).**

**Union Street estate, Windsor**

To the Legislative Assembly of Victoria:

The petition of residents of Union Street Estate, 49 Union Street, Windsor, draws to the attention of the house the health hazard created by pigeon infestation including substantial amounts of pigeon faeces on windows, buildings and grounds at Union Street Estate.

The petitioners therefore request that the Legislative Assembly of Victoria:

place pigeon deterrents on all ledges and roosting spots;

take all necessary action to prevent pigeon infestation at Union Street Estate.

**By Mr HIBBINS (Prahran) (21 signatures).**

**Country Fire Authority enterprise bargaining agreement**

To the Legislative Assembly of Victoria:

Certain citizens of the state of Victoria draw to the attention of the Legislative Assembly that Premier Daniel Andrews must not hand control of the Country Fire Authority (CFA) to the United Firefighters Union (UFU).

Volunteer firefighters have protected Victorians for more than 100 years across Victoria, and as a community we support the volunteers and send this message to Daniel Andrews and the Victorian Labor Party: keep your hands off the CFA.

**By Ms STALEY (Ripon) (48 signatures).**

**Native vegetation clearance**

To the Legislative Assembly of Victoria:

The petition of residents in Victoria calls on the Legislative Assembly to note that the current regime of 'offsetting' native vegetation clearance is unnecessarily expensive, cumbersome and the least effective way in achieving decent environmental outcomes related to small mining activities and clearance of 'isolated paddock trees' by farmers.

Offsets of up to \$95 000 per hectare are being demanded on land already degraded by 19th-century mining resulting in projects not proceeding and therefore no land rehabilitation.

We therefore call on the Andrews Labor government to use the review of native vegetation regulations being conducted by DELWP to recognise the economic and environmental benefits of mining and agriculture to land use and enable rather than block these small-scale mining and farming projects.

**By Ms STALEY (Ripon) (339 signatures).**

### Stawell tyre recycling facility

To the Legislative Assembly of Victoria:

The petition of certain residents in Victoria calls on the Legislative Assembly to note that the community of Stawell is concerned about the fire risk from the Stawell tyre pile.

The company proposing to process the tyres has been waiting on the state government to complete its processes for over six months.

The petitioners therefore call on the Legislative Assembly to demand the Victorian government urgently completes all outstanding paperwork, permits and approvals currently being held up by the Minister for Energy, Environment and Climate Change so that the tyres can be removed as soon as possible.

**By Ms STALEY (Ripon) (998 signatures).**

**Tabled.**

**Ordered that petitions presented by honourable member for Ripon be considered next day on motion of Ms STALEY (Ripon).**

**Ordered that petitions presented by honourable member for Prahran be considered next day on motion of Mr HIBBINS (Prahran).**

## VICTORIAN LAW REFORM COMMISSION

### Funeral and burial instructions

**Mr PAKULA (Attorney-General), by leave, presented report.**

**Tabled.**

**Ordered to be published.**

## DOCUMENTS

**Tabled by Clerk:**

*Subordinate Legislation Act 1994* — Documents under s 16B in relation to — *Public Holidays Act 1993* — Notice appointing Christmas Day 2016 as a Public Holiday under s 7.

## BUSINESS OF THE HOUSE

### Adjournment

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

That the house, at its rising, adjourns until Tuesday, 21 February 2017.

**Mr CLARK (Box Hill) —** The opposition opposes this motion. There is urgent business that this house

should be attending to, and it should not be adjourning until 21 February. It should be continuing to sit or should be reconvening as soon as humanly possible in order to attend to the urgent matter of reform to our bail laws to prevent the explosion of crime that, it should be plain to every member of this house, has been occurring under the current bail law regime. Yet this government wants to spend their time today, instead of debating that issue, debating a motion designed to save their own skins, designed to protect themselves from their rotting rather than to protect Victorians from the wave of crime that has exploded across the state.

It is an absolute disgrace that the government has failed to do so. Indeed we should have been brought back early from summer recess to deal with urgent legislation. Now that we are back this house should be devoting its time to addressing legislation on this issue, and if the government is going to persist in taking up the time of the house today in a motion to save their own skins rather than a motion to protect Victorians, the least that should happen is that this house should continue to sit — should sit tomorrow, should sit next week, should sit whenever can humanly be achieved — to deal with urgent legislation to tackle manifest problems in bail laws in this state.

There is a precedent that is very clear for this. The government should not be sitting around on its hands doing nothing, waiting for yet another review to be completed. When problems emerged with parole laws under the previous government we did not sit on our hands waiting for the result of review. We got on with taking measures in advance. We got on with putting in place the measures that obviously needed to be put in place ahead of the results of the review. We then came back to the Parliament after the review with further — —

**Mr Pearson** interjected.

**The SPEAKER** — Order! The member for Essendon is warned.

**Mr CLARK** — The claims of those opposite are completely untrue. What this Parliament should be doing is what was done under the previous government — that is, do immediately what is obviously available to be done immediately. By all means have a learned review, then take further measures. But do not sit on your hands until the result of a review is available when it is plain to every member of this house and plain to every member of the community that there are measures that can and should be taken now to tackle the deficiencies in our bail laws —

**Mr Pearson** interjected.

**The SPEAKER** — Order! The member for Essendon has been warned!

**Mr CLARK** — to reverse the weakening of juvenile bail laws that was undertaken by legislation under the current government, to make clear to the courts and to everybody involved the standards in regard to community safety that this Parliament expects on behalf of the community. These are measures that can be put in place now. These are not measures that need to await Justice Coghlan's review. We should be legislating these measures now. We should have had a bill before the Parliament now to deal with these measures, and we should be debating that today instead of a motion to try to save the skins of those opposite. If that is not going to happen, this house should continue to sit and then it should be reconvened urgently so that these matters can be attended to, because that is what is the priority for Victorians.

With crime out of control, with crime rocketing up in Victoria when it is falling in just about every other state around the nation, when people are experiencing home invasions, carjackings, assaults and other attacks on a daily basis at a level that is unprecedented in living memory, that is the top priority that Victorians have and that is what this Parliament should be dealing with, not motions put forward by those opposite who are introspectively obsessed with their own situation and trying to escape the consequences of their own rotting conduct. The community would expect of this Parliament and does expect of this Parliament that we sit and deal with those matters. For that reason, we strongly oppose this motion. This house should continue to sit and it should get on with doing its job of acting urgently to protect Victorians.

**Ms NEVILLE** (Minister for Police) — It is really disappointing weeks after —

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Mordialloc is warned and so is the member for Kew.

**Ms NEVILLE** — people tragically lost their lives that those opposite are happy to pull a stunt today.

*Honourable members interjecting.*

**The SPEAKER** — Order! The Chair is unable to hear the Minister for Police.

**Ms NEVILLE** — Unlike those opposite, we have said we are going to do an informed and proper but

quick review of the bail laws in order to ensure that we get it right — none of this partly legislating, as those opposite did last time, but really get this right. To take a few weeks to get that right is, in my view, respectful of those who lost their lives and also provides an opportunity for proper consideration of the views of police, for example, and the community about how the system should be strengthened in order to better represent the community's values and expectations around serious violent offenders in our community.

So taking weeks to do it properly instead of months and still not completing the job is, I think, the right thing for us to do as a Parliament. That is what we are doing. We are doing it in an informed way, and we would welcome those opposite having an informed input into the changes in those laws and not just putting in front of this Parliament an unformed, undeveloped, no-consultation reform to bail. I would encourage them to work with us, as we did with them on the Callinan review. These issues are too important and the lives that were lost cannot be treated in this way.

**Mr WALSH** (Murray Plains) — I join with the manager of opposition business to oppose the motion to adjourn the house. For the member for Bellarine to say it is just a stunt is an absolute disgrace. This is about Victorians wanting the government to actually do something to protect them. One of the core responsibilities of any government is to make sure their citizens are safe, and Victorians do not feel safe anymore. It comes down to the Andrews Labor government needing to do something, particularly to do something to fix bail laws. We should not be adjourning for 10 days. We should be coming back tomorrow. We should be coming back next week. We should be doing what Victorians want us to do, and that is introducing legislation and changes particularly to bail laws to protect Victorians, changes that will not actually let the perpetrators, the violent perpetrators, back onto the streets to reoffend.

This is not a stunt, I remind the member for Bellarine. This is about us asking the house to do what the house should do, and that is to actually talk about the issues that are important to Victorians, the issues that Victorians feel very, very passionate about. The greatest memorial we could leave to the victims of the Bourke Street massacre is to make legislative change that improves the bail laws here in Victoria, to make sure things like that do not happen again. I remind the member for Bellarine that it was actually the Andrews government that weakened and watered down the bail laws that we put in place in government, and it is that which is leading to some of the issues we are seeing here in Victoria. Your government actually weakened

the bail laws that were put in place by the manager of opposition business when he was Attorney-General. You have had two years. In that two years all you have done is watered down bail laws. You have not done the things that are necessary. Victorians are very, very concerned, and as I said in my contribution to the condolence debate on Tuesday, there is a quiet seething anger from Victorians that the Andrews government is not doing what needs to be done to make sure they feel safe.

By opposing the adjournment of the house, we are asking the house to come back tomorrow to do the work that we were elected to do, and if it cannot be done tomorrow, let us keep working. Let us come back next week. You have got a whole bureaucracy behind you, Minister. Let us get some legislation on the — —

**Ms Neville** interjected.

**Mr WALSH** — You may not be the Attorney-General, but you are effectively part of a government that is doing nothing on these particular issues. It is not doing enough to protect Victorians.

*Honourable members interjecting.*

**The SPEAKER** — Order! The Leader of The Nationals is on his feet. Opposition members should allow him to continue in silence.

**Mr WALSH** — I talk to the police in my electorate, as I move around, and they all go to work wanting to do good things and protect the community. But as I talk to them, they feel that their hands are tied as much as anyone else's. They are as frustrated as anyone else that they do the work, they prepare the briefs, they take them to court and the perpetrator beats them back onto the street. They are just as frustrated as everyone else with the bail laws and the way the system is working here in Victoria. It is demoralising for those police to do the work, to catch the people, to prepare the brief and to then find the perpetrators are back on the street reoffending and putting the safety of Victorians at risk from violent assault and, in the worst cases we have seen, murder. It is absolutely imperative for this house to do what it is supposed to do — that is, to debate the issues, to have laws put before us that we can actually vote on and discuss and change so Victorians feel safe.

I will end by saying the core responsibility of any government is to make sure its citizens are safe, and the Andrews government is failing Victorians on that core principle of any government. I urge the house to vote to defeat the motion moved by the Leader of the House to adjourn the house, and I urge the house to come back to

work tomorrow to do the things that Victorians expect us to do.

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Essendon without the assistance of the member for Yan Yean.

**Mr PEARSON** (Essendon) — I rise to support the Leader of the House's motion. In doing so, I do take up an interjection from my very good friend the member for Eltham: it is imperative that we get this right. It is imperative when we bring legislation before this house that it is thought through, it is measured and it is considered.

A case in point would be the Callinan review, which was commissioned by the former government. The Callinan review took, as I understand it, 11 months, and there were 23 recommendations made by the Callinan review. The interesting thing to note is that it took the then government 11 months to receive that report, and at the time of the last election 17 out of those 23 recommendations had been implemented. So it took them 11 months and when they got it they did not legislate straightaway. They did not do all of it.

The reality is that since this government was elected 22 of those recommendations have been implemented and the final one will be implemented this year. That is our form. The reality is, as my good friend the member for Eltham said, if you are going to do this, you do it once and you do it properly. We are going to take our time, and we will leave no stone unturned. There will not be any dodgy bills presented to this place that get thrown out by the courts, like Baseline Bob's effort over mandatory sentencing. We are going to get it right, and we will do it properly and appropriately.

All of us on this side of the house recognise the tragedy of the Bourke Street event, which happened three weeks ago, I think, and it is important that we do respond to this issue. But you must take it seriously, and it should not be the subject of a cheap, grubby stunt like that which is being proposed by those opposite. We will not be dictated to by those opposite, who are trying to make themselves relevant in the depths of irrelevance. We are going to do it right, we are going to do it once and we will do it properly. I commend the Leader of the House's motion.

*Honourable members interjecting.*

**The SPEAKER** — Order! The Chair has not yet called the member for Hawthorn. I now call the

member for Hawthorn. The member for Hawthorn, in silence.

**Mr PESUTTO** (Hawthorn) — What a travesty! How many victims, how many police officers and how many families throughout Victoria are suffering because you all ignored the bail reforms?

**The SPEAKER** — Order! The member for Hawthorn through the Chair.

**Mr PESUTTO** — For more than two years this government has been facing calls from us, from police officers, from the Police Association Victoria, from victims, from victims' advocates: do something about bail and put community safety first in bail. What did the government do? Nothing. You ignored it; there was no problem! Question time after question time throughout 2016 we put to the Premier, we put to the Minister for Police and we put to the Attorney-General: fix our bail laws. What about the Yeomans? The father, a hardworking police officer, was stabbed between the eyes by a person who was on bail. The tragedy on 20 January, which will be etched in the minds of Victorians and Australians for years and decades to come, was the culmination of a tragic and catastrophic failure by this government to do something on bail. They have had their chance, and there are no excuses.

How hard can it be to get drafting instructions together to make community safety paramount and a primary consideration in all bail decisions? How hard is that, with all the resources and staff in offices throughout the Victorian government? It cannot be that hard. But instead of doing that and accepting and appreciating the urgency with which this matter must be addressed because lives are at stake, what is the government going to do about it? It is going to take a leisurely stroll, have a nice little review and then we may see legislation this year. Speaker, I promise you this: I would be surprised if we even see legislation before July. That is how urgently this government is going to address this matter.

But, no, we are not going to deal with bail. What are we going to deal with? Another travesty: allegations of criminal rorting against members of the Labor Party and the Labor Party machine. In the efforts of this government in the most abject and craven abdication of responsibility, what are we going to do? They are going to use the good name of this Parliament to cover up potential criminal actions before the last state election. They are going to put their own political skins before the lives and the safety of Victorians. That is a tragedy. This government stands condemned for not getting their priorities right and not putting safety first.

Just last Friday we heard from bail justices who lamented that so often when they remand somebody they find that these dangerous people are let back out on the streets. Why can we not get draft legislation before this house urgently to turn that around? We have thousands of people out on bail at any one time. How can we be sure that there are no other criminals out there who are intent on or capable of causing the sort of loss and horrific catastrophe we saw just a few weeks ago? How many are out there now? How many are breaching their bail conditions and continuing to get bail under our current regime? What will it take before this government understands how urgent this matter is? But no, what comes first is the political skin of this government. Victorians will look at this and —

**Mr Richardson** interjected.

**The SPEAKER** — Order! The member for Mordialloc has been warned.

**Mr PESUTTO** — They will ask, 'Really? You are going to put your political prospects and fortunes before our safety? That is what you are going to do?'. What a disgrace. You stand condemned.

#### House divided on motion:

##### *Ayes, 47*

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

##### *Noes, 36*

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	Smith, Mr R.
Crisp, Mr	Smith, Mr T.
Dixon, Mr	Southwick, Mr
Fyffe, Mrs	Staley, Ms
Guy, Mr	Thompson, Mr
Hodgett, Mr	Tilley, Mr
Katos, Mr	Victoria, Ms
Kealy, Ms	Wakeling, Mr
McCurdy, Mr	Walsh, Mr
McLeish, Ms	Watt, Mr
Morris, Mr	Wells, Mr

which uses workshops, a website and an app to combat mental illness.

Finally, Ralph Humphries, the Hobsons Bay Citizen of the Year, devoted more than 10 years of his life to assist the Asylum Seeker Resource Centre, in addition to being a founding member of the Friends of Williamstown Wetlands. We thank Vedran, Nikolina and Ralph for their outstanding contributions.

**Motion agreed to.**

**Warwick Smith**

**FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE**

**Membership**

**The SPEAKER** — Order! I have received the resignation of Ms Emma Kealy from the Family and Community Development Committee effective from today.

**Mr WAKELING** (Ferntree Gully) — I wish to congratulate Warwick Smith on being awarded Local Hero recently at the Knox City Council Australia Day awards ceremony. He was nominated for continued service to the Scoresby Country Fire Authority and his commitment as Knox fire brigade group training manager to ensuring volunteers receive the quality training they need in order to respond effectively in emergency situations. He is an outstanding local, and I congratulate Warwick on this worthy recognition.

**MEMBERS STATEMENTS**

**Hindi Niketan**

**Australia Day awards**

**Mr NOONAN** (Minister for Industry and Employment) — I rise today to acknowledge the contributions of a number of individuals within the Williamstown electorate who were recognised in the Australia Day honours. I am very proud, of course, of my electorate, as others in this place are, and the people who live in it. However, if individuals go above and beyond the call of duty, devoting themselves to others, it is only right, I think, that this place stops and recognises them. In that spirit I would like to acknowledge three members of my electorate in particular: Vedran Drakulic, Nikolina Mabic and Ralph Humphries.

**Mr WAKELING** — Congratulations to the Hindi Niketan community on their recent Indian Republic Day celebrations, which I had the honour to celebrate in Scoresby. It is a great organisation that is doing a lot of great work in support of the local Indian community. I congratulate Dr Sharad Gupta and the many members of the Indian community for the great work that they do.

**St Andrews Christian College**

Vedran came to Australia after fleeing the chaos and violence of war in Bosnia in 1995. Since coming to this country Vedran has devoted his life to helping others. Through his work with Gandel Philanthropy, the Red Cross, the Hobsons Bay Community Fund and Adult Multicultural Education Services, Vedran has touched lives wherever his presence has been felt. The Order of Australia Medal he earned for his work is a fitting recognition.

**Mr WAKELING** — I was also pleased to recently attend the opening of the new innovation centre and senior school building at St Andrews Christian College in Wantirna South. It is a fantastic new \$4 million facility funded with the assistance of a \$1 million contribution by the federal government and \$3 million funded with the assistance of the local school. Well done to all involved.

**Ferntree Gully electorate ovals**

Nicolina was named Hobsons Bay 2017 Young Citizen of the Year for her work championing mental health issues. Not only has she created a documentary exploring how depression and anxiety can affect people, she has created Spare Capacity,

**Mr WAKELING** — I was very pleased to speak at the recent unveiling of the completion of the nine oval resurfacings in Ferntree Gully, Rowville and Lysterfield by Knox City Council, done in partnership with a \$1.5 million funding contribution from the former coalition government — a great and outstanding contribution by all.

### Portarlington Mussel Festival

**Ms NEVILLE** (Minister for Police) — On Saturday, 14 January, I was very pleased to open the 11th annual Portarlington Mussel Festival. The festival is a great local event that highlights not only the ever-growing mussel industry but also Bellarine wines, produce and artists. The festival continues to go from strength to strength, with crowds of around 30 000 attending in recent years. This year the ferry brought many tourists from Melbourne. In fact the ferry was booked out for both the trip from Melbourne and for tours out to the mussel farms. Since its inception the festival has raised more than \$100 000 in funds that have gone back into supporting local community organisations. I take this opportunity to congratulate the president of the committee, Richard Underwood, and his dedicated team of volunteers for their untiring efforts.

### Pink Zinc surf patrol

**Ms NEVILLE** — On another matter, on that same day I also had the pleasure of attending the Pink Zinc surf patrol at Ocean Grove beach. Pink Zinc patrol day is a wonderful initiative of the Ocean Grove and Point Lonsdale surf lifesaving clubs which sees all-female patrols on the beach. The aim of the day is to encourage and celebrate the female members of both clubs and, importantly, promote female leadership within the surf lifesaving fraternity. As we know, surf lifesaving has a long and proud history, but it was not until 1980 that females were eligible to become active patrol members. It is recognised that there is still today a large gender gap in participation rates. My congratulations go to both clubs on their initiative and all those female members who participated on the day.

### Darcy Vescio and Daisy Pearce

**Mr McCURDY** (Ovens Valley) — I wish to congratulate AFL Women's players Darcy Vescio and Daisy Pearce, who made their debuts on the weekend. Both of them hail from the Ovens Valley electorate. Darcy starred in the season opener on Friday night for Carlton. Her parents, Paul and Chris, were there watching on, and Chris summed it up perfectly when she said, 'Who would believe that it all started at Whorouly Auskick? It just goes to show the young kids out there who aspire to do big things that it really can happen'. Well, Chris, yes, it does.

Daisy was born in Bright and began playing Auskick at the age of five before going on to play with boys in junior footy. Her father, Daryl, was a coach for the Bright junior footy team, which allowed her to begin

training with the under-13 team from the age of eight. She is now the captain of the Melbourne Demons, and I really enjoyed watching the game at Casey Fields on Sunday. Darcy and Daisy are wonderful role models for girls and women, and I wish them the very best.

### Australia Day

**Mr McCURDY** — Australia Day 2017 was a fabulous day in the Ovens Valley electorate. Congratulations to all those who received awards as recognition of their dedication to our communities. I had a great start to the day at Boorhaman, where residents came together for a community breakfast, flag raising and presentation. Then I headed to Glenrowan, where people gathered for a barbecue, speeches and flag raising, and local achiever of the year awards were presented. At North Wangaratta Australia Day was celebrated with the launch of community storyboards detailing historic elements of the area. The project is the result of hundreds of hours of volunteer work, so it was fitting that it was unveiled on Australia Day. I finished up at Cheshunt where I enjoyed the evening gathering and presentations. At every event I attended there were people supporting each other, cooking together and proudly raising the Australian flag.

### Neil Delaney

**Ms D'AMBROSIO** (Minister for Energy, Environment and Climate Change) — I rise to acknowledge the passing of a dear friend and passionate and loyal Labor Party member, Neil Delaney. Neil was born in Brunswick on 21 June 1938 and passed away at the age of 78. He became a member of the Labor Party in 2011 when he joined the Mill Park ALP branch, and he volunteered during state and federal elections at polling booths at Peter Lalor Secondary College and Lalor North Primary School.

Neil was a dedicated member of the community who volunteered for Whittlesea Community Connections and various other organisations within the community. He worked at the Joshua Pitt tannery where leather was processed. He enjoyed playing golf and bocce and participated in the exercise classes organised by the U3A every Friday. My thoughts and condolences are with his wife, Jenny, and daughter, Sally-Ann.

### Harvest Home Primary School

**Ms D'AMBROSIO** — I was pleased to join the Deputy Premier and Minister for Education and my parliamentary colleague the member for Thomastown at the opening of Harvest Home Primary School. This is one of three new schools in the City of Whittlesea

that have been delivered as part of the \$291 million public-private partnership arranged by our government. It accommodates up to 475 students from prep to year 6. Anthony Simone has been appointed as its principal. He is a very dynamic go-getter, frankly, and this school is going to go from strength to strength.

The facilities at this new school include an early learning centre, which is run by the YMCA, to facilitate transitions between early childhood education and primary education, multipurpose spaces that can be used by the YMCA out of school hours, shared ovals and performing arts and theatre spaces.

### CityLink tolls

**Mr BURGESS** (Hastings) — I ask the Minister for Small Business, Innovation and Trade to intervene on behalf of small business customers of Transurban who are very concerned about the fact that it is raising its CityLink tolls by up to 125 per cent from 1 April this year. One perfect example was a commercial fleet operator complaining on 3AW in late January that her business's current monthly spend on CityLink tolls is \$7000 but from 1 April that will jump to \$15 000 — an enormous, unjustified increase. If the minister is not prepared to act to reign in this massive impost, on top of the many other things that he has been unable or unwilling to do, it is time he told Victorian small businesses what he thinks his job is really about.

### Western Port BlueScope Steel

**Mr BURGESS** — In early January it was announced that Western Port BlueScope Steel in Hastings is to expand its operations, with work currently underway to upgrade and restart a metal coating line that had previously closed. Metal coating line 5 will produce Zinalume steel for the Australian market. The plant has also increased its use of its no. 2 paint line from five to seven days a week. The upgrade at the plant meant 100 new jobs were created during 2016.

### Luke Batty Memorial Shield

**Mr BURGESS** — On 25 January I was pleased to be able to attend this year's Luke Batty Memorial Shield T20 cricket match and see the Tyabb Cricket Club play the Victoria Police Cricket Club at Bunguan Reserve, Tyabb, in support of the Luke Batty Foundation. This foundation helps women and children affected by the trauma of family violence. Congratulations to the sponsors and organisers on hosting another successful event.

### St John's Retirement Village, Somerville

**Mr BURGESS** — On 30 January I was delighted to be asked to attend a special afternoon tea to present 90th birthday certificates at St John's Retirement Village.

### Caroline Springs railway station

**Ms KAIROUZ** (Minister for Consumer Affairs, Gaming and Liquor Regulation) — I was proud to open the Caroline Springs railway station on 28 January. For many years locals and I have been fighting hard to see the Caroline Springs station built. This station is the conclusion of two years of construction by the Andrews Labor government and countless years of lobbying by my local community. When those opposite came into government in 2010 they abandoned the station, which had been funded under the previous Labor government. Nothing happened for four years. People in one of Melbourne's key growth corridors were left without viable public transport options.

Since coming to government we have not only been able to fund the project but also deliver on our promise to build the Caroline Springs station and other public transport infrastructure. The excitement from the local community at the opening event was heartwarming. We were able to make improvements to the original station design, which has resulted in the new station having a wider centre platform, customer toilets and an enclosed waiting area. These developments will service the thousands of commuters who will use the station. The station also features bus bays, a taxi rank, 350 car spaces, a secure bike cage and drop-off zones. It will be serviced by 228 trains a week, and the station also has CCTV and facilities for protective services officers, who will keep the customers safe.

I am so delighted that the hard work of the local community has paid off. This is a win for the west and a win for the people of Kororoit. I would also like to thank the Minister for Public Transport for her dedication to this project. It shows that the Andrews Labor government cares about the west and providing affordable and easy-to-use public transport for the people of Victoria.

### Peter Stewart McArthur

**Ms RYALL** (Ringwood) — I wish to express my heartfelt condolences on the passing of a former member for Ringwood, Peter McArthur, on 2 February. Peter is being laid to rest today. Peter served as the member for Ringwood between 1976 and 1982. His passion for community was so evident throughout his

life. Starting in radio announcing in 1960 and becoming a newsreader for the ABC in 1964, he worked in both TV and radio. He was a broadcaster, a weatherman, a newsreader and an interviewer. He also did weekend breakfast with 3LO.

Peter was elected to the Croydon City Council for six years from 1970, serving as mayor in 1974–75. He continued his service the following year by entering the Legislative Assembly and returned to broadcasting with the ABC until 2002, when he no longer served in the state Parliament. He was passionate about community radio and spent much of his time with Channel 31 and Radio Eastern FM, which he established with two others.

He came from an extensive political family. His grandfather Peter Campbell McArthur and his great-uncle John Neil McArthur both represented the seat of Villiers and Heytesbury in the Assembly, while his uncle was the member for Corangamite from 1984 to 2007. It was an absolute pleasure to meet Peter and great to spend time with him, and I pass on my condolences and prayers to his children, Warrick and Fleur, at this sad time.

### State Schools Relief

**Mr BROOKS** (Bundoora) — Prior to the 2014 election the then Andrews Labor opposition committed to supply more funding for the State Schools Relief program if elected. I am glad to say that this has been a great success within my electorate. The State Schools Relief program has helped a total of 12 schools in my electorate over the past two years. This means that kids who would otherwise have missed out received the help their families needed to purchase new school uniforms, shoes, books and calculators. In 2015 the program assisted some 227 students to a total value of over \$35 000, and the program has continued to grow.

In 2016 State Schools Relief provided over \$71 000 worth of schooling items from the Labor government, dedicated to helping families and their children in the Bundoora electorate. In contrast the federal Liberal government this year axed the Schoolkids bonus, taking away \$430 for primary school students and \$856 for secondary school students.

We all remember the Victorian Liberal and National Party cuts to the education maintenance allowance when they were in government. In contrast our government is standing by its 2014 election commitments, delivering much-needed support for the families of Victoria and allowing children to prosper in school. On behalf of my local community I wish to in

particular commend the Minister for Education, the member for Carrum, who is the ambassador for State Schools Relief, and the State Schools Relief organisation for the assistance they provided for low-income families within my electorate.

### International Dairy Week

**Ms SHEED** (Shepparton) — It has been an eventful start to the year, with several memorable events highlighting the great work and diversity of the Shepparton district. International Dairy Week in Tatura attracted not only elite judges and talent from around the world but also record prices. As in previous years it was a well-attended and highly successful event promoting the dairy industry across Victoria.

### Australia Day

**Ms SHEED** — On another matter, Australia Day celebrations put the spotlight on not only our volunteers but also our amazing community groups and events. I particularly want to acknowledge those who received Australia Day awards, those who were named citizens of the year and particularly Order of Australia recipients locally, John Dainton and the late Chris McPherson. I also wish to extend my congratulations and warmest welcome to those who became Australian citizens on this day.

### Shepparton rail services

**Ms SHEED** — And just a few days later Shepparton welcomed a new train service. This is an extension of a Seymour service and replaces an afternoon bus, but we want trains in Shepparton. While we continue our campaign for more, better and faster train services, we celebrate each milestone along the way. On this particular evening the Splinter Group of the Shepparton Brass Band greeted the new service on the platform. There were celebrations and balloons for the children.

### Chinese New Year

**Ms SHEED** — On Sunday I had the pleasure of speaking at the Chinese New Year celebrations for the Goulburn Valley (GV) Chinese community. Many who attended were overseas fruit pickers who had heard about the festivities and were searching for a way to celebrate the Lunar New Year away from their home country. I commend the GV Chinese community for what was a delightful afternoon which included a memorable performance by the Bendigo lion dancers.

### Australia Day awards

**Ms GREEN** (Yan Yean) — Australia Day is always a wonderful day anywhere across this great country and across our state, and I want to welcome and congratulate all of those who took citizenship in my electorate — and those living in my electorate — on Australia Day.

I want to commend a great friend and former councillor in the Shire of Mitchell, Sue Marstaeller, for being awarded an AM in the Australia Day awards for her longstanding service to the Mitchell shire and to the Wandong and Heathcote Junction communities. Sue has been active in the Australian Local Government Women's Association, Neighbourhood Watch and so many others, but she is so well known for the great leadership and hard work that she showed for the Country Fire Authority and for recovery after that most dreadful of days eight years ago.

I also want to commend those who were awarded citizenship awards in the various celebrations across my electorate. Citizen of the Year in the City of Whittlesea was Glen Wall; Young Citizen of the Year, Tabitha Anderson; Senior Citizen of the Year, 92-year-old Elizabeth Pratt; and again Trevor Carroll was the Access and Inclusion Citizen of the Year. In Nillumbik, Nikki Waterfall was the Citizen of the Year; the great Paul Di Benedetto was named Volunteer of the Year; Peta Heywood, Senior Citizen of the Year; Andrew Barras, Young Citizen of the Year; and the Diamond Valley miniature railway was the Community Group of the Year. Well done to all.

### Shirley Reeves

**Mr D. O'BRIEN** (Gippsland South) — Congratulations to all Gippslanders whose community contributions were recognised in the recent Australia Day awards, including Korumburra's Shirley Reeves, who received a Medal of the Order of Australia for her work with children and youth in the community.

Shirley has dedicated 50 years of her life to the scouts and has also been involved in the Korumburra branch of the National Council of Women of Victoria, the Coal Creek Probus Club and the Korumburra Community Access Centre and helped to establish both the volunteer resource centre and the South Gippsland Citizens Advice Bureau. Typically modest, Shirley cannot understand why she should get such an award, but her tireless devotion is a great example to the community and her award is a fitting tribute to someone who has given so much to Korumburra and South Gippsland.

### Energy security

**Mr D. O'BRIEN** — Last night South Australia again experienced significant blackouts, with 40 000 homes and businesses in darkness because of insufficient generation capacity, and more blackouts are forecast in today's heat. It is a potential harbinger of things to come in Victoria, with the pending closure of Hazelwood power station, which provides around 20 per cent of Victoria's power.

I support renewable energy, but it can only be part of the mix until we have reliable large-scale battery power or storage. We must have a reliable baseload electricity generation capacity that provides reliability, stability and cheaper power. The Latrobe Valley's brown coal has provided that cheap baseload power for nearly 100 years, and we should not be turning our backs on the enormous resource we have.

I welcome the Prime Minister's recent support for new, more efficient coal power stations and note Japan has recently committed to build 45 new coal-fired power stations in the wake of the Fukushima nuclear disaster. The Andrews government should drop its ideological obsession against coal power. It should be fighting for a staged closure of Hazelwood and looking at options for how we can bring new generation online.

### Shane Lapworth

**Ms BLANDTHORN** (Pascoe Vale) — I am extremely pleased today to acknowledge that Mr Shane Lapworth was awarded the Emergency Service Medal in the Australia Day honours in recognition of his outstanding service to our local community. Since being elected I have come to know Shane as an extremely generous man of good humour and certainly one of the most committed volunteers in our community.

He has been a member of the State Emergency Service (SES) volunteer group since 2001, and in that time he has taken on significant leadership roles, including being made the unit controller at both the Broadmeadows SES branch and the Whittlesea SES branch. Indeed he was instrumental in setting up the Whittlesea branch.

Mr Lapworth has also made a substantial contribution to the community as a whole. There are many residents who have experienced Shane's generosity with his time and his skills when they have been in some of their most vulnerable circumstances, but he also made a substantial contribution during the response to the Black Saturday fires — obviously we are recognising

the anniversary of such this week — through the provision of logistical and practical support to his fellow volunteers and the general community.

This is also something that he has continued with across the years since those fires by making sure that he is still a presence in the lives of those in those communities. He still plays a key role at the Broadmeadows SES and can be found there on many a Monday night with his family as well.

### **Andrew and Anastasia Vlamis**

**Ms McLEISH** (Eildon) — The name Vlamis is synonymous with fast food in Yea, as for decades the Vlamis family have operated fast-food businesses. Just prior to Christmas, Andrew and Anastasia Vlamis signed off from the Amble Inn Cafe after what seems to have been a lifetime — and it pretty well has been for their children. The Vlamis story is one of inspiration. Andrew and his brother Peter, both having emigrated from Greece a few years earlier, through a twist of fate ended up in Yea. In 1972 they took over and ran the Amble Inn Cafe. Things were going so well that younger brother John came out from Greece to join them.

I remember the early days. The Greeks moved beyond fish and chips and introduced Italian ‘pizza pie’ into Yea. What a move! Pizza was new in country Victoria and almost unheard of in Yea, and so it was the talk of the town. I also recall the Saturday night barter system in place with my mother, who with my uncle ran the Railway Hotel. For many years after closing time there was a quick exchange — three steak sandwiches for half a dozen stubbies.

Not afraid of hard work, such was their success that the brothers were able to go their separate ways in fast food. At one point all the fast-food outlets in Yea were Vlamis owned. The Vlamis family extended over the years, with wives Anastasia, Maria and Rena and many children. All have been a terrific part of the local community.

And now there is a new milestone for Andrew and Anastasia, that of retirement. I want to wish them all the best as they embark on their next journey. May they have safe travels in their trip back to Greece and find joy and good health in farming on their return. I also wish David Ung all the best as he takes up the reigns at the Amble Inn Cafe. He has very big shoes to fill.

### **Lower Plenty Road, Rosanna, level crossing**

**Mr CARBINES** (Ivanhoe) — I am pleased to report to my community that a rail bridge will be built over

Lower Plenty Road in Rosanna as part of the \$395 million level crossing removal project, which will also duplicate the Hurstbridge line and completely rebuild Rosanna station. Can I say to the members here that, having caught the train from Rosanna not only today but for the past 25 years and living only a block from Rosanna station and Rosanna village, I know this project, and this investment is unprecedented on the Hurstbridge line. This will be of great benefit not only to my electorate but in Bundoora and in Eltham.

The duplication project between Heidelberg and Rosanna, with \$140 million allocated in the budget, will allow us to run extra peak-hour train services on the Hurstbridge line, which will add value to properties and give people more of a reason to live in Rosanna and along the Hurstbridge line, with a new station at Rosanna.

We have also got, of course, as part of this project a meeting with the Level Crossing Removal Authority today to talk to them about how we are going to have apprenticeships and traineeships as a significant part of this redevelopment opportunity on the Hurstbridge line. I encourage my local community, as they did in their hundreds, to attend the community consultation at the Rosanna cub scout hall at the corner of St James Road and Manton Street, Heidelberg, from 6.00 p.m. until 8.00 p.m. on 23 February or 10.00 a.m. until noon on 25 February. Together we are going to continue to invest in public transport in the Ivanhoe electorate — unprecedented investment that is going to improve the lives of the community in my electorate.

### **Athol Wells**

**Mr ANGUS** (Forest Hill) — I note with regret the passing of Mr Athol Wells just prior to Christmas. Athol was the immediate past president of the Blackburn RSL sub-branch and had served the branch most recently as president for an extraordinary 16 years. Athol was a stalwart of the club and had led it during some important and challenging times over the years. One of his legacies is a well-functioning club that is in a strong financial position. I very much enjoyed all my dealings with Athol over the last six years. My sympathy to Athol’s family, RSL club members and friends. Vale, Athol Wells.

### **Queen Elizabeth II**

**Mr ANGUS** — Earlier this week, on 6 February 2017, Her Majesty the Queen celebrated the 65th anniversary of her accession to the throne. This event is called the blue sapphire jubilee and is a milestone that no monarch in recent history has

achieved. The Queen was the first monarch to visit Australia and has done so on 16 occasions, the last being in 2011, when her visit included Victoria. Both personally and on behalf of the residents of the Forest Hill district, I offer my thanks and congratulations to Her Majesty for her service and on her remarkable achievement.

### **Marian Simpson**

**Mr ANGUS** — I congratulate Forest Hill resident Mrs Marian Simpson on celebrating her 102nd birthday today, a remarkable milestone. I had the great pleasure of visiting Mrs Simpson, her daughter Lindy and son-in-law Kevin for afternoon tea earlier this week. Having migrated from England after the Second World War, Mrs Simpson is a great example of someone who has come to Australia, settled into her adopted country and, together with her family, made the most of the opportunities she has had in her new country. Congratulations, Mrs Simpson.

### **Law and order**

**Mr ANGUS** — Over the Christmas period Victorians have continued to see law and order running out of control in Victoria. Almost every day the Victorian community is hearing about more home invasions, more carjackings, more assaults and more assorted violent crimes around the state. With numbers of these offences being committed by offenders on bail, my community joins the state opposition in calling for the government to do something — —

**The ACTING SPEAKER (Mr Dixon)** — Order! The member's time has expired.

### **St Andrew's Anglican Church, Aberfeldie**

**Mr CARROLL** (Niddrie) — I rise to congratulate the parish of St Andrew's, Aberfeldie, on their recent commissioning service for the Reverend Michael Danaher as curate-in-charge. The commissioning was conducted by Bishop Genieve Blackwell of the Marningatha Episcopate on the warm summer night of Tuesday, 24 January, in the splendid St Andrew's Anglican Church, Aberfeldie, on St Kinnord Street. St Andrew's church was full of the local congregation and a large contingent from St James, Dandenong, where Reverend Danaher was once the full-time assistant curate. Many from the congregation of Dandenong made the trip for this special occasion.

The Anglican clergy were all dressed in their traditional robe, and Bishop Blackwell conducted a wonderful service assisted by Archdeacon Jeff Parker, Mr Roger

Kearns and Ms Christine Toth from St James, Dandenong. The churchwardens from St Andrew's presented the Reverend Michael Danaher before the bishop and congregation. This was soon followed by readings from locals Keith McLean and Bev Stephenson and Archdeacon Len Firth and ably assisted by the service of Father John Mathes of Christchurch Essendon.

Reverend Danaher can be very proud of his commissioning service and the work that he did making it such a success. No doubt a highlight for him was that the occasion occurred before his close family members. I want to congratulate and thank the churchwardens Jan McLean, Virginia Brown and Timothy Anderson and the many volunteers that made it such a success.

I have a proud association with St Andrew's, having once attended the kindergarten many years ago and in more recent years been able to sponsor their annual parish fete, which is a success year on year. Congratulations, Reverend Danaher. St Andrew's is an outstanding church where you are welcome.

**The ACTING SPEAKER (Mr Dixon)** — Order! The member's time has expired.

### **Australia Day awards**

**Mr T. SMITH** (Kew) — I want to congratulate the following residents of Boroondara and Kew on receiving awards in the Australia Day honours on 26 January, and what a wonderful thing that Australia Day is still on 26 January: Dr David Kemp, who received the Companion of the Order of Australia for services to the Liberal Party, to the Parliament of Australia and to academia; Mr John Laidlaw, for distinguished service to the community through philanthropic endeavours; Professor Andrew Scott, for significant service to nuclear medicine; Dr Lynne Williams, for significant service to public sector administration; Mrs Vivienne Reed, the OAM for the visual arts; Mr Neville and Mrs Dawn Heffernan, the OAM for service to education and to the community; and Peter Hitchener, the OAM for service to broadcast media. Peter is someone I have had a bit to do with in Kew over the last two years.

I would also like to congratulate the following Boroondara citizens of the year: Rosemary Chapple as Volunteer of the Year; Lauren Gregory as Young Citizen of the Year; and the joint recipients of Boroondara Citizen of the Year, Jan Dimmick and Gwenda Foard. Congratulations to these citizens of our great city.

## Queen Elizabeth II

**Mr T. SMITH** — In the time that I have left, I would like to place on record my congratulations to Her Majesty the Queen on her blue sapphire jubilee, an unprecedented achievement — 65 years on the throne. Once again it is profoundly disappointing that this Parliament, and indeed the government, have not in any way, shape or form congratulated Her Majesty on this extraordinary achievement. Once again this sort of cultural relativism is extremely disappointing.

## Australia Day

**Mr J. BULL** (Sunbury) — It was a great privilege to attend and speak at the Hume City Council citizenship ceremony and Australia Day awards. As well as meeting some of our newest Australians, some excellent awards were presented. I would like to congratulate joint recipients of Hume Citizen of the Year, Mercedes Ramirez and Nayana Bhandari; the Young Citizen of the Year, Coby McTaggart; and Christmas on the Green, Sunbury, which was awarded the Community Event of the Year. Juan and Wendy of the organising committee for carols on the green were there in attendance. It was fantastic to see them acknowledged for their hard work. They should all be very proud of the wonderful work they do for our community.

## Diggers Rest fire response

**Mr J. BULL** — Speaking of wonderful community work, I would like to take this opportunity to thank the outstanding, hardworking and dedicated staff and volunteers of our local emergency services — the Country Fire Authority, the Metropolitan Fire Brigade, the State Emergency Service, Victoria Police and all supporting agencies in conjunction with Emergency Services Victoria — who worked extremely hard last Saturday to protect life, property and homes as a fast-moving grassfire broke out in Diggers Rest in my electorate. This fire burnt around 110 hectares, damaging one house and a shed. Had it not been for the rapid response of emergency services staff and the deployment of seven aircraft and over 30 appliances, this fire could have done a whole lot more damage. I want to take the opportunity to thank and commend the emergency services staff and volunteers and the many residents who took the advice of authorities, who worked very hard to stick together and who ensured that the community was protected. Thank you.

## Victorian Industry Participation Policy

**Mr RIORDAN** (Polwarth) — The Polwarth electorate is in dismay this week with the hypocrisy of this government. In its glossy blurb on putting ‘local jobs first’ through the Victorian Industry Participation Policy (VIPP), the government says it is:

... committed to improving opportunities for local suppliers ...

It says its VIPP policy:

... ensures that small and medium size enterprises (SMEs) are given a full and fair opportunity to compete for government contracts, such as hospitals, schools ...

Most importantly VIPP in its own words says:

VIPP requires government departments and agencies to consider competitive local suppliers, including SMEs, when awarding contracts valued ...

So the question this government must answer, and what my community wants to hear is: how can expressions of interest for a much-needed \$11 million police station in Colac be called for and yet not one local builder be invited to put a tender in? The building and construction industry in Colac is well developed and mature. Colac has an array of large and progressive builders who collectively construct tens of millions of dollars of buildings around the state. It beggars belief that the capital branch of Victoria Police can get away with saying that local builders are not qualified and have not been short-listed.

## OMBUDSMAN JURISDICTION

**Mr PAKULA** (Attorney-General) — On behalf of the Minister for Public Transport, I move:

That this house:

- (1) notes the description of exclusive cognisance given in Hatsell’s *Precedents of Proceedings in the House of Commons*, volume 3, page 67, that: ‘The leading principle, which appears to pervade all the proceedings between the two houses of Parliament, is, that there shall subsist a perfect equality with respect to each other; and that they shall be, in every respect, totally independent one of the other ...’;
- (2) asserts the rights and privileges of the Legislative Assembly with respect to exclusive cognisance regarding members of the Legislative Assembly in relation to the matter referred to the Ombudsman by the Legislative Council on 25 November 2015, meaning that the Legislative Council’s referral to the Ombudsman cannot be taken to apply to current or former members of the Legislative Assembly;

- (3) directs the Speaker to convey the terms of this resolution in writing to the President of the Legislative Council and the Ombudsman accordingly.

In support of that motion I would just like to make a few points. Firstly, obviously as this debate goes on — and members opposite have said it will be a long debate that will take up a lot of time; I suggest it does not need to —

*Honourable members interjecting.*

**Mr PAKULA** — It did not take them long! We do expect a great deal of hyperbole from those opposite, and we have already heard some of it this morning, but the principle that is at stake here is actually a very simple one, and it is a very important one. That question, that principle, is whether the members of this house are prepared to assert and to defend the privileges of this house. They are privileges which are referred to in the motion at point 1, the principles in Hatsell — and Hatsell goes on to say that:

neither house can claim, much less exercise, any authority over a member of the other ...

That has been a principle which has been longstanding, not just in this Parliament and not just in the federal Parliament but in the British Parliament, from which we take our laws and with which I am sure that the member for Kew has great fidelity.

The question is whether members of this house are prepared to defend that privilege, or are they prepared to allow and indeed support a situation or principle where the Legislative Council or, worse, a committee of the Council — potentially as few as three members of the Council — can now and for evermore refer any member of this house, whether a minister, parliamentary secretary, backbencher, or shadow minister, for investigation for any matter whatsoever? That is the logical conclusion of the path they are following. That is the essence of this motion.

I will save for later the lunacy of any member of Parliament supporting the notion that a majority of any parliamentary committee should be able to refer to the Ombudsman any matter whatsoever. We can come back to that later; for now let us focus on the privilege of this house. I have already referred to the wording in Hatsell —

**Mr Pesutto** interjected.

**Mr PAKULA** — I say to the member for Hawthorn: I am confident he will get a go. You know, ‘When in doubt, roll Pesutto out’. I am sure he will get a go. But let me focus for the moment not on Hatsell

and not on my comments. Let us focus on what the President of the Legislative Council, the Honourable Bruce Atkinson, MLC, said in his submissions before the Supreme Court of Victoria. In his defence of section 16 of the Ombudsman’s act the President argued:

... allowing the Council to refer to the Ombudsman a matter concerning a member of the Council reinforces, and does not undermine, the principle of exclusive cognisance. It would breach that principle for one house to refer to the Ombudsman a matter relating to the internal affairs of the other house.

I could not have put that better myself, but he went on in his submissions to say:

... the resolution does not refer the conduct of members of the Assembly; and it does not assert or imply that the privileges and immunities of the Assembly are in any way diminished.

They were not our submissions. They were the submissions of Mr Hanks, QC, for the President, the lawyer who was engaged upon the motion of the Liberal-Greens majority in the upper house. It is not us saying that; that was in the President’s submissions. Finally, the President submitted that it was for the house rather than the court to assert that privilege, and the court agreed with him.

Now, we in argument took a different view. We thought that the potential assault on the privileges of the house was a fundamental weakness in the way that this entire provision has been interpreted, but notwithstanding that — and that matter will still be ventilated at a later date — we are doing with this motion no more than what has been asserted by the President in his submissions and with the full concurrence of the court.

Beyond that, I say this. It is crazy for any party that sees itself as a party of government, now or in the future — I know that the member for Box Hill has said in this house on a number of occasions, ‘We want to be back in government one day so we take that into consideration in the things that we say and do’ — to actively support the creation of a precedent that says a majority in an upper house committee can refer any action of an Assembly minister or an Assembly member to the Ombudsman for priority investigation. It is equally crazy for a party that has recently been in government to want this house to be able to refer for investigation the actions of people who were Legislative Council ministers in the last Parliament. That is equally insane.

Think of the potentially rich vein of inquiry if our motion, the assertion of privilege, is not supported. If it

becomes the new norm that one house can refer members of the other house from this Parliament or a previous Parliament, there would be nothing stopping the Legislative Assembly making references about the conduct of those who were ministers in the Legislative Council in the last Parliament. You might, for instance, move motions about the use of ministerial vehicles by former ministers.

*Honourable members interjecting.*

**Mr PAKULA** — In response to the Leader of The Nationals, I might be referring to former ministers in the former government in that house.

It might be that this house decides that it would be appropriate for there to be an investigation into certain planning decisions made by a former Minister for Planning, who at the time was a member of the Legislative Council. Some of those investigations might be a lot more revealing than an investigation into whether electorate officers were doing political work. In fact, given the media reports that we have seen in the last couple of weeks about organisations like Parakeelia or the Cormack Foundation, I do not believe that members opposite deep down really want ‘any matter’ to mean ‘any’ matter, because that is the logical consequence of taking the view that ‘any matter’ actually means ‘any’ matter. It does not have to be about a member of Parliament, and it certainly does not have to be a member of the same house. It can be an investigation about anything moved by three members of one committee in one chamber and the Ombudsman would have no choice but to give that a priority investigation. That is the logical consequence of the path that this opposition is going down by its refusal to accept privilege and by its assertions about what it thinks ‘any matter’ means.

We have also heard some utterly disgraceful assertions in this house today and previously by the member for Hawthorn about the potential criminal investigation that he says should be taking place. He made those disgraceful assertions in the full knowledge that Victoria Police have investigated this matter and determined that there is no criminal case to answer. He makes those assertions in the knowledge of that. He makes those assertions in the knowledge that Parliament’s inquiry that was conducted by PwC found that there were inconsistencies and ambiguities within existing guidance legislation and employment arrangements. He knows that, but he still makes those assertions. If he said it about an individual member outside these walls, he knows what would happen. But he does not do that.

**Mr Pesutto** interjected.

**Mr PAKULA** — But you did not name anyone. You are not that silly.

Most relevantly, he said it despite assertions by counsel for the President, Mr Hanks, QC, that the only reason he argued the Ombudsman could deal with the matter was for the very reason that there was no assertion of either corrupt or improper conduct. That was contained in Mr Hanks’s submissions, and Justice Cavanough in response said:

Accordingly, I consider that I should proceed on the basis that it is common ground that neither ‘corrupt conduct’ nor ‘improper conduct’ is alleged.

So despite the existence of a police investigation which found no case to answer, despite the fact of a PwC report which talked about the inconsistencies between legislation and the *Members Guide*, despite the fact that their own lawyers said that there is no assertion of corrupt conduct and no assertion of improper conduct, he still bandies around words like ‘criminality’. They demean this house, and ultimately his colleagues will not thank him for being so loose with the truth.

That level of hyperbole will not intimidate the government. It will not stop the government asserting the privileges of this house. All of this puts me in mind of the television series *Fargo*. I do not know whether any members of this house have seen this series; it is an excellent series and I highly recommend it.

**Mr Pesutto** interjected.

**Mr PAKULA** — I occasionally have time to watch telly, I say to the member for Hawthorn. There is a scene late in that series where the hitman, Malvo, and the insurance salesman, Lester, are in a lift together. There is a very tense confrontation at which point Malvo says to Lester, ‘Is this what you want?’. Lester demurs, and Malvo asks again, ‘Is this what you want?’. Lester says, ‘Yes’, and then all manner of mayhem and chaos ensues. I say to the opposition, ‘Is this really what you want?’. Because once we go down this path where one house’s privilege is not respected by the other, once we go down the path of one house not being prepared to assert its own privilege, what we are —

**Mr R. Smith** interjected.

**The SPEAKER** — Order! I warn the member for Warrandyte.

**Mr PAKULA** — I will come back to the member for Warrandyte’s interjection. The member for

Warrandyte says, 'We'll deal with that in government'. Well, you may think that is the case, but let me tell you: once we go down the path that one house no longer respects the privilege of the other, once we go down the path of saying that three or five members of an upper house committee can refer for investigation any matter whatsoever, if you think that you can stop going down that path once you are in government, you ought to think again. It is not that simple.

Can I say, we will continue to assert an appropriate boundary for the referral power, even if those opposite will not. We will defend the architecture of the integrity regime that they instituted — the very carefully constructed architecture of the integrity regime, which said that there are certain matters that are for the Independent Broad-based Anti-corruption Commission, certain matters that are for the Ombudsman, certain matters that are for the Auditor-General, certain matters that are for the Freedom of Information Commissioner and certain matters that are for Parliament — a very carefully constructed architecture. We will defend that architecture that you put in place, even if you will not, and we will defend the privilege of this house for now and for those that come after us, even if you will not, and you can thank us for it privately.

**Mr CLARK (Box Hill)** — The Liberal Party and The Nationals oppose this motion. We oppose it for many reasons. Firstly, the house should be debating measures to protect Victorians from crime, not measures to protect roting Labor MPs from investigation. Secondly, the explanation given by the Attorney-General as to the reasons why the government puts forward this motion is flawed and completely unpersuasive. Thirdly, we disagree with the motion's conclusions. With last month's Bourke Street tragedy on top of the already soaring number of offences being committed by persons on bail, this Parliament should have been recalled urgently from its summer recess and we should have been debating urgently measures to strengthen our bail laws.

However, instead of acting to save Victorians from crime, Labor MPs are more concerned about acting to try to save their own skins from the consequences of their roting. If all the legal experts who have spent their time researching parliamentary precedents and reading learned volumes dating back to 1818 had instead been spending their time putting their minds around drafting bail law reforms, then perhaps we could have had a bill before the Parliament on that very subject right now, and be debating that bill instead of this motion. I think the citizens of Victoria would expect us to give priority to their safety over the skins of roting MPs.

The Attorney-General has tried to give this house some convoluted explanation of why they are bringing the motion to Parliament, but we are still actually at a loss as to why the Parliament is being expected to take up its time with this motion, when these issues are already before the High Court. Does the government hope that their remarks on the terms of this motion will in some way influence the decision of the High Court? Are they planning to defy any ruling that may be given against them by the High Court? Or are they trying to lay the ground for a claim that their roting is above scrutiny by the courts or by the Ombudsman? The learned judges of the High Court will of course attach as much weight or as little weight to the motion before us as they see fit, but their reasoning would have to depart radically from that of the Court of Appeal for them to give any weight to this motion that might change their conclusions.

If the government is planning to refuse to comply with the ruling of the High Court if it goes against them, then they will of course be in defiance not only of the rule of law but also of the fundamental tenets of a free and democratic society. If the government is trying to argue that their roting of parliamentary allowances is beyond the judgement of the courts or beyond the judgement of the Ombudsman, they are likely to get the same reaction from both the courts and from the public as the roting members of the House of Commons received when they tried similar arguments after being charged with criminal offences for their abuse of parliamentary allowances.

The conclusion asserted by this motion that the Legislative Council's referral to the Ombudsman cannot be taken to apply to current or former members of the Legislative Assembly is in our view just plain wrong. The resolution of the Legislative Council on its face refers to allegations that ALP members of the Victorian Parliament misused members' staff budget entitlements, and there is no ground whatsoever to construe that resolution as applying only to allegations against ALP members of the Legislative Assembly. Secondly, the Court of Appeal has made clear that, as a matter of statutory construction of the Ombudsman Act 1973, section 16 of that act confers on the Ombudsman authority to carry out an investigation in the terms of the Legislative Council's resolution.

The motion before us makes various assertions about the rights and privileges of the Legislative Assembly with respect to exclusive cognisance, as the term goes. The motion also cites volume 3 of John Hatsell's learned 1818 publication, the correct title of which is *Precedents of Proceedings in the House of Commons*. The motion cites from page 67 in support of the proposition that there is 'perfect equality' between the

two houses with respect to each other and that they shall be in every respect totally independent of one another. Issues regarding the relationship between two houses of Parliament, one with the other, and regarding the relationship of those houses with the courts, are vexed and complex. They involve questions of history, of precedent, of constitutional theory and of public policy.

It would be brave indeed to attempt to be definitive about those relationships in a contribution on a motion of which this house has had barely 24 hours notice, and I certainly do not intend to make that attempt. Instead, the government's arguments in support of this motion can be dealt with most simply by the observation that statute trumps privilege. If Parliament by statute has legislated to give power to either house to refer certain matters to certain public authorities for investigation and for the relevant authority to conduct that investigation, that supersedes any question as to whether or not there would otherwise be a privilege against such investigation.

Of course, the government is arguing that the Ombudsman Act in section 16 should be read down so as to accommodate the privilege that the government asserts. The Court of Appeal has ruled that on a proper construction of that section Parliament intended to give the power to either house of Parliament to give a reference to the Ombudsman on matters such as the Legislative Council has referred. The government argues — and I think this is the core of the Attorney-General's argument — that this will have what he would describe as the terrible consequence of one house being able to intrude on matters relating to the other house or its members.

The first and the crucial observation that I would make in response to that argument is that there is a difference, a very important difference, between a house itself intruding on matters concerning the other house or its members and a house referring such matters to a properly constituted statutory body or office. The simplest way of making the point is this: that if, as the Attorney-General fears and as he waxed eloquent on in his remarks, the Legislative Council or a committee of the Council or indeed at some future time this house or a committee of this house were to refer a frivolous or vexatious matter to the Ombudsman, then the Ombudsman would give it short shrift, would throw it out on its ear, would deliver a report to this house that gave a stinging rebuke to those who referred the matter to her, and they would end up embarrassed and humiliated and suffer the rightful adverse judgement of the public.

An analogy can be drawn with making reports to the police. Anyone can make a report to the police, but that does not mean that the police are going to go and conduct an elaborate and extensive investigation. If they think there is no case, they will react accordingly and give the complaint the short attention it deserves. So to try to say that this is in some way like the other house itself embarking on examination of what this house or its members are doing just does not stand up.

Secondly, there can be times, believe it or not, when houses of Parliament are actually trusted — either by statute or by convention — to exercise the powers that are conferred on them responsibly and to not abuse them. Legislators at the time of passage of the Ombudsman Act seem, both from the wording of the act and from what was said in debate at that time, to have been happy to give broad powers for either house to refer 'any matter', as the statute says, to the Ombudsman and presumably legislators at that time were happy to do so because they had confidence either that the inherent sense of responsibility of members of Parliament would not see that power abused or else that if either house were to abuse that power, it would face the harsh judgement of the electorate. They were happy to rely on those as being the constraints or the sanctions without any intention as a matter of law to fetter the interpretation of the words 'any matter'.

As in so many contexts, the important question that each house needs to decide for itself in relation to its powers is not 'What can we do?' but 'What ought we to do?'. If a government or any other majority decides that the only question it need answer is what it can do by sheer, brutal exercise of its powers, then parliamentary democracy is in grave danger. That is a sanction and a constraint that we each in our respective houses need to impose on ourselves and constantly be mindful of.

Thirdly, the assertion of total independence, as the motion refers to in quoting Hatsell, is only total independence in relation to certain matters, as an examination of Hatsell itself will demonstrate — namely, those matters relating to or closely linked to the deliberations or other functions of each chamber. To take an obvious example, both houses sit in the one Parliament building and there is a necessity —

**The SPEAKER** — Order! The time has come for me to interrupt business under sessional orders for questions without notice and ministers statements. The manager of opposition business can continue his contribution when the matter is before the house again.

**Business interrupted under sessional orders.**

**QUESTIONS WITHOUT NOTICE and  
MINISTERS STATEMENTS**

**Bail laws**

**Mr GUY** (Leader of the Opposition) — My question is to the Premier. Yesterday on Sydney radio Bill Shorten said about Victoria’s crime wave:

What they —

meaning you —

have done so far hasn’t been enough, but I’m probably at the point where I don’t think we need too many more reviews. We know the problem. We just need to toughen up on the offenders.

Premier, even Bill Shorten is saying you are soft on crime and soft on violent offenders, so when will you finally toughen up and make immediate changes to bail laws and stop endangering the safety of every Victorian?

*Honourable members interjecting.*

**The SPEAKER** — Order! The Attorney-General! The Premier has the call on a substantive question as put by the Leader of the Opposition.

**Mr ANDREWS** (Premier) — I thank the Leader of the Opposition for his question. He did a little bit of quoting there and then he just added a bit of his own at the end. As with all things the Leader of the Opposition has said, we could say to him, ‘Please explain’. We could say that to him. That would be a really apt thing for him to do today given some of his mates. But let us not be diverted from this very important issue. As with everything that the Leader of the Opposition says, I will need to check that —

**Mr Guy** — On a point of order, Speaker, I seek leave to table Bill Shorten’s exact words — what he said on Ray Hadley’s program yesterday on 2GB.

**The SPEAKER** — Order! Leave is not granted.

*Honourable members interjecting.*

**The SPEAKER** — Order! The Chair is on his feet. Both the Leader of the Opposition and the Leader of the House will remain silent.

**Mr ANDREWS** — As I was saying, Speaker, this is a very important matter. The government has asked former Director of Public Prosecutions (DPP) Coghlan to have a very close look at these matters. If the Leader of the Opposition wants to criticise that process, he is free to do that. I would note, though, that no such

criticism was offered in relation to the reviews set up by those opposite which, I remind them, you and all Victorians, took 11 months — not 11 weeks, but 11 months. With the greatest respect to the Leader of the Opposition, we will take our advice on making fundamental change to the bail system in this state from the former DPP, not the former failed government.

*Honourable members interjecting.*

**The SPEAKER** — Order! Both the member for Footscray and the member for Lowan will come to order.

**Mr Pakula** interjected.

**The SPEAKER** — Order! The Attorney-General will come to order.

*Supplementary question*

**Mr GUY** (Leader of the Opposition) — The Premier has made it clear that he will continue to drag his feet on tightening bail laws despite what Victorians want. Premier, will you take responsibility for each and every violent offence committed against Victorians, every violent offence — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The Chair is unable to hear the Leader of the Opposition on a supplementary question being put to the Premier. The Leader of the Opposition will continue, in silence.

**Mr GUY** — Premier, will you take responsibility for each and every violent offence committed against innocent Victorians —

**Ms Thomson** interjected.

**The SPEAKER** — Order! The member for Footscray is now warned.

**Mr GUY** — by those released on bail between now and when you finally make the changes to bail that you should be making right now?

*Honourable members interjecting.*

**The SPEAKER** — Order! The Premier to respond to the Leader of the Opposition on a supplementary question, to be heard in silence.

**Mr ANDREWS** (Premier) — I thank the Leader of the Opposition for his question. I would simply say to him that I am very aware of my responsibilities, and my

responsibilities do not extend to playing cheap political games with these matters. They instead relate — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The Premier to continue, in silence.

**Mr ANDREWS** — The responsibility that I and each member of the government will fulfil is to make profound changes to the bail laws in our state, and we will do it properly. That sits in stark contrast to some in this chamber —

**Mr Guy** interjected.

**The SPEAKER** — Order! The Leader of the Opposition will come to order.

**Mr ANDREWS** — who identify themselves by their interjections, who see political opportunity in every tragedy. They ought to be ashamed.

### **Ministers statements: Crown Melbourne**

**Mr ANDREWS** (Premier) — I am delighted to rise to update the house on a major planning approval made by our government today. It is not simply an approval of a planning scheme for a building; it is the approval of 4000 jobs. I joined the Minister for Planning this morning to announce Crown Melbourne's \$1.75 billion hotel and apartment development. It will be a 6-star hotel in a 90-storey building, with 388 6-star hotel rooms — and don't we need them! With such an action-packed, blockbuster major events calendar we need those extra rooms. And of course there will be 708 residential apartments.

This will be one of the biggest developments the state has ever seen, indeed the nation has ever seen, and it is all about creating additional construction jobs and jobs going forward at Crown.

*Honourable members interjecting.*

**Mr ANDREWS** — The member for Hawthorn is a big supporter of jobs, apparently. There are 10 500 jobs there now and there will be another thousand ongoing as a result of this, plus 3000 construction jobs during that construction process.

This is also a fantastic outcome for every Victorian beyond that, with \$100 million worth of public realm benefit, including the Sandridge Bridge being upgraded and the square and public space proximate to this new development being upgraded. That is in stark contrast to the tick-and-flick approach we had from others. I do

not think they would have got \$100 million of community benefit; no, I do not think so.

This is a great day for jobs, a great day for construction, a great day for tourism and major events, and a great vote of confidence in the state of momentum — the place where it is all happening.

### **Bail laws**

**Mr GUY** (Leader of the Opposition) — My question is again to the Premier. After the tragic murder of Jill Meagher the then government made changes to start fixing the parole system without waiting until the Callinan review was completed. Premier, Victorians are tired of your excuses. Our state is under siege. People are being attacked, bashed, traumatised and in some cases killed. I ask you: do you feel any guilt, any remorse, any responsibility that you could have, should have and can now still act to prevent these kinds of attacks but you will not?

*Honourable members interjecting.*

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

**Mr ANDREWS** (Premier) — I am genuinely indebted to the Leader of the Opposition for showing every Victorian just the sort of guy he is — just the sort of Leader of the Opposition he is. But in stark contrast: \$2 billion, 3000 additional police, the model the chief commissioner wants, the model that our state needs, delivered by this government and, what is more, strongly supported by the police association. Oh, we do not like to hear the truth, the facts — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Gembrook will come to order, and so will the member for Geelong. The Leader of the Opposition on a point of order, in silence.

**Mr Guy** — On a point of order, Speaker, on relevance, I asked a straightforward question, which was: do you feel any guilt, remorse or relevance? That was the question I asked the Premier, and I seek an answer on behalf of every Victorian.

**Mr ANDREWS** — On the point of order, Speaker, I understood the question to be about the safety of the Victorian community, and I am speaking directly to that, putting some facts on the table. If that is uncomfortable for the Leader of the Opposition, so be

it. That does not amount to a point of order, and ranting does not amount to leadership either.

**The SPEAKER** — Order! The Chair does not uphold the point of order at this stage.

**Mr ANDREWS** — I, the government and every member on this side of the house certainly are fully aware of our responsibilities, and that is why we are giving to Victoria Police command the recruitment model they have wanted for a very long time. That is doing something. Giving to police command the technology and equipment they have wanted for a long time is doing something. Not taking 11 months to look at these bail issues, instead getting this work done in less than 11 weeks, is doing something. I will again make the point that when it comes to carjacking and home invasion, we have made profound changes and they sit in stark contrast to the feeble and inadequate position put by those opposite.

We are very aware of our responsibilities, and in the first instance that is to make sure that we give former Director of Public Prosecutions Coghlan all the resources that he needs, and we are, to have advice on the Attorney-General's desk by 3 April, and he will. Then we will make the profound change that is necessary in our state.

What is more, the coroner has a role to play in relation to the tragic events on Bourke Street —

**Mr Paynter** interjected.

**The SPEAKER** — Order! The member for Bass is now warned.

**Mr ANDREWS** — and the lead-up to those and the inevitable lessons that will be learnt, and we have made sure that she has all the resources necessary. So I reject outright the ranting of the Leader of the Opposition. It is wrong and shows every Victorian that there is no tragedy that he will not seek to turn into a political opportunity, and there is no road too low for this Leader of the Opposition to travel.

*Honourable members interjecting.*

**Questions and statements interrupted.**

## SUSPENSION OF MEMBER

### Member for Bass

**The SPEAKER** — Order! The member for Bass will now withdraw himself from the house for the period of 1 hour.

**Honourable member for Bass withdrew from chamber.**

## QUESTIONS WITHOUT NOTICE and MINISTERS STATEMENTS

**Questions and statements resumed.**

### Bail laws

#### *Supplementary question*

**Mr GUY** (Leader of the Opposition) — Given that this parliamentary week, Premier, you and your ministers are spending your time trying to protect your own political hides from a rorts investigation instead of protecting all Victorians from your weak, revolving-door bail laws, will you now commit to recalling the Parliament next week to do the job that all Victorians want us to do and immediately toughen up Victoria's bail laws?

**Mr ANDREWS** (Premier) — I thank the Leader of the Opposition for essentially an identical question to the one he just asked. He might have been a bit louder, but it was the same question. I will just again make the point that no-one on this side of the house is taking advice from the Leader of the Opposition. Instead we will allow the former Director of Public Prosecutions Coghlan to provide advice — urgent advice — to the government, and then rather than taking 11 months — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The Minister for Police and the Deputy Premier will come to order. I warn the Minister for Roads and Road Safety. The member for Warrandyte is entitled to silence when making a point of order.

**Mr R. Smith** — On a point of order, Speaker, the question was very clear: will the Premier commit to recalling Parliament next week to deal with these issues? It is a simple question. It is a direct question. The answer should be a yes or a no.

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for South-West Coast will come to order, and so will the member for Geelong. There is no point of order.

**Mr ANDREWS** — These are very serious matters, and I would have thought that all of us owe more to the victims of the Bourke Street tragedy than screaming and shouting — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The Chair is unable to hear the Premier. The Premier to continue, in silence. And that includes the member for South-West Coast.

**Mr ANDREWS** — We will wait to see the advice from Paul Coghlan because that is the appropriate thing to do. We will not be led by the opportunism and the unhinged presentation from this one opposite.

**The SPEAKER** — Order! The Premier's time has expired.

### **Ministers statements: Crown Melbourne**

**Mr MERLINO** (Minister for Education) — We heard today from the Premier about the economic and employment benefits of Crown's new tower, and I want to touch on what this means for Victorian apprentices. There will be 3000 construction jobs and 1000 jobs ongoing.

**Ms Allan** — How many?

**Mr MERLINO** — Three thousand construction jobs. This is a massive project that will deliver opportunities for Victorian apprentices. This morning the government confirmed with Crown that we will be working with them to ensure that these new jobs will include significant apprentice and trainee opportunities, and I have asked my department to immediately meet with Crown to progress this.

Crown has a strong record in this area. Over the last three years almost 1000 courses have been completed at Crown College. This includes courses in commercial cookery, tourism, frontline management, hospitality and leadership. All up, Crown College has accredited 5000 apprentices and trainees since opening. This builds on the Andrews government's partnership with Crown Melbourne to deliver 500 training places over the next four years. The purpose of this partnership is to provide training and employment opportunities for workers in transition. They are provided without cost to the individual and without Crown accessing government subsidy under the Victorian training guarantee. That has a 93 per cent employment rate success.

Labor places a high priority on apprenticeships and vocational training, unlike those opposite, who took the axe to TAFE. Apprenticeship completions dropped under the previous government from 45 400 in 2010 to just 34 000 in 2014. We are turning around that wretched record, and apprenticeship commencements have increased for the first time since 2010. We

welcome this new announcement and what it means for apprentices.

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

### **Youth justice centres**

**Mr GUY** (Leader of the Opposition) — My question is again to the Premier. Premier, Minister Mikakos has presided over an unprecedented 30 riots in our juvenile justice facilities, most recently with a mass breakout where offenders assaulted staff, hijacked cars, punched a grandmother leaving her bloodied, robbed a man using a machete and rammed a car where a young girl was aboard.

Premier, you have sacked ministers for far lesser things, so how many more Victorians have to get bashed, threatened or hurt — how many more Victorians will be physically injured or traumatised — before you finally sack this incompetent minister?

*Honourable members interjecting.*

**Questions and statements interrupted.**

### **SUSPENSION OF MEMBERS**

#### **Members for South-West Coast and Footscray**

**The SPEAKER** — Order! The member for South-West Coast and the member for Footscray will withdraw themselves from the house for a period of 1 hour.

**Honourable members for South-West Coast and Footscray withdrew from chamber.**

### **QUESTIONS WITHOUT NOTICE and MINISTERS STATEMENTS**

#### **Youth justice centres**

**Questions and statements resumed.**

**Mr ANDREWS** (Premier) — What occurred at Malmesbury is completely unacceptable. All Victorians should be able to agree on that fundamental point. That is why charges have been laid against a number of inmates at that facility. I will not compromise any of that ongoing work by running a loose commentary on it, but what occurred at that facility and in the wake of the escape — the hours afterwards — was absolutely unacceptable.

We need to take action in this area, and it is exactly what we have done. Corrections Victoria staff are now in charge of and will be permanently in charge of the good order and security of these facilities, as they should be. What is more, the government, after months of work around a proper business case and analysis, will build a new youth justice facility — a new youth prison — which is exactly what we need. It will be of a high-security nature.

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Eltham is warned.

**Mr ANDREWS** — What we will not do, and of course this — —

*Honourable members interjecting.*

**Mr ANDREWS** — We will not cut back juvenile justice staff.

*Honourable members interjecting.*

**The SPEAKER** — Order! The Chair must be able to hear the Premier. A question was put. The Chair requested silence for the Leader of the Opposition when advancing that question; similarly, the Chair requests silence for the Premier. The Premier, to continue.

**Mr ANDREWS** — So an additional youth justice facility, state of the art and high security, is something that has been needed for quite a while, right back to an Ombudsman's report in 2010 that sat gathering dust for four long years. We will not do that. We are acting on this and providing the resources to build that new facility. We have also, of course, established the Grevillea unit — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The Chair is unable to hear the Premier. The Premier to continue, in silence. The Leader of the Opposition will allow the Premier to respond to his question and to hear his answer.

**Mr ANDREWS** — They are very loud now, but not so loud in cabinet in those four years. Not so loud then. You can see the dust gathering on that report, and they did nothing. I am wrong to say that, actually. I am wrong to say they did nothing. They actually cut youth justice staff. Then they went and built an allegedly secure unit at Malmsbury. We are having Neil Comrie have a very close look at that, because I think there is some work we are going to have to do there around fortification because, of course, as with most things

those opposite touched, it was not such a good outcome. But we are building a new facility and giving Corrections Victoria the proper responsibility for good order and security. We have made administrative changes to rebalance this so that without any doubt the first consideration is the safety of the community.

*Honourable members interjecting.*

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

**Mr ANDREWS** — And far from being loud after the event, as some are, we are getting this done in a methodical, professional manner. That is what is needed, and that is what is being delivered.

*Supplementary question*

**Mr GUY** (Leader of the Opposition) — Brooke Lee, a local who was in a car when escapees hijacked it, and her mother, who was dragged out by her hair and punched in the head during January's mass breakout from Malmsbury, has rightly asked you: why should we have to put up with this? Why should my family have to live in fear?

Premier, given you have repeatedly expressed full confidence in Minister Mikakos, will you guarantee that under her watch there will be no more riots, no more mass breakouts, nothing like that will occur at Malmsbury and directly threaten the safety of local residents like Brooke Lee?

**Mr ANDREWS** (Premier) — I take this opportunity to indicate to Ms Lee and her family that not only are our thoughts with her, but our action as well. The Leader of the Opposition is of course running a commentary on an allegedly secure facility that he built. That is the first point, but on from that to Ms Lee and her family, and everybody caught up in that terrible event — that inexcusable event — we say, Corrections Victoria staff are in there doing their job and doing it well.

*Honourable members interjecting.*

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

**Mr ANDREWS** — The government is providing additional resources to build a new facility, something that was recommended, and ignored, for four long years. We are not cutting back youth justice staff, we are in fact making strong investments and we will continue to make sure that we rebalance this system so that the safety of the community is the number one

consideration, something for which I make no apology at all.

**Ministers statements: Crown Melbourne**

**Mr PALLAS** (Treasurer) — I rise to inform the house about the extraordinary economic benefits that will flow from the redevelopment of 1–29 Queensbridge Street, Southbank. Economic modelling actually suggests that —

*Honourable members interjecting.*

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

**Mr PALLAS** — the \$1.75 billion tower will contribute \$2.1 billion to the Victorian economy over the first ten years of its operation. Now, this is terrific news for Victoria. What it tells us is that the project will create 4000 jobs, which will enhance our \$21 billion tourism and events industry. It is the icing on the cake of good news —

*Honourable members interjecting.*

**The SPEAKER** — Order! The Leader of the Opposition will come to order.

**Mr PALLAS** — about the health of our construction industry. Let us look at the construction industry: in the year to December 2016, what we do know is that Victoria recorded growth of 4.5 per cent in the building approvals, in stark contrast to what happened to the rest of the nation, which basically saw an 8.1 per cent reduction or contraction in that industry. So our construction industry is a key reason why almost 200 000 jobs have been created since the government was elected in November 2014. And by giving the business community certainty in terms of our approvals process, we are seeing high business confidence. We are also seeing of course high business conditions, which sit well above the national average — something we can all be proud of.

Our economy is now functioning four times faster than the previous government had it in their last year of operation, our gross state product. We are committed of course, in stark contrast to those opposite. The only thing they could approve was around the kitchen table in Ventnor. That was the only public realm —

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

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Gembrook will come to order. So will the Deputy Leader of the Opposition. The Attorney-General will come to order. The member for Malvern is entitled to silence when he is attempting to put a substantive question. The member for Mordialloc is warned; I will not warn the member again.

**Youth justice centres**

**Mr M. O'BRIEN** (Malvern) — My question is to the Treasurer. As Treasurer and the member for Werribee, can you inform the house and all of your constituents what community consultation you and the government engaged in before you decided to fund and announce a supermax high-security youth prison located just 400 metres from your constituents' homes, rather than expanding Malmsbury?

**The SPEAKER** — Order! The Leader of the Opposition will allow the Treasurer to respond.

**Mr PALLAS** (Treasurer) — It is good to see him back. Every time I get a question from the member for Malvern we can remember exactly how tawdry the legacy of those opposite was. We do not need lectures about engagement and transparency from those opposite —

*Honourable members interjecting.*

**The SPEAKER** — Order! The members for Hawthorn and Warrandyte will come to order.

**Mr PALLAS** — nor do we need a lecture about alternative options in terms of appropriate provision of juvenile detention facilities in this state. Remember that it was those who were supposed to have secured Malmsbury —

**The SPEAKER** — Order! The Deputy Premier and other members will come to order.

**Mr M. O'Brien** — On a point of order, Speaker, it relates to relevance. The question was clearly directed to what consultation the Treasurer and the government had engaged in before announcing the decision to build a new supermax youth facility in Werribee, and I ask you to bring him back to answering the question.

**Ms Allan** — On the point of order, Speaker, in asking you to rule out of order the point of order, the question clearly had a reference to Malmsbury. The Treasurer is entirely entitled in his answer to make reference to the very issue that was raised in the question, and I ask you to rule the point of order out of order.

**The SPEAKER** — Order! I call on the Honourable Treasurer to come back to answering the question.

**Mr PALLAS** — We know what consultation means, and it certainly does not mean defunding our juvenile detention centres, a jerry-built facility that they took responsibility for back then in government but now absolve themselves of any culpability in opposition. We know that the Leader of the Opposition is a man of detail, prodigious in his understanding and grasp of issues. Let us remember that he fronted up on Neil Mitchell's program less than a week ago, telling him, 'I've got no problem with Werribee'.

*Honourable members interjecting.*

**The SPEAKER** — Order! The Premier and the Leader of the Opposition will come to order.

**Mr Clark** — On a point of order, Speaker, further to the point that was made previously by the member for Malvern in relation to relevance, this was a specific question about what the Treasurer did as Treasurer and as local member to consult with the people of Werribee prior to making this decision. I ask you to bring him back to answering that question.

**Mr PALLAS** — On the point of order, Speaker, as we know the preamble constitutes part of the question, and the preamble went to issues such as Malmsbury and consideration of alternatives. I have every right to look at the policy considerations that were taken by both this government and previous governments in order to come to the appropriate conclusions.

**The SPEAKER** — Order! The Treasurer is entitled to refer to the preamble and to other matters within the context of the question. The Treasurer has done that. The Chair calls on the Treasurer to now come back to answering the question.

**Mr PALLAS** — I was asked why we had not considered Malmsbury. I am not sure whether the Leader of the Opposition had considered Malmsbury or not, but we may have realised that that facility is compromised because of their tawdry work. What is more, it only took 24 hours that the great man of detail was — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The Leader of the Opposition will allow the member for Warrandyte to make a point of order in silence.

**Mr R. Smith** — On a point of order, Speaker, the house clearly heard you ask the Treasurer to come back

to answering the question. He is defying your ruling; he is defying your direction. I ask you to bring him back once again to complying with your direction.

**The SPEAKER** — Order! The Chair upholds the point of order. The Treasurer to respond to the question.

**Mr PALLAS** — We are not going to demonstrate and treat communities with such contempt as those opposite did. We are not going to come out with thought bubbles that we recant on within 24 hours because there is political expediency to be gained from it — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The manager of opposition business will be heard in silence on a point of order.

**Mr Clark** — On a point of order, Speaker, the Treasurer is now in open defiance of two of your rulings. I ask you to instruct him to come back to answering the question, and if he refuses to do so, I suggest you refuse to hear him further.

**Ms Allan** — On the point of order, Speaker, the question referenced Malmsbury, the question referenced Werribee, the question referenced community consultation, and the Treasurer has been through his answer and — through constant interruption — has been addressing each of those points. I ask you — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The Leader of the House does not require the assistance of government members.

**Ms Allan** — I like it though.

*Honourable members interjecting.*

**The SPEAKER** — Order! The Leader of the House, to be heard in silence. The Chair is exceptionally glad that it is Thursday. The Chair must be able to listen to and hear the Leader of the House. The Chair is interested in her opinion.

**Ms Allan** — I will ignore that personal insult that the Leader of the Opposition is so well known for in this place.

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

**Ms Allan** — As I was saying, the Treasurer is responding to each of the points that has been raised in

the question. The opposition may not like the answer, they may be having a very bad day hiding behind Pauline Hanson's skirt, but the Treasurer should be entitled to answer the question.

*Honourable members interjecting.*

**Mr R. Smith** — On the point of order, Speaker, the Leader of the House in her contribution to the point of order ignores the fact that you have already made a ruling as to the content of the Treasurer's answer. You have already made a ruling on two occasions and the Treasurer has ignored it on both occasions, so I ask you to disregard the position put forward by the Leader of the House and uphold the member for Box Hill's point of order.

**The SPEAKER** — Order! The Chair at this point does not uphold the point of order. The Treasurer was back on message, shall we say. The Treasurer, to continue.

**Mr PALLAS** — The government has finalised the business case for a new fit-for-purpose facility. Our preferred location is Werribee South, and we will continue to discuss that with the local council and the community. It will be a high-security facility ensuring the safety of staff and of the community — —

**Mr Guy** interjected.

**The SPEAKER** — Order! The Leader of the Opposition!

**Mr PALLAS** — While the opposition may have supported it and then not supported it, we know that our position is that consultation with this community is important — genuine consultation, not about thought bubbles or momentary flirtations — —

**Mr R. Smith** — On a point of order, Speaker, the Treasurer is making comments that consultation is important, and certainly this side of the house does not — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Warrandyte will continue and ignore interjections.

*Honourable members interjecting.*

**The SPEAKER** — Order! There should be no interjections whilst the member for Warrandyte is endeavouring to make a point of order. The member for Warrandyte will ignore interjections and will bring himself back to making the point of order succinctly.

**Mr R. Smith** — Once again I renew previous points of order. We all agree that consultation is important. However, the substance of the question, which you have agreed the Treasurer has yet to address, was: what consultation has the government done with the residents of Werribee?

**The SPEAKER** — Order! The Chair does not uphold the point of order. The Treasurer was being responsive to the question.

**Mr PALLAS** — We were, are and will continue to remain committed to genuine processes of consultation. I would be very interested to start the process by asking the Leader of the Opposition what his position is today on the Werribee facility.

**The SPEAKER** — Order! The Treasurer has concluded his answer.

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Niddrie is warned.

**Mr R. Smith** — On a point of order, Speaker, I refer you to sessional order 9(2), which says that the Speaker may determine that an answer to an oral question is not responsive to the question. Having twice ruled during the answer that the Treasurer was not responsive and with the Treasurer continuing to not address the question at the conclusion of his answer, I ask that you direct the Treasurer to provide a written response to the house.

**Ms Allan** — On the point of order, Speaker, while asking you to rule out of order the point of order, I can appreciate that the member for Warrandyte may not have heard all of the Treasurer's answer in his excitement to contribute to the debate. However, as I said earlier, the question went to issues of Malmsbury, Werribee and community consultation. The Treasurer addressed those issues and indeed informed the house that we have been consulting, are consulting and will continue to consult with the local community. The Treasurer could not have been more relevant to the question that was asked, and I ask you to rule the point of order out of order.

**The SPEAKER** — Order! The Chair had already ruled on the matter. The Treasurer had been responsive to the question. There is no point of order.

*Supplementary question*

**Mr M. O'BRIEN** (Malvern) — Treasurer, given you live more than 20 kilometres outside your own

electorate and you will not have to put up with the loss of home value, security risk and stigma attached to this new high-security jail, what other sites did you as Treasurer put forward before deciding to allow this facility to be built just 400 metres from your constituents' homes? Or do you just care more for your Williamstown neighbours than you do for your Werribee constituents?

*Honourable members interjecting.*

**Mr PALLAS** (Treasurer) — Let us be clear that this facility is needed because of the failure of the previous government to make adequate provision in this area. This will be one of the biggest economic boosts that the western suburbs has seen. Let us not just take my word for it. Let us recognise that those opposite, such as a former Treasurer of Victoria, now the member for Rowville, got up in this place and talked about prison-led economic recoveries.

From our perspective this is necessary. It is necessary that it is managed adequately, professionally and sensitively. Yes, we looked through the process at multiple locations and we formed the view, based on available land, based on adequate skills and also the capacity of families to make access that this was the right and appropriate location.

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

### **Ministers statements: Crown Melbourne**

**Mr NOONAN** (Minister for Industry and Employment) — Speaker, what a great day it is for jobs in Victoria — a great day. Today's planning approval announcement of Crown's new 6-star hotel will create thousands of jobs.

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Gembrook is now warned. The Chair is unable to hear the minister. The minister to continue, in silence.

**Mr NOONAN** — Today's announcement will create 3000 direct and indirect jobs just during the construction phase and then 1000 ongoing jobs. This is a massive number that will further cement Victoria's reputation as a powerhouse for jobs. Make no mistake: Victoria is open for business, more than it ever has been before. Since we were elected the number of full-time jobs in this state has grown by 120 000. Total employment has grown by almost 200 000, and last year Victoria led the nation for total

employment growth — the strongest growth since 2010–11.

In 2016 there was another record, with a record year of growth in our accommodation and food services industry. We added more than 26 000 jobs to this vital industry, which was an increase of 13 per cent over 2015.

This government knows just how important it is to give young people a start and get them their first job, and we know that Crown is a significant employer of young people with almost 20 per cent of its workforce being aged under 25. Last year the number of young people employed in Victoria recorded the strongest growth since before the global financial crisis. This announcement will see more jobs for young people, which is the Labor way.

I compare that to the coalition's record, and what a pathetic record it was — less than 100 000 jobs created in their entire four-year term of government and less than 17 000 of those were full-time jobs.

### **Cabinet mobile phone audit**

**Mr T. SMITH** (Kew) — My question is to the Premier. Which ministers have complied with your demand to hand over their mobile phones to be forensically audited and which ministers have not?

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Kew has put a question to the Premier. The Premier will be allowed to respond to the member for Kew.

**Mr ANDREWS** (Premier) — I do thank the member — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The opposition asked a question and will allow the Premier to respond.

*Honourable members interjecting.*

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

**Mr ANDREWS** — I do thank the member for Kew for his question. If that is the best they have got, it just shows us they have come back to this place and all they have come back with is a tan. That is all they have come back with. We do not discuss cabinet matters — simple as that.

*Honourable members interjecting.*

**The SPEAKER** — Order! The Leader of the Opposition will come to order, and so will government members.

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Gembrook and other opposition members will allow the manager of opposition business to make a point of order in silence.

**Mr Clark** — On a point of order, Speaker, this was a very straightforward and simple, factual question. I draw your attention to sessional order 9(2), which empowers you to require a minister to provide a written answer when a statement has not been responsive to the question that was asked. This was a very straightforward question. It has not been responded to. I ask you to make such a direction.

**Ms Allan** — On the point of order, Speaker, ‘In an emergency, break glass’ marks the member for Kew. That is the strategy of the opposition in question time today. I ask you to rule out of order the point of order raised by the manager of opposition business, the member for Box Hill, because the Premier very directly and clearly answered the question that was put.

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Frankston is warned. The Chair will not warn the member for Frankston again. The member for Hawthorn is entitled to silence.

**Mr Pesutto** — On the point of order, Speaker, the issue of the phone audit is in the public domain, and not only that — —

*Honourable members interjecting.*

**Questions and statements interrupted.**

## SUSPENSION OF MEMBER

### Member for Mordialloc

**The SPEAKER** — Order! The member for Mordialloc will withdraw himself from the house for a period of 1 hour. The Chair cannot hear the member for Hawthorn, and the member for Hawthorn happens to be only 2 metres away.

**Honourable member for Mordialloc withdrew from chamber.**

## QUESTIONS WITHOUT NOTICE and MINISTERS STATEMENTS

### Cabinet mobile phone audit

**Questions and statements resumed.**

**Mr Pesutto** — On the point of order — —

*Honourable members interjecting.*

**Mr Pesutto** — No, I am entitled to make a point of order. The issue of the phone audit is, one, in the public domain and, two, the phones that have been demanded are a combination of parliamentary phones as well, and that is not covered by cabinet confidentiality. I ask you to bring the Premier back to the question.

**Ms Green** interjected.

**The SPEAKER** — Order! The member for Yan Yean! The Chair adjudicates — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The Premier might be interested in the Chair’s adjudication on the matter. The Chair judges the Premier’s response has been responsive. There is no point of order.

### Supplementary question

**Mr T. SMITH** (Kew) — Taxpayers are paying for this paranoid investigation of your own colleagues by KPMG so, Premier, will you tell the Victorian taxpayers exactly what it is you are looking for on your colleagues’ mobile phones?

**Mr ANDREWS** (Premier) — I would simply say to the member for Kew that some of the assertions he makes within his question are completely wrong. We had heard a bit of a whisper around there that the operations manual begins with the line ‘When in doubt, roll Pesutto out’ — apparently not. Apparently it is the member for Kew who should be rolled out when you have got nothing better to do. A whole summer and all they can do is bowl one underarm in the first week.

*Honourable members interjecting.*

**The SPEAKER** — Order! The Leader of the Opposition will come to order. The member for Kew, on a point of order.

**Mr T. Smith** — Thank you, Speaker — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The member for Kew will be heard by all, including the Leader of the Opposition. The member for Kew is on his feet.

**Mr T. Smith** — On a point of order, Speaker, the Premier is not being relevant in any way, shape or form to my question. He has even denied that he has begun this audit, so can you bring the Premier back to answering the question?

**The SPEAKER** — Order! The Chair does not uphold the point of order.

**Mr ANDREWS** — We were all talking about the member for Kew, and I think that is really what he wanted, not so much an answer. If this is the best you can do, I have got to say it is a lost summer from a lost cause.

**The SPEAKER** — Order! Has the Premier concluded his answer? The Premier has concluded.

**Mr Clark** — On a point of order, Speaker, I again draw your attention to sessional order 9(2) about answers being responsive to questions. On this occasion the Premier made no attempt whatsoever to respond to the factual question that was raised by the member for Kew about what the purpose was of the investigation the Premier had ordered. Now this is a matter that concerns public money. It is not a private matter within the Labor Party; it is the expenditure of public money on what is presumably a public purpose. If Westminster democracy is to have any meaning, this is an occasion when the executive needs to come into this house and account to this house and account to the community for how it spends public money.

If the Premier believes he can rebuff a question on that topic simply by engaging in a tirade of abuse against various members of the opposition, then this Parliament is not able to fulfil its function. I submit to you, Speaker, that it lies in your hands to assert the authority of this house, to restore some dignity to this house, by requiring the Premier to give a written response to the factual, supplementary question that was asked by the member for Kew.

*Honourable members interjecting.*

**Mr Pakula** — On the point of order, Speaker, the question asked by the member for Kew was predicated on an assumption about the existence of an investigation, and the Premier in his answer said at the outset that the assumptions that the question was predicated on were completely wrong.

**The SPEAKER** — Order! The Chair does not uphold the point of order.

### Ministers statements: Night Network

**Ms ALLAN** (Minister for Public Transport) — It gives me great pleasure to further add to the contributions of my colleagues on today's landmark announcement. We have heard how 3000 construction jobs are going to be created through this announcement and over 1000 new — —

*Honourable members interjecting.*

**The SPEAKER** — Order! Government members and opposition members will allow the minister to continue in silence. The minister is entitled to silence.

**Ms ALLAN** — They are running out to a meeting with Michael Kroger and Pauline Hanson right now. They have all been summoned to get on with the deal.

A thousand ongoing jobs also will be created in the precinct as part of today's announcement. The hospitality and tourism sector is one of this city's great strengths, and we are really pleased that we support the workforce in this industry through the trial of the Night Network.

Around 35 000 people are using the Night Network every weekend, and this number continues to grow. About one-quarter of these people are shift workers who are using Night Network, who are using public transport for the first time on a Friday night and Saturday night and into the early hours of the morning to get to and from work safely. If you are a worker living in Werribee or Craigieburn this can mean the difference between a \$4 public transport fare and an \$80 or \$90 taxi fare. So people are saving money, and they are getting home safely using public transport. This Night Network is really supporting that night-time industry around Melbourne. It means too that families can go out: they can go to the footy, they can go to the movies, they can go to see a show and they can get home safely as well.

We know that business groups, welfare agencies and the police are telling us about the positive impact this is having in the CBD in reducing antisocial behaviour. The trial has been so successful that London has now picked up this model and is introducing it there as well. Night Network has gone international. We are going to continue to support increased public transport services to help people get home safely.

**Ms McLeish** — On a point of order, Deputy Speaker, on 8 December, some two months ago, I

asked a question on notice of the Minister for Water, question 12 155, and three questions for the Minister for Roads and Road Safety, questions 12 151, 12 152 and 12 153, and they remain outstanding. I request that you chase those matters up for me.

**The DEPUTY SPEAKER** — Order! I will pass those matters to the Speaker to follow through.

## CONSTITUENCY QUESTIONS

### Warrandyte electorate

**Mr R. SMITH** (Warrandyte) — (12 225) My constituency question is for the Minister for Roads and Road Safety. I refer the minister to the intersection of Ringwood-Warrandyte Road, Croydon Road, Brumbys Road and Husseys Lane in Warrandyte South. This intersection has been highlighted as dangerous by a number of my constituents, who are very concerned about the possibility of a serious accident occurring. I have written before on this issue to the minister, who responded by saying that VicRoads would monitor road safety at that location to determine the need for changes. My question is: will the minister supply me with the traffic data and road safety monitoring results that VicRoads has undertaken since he made that statement over a year ago?

### Bundoora electorate

**Mr BROOKS** (Bundoora) — (12 226) Victoria currently has a kindergarten funding agreement with the federal Turnbull government which ends this year. Concerningly, it appears that the Turnbull government will end this funding, cutting approximately \$100 million from Victorian kindergartens. I have seen reports that children will lose up to 5 hours of vital preschool education because of Mr Turnbull's cuts, and working families could be up to \$2000 worse off for each child in child care. I ask: how will these funding cuts from the federal Liberal-Nationals government impact specifically on kindergartens and childcare centres in my electorate of Bundoora?

**The DEPUTY SPEAKER** — Order! Before the member for Bundoora sits down, you have not referred to the minister that you are asking the question of. I ask you to tell the house who the minister is.

**Mr BROOKS** — I beg your pardon, Deputy Speaker; the question was to the Minister for Families and Children.

### Gippsland East electorate

**Mr T. BULL** (Gippsland East) — (12 227) My constituency question is for the Minister for Health. I ask the minister to outline the progress she has made in negotiations to secure the future of the Mallacoota Medical Centre. Pre-Christmas there were community concerns on the future of the practice after it had a reduction in doctors from three to one. A closure would be very problematic due to the remoteness of the Mallacoota community. I raised this matter with the minister, who advised her department was in negotiations on the issue and that the department would monitor and report on the progress of these negotiations. I have subsequently been contacted by community members in January and early February, and I seek an update on the progress of discussions on this matter, including what solutions are being explored. Some community members have requested a multipurpose service be funded and are interested in the minister's views on this point.

### Carrum electorate

**Ms KILKENNY** (Carrum) — (12 228) My constituency question is for the Minister for Families and Children in the other place. Constituents in my electorate are very concerned that the federal Liberal government is going to cut \$100 million from Victorian kindergartens. This will hurt 75 000 Victorian children and families who attend four-year-old kinder every year. Under the national partnership agreement on universal access to early childhood education, Victoria funds two-thirds of four-year-old kinder, with the federal government contributing the rest. The agreement is set to run out at the end of this year, 2017. If the Turnbull Liberal government cuts its share of funding, then 75 000 Victorian kids will lose 5 hours of funded kinder every week from 2018. Victorian children and Victorian families deserve so much better. Minister, constituents in my electorate want to know what actions you will be taking to make sure the federal government continues to fund kinder and does not short-change Victorian families.

**The DEPUTY SPEAKER** — Order! I have just conferred with the Clerk. Constituency questions are about asking a question of a minister, not asking them to take action. 'What actions will you be taking' is asking for an action, so I rule this question out of order. I ask honourable members to actually ask a question. When somebody asks a question of a minister, they should be able to give an answer about that particular matter. Asking for an action is done in the adjournment debate, so I do rule that particular question out of order.

**Mr Clark** — On a point of order, Deputy Speaker, I did not hear the exact words used by the honourable member on which you have made a ruling, but in the course of your ruling you indicated that a statement such as ‘what actions is the minister taking’ was a request for action that was out of order. If I heard you correctly, I would humbly submit that I do not believe that conclusion is correct. To ask what actions a minister is taking is something that a minister is capable of providing an answer to. I fully agree with you, Deputy Speaker, this is a very vexed area and one in which sometimes the distinctions are fine, and it is obviously one in which a number of members are having difficulty. Could I submit that perhaps you reserve a conclusive decision on that matter of principle on which you have ruled and perhaps refer it to the Speaker for further consideration and perhaps guidance to the house?

**The DEPUTY SPEAKER** — Order! I am happy to take your advice on this, member for Box Hill. I will refer this matter to the Speaker, and we will try to get this clarified a bit more.

**Mr M. O’Brien** — On a further point of order, Deputy Speaker, I agree with your own words and those of the member for Box Hill. This is a tricky question for members, because I think everybody does seek to comply with the standing orders so that they can ask a question which is in order and can get an answer. Given the wording that is the subject of the further consideration, could I also request that if a member, rather than asking ‘what action has the minister taken’, asks ‘will the minister take action’ — which can be answered yes or no and arguably could be seeking information, but might also be interpreted as being a call for action — that formulation also be the subject of the further consideration so the house can be better informed. I think that is another form of words where members may inadvertently stray on either side of the line of validity.

**The DEPUTY SPEAKER** — Order! I am happy for that consideration, honourable member for Malvern.

### Rowville electorate

**Mr WELLS** (Rowville) — (12 229) The constituency question I wish to raise is for the Minister for Police on behalf of residents in my electorate of Rowville. Minister, when will you ensure that Victoria Police are provided additional resources to enable extra frontline police to be deployed at the Rowville police station to address the local crime tsunami? The latest crime statistics for my electorate for the year to September 2016 are shocking and deeply concerning,

with crime up 40.1 per cent in the suburb of Scoresby, 35 per cent in Knoxfield, 25 per cent in Rowville and 10 per cent in Lysterfield. Minister, my constituents are constantly living in fear in their homes and believe that they might be the next victims of a home invasion or carjacking.

### Niddrie electorate

**Mr CARROLL** (Niddrie) — (12 230) My constituency question is for the Minister for Small Business, Innovation and Trade in the other place, and I ask: how many small businesses in the Niddrie electorate have accessed the support services offered by Small Business Victoria in 2016, including the small business bus, and what opportunities will my local small businesses have to access support from Small Business Victoria in 2017?

### Eildon electorate

**Ms McLEISH** (Eildon) — (12 231) My question is to the Minister for Education. I refer to the bushfire risk and readiness program for government schools that you announced recently. Minister, can you please explain why Chum Creek Primary School has not been included in the program when it seems that the level of risk and exposure of this school is greater than that of a number of others on the list? There has been some talk locally about this, especially as Chum Creek was heavily impacted on Black Saturday. Chum Creek Primary School is located in the Yarra Valley, very close to heavily forested areas. Healesville-Kinglake Road, which the school is situated on, is essentially the only escape route north and south in the event of a bushfire. I think this adds to the risk level and highlights the need for the school to be included in the program.

### Eltham electorate

**Ms WARD** (Eltham) — (12 232) My constituency question is for the Minister for Public Transport. Minister, I ask about the progress of the investigation into track duplication between Greensborough and Eltham on the Hurstbridge line. How will that investigation look at the parking needs of Eltham, Montmorency and Greensborough stations, as well as improvements to the station infrastructure at Eltham and Greensborough? The \$1.41 million duplication will fix a century-old bottleneck on the Hurstbridge line. Along with the north-east link, it is a much needed improvement of transport infrastructure in the north-east. Communities in my electorate are excited at the prospect of making their way straight into town without waiting in sidings for other trains to pass. This

transport investment in Melbourne's north-east is a century overdue. I congratulate the minister on driving this project and commencing the removal of the level crossings on Lower Plenty Road and at Grange Road, the duplication of the track between Rosanna and Heidelberg and the new Rosanna station. Whether for road or rail, these are plans that residents in my electorate support and are keen to see completed so that they can spend more time with their families rather than in their car or in a train carriage. Minister, how is this investigation progressing?

### Polwarth electorate

**Mr RIORDAN** (Polwarth) — (12 233) My question is to the Minister for Energy, Environment and Climate Change, and I ask why she will not release her independent review into the tender process undertaken by the Great Ocean Road Coast Committee (GORCC) for the Anglesea beachfront caravan park. Hundreds of people over summer rallied at the Anglesea beachfront caravan park and thousands of people signed petitions to have the government review and rethink the Great Ocean Road Coast Committee's decision to abandon a commercial tender process and instead go it alone. The Anglesea beachfront caravan park was scheduled to return nearly \$1 million a year in rent back to the management of the foreshores from Torquay to Lorne. This represents almost 10 per cent of the revenue available for this important job. As a requirement of the government takeover of the Anglesea caravan park, millions of dollars of assets have to be removed from the park. This action alone will see the income stream for this park dramatically reduced. With millions of dollars worth of fewer assets and declining income streams, GORCC will literally be left with an economic noose around their neck. In a low-key response the government announced on Australia Day that their independent review found GORCC's decision to be in the best interest of the community. How can that be?

### Pascoe Vale electorate

**Ms BLANDTHORN** (Pascoe Vale) — (12 234) My constituency question is for the Minister for Health. What state government initiatives are in place to encourage greater female participation in physical activities? The opening round of the AFL Women's competition is yet further evidence that female sport from the grassroots to the elite is a success in every way. In the Pascoe Vale district there are a growing number of AFL teams. In response to significant demand in the local community, the Pascoe Vale Panthers entered an inaugural female team into the statewide AFL Victoria under-18 youth competition, and the team have enjoyed great success. Female

participation at the club has grown considerably since then. In more recent times, the West Coburg Football Club has indicated that they will also be fielding a couple of female teams in the local competition. The Andrews Labor government is committed to increasing female participation in sport, but there is always more to be done. Many of the local clubs could benefit from the support and establishment of new activities and programs for the purchase of new equipment, so I ask the minister: what support is available?

### OMBUDSMAN JURISDICTION

#### Debate resumed.

**Mr CLARK** (Box Hill) — Prior to question time I was making the point that the assertion of total independence between the houses being made in the motion, on the alleged authority of the publication by John Hatsell of 1818, relates only to independence regarding certain matters — namely, those matters relating to or closely involved in the deliberations and other functions of each chamber. I was making the point that if you take an obvious example, both houses of Parliament sit in the one Parliament building and there is of necessity close collaboration between officials of both houses as to the running of the parliamentary building, and indeed these days there are also large numbers of staff supporting both houses jointly. To simply take the words 'total independence' and say that in some way means there can be no relationship or no dealing between the houses is manifestly incorrect.

Furthermore, and even more importantly in this context, if — and I emphasise 'if' — the general power of either house to refer any matter to the Ombudsman did not preclude as a matter of statutory interpretation the capacity of the other house to assert a right of exclusive cognisance in relation to matters regarding its own proceedings or internal affairs, which is what the Attorney-General seemed to be arguing and which I do not for a moment concede, it is clear that investigating the roting and misuse of public funds allegations that are involved here does not come within such a right of exclusive cognisance. It does not do so for a roting member for Frankston, and it does not do so for a roting member for Mulgrave.

I am a strong supporter of looking to history and past practice and precedents, including history from many centuries ago, in order to get a proper understanding of both the rules and the dynamics of parliamentary democracy, so I have certainly got no objection in principle to the Leader of the House and the Attorney-General citing an authority dating back to

1818 in support of an argument that they seek to present to the house. However, if you are going to cite ancient authorities, you need to do so having regard to what more recent authorities say, and here the law and the understanding in relation to exclusive cognisance has undergone enormous change since 1818.

In 1818, for example, the view still prevailed that houses of Parliament not only had exclusive cognisance to decide matters that were within their privilege, they also had exclusive cognisance to decide what the scope of that exclusive privilege was, so not only could they decide matters that were recognised by the courts and others as being within their exclusive cognisance but they could also determine the boundaries of their own jurisdiction. That was the law and practice as it was thought to be in 1818. However, that doctrine was conclusively overturned by the case of *Stockdale v. Hansard* in 1839, so while the authority that the Leader of the House and the Attorney-General have cited from 1818 on this issue may be interesting and informative, and I would certainly commend all interested honourable members to read it for history and context and general interest, it is fraught with danger to regard it unquestioningly as definitive or authoritative.

I think it is important to look at what more recent and highly relevant decisions have said. I refer in particular to what the United Kingdom Supreme Court has said recently about the exclusive cognisance argument in its decision on the claim by rorting UK MPs that the Commons had exclusive cognisance over their rorting. That was an argument that those members of the UK took all the way to the UK Supreme Court, and their arguments were thrown out on their ear. The case was *R v. Chaytor and others* 2010 UKSC, and in the words of the President, Lord Phillips, at paragraph 14 of page 52, and I quote:

In the 17th and 18th centuries there was a dispute between the courts and the House of Commons, often acrimonious, as to who was the final arbiter of the scope of parliamentary privilege. This dispute was largely resolved in the course of the 19th century. In *Stockdale v Hansard* (1839) 9 Ad & E I at pp 147–148 Lord Denman CJ said of the argument that the House of Commons was a separate court with exclusive jurisdiction over the extent of its privileges:

“Where the subject matter falls within their jurisdiction, no doubt we cannot question their judgment; but we are now enquiring whether the subject matter does fall within the jurisdiction of the House of Commons. It is contended that they can bring it within their jurisdiction by declaring it so. To this claim, as arising from their privileges, I have already stated my answer: it is perfectly clear that none of these courts could give themselves jurisdiction by adjudging that they enjoy it.”

Lord Phillips went on to say:

It is now accepted in Parliament that the courts are not bound by any views expressed by parliamentary committees, by the Speaker or by the House of Commons itself as to the scope of parliamentary privilege.

Then later on the judgement deals extensively and very helpfully with the topic of exclusive cognisance. At paragraph 63 the judgement says, and again I quote:

This phrase describes areas where the courts have ruled that any issues should be left to be resolved by Parliament rather than determined judicially. Exclusive cognisance refers not simply to Parliament, but to the exclusive right of each house to manage its own affairs without interference from the other or from outside Parliament. The boundaries of exclusive cognisance result from accord between the two houses and the courts as to what falls within the exclusive province of the former. Unlike the absolute privilege imposed by article 9 —

and I interpose that that is article 9 of the Bill of Rights relating to free speech in the Parliament —

exclusive cognisance can be waived or relinquished by Parliament.

So I make the point that this judgement is referring to exclusive cognisance in relation to each house and the other house and to exclusive cognisance in relation to the courts.

At paragraph 67 the judgement continues:

It is, of course, always open to Parliament by legislation to provide for the courts to encroach on matters falling within its exclusive cognisance, or even on article 9 privilege —

as it did in certain acts that the judgement cites. The judgement continues:

These statutes expressly address matters that were previously subject to privilege under article 9, or the exclusive cognisance of Parliament.

That, we are saying, is exactly what has happened here. The Ombudsman Act in section 16 has given to either house of Parliament the power to refer any matter to the Ombudsman for investigation and for the reasons of statutory construction, which have clearly been cited by the Court of Appeal, that extends to matters that may formerly have been within exclusive cognisance.

The judgement continues at paragraph 68:

Where a statute does not specifically address matters that are subject to privilege, it is in theory necessary as a matter of statutory interpretation to decide a number of overlapping questions. Does the statute apply within the precincts of the Palace of Westminster? If it does, does it apply in areas that were previously within the exclusive cognisance of Parliament? If so, does the statute override the privilege imposed by article 9? In practice there are not many examples of these questions being considered, either within Parliament

or by the courts. If Parliament accepts that a statute applies within an area that previously fell within its exclusive cognisance, then Parliament will, in effect, have waived any claim to privilege.

Later on the judgement at paragraph 72 refers to a 1999 report of the Joint Committee on Parliamentary Privilege, HL paper 43-1. The judgement says that that report

... comments at paragraph 240 that each house has the right to administer its internal affairs within the parliamentary precincts.

At paragraph 73 the judgement further cites the report from paragraph 246:

Putting aside the activities of individuals, there is a need to distinguish between activities of the house which call for protection under this head of privilege and those which do not. The Palace of Westminster is a large building; it requires considerable maintenance; it provides an extensive range of services for members; it employs and caters for a large number of staff and visitors. These services require staff and supplies and contractors. For the most part, and rightly so, these services are not treated as protected by privilege. It is difficult to see any good reason why claims for breach of contract relating to catering or building services, for example, should be excluded from the jurisdiction of the courts, or why a person who sustains personal injury within the precincts of Parliament should not be able to mount a claim for damages for negligence.

The judgement cites paragraph 247 of the same report:

The dividing line between privileged and non-privileged activities of each house is not easy to define. Perhaps the nearest approach to a definition is that the areas in which the courts ought not to intervene extend beyond proceedings in Parliament, but the privileged areas must be so closely and directly connected with proceedings in Parliament that intervention by the courts would be inconsistent with Parliament's sovereignty as a legislative and deliberative assembly.

The judgement refers to paragraph 248 of the report:

It follows that management functions relating to the provision of services in either house are only exceptionally subject to privilege.

The judgement of Lord Phillips goes on at paragraph 75:

So far as actions in contract and tort are concerned arising out of the internal administration of the house the courts are unlikely to accept the submission, in the unlikely event that it is advanced, that their jurisdiction is precluded because of the exclusive cognisance of the house.

Later on the judgement from paragraph 79 discusses the issue of criminal matters. The Attorney-General makes the point that consideration of matters by the Ombudsman is not a criminal investigation, and that is an accurate point. But I believe in this context, given it

is an inquisitorial investigation, the conclusions in relation to the powers of authorities that investigate crime are very relevant here. Lord Phillips said at paragraphs 79 and 80:

I now come to consider the position where an act is committed which, absent any question of parliamentary privilege, would constitute a crime falling within the jurisdiction of the criminal courts.

Parliament has never challenged, in general, the application of criminal law within the precincts of Parliament and has accepted that the mere fact that a crime has been committed within these precincts is no bar to the jurisdiction of the criminal courts.

At paragraph 81 the judgement says:

Where a crime is committed within the House of Commons, this may well also constitute a contempt of Parliament. The courts and Parliament have different, overlapping, jurisdictions. The house can take disciplinary proceedings for contempt and a court can try the offender for the crime. Where a prosecution is brought Parliament will suspend any disciplinary proceedings.

At paragraph 83 the judgement says:

Thus the house does not assert an exclusive jurisdiction to deal with criminal conduct, even where this relates to or interferes with proceedings in committee or in the house. Where it is considered appropriate the police will be invited to intervene with a view to prosecution in the courts.

At paragraph 84 the judgement says:

On 3 April 2008 a meeting took place between the chairman of the Committee on Standards and Privileges, the Parliamentary Commissioner for Standards and the Commissioner of Police of the Metropolis. Following this an agreed statement was released:

All parties agreed that, other than in the limited context of participation in proceedings in Parliament, members of Parliament are in no different position in respect of alleged criminal behaviour than any other person. The chairman reiterated the committee's belief in the general principle that criminal proceedings against members, where these are considered appropriate, should take precedence over the house's own disciplinary proceedings.

I now come to the conclusions that Lord Phillips reached. At paragraph 89 he said:

Parliament by legislation and by administrative changes has to a large extent relinquished any claim to have exclusive cognisance of the administrative business of the two houses.

At paragraph 91 he said:

The house has asserted a disciplinary jurisdiction over claims that have been made for allowances and expenses and, to that end, the Members Estimate Committee set up a review of such claims under Sir Thomas Legg. The house has not, however, asserted exclusive cognisance, or jurisdiction, in

respect of such claims. On the contrary, on 20 July 2009 the committee excluded from the claims referred to Sir Thomas any that were under investigation by the police.

Paragraph 92 says:

Even if the house were not cooperating with the prosecuting authorities in these cases, I do not consider that the court would be prevented from exercising jurisdiction on the ground that they relate to matters within the exclusive cognisance of Parliament. If an applicant sought to attack by judicial review the scheme under which allowances and expenses are paid the court would no doubt refuse the application on the ground that this was a matter for the house. Examination of the manner in which the scheme is being implemented is not, however, a matter exclusively for Parliament. It was not suggested that members have a contractual entitlement to allowances and expenses, but if they were to have such contractual rights, I see no reason why they should not sue for them. If a question were raised as to whether allowances and expenses were taxable, the court would be entitled to examine the circumstances in which they were paid. Equally there is no bar in principle to the Crown Court considering whether the claims made by the defendants were fraudulent. This is not to exclude the possibility that, in the course of a criminal prosecution, issues might arise involving areas of inquiry precluded by parliamentary privilege, although that seems unlikely having regard to the particulars of the charges in the cases before us.

Paragraph 93 says:

For these reasons I am satisfied that neither article 9 nor the exclusive cognisance of the House of Commons poses any bar to the jurisdiction of the Crown Court to try these defendants. That is why I decided that each appeal should be dismissed.

These are very learned and recent and considered words by the president of the highest court within the United Kingdom on the practices of and law applying to the Parliament at Westminster on which, of course, our parliamentary democracy is founded. The remarks that I have quoted seem to me to express very well some of the issues regarding exclusive cognisance that are relevant in this context of an investigation by the Ombudsman. They very strongly support the conclusion that if, in the context of the Ombudsman Act, there remains scope for the house to assert an exclusive cognisance — which, as I indicated earlier, I in no way concede, but if that were the case — then the sort of matters that the Ombudsman has been asked to investigate by the Legislative Council do not fall within that exclusive cognisance.

For all of the reasons that I have given and have gone through at length — and I will not reiterate them — this motion is wrong in its assertions and it is wrong in its conclusions, it serves no good purpose, it has diverted the government and it is diverting the house from the need for urgent measures to protect Victorians from soaring crime, and it should be defeated.

**Ms ALLAN (Minister for Public Transport)** — In speaking in support of the motion that was moved earlier this morning by the Attorney-General, I would like to add just a few comments. In making those few comments, I would like to pick up on where the shadow minister and member for Box Hill concluded about why this motion should not be debated. He outlined a number of procedural reasons and I will touch on some of those in a moment, but he conflated the issues that we are debating in this motion with other issues before the Parliament and the government around changes to laws in the justice portfolio.

I put it to the member for Box Hill that it is incorrect to try to conflate those two issues; it is not an appropriate way to hold this debate. As the shadow minister knows from his previous experience in government — and indeed it was in his own portfolio responsibility areas — there is an appropriate way to deal with those matters, particularly around bail laws, and the government has made this very, very clear. There will be a report on these matters within a matter of weeks. It will be handed to the Attorney-General and the Premier, and the Premier has given his commitment to act on it immediately. That is in contrast to those opposite, who took 11 months for the Callinan review to conclude. Firstly, it is wrong to conflate the issues and it is wrong to represent the matters in this way.

This is a matter that is also important in its own right for very, very good reasons. The Attorney-General touched on some of those reasons in his contribution, and I will reiterate them, particularly that question of either house or indeed a committee of either house — a committee which might have as few as five members on it, so a majority of three people on that committee — being able to refer to the Ombudsman any matter they see fit, and the Ombudsman would be required to give that matter precedence over all other matters that may be before her. This takes us into witch-hunt territory. This is part of the principle that we are wanting to, if you like, guard against.

The Attorney-General touched on a range of matters that might perhaps make those opposite a little bit uncomfortable. If we took to its logical conclusion the argument put forward by the opposition, if we adopted their approach, that would mean a committee of the Assembly, which would be government controlled, could look into matters that may be a little bit uncomfortable for the opposition and may not be an entirely appropriate way to deal with these matters. Those opposite should recognise that that presents a slippery slope that we do not want this Parliament to go down.

Can I also say that the government made its intentions clear on this matter on 5 January 2017. I note that the member for Box Hill made some comments yesterday in the debate on the government business program about how desperate we were to stop the truth from coming out and not have these issues considered. Well, we were very clear about our intentions on 5 January — that we intended to seek leave to appeal the Court of Appeal's decision to the High Court, and also that we would also be taking the action in the Victorian Parliament that we are taking today. The member for Box Hill suggested we might be doing this to try to influence the proceedings of the High Court. That is quite an extraordinary claim to make, and it reflects poorly on him. These are two separate matters. There is a court process underway, that is afoot, and this matter of asserting the rights and privileges of the Legislative Assembly is something that we flagged at the time — we have made no secret of it — and we intend to give effect to that today.

There is an important principle at stake here that we are looking to support and have it continue as a practice of this place. The principle of the independence of each house is summarised in *House of Representatives Practice*, 6th edition, as follows:

Each house functions as a distinct and independent unit within the framework of the Parliament. The right inherent in each house to exclusive cognisance of matters arising within it has evolved through centuries of parliamentary history ...

We have heard some of those reflections on those centuries of parliamentary history through the debate today already.

We then look to that resolution of the Legislative Council on 25 November 2015 that, pursuant to section 16 of the Ombudsman Act 1973, referred a matter to the Ombudsman for investigation and report. I will not re-read the motion, but, as I have said, there is an issue there about the ability of the upper house to direct the Ombudsman on these matters. Also the resolution could be interpreted to mean that the Legislative Council of the 58th Parliament was purporting to refer for investigation Legislative Council members of the 57th Parliament, Legislative Council members of the 58th Parliament, Legislative Assembly members of the 57th Parliament and Legislative Assembly members of the 58th Parliament. That takes us to why we are moving this motion: it is to assert that right and privilege of the Legislative Assembly that has been talked of already today.

I know the Attorney-General referred to this in his contribution earlier, but I think it is also important to remind those opposite of what the President of the

Legislative Council said in his submission on this matter to the Supreme Court:

The Council's resolution of 25 November 2015 should not be understood as breaching the principle of exclusive cognisance: the resolution does not refer the conduct of members of the Assembly; and it does not assert or imply that the privileges and immunities of the Assembly are in any way diminished ...

He went on to say:

It would breach that principle —

of exclusive cognisance —

for one house to refer to the Ombudsman a matter relating to the internal affairs of the other house.

However, it would be a matter for the other house, and not the Supreme Court, to assert the principle of exclusive cognisance with the referring house and with the Ombudsman.

That is what we are doing today.

**Mr Clark** — On a point of order, Speaker, I do not want to interrupt the Leader of the House, but she has quoted extensively from a submission that she indicates was made by the President in these proceedings. She quoted, as far as I could hear, without specific citation. I would ask that, if possible, the minister make a copy of the quotation available to the house so this side can read the matters that she has quoted, and also that she cite more specifically the passages from which she is quoting.

**Ms ALLAN** — I am happy to provide a copy, and I also indicate that this was from the matter of *Glass v. President of the Legislative Council & Anor* [2016] VSC 507 in the Supreme Court. With the forbearance of the member for Box Hill, could I provide that at the conclusion of my contribution so that I can get a clean copy, shall we say, sent to him if that is okay with him?

Back on the matter, I just want to make a couple of brief points in conclusion. This is what we are doing. We agree with the President of the Legislative Council that if the Council's referral to the Ombudsman could be read as infringing on the Assembly's privileges and immunities, the assertion of those privileges and immunities is a matter for the Assembly.

As I said, we made our intentions very clear back on 5 January this year that this is what we intended to do. I note also that the Legislative Council — it may have concluded — was having a debate about the motion that was first moved on 25 November 2015 and how that motion could be expanded to include the political

parties of the Liberal Party, the National Party and the Greens political party.

I would suggest that if those opposite are willing to participate in these processes, then they should support the motion that is before the upper house for their consideration. Otherwise the question could well be put to them about what they have to hide. What truth are they seeking to stop? And if there is nothing, as the Leader of the National Party suggests, I am assuming your members voted for that amendment in the upper house this morning.

**Mr Walsh** interjected.

**Ms ALLAN** — I am assuming that is exactly what you instructed your members in the upper house this morning.

I think we are now starting to get a strong sense, indeed a significant whiff, of the political actions that sit behind this. I would urge the opposition to think carefully. I appreciate that they are grasping desperately for a quick sugar hit on this matter, but there is the potential for significant long-term impact should the principles that they are advocating today around exclusive cognisance — indeed the right of the privilege of this house to determine its own matters — be breached. I think the Attorney-General gave some clear examples of what that could mean for those opposite. There are some things that we do need to recognise — some traditions and precedents and, indeed, requirements that we should be continuing to uphold — for good parliamentary practice, and I would urge those opposite to support this motion.

**Mr WALSH** (Murray Plains) — Despite the urging from the member for Bendigo East, we do not support this motion, and we will not be supporting this motion. I think the manager of opposition business put the case very, very clearly around precedents of law and history as to why this motion should be defeated, and I congratulate him for his contribution and the research that he did and that the government has not done on this particular motion. I think he needs to be commended, effectively with 24 hours notice, for what he has been able to research around the history from 1818 onwards and how that has evolved over time. Plucking one point of law from a long time ago without following through and looking at the changes that have subsequently been made over a couple of hundred years is very shoddy by the government. They have plucked one particular part of that out to suit their argument without looking at the subsequent changes in the future.

I suppose for the average man on the street I can just rephrase this motion as ‘the red-shirt motion’. It is effectively about defending the red shirts from the 2014 election. It is about defending the indefensible when it comes to the use, or the alleged use, of parliamentary staff for electioneering campaigning. That is what we are talking about in this house now. We can wrap it up in a very long motion before the house, but the nub of this issue is defending the red shirts of the Labor Party and the fact that, as has been alleged, members of Parliament employed temporary staff and signed off on wage sheets without probably ever seeing those staff and without those staff ever actually being in their electorate offices, as it is supposed to be under the parliamentary rules, and them working in someone else’s electorate in a more marginal seat to build the campaign to win the 2014 election.

That is what we are talking about here because the government — the government ministers particularly who were allegedly involved in this — do not want to answer awkward questions when it comes to the pieces of paper they signed to employ casual staff to work in someone else’s electorate office, doing campaign issues. That is what this is about.

If you have got nothing to hide, why have you got this motion before the house? If you have got nothing to hide, why did you take it to the Supreme Court? If you have got nothing to hide, when you lost that case why did you take it to the Court of Appeal? If you have got nothing to hide, when you lost that case why have you actually taken it to the High Court? If there is nothing to hide, why has the Labor Party used taxpayers funds to run these court cases to defend something that is actually the business of the Labor Party, not of a government? They are using taxpayers funds to run these court cases to actually defend something the Labor Party did.

The Attorney-General, as I understand the system of government, has signed off on legal briefs and legal action and has employed expensive legal advice for the government on the taxpayers tab to defend the Labor Party for something they did in an election campaign. I would have thought in some ways the Attorney-General would actually have a conflict of interest when it comes to this because he is signing off as the Attorney-General on taxpayers funds being spent to defend himself, possibly as one of the MPs who may have actually employed the staff.

That is one of the issues that needs answering in this particular case. Has the Attorney-General actually got a conflict of interest in doing what he has done over this time and even in moving this motion before the house?

When you look at this government and when you look at this Premier, if you do not agree with them, it is Daniel's way or the highway.

**The DEPUTY SPEAKER** — Order! The member has been here for quite a while, and he understands the forms of the house.

**Mr WALSH** — I accept that, Deputy Speaker. It is either the Premier's way or the highway when it comes to a whole range of issues, and this motion before the house is another example of how it is the Premier's way or the highway. You have just got to look at history to back up that statement. The Country Fire Authority (CFA) board was sacked because they did not agree with the Premier. The CFA CEO was sacked because she did not agree with the Premier. The CFA chief fire officer was sacked because he did not agree with the Premier. The Premier's own minister was sacked because she did not agree with the Premier. When you come to this particular motion, again, the government did not agree with the court's decisions. Some more taxpayers money went to a higher court and a higher court to try and get a better opinion.

If you look at the issue of the privacy commissioner, the Premier has had a little dummy spit. He wants his cabinet ministers' phones. He wants to look at his cabinet ministers' phones because he wants to know who is leaking and who is not leaking. Who does he actually trust in the cabinet process anymore? So the privacy commissioner gets involved, and what happens? Magically there is going to be change, and the privacy commissioner is out of a job. The privacy commissioner is going to be out of a job because he questioned the Premier of this state. It is very much the Premier's way or the highway when it comes to the law of this land.

The other issue that has been canvassed already this week is that we are now spending valuable parliamentary time debating a motion that is all about protecting the political skin of the Labor Party in this state. The people of Victoria want more. They want us to spend our time on the issues of law and order, and they would absolutely love us to debate a bill about fixing the bail laws in this state. If you talk about John Howard's barbecue stoppers, the barbecue stopper in Victoria at the moment is the weaker bail laws of this Labor government. That is what we should be spending this house's valuable time on, rather than debating a longwinded motion that is, as I have just said, effectively a red shirt motion about defending the indefensible of the Labor Party during the 2014 election.

The key question asked around barbecues and at Australia Day functions in Victoria this year was: if the Labor Party has got nothing to hide, why will it not let the Ombudsman do their job? The Ombudsman is an independent — —

**Mr Pearson** interjected.

**Mr WALSH** — They were. The Ombudsman is an independent officer of Victoria who is there to look at these very things. But, no, there is obviously something to hide.

**Mr Pearson** interjected.

**Mr WALSH** — The member for Essendon wants to continually interject. He has obviously got something to hide. He is another Labor Party member of Parliament who wants to defend the indefensible. I rhetorically ask — —

**Mr Pearson** interjected.

**The DEPUTY SPEAKER** — Order! I ask the honourable member for Essendon to interject a bit less.

**Mr WALSH** — I respectfully ask the member for Essendon: if he has got nothing to hide, why is he supporting this motion? Why is he not standing up and joining us on this side in actually opposing the motion? If he and his colleagues have not got anything to hide, why are they supporting this motion moved by the Attorney-General?

In closing, the opposition will not be supporting this motion. I think the manager of opposition business put very clearly the legal case for why this motion should not be supported, and I would like to think that I have put a pretty good argument for the political case for why this motion should not be supported, because it is all about the cover-up and obfuscation of the Labor Party here in Victoria for what it did during the 2014 election in roting electorate staff officers' times and pay sheets.

**Ms THOMAS** (Macedon) — It is a pleasure to rise to speak today on this motion that has been presented to the house by the manager of government business, the Minister for Public Transport. I would like to commend the minister for the simple and elegant wording of the motion. What a contrast it is to the diatribe that we have just heard from the member for Murray Plains, who has taken every opportunity in this house to diminish the reputation of all elected representatives in the way he has behaved. Firstly, his contribution and that of his colleague in the upper house on the condolence motion on Tuesday really pushed the limit in terms of using a

great tragedy to score political points. Secondly, of course, this week we have seen the member for Benambra in the *Australian* seek to undermine again — he has form in this area — the Chief Commissioner of Police.

To be here and to take a lecture from those on the other side about integrity and understanding the different roles and responsibilities of all parties within Victoria's integrity regime is, frankly, a bit rich. As I said, I congratulate the minister for both the simplicity and the elegance of the motion that she has brought before the house. I think it is very important to refer again to that motion, which:

Notes the description of exclusive cognisance given in Hatsell's *Precedents of Proceedings in the House of Commons*, volume 3, page 67, that: 'the leading principle, which appears to pervade all the proceedings between the two houses of Parliament is that there shall subsist a perfect equality with respect to each other, and that they shall be, in every respect, totally independent, one of the other' ...

It is a simple and very important principle. Of course, as we know, this principle is under attack at the moment because of a resolution of the Legislative Council dated 25 November 2015, which pursuant to section 16 of the Ombudsman Act 1973 referred the following matter to the Ombudsman for investigation and report — that is:

- (1) allegations that ALP members of the Victorian Parliament misused members' staff budget entitlements, against the provisions of the Parliament of Victoria *Members Guide*, that is, 'Electorate officers are employees of the Parliament of Victoria, and are directly accountable to the member in whose electorate office they work ... These positions are provided to support the member in their parliamentary and electorate duties. The Parliament does not fund positions to support the member's political or party duties'; and
- (2) any other breach of applicable policies, laws or codes in relation to these allegations.

Subject to the reference being held to be within the jurisdiction of the Ombudsman, the Ombudsman is required to accept the reference provided to her by the Legislative Council and to give that reference priority. That means that the resolution could be interpreted to mean that the Legislative Council of the 58th Parliament is purporting to refer for investigation Legislative Council members of the 57th Parliament, Legislative Council members of the 58th Parliament, Legislative Assembly members of the 57th Parliament and Legislative Assembly members of the 58th Parliament.

This is nothing other than a potential attack on that very important principle of exclusive cognisance. That is

what this motion is about; we need to be very focused on that. As both the Leader of the House and the Attorney-General have clearly articulated, the point that we are arguing here is that the business of this house should be within the realm of this house. It is not for those in the Legislative Council to inquire into the business of members of this place. It is a very, very important principle that we seek to uphold.

We will not be trashing the Westminster system. We will not be trashing the principles of democracy that have served us so well here in this nation since its inception. So it is, as I said, a very important principle that we are debating today. We on this side of the house are very pleased to be able to vote on this and to be very clear about our support for this motion, which, as I said, asserts the principle of exclusive cognisance. I commend the motion to the house.

**Mr HIBBINS (Pahran)** — I rise to speak on behalf of the Greens to the government's motion. We will be opposing this motion, which seeks to assert the rights and privileges of the Legislative Assembly in regard to the Ombudsman's inquiry into the misuse of taxpayer funds by the Labor Party so that the motion supported by the Legislative Council calling for an Ombudsman's investigation cannot be taken to apply to current or former members of the Legislative Assembly. This is clearly an attempt by the government to restrict and derail an investigation into its own conduct. They claim they have done nothing wrong, yet it seems that at every step of the way this government's members are fighting to prevent this investigation by the Ombudsman.

**Mr Pearson** interjected.

**Mr HIBBINS** — I will start with the law, as set out in the Ombudsman Act 1973, section 16. I will read the act, because clearly the member opposite still cannot quite get his head around it. Section 16 of the Ombudsman Act states:

- (1) At any time—

*Honourable members interjecting.*

**The DEPUTY SPEAKER** — Order! I am having great difficulty listening to the honourable member, so if the member for Warrandyte wants to have a conversation, just cross over the way. I am having some difficulties with people interjecting across the table. The honourable member for Prahran to continue, without other assistance.

**Mr HIBBINS** — It states:

- (1) At any time—
  - (a) the Legislative Council or a committee of the Legislative Council;
  - (b) the Legislative Assembly or a committee of the Legislative Assembly; or
  - (c) a joint committee of both Houses of Parliament—

may refer to the Ombudsman for investigation and report any matter, other than a matter concerning a judicial proceeding, which that House or committee considers should be investigated by the Ombudsman.
- (2) Where a matter is referred to the Ombudsman pursuant to subsection (1), the Ombudsman shall, notwithstanding anything to the contrary in this Act, forthwith investigate that matter and report thereon.

‘Any matter’ would include matters involving members of another chamber. Now, this is not the Legislative Council investigating these members or casting judgement on them; it is a referral to the Ombudsman, who will investigate and report. If there is any potential subsequent action from this Parliament on those members involved in these allegations, if deemed necessary, I am sure that would be undertaken by this house.

As I said, if the government’s view is that it has done nothing incorrect, then you would think it would be welcoming the chance to get this over and done with and to clear its name, but that is not what it is doing. It is trying to prevent this investigation.

We have heard that this provision in the act somehow should not be read as it is read, and it could result in the misuse of powers of these provisions in the act, but that situation still remains regardless of this motion. We could in theory see members of the government referring matters relating to members of the opposition within this act. This house could be investigating political opponents. This situation still occurs, so the question really before it is: is this referral a misuse of these powers? I think you have got to have a look at the allegations. The allegations are by whistleblowers who were Labor staffers, alleging that Labor MPs misused their staff budgets by employing electoral officers to work as campaign staff at the last election doorknocking, organising, calling voters — sometimes not even meeting the MPs they were working for — clearly in contravention of the guidelines set out by this Parliament in the *Members Guide*. In effect they were rorting the system at the expense of taxpayers to help fund their political campaign.

The Premier denies that they have done anything wrong, saying the rules were followed, yet here we are debating a motion to prevent this issue being

investigated. Are these really the actions of an innocent party? I am not casting judgement; let the Ombudsman investigate and cast judgement.

Let us have a look at the time line of this. We have had a motion by the Legislative Council that the Ombudsman have an inquiry into these matters, in line with the provisions in the Ombudsman Act. It was moved by the Victorians Greens leader, Greg Barber, in the other place, because we need to restore trust and confidence to the public about the use of taxpayer dollars following these allegations by Labor staff members. Following this, we have had the Ombudsman going to the Supreme Court, seeking a determination as to her jurisdiction to investigate this matter. We have got the government deciding to become a party to those proceedings, claiming the Ombudsman did not have the power to investigate. We have got the Legislative Council passing a motion seeking to become a party and reaffirming its right to call for an investigation. The Leader of the Greens also, out of his own volition, joined those proceedings, and the Supreme Court found that the Ombudsman did have jurisdiction to conduct that investigation. The government appealed that decision; it failed. And now it has appealed to the High Court, and I am not presuming or judging what that outcome might be, but what is clear is the taxpayer is having to foot the bill.

**Sitting suspended 1.00 p.m. until 2.01 p.m.**

**Mr HIBBINS** — As I was saying, it is the taxpayer that is footing the bill for the government’s defence in this matter. The government’s attempts to delay and to restrict this investigation are certainly ironic given that this is an allegation of misuse of taxpayer funds and now we are spending more taxpayer funds on the government’s attempts in the courts to stymie this matter.

This motion gets it wrong, but the motion agreed to by the Legislative Council is within the provisions of the act. We have rulings from the Supreme Court that state that the Ombudsman has jurisdiction over this matter, over this referral from the Legislative Council. The government has gone to the appeals court, which has also stated that this referral does not impinge on the principle that the houses should not infringe on each other. We have got rulings from the Supreme Court and from the Court of Appeal.

These allegations are serious. They go to the integrity of the election and of parliamentary entitlements. They are a cloud over this Parliament and its integrity. This matter needs to be resolved. It needs to be resolved to restore confidence in the Victorian Parliament, and the

best way to do this would be for the Ombudsman to investigate. The Ombudsman is best placed to look into this matter, and then we will see what results from that investigation. This motion is misguided. It is wrong. It is an attempt to block — to restrict — this investigation to potentially cover up a scandal.

This government likes to push its progressive credentials, but this is far, far from it. Their actions in this regard to prevent this matter from being investigated, to shield their MPs from facing any questions, just show how low the Labor Party can really go in looking after themselves and putting themselves and their mates first. The Greens oppose this motion.

**Mr Pearson** — You are just a class traitor.

**Mr HIBBINS** — A class traitor? My parents were teachers. The member for Essendon is misguided, not only in relation to this motion but in his constant interjections. The member for Box Hill indicated that he hoped the member for Essendon would speak against this motion in the interests of upholding that principle. You will never hear something like that from that yes-man over there, that company man, the member for Essendon. That is the last thing you will ever hear.

**Ms SHEED** (Shepparton) — I rise to say a few words on this motion simply because I have to vote on it. I would prefer not to be party to any of this, but I am, and I am here and I will need to vote. I have to say at the outset that to a large extent, and without the resources of a bureaucracy or a party or anyone to assist me much in this — we have all only had 24 hours to deal with the motion anyway — I am very much guided by my instincts on this. My instincts are that the institutions of this Parliament should be upheld.

I have been in this place for two years; we all have. In that time we have used the word ‘trashing’ a bit, and a couple of times I have seen this Parliament trashed, in my opinion. The first was when we did not have a joint sitting of the houses for Luke O’Sullivan to take his place in the upper house within an appropriate time. The other was the fact that we decided to set a precedent — or in the other place they decided to set a precedent — by suspending a senior minister for six months, an extraordinary time and to the best of my knowledge something not otherwise done anywhere in the Westminster system. When we do these things we create precedents, and they will all come back to bite us one day. I see this issue as just being another one.

We have heard a lot about exclusive cognisance. There are numerous texts that outline it, but I did find one that

I think is particularly apposite to this debate. It is a discussion on proceedings between the two houses of a Parliament. It is a Canadian text but I choose to rely on it as it goes back a long way and of course relies on British law. It is from a book entitled *The Practice and Privileges of the Two Houses of Parliament*. It is by Alpheus Todd and it is the 1840 edition. I am happy to provide anyone with copies later on. I think there is a general acceptance that the exclusive privileges of each house of Parliament are to be considered as firmly well established and defined. I will take the liberty of reading a fair bit of this because I think it is important.

I quote:

‘They form two of the pillars of our constitution’, says Bramwell (a), ‘the foundations of which are buried deep in past ages, with the records of their institution’. But it will sometimes happen, that popular excitement, or an internal desire for aggrandisement, will for a time obtain the mastery over the feelings and actions of those assemblies, and from the want of a due attention to the forms to be observed in their intercourse with each other, that the harmony which should at all times subsist between such powerful and closely connected bodies, will be disturbed — and the mutual forbearance and respect which should be the characteristic of their intercourse, be exchanged for perverse jealousy and angry recrimination.

To avoid the occurrence of such scenes, should be the ardent desire of every member of either house — and to do so, the principles which have been laid down in former times, as the peculiar rights and privileges of each branch should be continually kept in view, that no proceeding may be had which would tend, in the remotest degree, to affect or oppose them.

The leading principle which appears to pervade all proceedings between the two houses of Parliament is, that there shall subsist a perfect equality between them, and that they shall be, in every respect, totally independent one of the other. Hence it is, that neither house can claim, much less exercise, any authority over a member of the other (b): but if there be any ground of complaint against an act of the house itself, against any individual member, or against any offices of either house — the complaint ought to be made to the house where the offence is charged to have been committed, and the nature or mode of redress or punishment ...

dealt with in that place.

I have heard the member for Box Hill cite many precedents on this, and I have to defer to his greater knowledge in this space. I have to say I was a humble country lawyer before I became a politician, so I do not pretend to be an authority on constitutional law, or indeed parliamentary law, but I do consider that Victorian people actually respect the Parliament of Victoria. They want it to be a secure place. They want to have some trust in it. There are rules, and we have trashed some of them in the past two years. Here we have the opportunity to do it again. I do not like the idea

of election rorting, if that is what has happened. To date there have been two inquiries of some sort into it by the police and KPMG.

I say that there must be other ways of dealing with this. For a member of the upper house to move a motion that instructs the Ombudsman to investigate members of another house would appear to be out of order. It just appears to me to be out of order in that it does not appear to comply with the law, in my humble opinion.

Let me say I was not in the last Parliament, and many people have told me that during the last Parliament a lot of trashing went on. I cannot comment on it. I was a member of the public reading the newspapers, hearing what other people were hearing, and no doubt that was a very traumatic time because of the numbers in this place and the difficulty the government had in governing — the difficulty it had with an Independent, dare I say. Things happen, but to me it is fundamental — and I guess this comes from my legal background — that we should absolutely uphold the principles of the place.

The *Members Guide* — whoever wrote it, I do not know — provides for a whole range of things. There must be a way for that to be reviewed. There must be a way for this Parliament and this house to look into breaches of it. I simply cannot answer that, but for political reasons — and I cannot believe the political argy-bargy I have heard in here today from both sides, let me say — it distracts from what the principle of this is. I think there is a principle here, and the principle is about the exclusive cognisance of the houses of Parliament. It is for that reason and that reason alone that I support the motion.

**Mr PESUTTO** (Hawthorn) — It is with some displeasure that I have to get up and speak on this motion today because it is a matter of great regret that the government has adopted its fourth attempt to block an independent investigation into these very serious and potentially criminal allegations against members of the Labor Party and the Labor Party itself.

I have to say when I saw the references to Hatsell I went over to the library and asked them to get me a copy. They said, 'We don't have it in the open shelves. We've got to get it for you because it's really old'. I said, 'How old could it be?'. They said, '1818'. So I said, 'Could you get it out?'. They got it out in this box. I think from memory they had white gloves on — it was that delicate. They unboxed the box, and they took it out. It was wrapped in plastic, and, as they were carefully opening Hatsell, I thought: who in the Labor

Party found this? Then I thought they must have recruited Indiana Jones to get this book.

Can I say, this motion is completely ill conceived. Let me say this: the principle of exclusive cognisance — and it sounds very erudite, I know — is a very important principle, and nothing that could be done to stop today's motion would diminish that principle. What we need to remember is just that: it is a principle. It is not an immutable law. It admits exceptions and limitations like any other principle, and the law has long recognised with exclusive cognisance that there are limitations on the principle. There has to be, for example, a connection between what is impugned — the conduct which is to be impeached — and the proceedings of Parliament which it is said to relate to. If there is no connection, the principle has no application.

I just want to make two other points about this. Our Ombudsman is not just some ordinary officer of the Victorian public sector. The Ombudsman has been enshrined in our state constitution since 2003. Section 94E of the constitution recognises the powers and independence of the Ombudsman. It also recognises that implied powers of this Parliament and implied powers that might be associated with the insertion of the Ombudsman into the constitution are not to impede the independent functioning of the Ombudsman. That is a very important part of this, but it is perhaps the most important element which is overlooked, and I draw the member for Shepparton's attention to this. I have enormous respect for the member for Shepparton, but I have to disagree with her on this.

There is a feature of our system, Speaker, which the government has completely overlooked but which cannot be circumvented by any manner of reasoning. I will tell you what it is. You, sir, and the President of the Legislative Council jointly employ people to serve us and the members of the Legislative Council. It is not just you, Speaker, with all due respect, employing the people we engage. What we do as members of this Assembly is make a solemn representation to you and to the President of the other place that the people we employ are employed for the purposes which we are permitted to employ them for.

So to say that the principle of exclusive cognisance means that the President of the other place has completely no interest and no means of impeaching wrongful conduct by any one of us, who employ people in his name, is not something that can be circumvented by expediency or by reasoning that might be confected to try to get this motion across the line. And, Speaker, what you are being asked to do today would represent,

in my respectful view, a slight on the President and a diminution of your own office, because you would be asked to go to the President and tell him that, despite the fact that he signed off on employment arrangements which, if the allegations by Labor Party whistleblowers are true, were potentially criminal, then imagine what that does. It means that we can do whatever we like with impunity in the knowledge that the President can do nothing about it. He is a joint employer.

*Honourable members interjecting.*

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

**Mr PESUTTO** — What the government is wanting us to understand is that we can defraud you and the President.

*Honourable members interjecting.*

**Mr PESUTTO** — Members opposite might want to listen. What their argument means is that all of us can defraud the Speaker and the President in terms of employment relationships, remembering that they both have to sign off on our employment relationships. They both have to approve our time sheets. When we say and certify under oath that the people we employed are working for us in our electorates and for our offices and when we sign off and certify that the hours they have worked have been devoted to us as MPs in our work, we not only commit an affront to the Speaker. You have to accept, do you not, as a joint employer under section 30 of the Parliamentary Administration Act 2005, whatever slight we visit upon the Speaker we visit equally and jointly upon the President? To say that the President is barred by the principle of exclusive cognisance cannot make sense. It cannot be right.

No-one can sustain the argument that exclusive cognisance has no exceptions. In fact I am not sure how I would particularly phrase this, whether it is an exception to exclusive cognisance or whether exclusive cognisance can have any application to employment relationships. The Attorney-General went to some lengths, I will say, not unreasonably; he has a concern. Does this mean that each house or a committee of each house can — writ large — commit matters to the Ombudsman and not be confronted by exclusive cognisance? I say no. That is not the implication of what defeating this motion would mean.

It would simply mean that because of the circumstances of this matter, where Labor Party whistleblowers have made very serious, potentially criminal, allegations against members of the Labor Party, because of our constitution's protection of the Ombudsman and

because of our Parliamentary Administration Act's treatment of employment relationships — namely, Speaker, that you and your counterpart in the other place jointly employ people — it is unavoidable that the principle of exclusive cognisance cannot apply in this case. It would mean that the President cannot do anything about fraudulent employment relationships that affect him no less than they affect you.

Let us remember how serious these allegations are. They are not made by me. They are not made by any of my colleagues. They are made by people who were employed by the Labor Party. I do not know whether the allegations are true or not. All I know is that the allegations are serious. What are the allegations saying? The whistleblowers are saying with their allegations that they attended initial meetings where the Premier spoke and where Mr Jennings in the other place and Mr Lenders spoke about what the scheme would involve. According to the allegations, people were told not to tell you, Speaker, that they were employed by you or anyone on your staff. They were told, according to the allegations, not to tell the Department of Parliamentary Services anything. They were told, 'If you are asked, you are just doing work for the Labor Party'. They were told to lie or to misrepresent the truth. That is the nature of the allegations that were made.

The allegations go further — that they were asked to sign, in bulk, time sheet forms and employment forms. The allegations go on that members of this house or members of the former Parliament simply signed these documents knowing them to be wrong. I am not saying those allegations are true, but they are serious. And I do not know who in this Parliament or in the last Parliament is implicated in those allegations, but they are so serious that it would bring this Parliament into disrepute if the Victorian people see, after today's proceedings have come to a conclusion, that we have closed off an investigation into these serious matters.

The basis of this motion is that there is a principle of exclusive cognisance. Yes, there is — no argument. Is it an important principle? Yes, it is — no argument. Does it admit exceptions and limitations? Yes, of course it does, like any other principle of the law. But for the reasons I have explained, Speaker, you are not the only employer here. You share that role. It is a very important role, as we can all see. You share it with your counterpart in the other place. To mount an argument that exclusive cognisance stops the President and his chamber from vindicating an affront or an offence against them because of the way employment relationships were undertaken I think would be wrong,

as it would be to elevate that principle to a complete bar. It is not.

**Ms STALEY (Ripon)** — I rise to join my colleagues in opposing this motion. The Attorney-General wants this debate to be about Hatsell, about the House of Commons, about the internal affairs of the Assembly, about anything except the substance of the Ombudsman's inquiries, about anything except the Attorney's own role as a participant in the rorting of parliamentary staff and his now conflicted role as the named party in the appeal to the High Court. The Leader of the House in her contribution raised the spectre of witch-hunts — 'a slippery slope', she said — and then, could I say, in quite characteristic form produced thinly veiled threats against members of the opposition. Character always outs itself.

The member for Macedon repeatedly talked about the simplicity and elegance of the motion, which she then read out again for our education. Then it went pear-shaped when she attempted to explain both what the Legislative Council's motion actually meant and what exclusive cognisance might mean. The member for Macedon told us it is important; she told us she was happy to support it. But quite clearly she did not and does not understand it at all, as the *Hansard* report of her contribution will show.

The member for Shepparton got up, did what she quite often does and said that it is all nasty politics and that she hates all of that. Then, after calling herself a bush lawyer, she failed entirely to read the Ombudsman Act 1973 and its interpretation by the Court of Appeal that shows the Legislative Council has the right to act and make this referral to the Ombudsman. It is pretty tiresome, I must say, to see her repeatedly appeal to a higher purpose while siding with Labor, and she did it again today.

I am somewhat amused by the contributions from the government and that they have suddenly discovered House of Commons practice in 1818. I am very amused but not at all surprised that, having got to 1818 and found something possibly useful, they stopped then. No wonder they were so silent while the member for Box Hill pointed out in masterful fashion that in fact history did not stop at 1818 and that their own gotcha ruling had been superseded.

As the member for Murray Plains pointed out, what we are really here today debating is the government's further attempt to stop any investigation into the rorting by the Labor Community Action Network of parliamentary staff entitlements prior to the last election.

The Premier has confirmed that staff had been pooled and continually said that was an ordinary thing. When asked, he brushed aside all questions to the effect that there was anything wrong with what had happened. That was the beginning of some very careful language that has been used by the Premier but not by all members of the Labor Party. Minister Mikakos in the other place, when asked, admitted that her staff participated in this scheme — you know, brains trust there! The Premier could not confirm or deny if Labor staff paid by Parliament had worked in the Community Action Network field campaign. That is what this goes to the heart of. Our staff are meant to work for us on parliamentary business. At the very least we should know who they are, not sign the time sheets of people we have never met, and this is what the allegations are. These are the allegations the Ombudsman has been asked to look at. These are the allegations that the court has at numerous places agreed the Ombudsman can look at.

The Ombudsman went to the Supreme Court because she wanted to be sure that she was able to undertake this inquiry as put to her by the Legislative Council. The Supreme Court said yes. The government appealed that. The Court of Appeal dismissed the government's appeal, so the government appealed that to the High Court. The High Court of course is yet to rule. At every turn the part of our system that is set up to interpret the law — the courts — has said that the Ombudsman Act is set up in such a way that either house of Parliament can make a reference to the Ombudsman, and that is what the court continues to say. We have yet to see what the High Court will say, but so far the government is none for three on this.

So they try this tactic today, this other tactic which in so many ways is mysterious. We know that the government has the numbers in the Assembly. This motion will pass. What is the point of it? Are they trying to say to the High Court, 'Take notice of us; take notice of the Assembly'? I think the High Court has a fairly long history in having its own views on these things, in taking its own path and in looking at the legislation that exists, particularly in this case the Ombudsman Act.

I want to return to the original acts that caused all of why we are here today, why we have had these inquiries and why we have the Ombudsman seeking to get on with her job. Neil Mitchell today had an editorial about this. He said:

What is wrong with a full and independent Ombudsman's inquiry into what happened? If you've got nothing to hide, let it happen. But they've —

that is, the government —

fought it in court. They're fighting it in Parliament. It is a pattern emerging in this government. Cross us, we'll fix you.

Again it is another example of the arrogance, the nastiness and the bullying. 'If you don't like what we do', you say as a government, 'we will fire you. We will sideline you'. There is a very long history that the member for Murray Plains has already described, and I would like to add to that that this is part of that pattern. It is part of that pattern of behaviour that when something is not really going your way you get up and say, 'Everybody else is an idiot', whereas you are all fine and there is nothing to see here.

Well, there is something to see here, and we should be allowed to find out what that is by letting the Ombudsman have her inquiry. Today's motion remains inexplicable. The High Court will rule. None of this should have been where it is today. The government should have just said, 'Oh well, we've got nothing to hide. Bring it on', but at every turn they have tried to block it. One can only assume there is something there — that there is something to hide. If so, this is the most rotting government of all time. I oppose the motion.

**Mr NARDELLA** (Melton) — I have said this a number of times in this house, and I will repeat it today: I have been around for a little while. I have had the absolute privilege of serving with some amazing people in both this chamber and the other house. Let me refer to members on the other side of the house in the upper house — and the honourable member for Brighton is not here at the moment, but she was around the cabinet table with some of these people — who were exceptional. They were people of repute. They were people that around a cabinet table, whether in government or in opposition, would have thought and thought deeply about these issues.

You had people like the Honourable Mark Birrell, you had people like the Honourable Roger Hallam, you had people like the Honourable Rob Knowles and you had people like the Honourable Haddon Storey who were formidable on their feet in the chamber and who, around the cabinet table, be it in government or in opposition, would have been even more formidable in terms of the thinking and the intellect that they would have brought around that cabinet table. The imperative of those people and the intellect that they would have brought to an issue and a question like this before the house today would be extremely interesting. They would have weighed up a number of very important matters. They would have weighed up the history of this house.

It ails me to think that honourable members do not understand *Erskine May*, do not understand parliamentary procedure, process, history and precedents and come into this chamber and denigrate hundreds and hundreds of years of parliamentary privilege that is all about safeguarding the Victorian and the Australian, but certainly the Victorian, democracy. When people like the Honourable Haddon Storey and others sat around the cabinet table they would have taken those things into account. They would have looked at the risks and they would have looked at what the effect would be not only on the people that they were opposing but on themselves, on their party, on their members and on the people that would be affected by the types of motions that were being passed in their chamber at the time.

As I said, they were formidable. They would have asked where the political strategy was on the course of action the opposition, the Greens political party and The Nationals have taken in the upper house. They would have weighed up how this would affect us. What if it sets a precedent that members of the upper house can investigate members of Parliament from the Legislative Assembly and their staff? We cannot take these political actions without thinking about what they might mean for us and for our staff in the upper house, and, more importantly, for privilege, for democracy and the workings of democracy.

They would have come up with one answer. They would have said no. They would have deeply considered this particular matter after it had been investigated not by the upper house and their committee or by anybody else in the upper house but after it had been referred — rightly so as a political strategy — by the opposition to the police, who investigated it and said, 'There is nothing to see here'. The Parliament, through PwC, has investigated this matter. They called me and they talked to me about this matter, and they determined that there was nothing to investigate. So as a political strategy these eminent ex-members of Parliament on the conservative side would have considered all those particular matters. We now have an opposition that does not understand nor want to understand the democratic principles, the precedents and the privileges of this house because they want to make a political point.

Let me put this to this house. The staff pool arrangements that we had were arrangements that were in place for the Greens political party, for The Nationals and for the Liberal Party. I know for a fact that the Liberal Party staff pool worked out of Exhibition Street — Liberal Party headquarters. So if those opposite want to go down this path — and that is what

these eminent former MPs and ministers would have done; they would have actually worked through these matters, looked at the risks and considered them — there are a number of other issues that we as a chamber can refer off and deal with into the future if this precedent is set, such as the issue of ministerial cars and where they have been parked until 3.00 a.m.

So I say to this chamber that this is a very serious matter before the house where we on this side of the house are in actual fact the conservatives. We are in actual fact the supporters and the champions of the status quo. We are in actual fact the upholders of parliamentary privilege and democracy here in Victoria. If you compare that to the positions of others, other than that of the honourable member for Shepparton, that have been put to this house, you can see that that is the case, because the work that members do and the privilege of this house are absolutely imperative and should not be investigated by other chambers and by people outside of this house.

There is a process and there are rules in terms of who can investigate members in this chamber and past members of this chamber. I am on that particular austere body and I have been chair of that austere body, the Privileges Committee. The Privileges Committee can consider these matters as part of their democratic role in this chamber. That is the appropriate process and that is the political process if people want to prosecute this particular matter. But to have the Legislative Council take members from this house and investigate them, investigate their staff, go through their records and then report through the Ombudsman is not the appropriate process.

I come back to where I started. I worked with but did not support the policies or positions of the Honourable Haddon Storey and the rest of the ministers in the upper house. But by God I respected their views. I respected their intellects — that they were thinkers and that they make decisions based on facts and on principle. That is why I am supporting the motion before the house and not the political posturing and precedent setting of the members opposite in this chamber.

**Ms RYAN (Euroa)** — I rise today to speak against the motion moved by the Attorney-General. What an absolute farce! In the two years I have been in here I have never seen such pious opining about protocol and procedure from those opposite. They do not care about that for the other 364 days of the year. They just want it when it covers their indiscretions. This is an absolute farce. If those opposite vote for this motion today, it is virtually an admission of guilt. If they had nothing to hide, if they had not breached parliamentary guidelines,

they would have no fear of the Ombudsman undertaking her investigation and they would not be employing every trick in the book to try to block the Ombudsman's examination of their misdoings.

The Premier has spoken big on transparency. We all remember the comments that he made before the last election about transparency. He promised Victorians a more open, a more accountable and a more transparent government. He told 3AW before the last election:

I think more information is better than less, more transparency's always better than less ...

What have we got now? The Attorney-General, who moved this motion, told Victorians before the last election:

Labor will end this secret state and open our doors to the public, because we all deserve to know the details that affect our lives. Under Labor's changes, no future government will ever be able to keep a crisis a secret. No more hiding, no more excuses.

They were the words of the Attorney-General, who has now moved a motion to try to block the state's watchdog from undertaking an investigation that she believes is warranted. A leopard never changes its spots. Those opposite have never cared about transparency, and they are demonstrating that now.

*Honourable members interjecting.*

**Ms RYAN** — If you had nothing to hide, you would not be blocking this investigation. All we have heard is excuses, and now those opposite are endeavouring to hide behind parliamentary privilege. You are willing to say and do anything to get elected. You were willing to say and do anything before the election, but now that you are on those benches you are willing to say and do anything to keep those government benches, and that is what this is about. That is what the motion before the house is about. It is not about protocol; it is not about a ruling from 200 years ago or a principle. You would drag out anything at this stage to stop this investigation from going ahead, and that is what we have seen. If you support this motion today, you are admitting to your own guilt.

I would like to remind the house of Labor's 2014 election platform, where it said — and I assume that all of those on the government benches fully endorsed this platform:

Governments must also be honest and transparent. Respect for the Victorian people starts with respect for our democracy. Decisions shouldn't be made in the shadows, communities should always be consulted and the powers of the Parliament and the government should never be abused.

If they believed in that, they would allow the Ombudsman to investigate their actions before the 2014 election. Where is the honesty and where is the transparency now?

The Premier is a rank hypocrite in this matter. This is the government's third attempt to block the Ombudsman, so why are they so terrified? The Premier, as we all know, has told Parliament, in his own words:

There are rules of course and the rules have been followed.

What about government spokesman Adam Sims, who told the media:

These allegations are untrue.

The government has clearly stated its position. If the government is so assured and if it is so determined that no rules have been broken, then why would it spend hundreds of thousands of dollars of taxpayers money on defending what has been a blatant party-political matter before the court? Those opposite have spent taxpayers money on defending the ALP in the courts, and still they persist. Even though the Supreme Court and the Court of Appeal have both ruled that the Ombudsman has the power to investigate this matter, still they are persisting.

I tell you what, Speaker, I would love to be a fly on the wall at those meetings of the upper house colleagues of those opposite, because they have been hung out to dry. If this motion goes through and those opposite block investigations into the lower house, they are the ones who will be taking the fall for the red-shirt brigade. It is a disgrace. What is even worse is, putting aside the issues of transparency, this is a distraction from the work that this Parliament should be undertaking. As the manager of opposition business said earlier, we should be debating reforms to bail laws at the moment. The Attorney-General is here.

**Mr Pakula** interjected.

**Ms RYAN** — Perhaps I would finish up if he had some legislation to introduce on those important matters, but the government does not have legislation. We offered to return to Parliament early. We offered to address these very critical matters for Victorians, matters that Victorians are crying out for action on, and yet the government has done nothing. Instead here we are debating a motion so they can defend their actions, which they know were outside the bounds of parliamentary guidelines. We should be here sorting out the mess that they have made of the Country Fire Authority. They should be bringing in legislation just

like the legislation the member for Gembrook drafted for the upper house. That would be a better use of this chamber's time than debating a motion that is simply designed to defend those opposite from the indefensible.

The substantive part of the government's argument is that they are concerned that a majority of a parliamentary committee made up of members of one house could refer matters of investigation to the Ombudsman about members of another house. As I said at the start of my contribution, if you have nothing to hide, then why should anyone fear that? Allegations are made to Victoria Police all the time, and they are handled appropriately. That does not mean that Victoria Police investigates everything. Similarly the Ombudsman will only investigate where she feels there is a legitimate cause to do so, and she has explicitly said that she believes that there is cause for her to investigate this.

As the manager of opposition business said in his contribution, it is not what we can do, it is what we ought to do. The Premier is happy to audit the phones of his ministers. He is happy to find out who the leaker is on his frontbench. But when it gets to the scrutiny of his own actions we get a very different response. I would urge the Premier and those opposite to do what is right, to do what they know to be right — to get out of the Ombudsman's way and uphold their promises to Victorians about transparency and accountability. If they truly have nothing to hide, they will allow this investigation to go ahead and they will vote against this motion, because that is what they ought to do.

**Mrs FYFFE** (Evelyn) — As the Presiding Officer during the period that these allegations cover, when the allegations were made by the whistleblower I felt very dismayed. I was very disappointed that, if true, it would have happened on my watch. As you are aware, Speaker, the Speaker and President answer for and are responsible for all aspects of the duties and actions carried out by parliamentary services. Through parliamentary services we were the employer of all electorate officers. That was the case for the then Presiding Officer and me, as it is for you and the President now. As Presiding Officers we ensured processes were in place — that all new employees signed an acceptance of their position, their duties and salaries; and that their manager, the member, whether it was a Legislative Council member or Legislative Assembly member, signed the agreement. There were very clear agreements that explicitly covered the areas that are alleged to have been misused, and this applies equally across both houses.

All members are involved in this matter that, it is alleged, covers each electorate officer. All of us here are responsible for the wellbeing and the duties performed by electorate officers. Every electorate officer is and was employed by the Department of Parliamentary Services. The Presiding Officers were responsible. The Presiding Officers signed off on the employment contracts that were to be signed by all employees and all members of Parliament. They were not employed by either house; these contracts, signed by members, applied equally.

If what is alleged is true, I am personally disturbed that I was misled by any members involved who signed the employment forms and also by the employee who signed. These allegations must be investigated. I have not spoken out before because I thought that with the due process going through the Ombudsman would work through this and might even want to talk to me and the other Presiding Officer about the processes we had in place, to clarify what was required of members and electorate officers.

Not only is this a serious matter for the members against whom these allegations have been made, but it is serious for those who were used in the roles it has been alleged they were used in. If true, these employees were directed to do work that was completely against the employment contract they signed. And if the allegations are correct, they have been drawn into a fraud.

I sincerely hope that an investigation by the Ombudsman would clear every member and every employee from the allegations that have been made by a whistleblower. I sincerely hope that because I feel that I had some responsibility during my time as Speaker. I had responsibility to ensure that things were operating in a clear, open and transparent manner equally across both houses and equally across all members.

The public already hold parliamentarians in low esteem. To not have this fully investigated by the Ombudsman, to not have it openly and transparently investigated, will only add to the distrust, suspicion and cynical regard we as parliamentarians are held in. I oppose this motion.

**House divided on motion:**

*Ayes, 45*

Allan, Ms	Lim, Mr
Andrews, Mr	McGuire, Mr
Blandthorn, Ms	Merlino, Mr
Brooks, Mr	Nardella, Mr
Bull, Mr J.	Neville, Ms
Carbines, Mr	Noonan, Mr

Carroll, Mr	Pakula, Mr
Couzens, Ms	Pallas, Mr
D’Ambrosio, Ms	Pearson, Mr
Dimopoulos, Mr	Perera, Mr
Donnellan, Mr	Richardson, Mr
Edbrooke, Mr	Richardson, Ms
Edwards, Ms	Scott, Mr
Foley, Mr	Sheed, Ms
Graley, Ms	Spence, Ms
Green, Ms	Staikos, Mr
Halfpenny, Ms	Suleyman, Ms
Hennessy, Ms	Thomas, Ms
Howard, Mr	Thomson, Ms
Hutchins, Ms	Ward, Ms
Kairouz, Ms	Williams, Ms
Kilkenny, Ms	Wynne, Mr
Knight, Ms	

*Noes, 38*

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

**Motion agreed to.**

**STATUTE LAW REVISION BILL 2017**

*Statement of compatibility*

**Mr PAKULA (Attorney-General) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:**

Opening paragraphs

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 Statute Law Revision Bill 2017.

In my opinion, the Statute Law Revision Bill 2017, as introduced to the Legislative Assembly, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill corrects a number of ambiguities, minor omissions and errors in acts to ensure their meaning is clear and reflects the intention of Parliament.

The bill also repeals wholly redundant acts identified by the Office of the Chief Parliamentary Counsel and departments.

### Human rights issues

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

No human rights protected by the charter are relevant to the bill.

#### Is any limit on relevant rights by the bill reasonable and justified under section 7(2)?

As no human rights protected under the charter are relevant to the bill, it is not necessary to consider section 7(2) of the charter.

The Hon. Jacinta Allan, MP  
Minister for Public Transport  
Minister for Major Projects

### *Second reading*

**Mr PAKULA** (Attorney-General) — I move:

That this bill be now read a second time.

### **Speech as follows incorporated into *Hansard* under standing orders:**

The bill before the house, the Statute Law Revision Bill 2017, is a regular mechanism for updating and maintaining the accuracy of statute law in Victoria. The bill ensures that the state's laws remain clear, relevant and accurate.

The bill corrects a number of ambiguities, minor omissions and errors found in statutes, to ensure the meaning of acts is clear and reflects the intention of Parliament.

The bill also repeals wholly redundant acts identified by the Office of the Chief Parliamentary Counsel and departments.

By correcting references and fixing errors, the bill will help to ensure that Victorian statutes are updated and clear, and maintained in a regular and orderly manner so that they remain relevant and accessible to the Victorian community.

I commend the bill to the house.

### **Debate adjourned on motion of Mr CLARK (Box Hill).**

### **Debate adjourned until Thursday, 23 February.**

#### *Referral to committee*

**Mr PAKULA** (Attorney-General) — By leave, I move:

That the proposals contained in the Statute Law Revision Bill 2017 be referred to the Scrutiny of Acts and Regulations Committee for inquiry, consideration and report.

### **Motion agreed to.**

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

### *Statement of compatibility*

### **Ms D'AMBROSIO (Minister for Energy, Environment and Climate Change) 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 Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017.

In my opinion, the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017 (the bill), as introduced to the Legislative Assembly, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

#### Overview

This bill amends the Electricity Safety Act 1998 (the act) to impose additional bushfire requirements on major electricity companies, enable the enforcement of those additional requirements, and provide for information notices and other matters. As the majority of the amendments apply only to major electricity companies, rather than individuals, and corporations do not have human rights, the charter does not apply to those provisions of the bill. There are, however, some provisions of the bill that apply to individuals and to which the charter may be relevant.

#### Human rights issues

##### *Freedom of expression and presumption of innocence*

Clause 5 of the bill amends section 141AB of the act, which provides for Energy Safe Victoria (ESV) to issue notices to collect information in relation to the performance of distribution companies in complying with divisions 1A, 2 and 4 of part 8, and part 10 of the act. A person who is given a notice must comply with it, unless they have a lawful excuse. The penalty for failing to comply with such a notice is, in the case of a natural person, 50 penalty units and, in the case of a body corporate, 200 penalty units.

Clause 5 broadens section 141AB by allowing ESV to require such information for the purposes of verifying the compliance of distribution companies, whereas currently ESV may only require such information for the narrower purpose of preparing annual reports in relation to the performance of those obligations.

To the extent that new section 141AB imposes information-provision obligations on individuals in a broader range of circumstances than previously, the right to freedom of expression as protected by section 15 of the charter may be relevant to clause 5 of the bill. However, in my view, any interference with this right either falls within the internal qualifications on the right, or is reasonably justified under section 7(2) of the charter.

Section 15 of the charter provides that every person has the right to freedom of expression, which includes the freedom to impart information and ideas of all kinds and, potentially, the right not to impart information. However, section 15(3) of the charter provides that special duties and responsibilities attach to this freedom and that the right may be subject to lawful restrictions that are reasonably necessary in the interests of public order and health (amongst other things).

To the extent that the broadened information-gathering power in section 141AB imposes any restrictions on the freedom of expression of an individual, in my view the powers are reasonably necessary for the protection of public order and health under section 15(3) of the charter. This is because the broadened power to acquire information under section 141AB will enable ESV to obtain certain information relating to bushfire mitigation (for example, annual fire start data), which may be relevant and reasonably necessary for distribution businesses to provide to evidence the safe operation of their networks for the purposes of public safety. For these reasons, I consider that clause 5 does not limit section 15 of the charter. In any event, in my view any resulting limit on the right is minimal, serves the clear and important purpose of promoting public safety, and is therefore demonstrably justifiable.

To the extent that clause 5 broadens a provision that imposes obligations to which penalties attach for non-compliance, except if a person has a lawful excuse, the right to be presumed innocent may also be relevant. This is because the lawful excuse defence could be said to impose an evidential onus on a person (to make out the defence). However, in my view, this does not transfer the legal burden of proof, because once the defendant has adduced or pointed to some evidence, the burden is on the prosecution to prove the absence of the exception raised. 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 exception that is provided relates to matters within the knowledge of the defendant and, if the onus were placed on the prosecution, would involve the proof of a negative which would be very difficult.

For these reasons, I consider that it is appropriate for an evidential burden to be placed on a defendant in this instance.

Hon. Lily D' Ambrosio, MP  
Minister for Energy, Environment and Climate Change

### *Second reading*

**Ms D'AMBROSIO** (Minister for Energy, Environment and Climate Change) — I move:

That this bill be now read a second time.

### **Speech as follows incorporated into *Hansard* under standing orders:**

This week marks the eighth anniversary of the Black Saturday bushfires of 7 February 2009. We reflect on the fact that powerline ignitions caused the loss of 159 of the 173 lives lost and contributed to the loss of over 2000 homes and \$4.4 billion suffered by Victorians in this tragic event.

The Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017 (the bill) is an important measure

to reduce the bushfire threat posed by powerline faults to regional and rural Victorian communities. The bill will provide powers in the Electricity Safety Act 1998 (the act) for the director of energy safety and the Minister for Energy, Environment and Climate Change to pursue civil penalties against the electricity distribution businesses as a measure of last resort to ensure that the distribution businesses deliver specified bushfire safety measures on time and to the correct standard. This bill will ensure that the electricity distribution businesses meet enhanced powerline fault detection and suppression obligations and replace bare wires with covered conductor or undergrounded powerlines in areas of the state of highest bushfire risk. The bill will also amend the act to allow the director of energy safety to compel more transparent reporting from the distribution businesses on how they plan and deliver the enhanced standards and their broader bushfire mitigation activities.

Through this strengthened compliance mechanism, the bill seeks to provide Victorian regional and rural communities with an assurance that they will receive the full safety benefit from enhanced bushfire mitigation technology.

The bill will require the distribution businesses to achieve these bushfire mitigation obligations by prescribed program delivery milestones.

The first obligation specifies that AusNet Services, Powercor and Jemena must demonstrate compliance with the enhanced fault detection and suppression standards on all 22-kilovolt powerlines emanating from their share of 45 targeted zone substations in rural and regional Victoria. The bill requires the businesses to deliver these upgrades according to a 'points' scheme. The businesses must achieve 30 points of zone substations by 1 May 2019; 55 points by 1 May 2021 and all residual points by 2023. This 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 (REFCLs).

The second obligation in the bill 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 (ESV).

The third obligation in the bill requires that the distribution businesses deliver all remaining single wire earth return (SWER) powerline automatic circuit reclosers (ACRs) by 31 December 2020.

The current Electricity Safety (Bushfire Mitigation) Regulations 2013 will retain the obligation of the distribution businesses to include the three enhanced bushfire mitigation standards in their bushfire mitigation plans (BMPs).

The bill applies civil penalties for non-compliance with these obligations on both an initial and an accrued daily basis. The businesses will be penalised a maximum of \$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. Distribution businesses will face a maximum initial civil 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 \$1000 for every kilometre each day after; and a maximum initial penalty of

\$50 000 for each SWER ACR not installed and \$150 for each day following.

The bill also includes specific reporting and audit powers in the act in relation to the bushfire mitigation obligations and broader distribution network bushfire safety performance.

The bill will amend the act to require the electricity distribution businesses to demonstrate to the director of energy safety annually in dedicated bushfire mitigation obligation reports how they are complying with the new bushfire mitigation obligations. These status reports must detail the actions and works that the businesses have undertaken to deliver the new bushfire mitigation obligations in the last 12 months and provide delivery plans for the next 12 months, covering 1 May to 30 April each year. These annual reports shall be signed off by the businesses at a board level and should reflect a rolling plan to be included in the businesses' BMPs. Failure by the electricity distribution business to submit these reports by 31 July each year from 2018, at the required standard, will incur a maximum civil penalty of \$10 000 in the first instance and \$1000 for each day until rectified.

The bill contains new provisions to allow ESV to require an electricity distribution business to obtain an independent audit with respect to its progress towards complying with the new direct bushfire mitigation requirements. The results of these reports must be provided to ESV. This amendment will also allow ESV to conduct these audits itself. Failure to deliver these reports to a standard satisfactory to ESV will attract a maximum initial civil penalty of \$50 000 and a \$5000 daily penalty until rectified.

As an additional compliance mechanism, the bill will give ESV new audit and information notice powers in relation to the new bushfire mitigation obligations. This will allow ESV to verify the information provided by the distribution businesses regarding delivery of the new bushfire mitigation obligations. The bill will also expand ESV's existing information notice powers to allow interrogation of all bushfire mitigation activities undertaken by the distribution businesses in the performance of their existing obligations under the act.

The bill aims to provide greater bushfire risk reduction safety. However, there may be limited cases where delivery timelines or full compliance with the fault detection and suppression standards cannot be met.

The bill allows distribution businesses to seek timeline variations for specific zone substations where the full standards can still be met. Under the act, ESV may set a new delivery date for full compliance in consultation with the Minister for Energy, Environment and Climate Change.

In cases where the fault detection and suppression standards cannot be met for specific zone substations, the distribution businesses may apply to ESV to advise the minister to seek a Governor in Council exemption. Every effort must be made and evidenced before any exemption is considered. These exemptions are subject to such terms and conditions as are specified and will consider requirements for electricity network infrastructure capital works that deliver equivalent powerline bushfire risk reduction.

This bill will establish a stronger compliance mechanism which will ensure that the powerline bushfire protection

benefits recommended by the Victorian Bushfires Royal Commission (VBRC) are safeguarded for Victorians.

I commend the bill to the house.

**Debate adjourned on motion of Mr CLARK (Box Hill).**

**Debate adjourned until Thursday, 23 February.**

## **FAIR WORK (COMMONWEALTH POWERS) AMENDMENT BILL 2017**

### *Statement of compatibility*

**Ms HUTCHINS (Minister for Industrial Relations) 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 Fair Work (Commonwealth Powers) Amendment Bill 2017.

In my opinion, the Fair Work (Commonwealth Powers) Amendment Bill 2017 (the bill), as introduced to the Legislative Assembly, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

### **Overview**

The purpose of the bill is to amend the Fair Work (Commonwealth Powers) Act 2009 (Vic) (the referral act) in relation to certain Victorian public sector employers and employees to expand the range of matters able to be bargained over and included in an enterprise agreement across the Victorian public sector. The referral act operates to refer certain matters relating to workplace relations to the commonwealth Parliament for the purposes of section 51(xxxvii) of the Australian constitution. That reference of matters by the state permits the commonwealth Parliament to extend the application of the Fair Work Act 2009 (cth) (the commonwealth Fair Work Act) to Victorian employers and employees it would not otherwise cover, subject to the exclusions and limitations set out in section 5 of the referral act.

At present, under section 5 of the referral act, certain matters relating to Victorian public sector employees who are not law enforcement officers are excluded from the state's reference, including matters pertaining to the number, identity or appointment (other than terms and conditions of appointment) of those employees. The bill amends the referral act in relation to the exclusions that currently apply to those employees, in order to:

provide for Victoria public sector employees who are not law enforcement officers to enter into enterprise agreements that include terms about matters pertaining to the number, identity or appointment (other than terms and conditions of appointment) of those employees;

provide for some other aspects of the provisions of the commonwealth Fair Work Act to apply in respect of

those matters, in order to support bargaining for the inclusion of those matters in enterprise agreements and enforcing terms about those matters;

provide for other, minor related matters.

### Human rights issues

The bill would insert a new section 5A into the referral act to provide for the further reference of certain matters pertaining to certain public sector employees. In effect, new section 5A would constitute a limited exception to the present exclusion from Victoria's reference to the commonwealth contained in section 5(1)(a) of the referral act.

New section 5A would provide that, despite the exclusion in section 5(1)(a), the matters referred by the principal act include matters pertaining to the number, identity, or appointment (other than terms and conditions of appointment) of employees in the public sector who are not law enforcement officers ('section 5(1)(a) matters'), to the extent of:

an enterprise agreement made or proposed to be made under the commonwealth Fair Work Act;

a workplace determination being made or proposed to be made that includes an agreed term dealing with a section 5(1)(a) matter; and

the Fair Work Commission dealing with bargaining disputes about section 5(1)(a) matters by arbitration (however described) under section 240 of that act.

However, new section 5A would not allow the Fair Work Commission to:

make an order in relation to transfer of business that a transferable instrument which includes a section 5(1)(a) matter will cover a referral employer; or

provide that a section 5(1)(a) matter of a transferable instrument be enforceable where that instrument will cover a referral employer.

### *Right of equal access to the Victorian public service (section 18(2)(b))*

Section 18(2)(b) of the charter provides that every eligible person has the right, and is to have the opportunity, without discrimination, to have access, on general terms of equality, to the Victorian public service and public office. Discrimination in the context of the charter has the same meaning as in the Equal Opportunity Act 2010 (Vic) (Victorian EO act).

This right is relevant to the bill to the extent that the amended referral will allow enterprise agreements to include terms relating to the identity and appointment of employees (which could include criteria or minimum qualifications) within the Victoria public service. I note that the amended referral will mean that all public sector employees (both those who are covered by the referral act and those who are employees of constitutional corporations) are treated equally in terms of employers and employees being able to bargain over matters pertaining to the number, identity or appointment of those employees. This will create a greater level of fairness and consistency in the bargaining process.

Additionally, I am satisfied that the right in section 18(2) is not limited by the bill because, under the commonwealth Fair Work Act, an enterprise agreement cannot be approved by the Fair Work Commission if it contains unlawful terms, including terms which are discriminatory within the meaning of that act. Further, while the terms of an enterprise agreement will generally prevail over state laws, the commonwealth Fair Work Act provides that an enterprise agreement will apply subject to the Victorian EO act.

### *Other relevant rights*

Although there are no further rights under the charter that are directly relevant to the bill, I note that the further reference of matters under the bill will permit the application of certain provisions of the commonwealth Fair Work Act to public sector employees in respect of section 5(1)(a) matters. Some of the applicable provisions of the commonwealth Fair Work Act may raise human rights issues, including in relation to the right to freedom of association in section 16(2) of the charter, the right to freedom of expression in s 15(2), and the right to privacy in s 13(a).

Section 16(2) of the charter protects the right to freedom of association with others, including the right to form and join trade unions. In the context of workplace relations, the right protects the freedom of persons to join, or not join, associations or organisations for the purpose of acting collectively in the common pursuit of member interests. Some of the provisions of the commonwealth Fair Work Act may engage the right to freedom of association; for example, those that relate to the making of enterprise agreements (part 2-4) and those that regulate employers and their employees taking protected industrial action (part 3-3). In my view, the provisions of the commonwealth Fair Work Act that regulate the making of enterprise agreements do not limit the right in section 16(2) of the charter (to the extent that that right may protect the right to collective bargaining), as they do not undermine, but in fact support the activity of workers joining together to negotiate agreements. Employees maintain the right to freedom of association. Additionally, the bill enhances the right to freedom of association for certain public sector employers who will now be able to bargain collectively in relation to section 5(1)(a) matters, where previously this was excluded. Similarly, the commonwealth Fair Work Act's regulation of industrial action is unlikely to amount to a limit on the right to freedom of association; and, even if it did, I am satisfied that any such limit is proportionate, reasonable and demonstrably justified given the objectives of the legislation to achieve a balanced framework for cooperative and productive workplace relations.

I am also satisfied that the provisions of the commonwealth Fair Work Act that regulate industrial action, which may now apply in respect of s 5(1)(a) matters, do not limit the right of freedom of expression in section 15(2) of the charter. Although such provisions may affect the ability to communicate opinions in certain circumstances, section 15(3) provides that the right to freedom of expression may be subject to lawful restrictions reasonably necessary for, among other things, the protection of public order. The restrictions on freedom of expression through the clear regulation of industrial action in part 3-3 are reasonably necessary and rationally connected to the objectives of the legislative scheme.

The right in section 13 of the charter, which provides that a person has the right not to have his or her privacy, home or

correspondence unlawfully or arbitrarily interfered with, is relevant to the rights of entry and associated investigative powers under part 3-4 of the commonwealth Fair Work Act. These are existing powers in the Fair Work Act; however, the bill will permit them to be exercised with respect to suspected contraventions of terms pertaining to section 5(1)(a) matters. To the extent that these powers may interfere with the privacy of the employer or persons in the workplace, it is my view that any interference will be neither unlawful nor arbitrary. The powers serve an important purpose of ensuring compliance with the act, and the manner in which they may be exercised is proportionate to that purpose, particularly as their exercise must be relevant to the investigation of a suspected contravention. The commonwealth Fair Work Act also includes safeguards to protect personal information. Moreover, the entry rights promote the right to freedom of association in section 16(2) of the charter, for example by allowing a union representative to access the records of their members for the purpose of investigating a suspected breach of a section 5(1)(a) matter.

The Hon. Natalie Hutchins, MP  
Minister for Industrial Relations

### *Second reading*

**Ms HUTCHINS** (Minister for Industrial Relations) — I move:

That this bill be now read a second time.

### **Speech as follows incorporated into *Hansard* under standing orders:**

This bill implements the government's commitment to expand the range of matters that may be included in an enterprise agreement made under the Fair Work Act 2009. The bill would amend the Fair Work (Commonwealth Powers) Act 2009 (referral act) to enable public sector employers that are covered by this act (referral employers) to bargain over, and reach agreement on, the subject matters of the number, identity or appointment of employees in the public sector. This would, for example, allow public sector employees (excluding law enforcement officers) to collectively bargain over and reach agreement on matters such as minimum staffing levels, restrictions on how staff are to be engaged or the number of casual, seasonal or fixed-term employees.

This will enable referral employers and their employees to bargain over these matters in the same way that public sector employers and employees of constitutional corporations may now bargain. It will ensure a greater level of fairness and consistency in the bargaining and enterprise agreement making process across the Victorian public sector.

#### **Background**

In 2009, the government undertook to ensure that all Victorians had the benefit and protection of the federal workplace laws by referring certain workplace relations matters to the commonwealth (referral). The referral act fulfilled that promise.

An important objective of the referral was to safeguard the ability for employers and employees to collectively bargain and make enterprise agreements under the federal workplace

laws. Since that time, most workers in Victoria have had the benefit of the federal Fair Work Act 2009 and many would be covered by an enterprise agreement approved by the Fair Work Commission (commission).

The referral act was necessary because, in its absence, only workplaces where the employer was a constitutional corporation could be assured of proper coverage by the federal workplace laws. Employers that were not constitutional corporations, being primarily small businesses, partnerships, non-trading community and some public sector organisations and the Victorian public service would have been excluded. The referral act, with some exceptions, captured those employers to ensure that all Victorian businesses and their employees were treated equally.

At that time, Victoria did not refer certain matters in relation to public sector employees. These exclusions are set out in section 5(1) of the referral act (section 5(1) exclusions). In particular, Victoria did not refer matters relating to the number, identity and appointment of public sector employees (section 5(1)(a) matters). These matters were excluded from the referral as they related to matters that the High Court in the *Re Australian Education Union; Ex parte Victoria* (re AEU) decision held to be essential to the functioning of the states. The High Court decided that such matters were beyond the legislative power of the commonwealth.

The Fair Work (Commonwealth Powers) Amendment Bill 2017 is a further step to ensure that the objectives of the referral act continue to be met, by removing the limitation that prevents referral employers and their employees from bargaining about section 5(1)(a) matters.

#### **Why is the bill necessary?**

Since the 2009 referral, the legal position with respect to the jurisdiction that may properly be exercised by the commission under the Fair Work Act has evolved.

The Full Court of the Federal Court in *United Firefighters Union v. Country Fire Authority (UFU v. CFA)* recently clarified the position of section 5(1)(a) matters in an enterprise agreement covering a public sector employer that is a constitutional corporation. It held that such terms could validly be included in an enterprise agreement voluntarily made and were enforceable as terms of the agreement. Presently, the section 5(1) exclusions, as they apply to enterprise agreements, result in different outcomes for public sector employers that are constitutional corporations and those that are not constitutional corporations because such terms may not be validly included in an enterprise agreement covering a referral employer and its employees.

#### **Objective of the bill**

The central purpose of the bill is to remedy the disparity between public sector employers that are constitutional corporations and public sector employers that are not constitutional corporations (referral employers) by legislating to ensure that section 5(1)(a) matters may be included in public sector enterprise agreements covering referral employers and those terms may be enforced by way of civil remedy provisions under the commonwealth Fair Work Act.

If an amended referral is not made in the manner proposed by the bill, some public sector employers and their employees are free to bargain about section 5(1)(a) matters, while others are not.

**Overview of the bill**

The bill would allow for referral employers and their employees to bargain over and make enterprise agreements containing terms pertaining to the subject matters of number, identity or appointment of employees in the public sector. Bargaining about such terms will be subject to the bargaining processes in the Fair Work Act, including the good faith bargaining requirements. Parties will be able to apply for bargaining orders and serious breach declarations if there are concerns the good faith bargaining requirements are not being met. Employers and their employees will also be able to take protected industrial action in support of claims in relation to terms about section 5(1)(a) matters and the bill would permit right of entry for suspected contraventions of such terms.

The commission will have jurisdiction to approve enterprise agreements that contain terms about section 5(1)(a) matters and such terms will be enforceable under the Fair Work Act and subject to the enterprise agreement's dispute resolution procedures. The commission may deal with a dispute about a term of an agreement about a section 5(1)(a) matter by mediation or conciliation, by expressing an opinion or making a recommendation or arbitration (where arbitration is expressly provided for in the enterprise agreement).

The bill would also allow for the civil remedy provisions, as set out in the Fair Work Act, to apply to a contravention of a term of an enterprise agreement about a section 5(1)(a) matter. This means that the relevant courts would have power to impose penalties and other orders on public sector employers in respect of breaches of such terms.

However, the bill would not permit a term pertaining to a section 5(1)(a) matter to be imposed on a referral employer and as such, the bill limits the inclusion of section 5(1)(a) matters in some industrial instruments. The principal effect of these limitations is to ensure that a section 5(1)(a) matter is only included in an industrial instrument with the agreement of the parties and not as the result of any arbitral function on the part of the commission.

This means that the commission would not have jurisdiction to arbitrate (even with the agreement of the parties) a bargaining dispute about a section 5(1)(a) matter. This also means that the commission would be able to make a workplace determination containing terms pertaining to a section 5(1)(a) matter but only where those terms are 'agreed terms' as defined by the Fair Work Act. The bill would not permit the commission to make an award, where that award includes a section 5(1)(a) matter. The bill will also not permit a section 5(1)(a) matter to apply to a referral employer by way of transfer of business. This means that a section 5(1)(a) matter in a transferring instrument (as defined by the Fair Work Act) will not be enforceable where that instrument covers a referral employer. Further, the commission will not be permitted to make an order in relation to transfer of business that a transferable instrument which imposes a section 5(1)(a) matter will cover a referral employer.

**Who is not covered by the amended referral?**

In 2009, Victoria did not refer certain matters in relation to law enforcement officers as they were considered necessary to maintaining the integrity of state laws governing law enforcement officers. The exclusions for law enforcement officers are set out in section 5(2) of the referral act. It is appropriate to maintain the existing exclusion pertaining to

law enforcement officers to ensure the integrity and operational independence of state laws governing law enforcement officers. As such, the bill would not alter the position with respect to law enforcement officers.

I commend the bill to the house.

**Debate adjourned on motion of Mr CLARK (Box Hill).**

**Debate adjourned until Thursday, 23 February.**

**CHILDREN LEGISLATION AMENDMENT  
(REPORTABLE CONDUCT) BILL 2016**

*Second reading*

**Debate resumed from 7 December 2016; motion of Mr FOLEY (Minister for Housing, Disability and Ageing).**

**Ms VICTORIA (Bayswater)** — Today I rise to speak on the Children Legislation Amendment (Reportable Conduct) Bill 2016, which seeks to amend the Child Wellbeing and Safety Act 2005 to establish a reportable conduct scheme.

Criminal child abuse is abhorrent — we can all agree with that — in any way, shape or form. Our community expects that the youngest in our society are protected and that their vulnerability needs to be acknowledged and safeguarded in every way against any form of harm.

The experience of criminal child abuse has profound and lifelong consequences for the physical, psychological and emotional wellbeing of victims. For parents of children abused in the care of a trusted organisation, it must be a betrayal beyond all comprehension. The effects of criminal child abuse remain with the person affected forever, impacting on all their interactions with people throughout their lives.

We have witnessed a number of investigations into child abuse in recent years and certainly since I have been in this house. They have happened at a national level, at a local level and at an international level. Religious organisations have also been the focus of investigations worldwide, and the data released just this week around abuse numbers within the Catholic Church in Victoria, to me as a Catholic, is both sickening and shocking. I would like to acknowledge the victims who bravely spoke out to provide evidence during these investigations. You did so in order to help others, and I commend and thank you for doing so.

The amendment before the house today is a step forward, ensuring both government and

non-government entities engaged in children's services are conducting their services both professionally and responsibly. This scheme will ensure that children are protected and entities are required by law to report any misconduct that occurs. Trust is a vital ingredient in children's services, and the community expects this trust to be upheld — and, of course, rightly so. Trust is often hard to gain, and once betrayed, of course, it is very hard for the trust to ever be regained again.

Hundreds of thousands of children are looked after by organisations each year, whether it be on a volunteer basis or whether it be on a long-term, permanent basis. The majority of our children's services providers do an outstanding job, and we need to congratulate them. They look after our children. They protect our children, and we need to acknowledge this. It is a blight on the services when organisations or their employees do not do the right thing. It is also hoped this scheme will provide organisations and employees of these entities with the confidence to speak out and actually report offending behaviour. For too long we have witnessed organisations dealing with this conduct internally or, even more appallingly, remaining silent altogether. This, of course, results in the most vulnerable of our society being both scarred and scared for the rest of their lives.

I believe we need to do our utmost to ensure children are safe when in the care of others, and that is why the coalition is supporting this bill. This scheme will require allegations of reportable conduct or employee misconduct involving a child by an employee within or connected to certain entities to be reported by that entity to the Commission for Children and Young People, which will then administer and either oversee or conduct an investigation. This bill will enable information sharing as necessary between various bodies — so, obviously, between the commission itself, the Department of Justice and Regulation, Victoria Police and any other bodies that might be relevant. The bill also makes other, consequential amendments to the acts as is deemed necessary, and I will go through those a little bit later.

This legislation is a result of recommendation 18.1 from the *Betrayal of Trust* parliamentary inquiry. The inquiry report recommended that all relevant Victorian government and non-government organisations should report allegations of misconduct relating to children to a central location, enabling consideration by the working with children check unit. Last year in April, when the Council of Australian Governments (COAG) and the relevant ministers of COAG met, it was agreed in principle to harmonise reportable conduct schemes across the states. This particular bill broadly aligns us

with the ACT and New South Wales, and it is interesting to note that New South Wales has actually had a scheme like this for some 16 years. In addition, the Royal Commission into Institutional Responses to Child Sexual Abuse is looking closely at a reportable conduct scheme, and it is anticipated that the recommendations will be around provisions for a national reportable scheme. I hope that is certainly one of the things that they recommend and that that is adhered to by all states and territories.

If you have a look at some of the main provisions of this particular bill, clause 4 inserts the provision for the reportable conduct scheme to actually operate. Clause 5 inserts new definitions into section 3(1), and it broadly defines the term 'employee'. This is obviously intended to make sure that the scheme applies to all the relevant people regardless of whether they are employed by an entity or whether they are a volunteer, a contractor, an office-holder, an officer of the actual entity itself or, of course, those whom we might term as general employees but also any other person who might be engaged by these entities, regardless of how, as long as they have contact with the children.

This scheme will also be applicable to religious organisations, and again, with what has come out in this last week, it is really important that this is something that is singled out. It relates not only to the organisations but also to their employees, and as broadly defined through this act, it will actually need to be inclusive of ministers, which I am very pleased to say. This definition will also encompass foster carers and kinship carers, but a specific date has not been given as to when they might be included. Other entities and other people have actually got specific dates of when they are included. We have not seen a date, to my knowledge — and I am happy for that to be clarified by future speakers on this bill — for foster carers and kinship carers.

The entities which the conduct reportable scheme will apply to are set out in schedules 3, 4 and 5 or are listed in the regulations, which are obviously to come. If we look at that time frame — and I spoke about some that I do not believe are yet included, and I am happy to have somebody rectify that for me — schedule 3 entities will be subject to the scheme when the bill commences, which is due on 1 July this year. Schedule 4 is six months later, and then schedule 5 is 18 months after commencement — so, 18 months after 1 July this year.

The organisations listed in schedule 3 are entities involved in child protection and family services, out-of-home care services, youth justice services, residential services for children with a disability, certain

education providers, government and non-government schools and also government departments. They will be the first ones to come on board. Six months later we will have the schedule 4 entities coming on board. They include bodies like hospitals, other disability services for children, providers of overnight camps, religious bodies and also the residential facilities of boarding schools.

Schedule 5, which will come in 18 months after 1 July, includes organisations like early childhood services and statutory bodies that have responsibility for children such as — what is obviously very near and dear to my heart — public museums and galleries and that sort of thing, where the contact is, shall we say, more of a general nature and certainly not generally one on one.

I need to digress for just a moment, and as lead speaker I think I have latitude to do that, to congratulate the wonderful work that has been done by the CEO of Museums Victoria, Dr Patrick Greene, OBE, who is leaving us after 15 years. In fact Patrick leaves us on Tuesday of next week. He has done a marvellous job. Institutions like the one he is leaving behind will come into the fray 18 months after 1 July.

Reportable conduct is defined as ‘allegations against workers or volunteers of child abuse and misconduct involving children’. Examples of reportable conduct include sexual misconduct or offences, grooming, sexting — obviously something that is far more prevalent as we now all have an ability to have digital technology out and about with us all the time — physical violence committed against or in the presence of a child, significant neglect and behaviour that is likely to cause significant emotional or psychological harm to a child. Obviously the list could go on and on, but that certainly encompasses almost everything that is conceivable at this point.

Clause 6 inserts a new part 5A into the principal act to establish the reportable conduct scheme. New section 16B(1) provides for the fundamental principles upon which the reportable conduct scheme is based. The principles include that the paramount consideration is, as it always should be, the protection of children. New section 16(C) provides that the reportable conduct scheme will not apply to an entity that does not exercise care, supervision or authority over children — that sounds logical enough — whether it is as part of its primary function or otherwise.

Part 3 of the bill relates to amendments to other acts that are affected by the legislation, and I alluded to that a little bit earlier. I will run through them quite quickly. Clause 10 amends the Commission for Children and

Young People Act 2012, clause 11 amends the Working with Children Act 2005, and clause 12 amends the Education and Training Reform Act 2006 to enable the Victorian Institute of Teaching to consider findings of reportable conduct and the reasons for such findings, so it is obviously a very suitable one to put in there. Clause 13 makes several consequential amendments to the Children, Youth and Families Act 2005 to enable information sharing so that the facilitation of the reportable conduct scheme can occur. To those who have drafted this, I say, ‘Yay, it seems as though you have got everything’ but only the fullness of time will tell.

As I have said, we are supporting this as a coalition. Obviously as a coalition we undertook some very serious and very in-depth work in this area when we were in government. As I have said in this house many times, we commissioned the Cummins inquiry and of course the work that led to the *Betrayal of Trust* report. They were very significant pieces of work. They uncovered lots of issues within the state. They also helped us understand where we needed to go. These significant investigations, apart from obviously exposing the systemic problems in our child protection system here in this state, gave us a way in which to go.

There was a lot of consultation with relevant stakeholders done by our government. I want to place on record my thanks to Mary Wooldridge in another place who of course was the minister at the time and the then Attorney-General, the member for Box Hill. They did phenomenal work around this, and I know that the children of Victoria have benefited considerably from it. A lot of what is happening in this legislation has come out of those reports and inquiries, and again I thank my colleagues for the work they did around this, especially of course Georgie Crozier in another place who continues in Mary Wooldridge’s footsteps in being very passionate about this area. The coalition will not be doing anything other than supporting this bill. We think it is very worthwhile and we wish it a very speedy passage through both houses.

**Ms KNIGHT** (Wendouree) — I am pleased to speak on the Children Legislation Amendment (Reportable Conduct) Bill 2016. At its core the bill currently before the house comes down to a question of trust. Do we trust organisations — government, non-government and religious — to always do the right thing when there is an allegation of child abuse or misconduct towards a child? We need to ask ourselves if these organisations — government, non-government and religious — can be trusted to make sure that those who pose a risk to children are excluded from working with kids. We need to ask ourselves if these

organisations can be trusted, without oversight from an independent authority, to put the interests of children before the interests of the organisation. I think it is clear from the work of both the parliamentary committee that inquired into the handling of child abuse by religious and other non-government organisations and the current Royal Commission into Institutional Responses to Child Sexual Abuse that organisations cannot be trusted.

The cost of misplaced trust is unbelievably high. Just this week at the Royal Commission into Institutional Responses to Child Sexual Abuse the extent of the cost of an assumption that organisations will do the right thing has been laid out in absolutely shocking detail. This week the commission held hearings into the current policies and procedures of Catholic Church authorities in Australia in relation to child protection and child safety standards, including responding to allegations of child sexual abuse. The extent of the abuse of children by Catholic Church personnel, including members of religious orders, is shocking.

In her opening address to the commission on Monday the senior counsel assisting the commission outlined research undertaken into allegations of abuse made between 1980 and 2015. Over this period 4444 people alleged incidents of child sexual abuse. These allegations were made to 93 Catholic Church authorities. The average age at the time of alleged abuse was 10½ years for girls and 11½ years for boys. The alleged abuse was perpetrated by 1880 identified alleged perpetrators and 500 unknown alleged perpetrators. This is widespread abuse of children by possibly thousands of perpetrators.

Counsel assisting, again in her opening address, said that the royal commission had sought documents from the Holy See — the Vatican — relating to each case involving an Australian priest and, almost unbelievably, again according to counsel assisting:

The Holy See responded, on 1 July 2014, that it was 'neither possible nor appropriate to provide the information requested'. The Holy See said it would respond 'in the future to appropriate and specific requests'.

Thousands of innocent children harmed, lives ruined and lives lost and the Vatican will respond in future to appropriate and specific requests. This reminds me that abuse takes many forms. Abuse of the scale spoken of this week by counsel assisting the royal commission could only occur where there was an institutional failure to protect children. Far from protecting victims and doing everything possible to make sure alleged perpetrators did not have the opportunity to abuse other children, there was a culture of silence. Abusers were

moved around and the number of innocent victims grew. The institution failed to protect children. This is the cost of misplaced trust, of believing that an institution, notably one that claims a moral authority, will always do the right thing.

The bill before the house has much broader applicability than one Christian denomination. While the failures of Catholic Church authorities to protect children are probably the most widespread, other organisations have also failed, and I commend the government for acting in the interests of children by bringing in a reportable conduct scheme in Victoria.

The bill currently before us makes significant changes that I believe will make children safer. It introduces a reportable conduct scheme where organisations that have a high level of responsibility for children will be required to report allegations of misconduct involving children to the Commission for Children and Young People. I have such a high level of respect for that statutory office and the person who holds that office. She, as a child, lived in women's refuges when her mother fled an abusive relationship. Her mother then worked in those women's refuges. The commissioner has worked in community legal centres, advocating for women and children. If we read the *Age* of 23 February 2016, 'State's vulnerable children get a new champion', it states:

... she will hold government and agencies to account, and also be an independent source of advice to them, informed by the voices of children and young people.

For the coalition to attack this independent statutory office-holder, as they did in the other place yesterday, someone who has dedicated her professional life and who has drawn from her personal experience to advocate for the protection of children, is about as low as you could go. I would suggest that Liana Buchanan does more in one day to protect children than the shadow Minister for Families and Children has done in her entire lifetime.

As I said, the range of organisations that will have a requirement to report misconduct is broad. The scheme will be introduced in three phases, and when fully implemented there will be a wide range of organisations covered by the scheme. It will include schools, support services that provide accommodation services, out-of-home care services, government departments that provide services to children, kindergartens and religious organisations. I know the lead speaker from the coalition had a question about foster and kinship carers, and those changes will align with the working with children changes, so it is important that they are all synced up.

In all it is estimated that 10 000 organisations will be covered by the scheme. These organisations will be required to report a range of allegations of abuse of children. Importantly the bill includes a five-year review of the scheme. This review will include specific consideration of the scope of the scheme and whether it should be expanded. I am particularly pleased that the bill provides for reporting of such a wide range of matters. The minister's second-reading speech outlines the breadth of reportable misconduct such that it, and I quote:

... could include sexual offences or sexual misconduct, physical assault, significant neglect, or behaviour that is likely to cause significant psychological or emotional harm to children ...

I am sure that none of us wants a system where some forms of child abuse are reported while others remain in-house and potentially hushed up. None of us wants that, because, as we have seen all too clearly through the inquiry into the handling of child abuse by religious and other non-government organisations and the current royal commission that I have spoken about, many organisations have shown that they simply cannot be trusted.

After an in-depth investigation of a matter reported under the scheme, the Commission for Children and Young People will be able to share information relevant to the protection of children with other bodies, like the working with children check unit, that consider a person's suitability to work with children. It is important to note that any allegation of criminal conduct still needs to be reported first and foremost to the police.

I want to conclude by highlighting the work of the parliamentary committee that inquired into the handling of child abuse by religious and other non-government organisations and the concerns of survivors of abuse I have spoken to in my electorate of Wendouree and more broadly Ballarat. The work of the parliamentary committee in the last Parliament has been so important to us better protecting children in our state. It gave survivors a place where they could be heard and believed, sometimes for the very first time. It looked at the responses to child abuse within organisations, and it made really important recommendations on how we can better protect children in Victoria.

Importantly the Andrews government is committed to implementing each of the recommendations of the committee's *Betrayal of Trust* report, and I want to acknowledge that the opposition are also speaking in favour of this bill. As I have spoken of in the house previously, I have had many conversations with

survivors of child abuse in my own community. These survivors have not only spoken of their need for counselling and support services; these brave people, many of whom struggle each day, have talked to me about the need to make sure children today do not suffer as they have suffered. And I believe providing oversight of the response to abuse allegations by relevant government, non-government and religious organisations is an important step in achieving that very goal. I thank those survivors for continuing to speak up about the need to protect kids in our community, and in fact to protect kids in all communities, as they were perhaps not protected. I commend this bill to the house.

**Mr CRISP (Mildura)** — I rise to make a contribution on the Children Legislation Amendment (Reportable Conduct) Bill 2016, and right up-front The Nationals in coalition are supporting this bill. It is fair to look back in history and see that the coalition did undertake significant work in identifying concerns of child abuse by commissioning the Cummins inquiry that led to the *Betrayal of Trust* report, so this legislation does build on previous work and previous legislation that has been before the Parliament from the former government, and also this is a logical next step on the path that we are taking.

The purpose of this bill is to improve oversight of organisational responses to allegations of child abuse and child-related misconduct; to provide the Commission for Children and Young People with the appropriate functions and powers to administer, oversee and monitor the reportable conduct scheme; and to enable the sharing of relevant information as necessary with the Commission for Children and Young People, regulators, Victoria Police and the Secretary of the Department of Justice and Regulation. How is this going to work? The reportable conduct scheme will apply to a range of organisations that have available responsibility for children. I think it is fair to say that we do recognise that our children need to be protected everywhere, and this is part of the instrument that will do that.

The scheme will be introduced in three phases from 1 July 2017. The first phase from 1 July will apply to entities in schedule 3 involved in child protection and family services, out-of-home care services, youth justice services, residential services for children with a disability, certain education providers, government and non-government schools and government departments. The second phase is from 1 January 2018, when the scheme will apply to entities listed in schedule 4 such as hospitals, other disability services for children, providers of overnight camps, religious bodies, residential facilities and boarding schools. The final

phase, from 1 January 2019, will apply to early childhood services and statutory bodies that have responsibility for children, and they are vast and many.

There are a number of clauses that I will refer to. Clause 5 defines reportable conduct, and I think that is very important because this particular bit of legislation is going to capture a wide section of our community, particularly in relation to allegations against workers or volunteers of child abuse or misconduct involving children. Examples of reportable conduct include sexual misconduct or offences, grooming, sexting, physical violence committed against or in the presence of a child and significant neglect and behaviour that is likely to cause significant emotional or physiological harm. So it is a very wide — and necessarily wide — definition.

Clause 6 inserts a new part in the act which establishes the reportable conduct scheme. Part 3 of the bill relates to amendments to other acts that are affected by legislation, and includes the whole suite of acts that make up our child protection framework.

The legislation really is a result of the Betrayal of Trust inquiry as the Parliament and governments build from that point. The Betrayal of Trust inquiry recommended that all relevant Victorian government and non-government organisations should report allegations of misconduct relating to children to a central location, enabling consideration by the working with children check unit. I think at this point it is worth noting that at a Council of Australian Governments meeting in 2016 it was agreed in principle to harmonise the reportable conduct schemes. The bill broadly aligns itself with the New South Wales and ACT schemes, and New South Wales has had a scheme in place for around 16 years.

This is where we have got to do some more work, something I am well aware of as a person who lives close to a border. There are cross-border implications in this particular legislation that do warrant some consideration and discussion. When we have a body that is responsible for looking at reportable allegations or reports of misconduct, it will enable consideration by the working with children check. This legislation also needs to harmonise well for our cross-border communities to make sure that both sides of a border can do the checking when it comes to working with children.

I have also had significant reports to my office about some of the difficulties with the working with children applications, particularly from volunteers but mostly around multiple applications. It appears that each organisation will make an application and each

organisation requires you to pay a fee. If this is in fact the case I think there is very much more work to do here. We should have a single check for a volunteer or a person who is working in Victoria, no matter whether they are a volunteer or whether they are an employee, and similarly for New South Wales. One would hope at one point in time that we would only need one in Australia, but at this stage I will settle for one for each state. This is often frustrating and confusing for a lot of people who want to volunteer because they seem to be making all these applications. I think this is probably due to an excess of care by various organisations which all want to make sure that they have got it right, but it is frustrating and expensive. There is work to be done there.

I think as we go forward there will be opportunities to do some of this streamlining, because the Royal Commission into Institutional Responses to Child Sexual Abuse is looking at the reportable conduct schemes, and I think it would be not too big a jump to expect that there will be recommendations around the provisions for a national reportable conduct scheme to be put in place. As long as our scheme dovetails in with that, that will be useful. As the royal commission continues its work and makes further recommendations I think we will have this legislation back before the house, probably sooner than the five-year review that is built into the legislation.

Finally, I would like to talk about Denis Ryan. Denis Ryan was a police officer in Mildura a very, very long time ago. Denis exposed some of the institutional abuse that was occurring in the Mildura region, and for a very long time, at a very high personal cost, he tried to get justice for those who had been abused by bringing those responsible to justice. I would like to pay tribute to Denis's work. It cost him his career in the police force. It caused him considerable difficulties throughout his life and for part of his life he certainly was ostracised from so much of the community. But Denis is a man of great honour, and he stuck to his guns over that time, and the royal commission has vindicated his stand. So to Denis, on behalf of the people of Mildura, I say thank you. If we had had reportable conduct 50-odd years ago, Denis would probably not have had the difficulties and the life that he has had. But to Denis, thank you for your persistence and insistence. And with that I wish the bill a speedy passage.

**Mr CARROLL (Niddrie)** — It is my pleasure to rise to speak on the Children Legislation Amendment (Reportable Conduct) Bill 2016. As legislators there can be no more important role for us than the protection of children. We are dealing with institutional abuse in Melbourne and in Australia, but also worldwide.

I want to firstly pay tribute to the member for Wendouree. She is an outstanding colleague, but I know she is someone who has dealt very much in the community sector. Her work with Lifeline and CASA — the Ballarat Centre Against Sexual Assault — means she has dealt directly with victims of child abuse and sexual assault on many occasions, so it was a fine contribution from the member for Wendouree.

I certainly have not had the contact with victims of clerical abuse that the member for Wendouree has, but in my own electorate I have had victims come and talk to me about their stories. When I was a solicitor at the Victorian Government Solicitor's Office I sat through quite a few consultations with the Catholic Church and victims, and it is quite harrowing to hear what victims have been through and how they deal with the situation and what has become of their lives — or mostly what is lacking in what has become of their lives. In some small ways we are beginning the process of redress to try to assist victims as much as possible.

I am Catholic and I went to a Christian Brothers school, and only this week I read about the release of information from the Royal Commission into Institutional Responses to Child Sexual Abuse. There were some 1880 alleged perpetrators identified in the Catholic Church and the Marist and Christian Brothers religious orders, and some 572 priests identified as well. Gail Furness, SC, has been working in the royal commission as its barrister. You would have seen her on TV and read about her throughout a lot of the sessions. She was quoted as having said children were ignored or, worse, punished. Allegations were not investigated. Priests and religious figures were moved. The parishes of communities to which they were moved knew nothing of their past, which really does highlight the systematic abuse of vulnerable children right across the nation if communities are not aware and are just sitting there vulnerable.

I recently attended, on behalf of the Attorney-General, the red mass for the opening of the legal year in my capacity as the Parliamentary Secretary for Justice. I want to commend the Most Reverend Denis Hart, the Archbishop of Melbourne, because in front of essentially all of Victoria's legal fraternity he made sure his contribution, while touching on the tragedy of Bourke Street, was very much about acknowledging the hurt of the Catholic Church. He made a significant contribution in front of the legal fraternity of Victoria, and I want to acknowledge that.

But I think we really do need, as the member for Wendouree touched on, to have victims front and

centre. I have a copy in front of me of the *Law Institute Journal* from June 2013, which has an article very much on the Melbourne Response, which the Catholic Archdiocese of Melbourne established in 1996 to investigate allegations of sexual and other abuse. There is a section in this report on victims, and I just want to read what it says:

The overwhelming majority of victims tell us they feel a sense of release from having talked about something that they have been bottling up for years or even decades. They talk about the sense of validation they get when they have told their story: that someone has sat and listened to them, that they have been questioned and tested on aspects of their story — and that they have been believed.

This is where we really should be with victims. I myself have sat with and heard and seen victims. It is not so much about the monetary compensation. Sure that helps, but it is about them being believed and it is about their story being validated. I think we need to take heart from the bipartisan nature of the approach that all sides of politics are taking to this issue, and I want to praise former Prime Minister Gillard herself for the work she did at the federal level as Prime Minister in this area. The members of the committee that produced the *Betrayal of Trust* report at the Victorian parliamentary level is where it really did start. I know about the Cummins report by the previous government. That was good work, and the work of the Andrews Labor government will now ensure we have the very best scheme in place to make sure that these ills are addressed.

I said in my opening remarks that this is a worldwide issue. We have seen what has happened in Boston, and we have also seen what has happened in Dublin. The Dublin experience, for any members who have read about it, is quite harrowing — incredibly harrowing. Between 2000 and 2009 there was an inquiry into child sexual abuse that just focused on 1974 to 2004, and it changed the country of Ireland for the better. The work that this Parliament is doing in cooperation with the commonwealth Parliament will also change our country, I have got no doubt. When we look back on this period we will all say the country was changed for the better by addressing the issues of systematic child abuse by people in positions of power and trust.

I just want to give you an example of how Ireland changed. In 1988 Brian Burke, who is a former Premier of Western Australia, was appointed Australian ambassador to both Ireland and the Holy See in Rome. At the time everyone thought his appointment was just the usual thing — a former Premier being appointed to a plum job overseas. But Ireland decided to close its embassy in the Holy See after its Prime Minister at the

time said that the institution and its dealings essentially could not be tolerated. That changed things for the best. That changed the country. As I have said, we will change with the work that we are doing here.

I want to also acknowledge the previous member for Oakleigh, Ann Barker, for the work she did. I joined the caucus in 2012, and Ann was often on her feet in our party room talking about tackling this issue head on. I know we have got some members here from the committee that produced the *Betrayal of Trust* report, including the member for Broadmeadows and the member for Thomastown, who did a sensational power of work. With the recent release of information from the royal commission into child sexual abuse we have seen the member for Broadmeadows and some of the exchanges he has had on the nightly news only this week, highlighting that it often takes an inquiry like this to get the perpetrators to admit to their past failures and, even worse, their past sins. I want to commend all members who did work on that very solid body of work.

As the Parliamentary Secretary for Justice I also want to acknowledge the work of the Department of Justice and Regulation. It has done a power of consultation and a power of work to get this legislation to where it is. The consultation and the work that has gone on to ensure that this legislation is foolproof and that we have the right mechanism and right scheme in place is very, very important.

I do anticipate that we will again be in this chamber requiring further legislation, such is the magnitude of this movement, such is the watershed time we are living through in addressing systematic abuses of our most vulnerable children. I commend the bill to the house.

**Ms RYALL** (Ringwood) — I rise to speak to the Children Legislation Amendment (Reportable Conduct) Bill 2016. This bill comes as a further response to the *Betrayal of Trust* report that was tabled in this Parliament on 13 November 2013 and was instigated at the request of former Premier Baillieu and chaired by Georgie Crozier in the other place, with an able committee undertaking what can only be described as the enormously difficult but absolutely necessary task of getting to the bottom of the child abuse circumstances, situation and history in religious and other non-government organisations.

This bill proposes amendments to the Child Wellbeing and Safety Act 2005. Just by way of background, the *Betrayal of Trust* report that was tabled made specific recommendations about both Victorian government and non-government organisations reporting allegations of

misconduct and those reports being located in a central repository so that they could be overseen and considered in their entirety and, obviously, monitored. As a result, at the Council of Australian Governments meeting in April 2016 it was agreed in principle that governments would look at how those systems could be harmonised and therefore brought into some alignment with the New South Wales and ACT schemes in this instance. The New South Wales scheme actually has a history of being in place for around 16 years.

In addition, the royal commission into institutional abuse is actually looking at the reportable conduct scheme, and therefore it is expected recommendations will come as a result of that. I think what the member for Mildura brought up in terms of cross-border issues is also pertinent when we look at the circumstances now, because we want to make sure that perpetrators of these evil and abhorrent acts cannot take haven in another state and not be monitored and picked up because that central repository does not actually apply to them.

In terms of where we have come from, as I said, the committee did a fabulous job — a very difficult job. But I expect it was even more difficult for those who were affected, who had been abused, who had carried the scars of these horrendous acts throughout their lives and who actually came forward to that committee inquiry and told their stories. What an incredibly brave act it was to actually do so. I commend each and every one of those who did that because without those stories, as difficult as they were to tell, that report would not have been able to come forward with recommendations, and therefore there would not be the subsequent improvement and management of risks associated with the abuse of children. As legislators it is incumbent upon us to make sure that we manage risks that society does not seem to manage well itself, and child abuse is certainly one of those.

This bill adds to the strength of our legislation to make sure that we better manage those risks that children face — those very, very vulnerable children who trust adults, who trust older people and who place their loyalty and trust in the hands of others; who we, as parents, trust as well when they are looking after our kids. When that happens we need to make sure that the obligations of our society, from a risks perspective, are actually fulfilled.

In terms of the protection of children, I know certainly for me — and I am sure it is the same for everybody in this place — that whenever we read media or whenever we hear of a situation where a child is abused, we are horrified, we are appalled and we are disgusted. And

one of the issues is that, with the changes and technological advances in society through the internet, further evolution of apps and a whole range of things that come into play, perpetrators look for opportunities where they can groom and where they can commit their horrendous acts. We need to evolve, make sure we evolve with technology and make sure we monitor where those openings are and where the cracks appear that these horrendous perpetrators can actually try to sneak through to commit the sins that they commit. Therefore, as mentioned, anything that actually strengthens the legislation that we have at this point in time to try to eradicate the horrendous child abuse that occurs in our society is a good thing.

In terms of the bill itself, looking at that prevention of child-related misconduct and making sure that we have got a reporting scheme actually makes common sense, as is making sure that we have the oversight of the organisations and the responses to those allegations. We need to make sure that people have the appropriate powers and functions to administer and to oversee the scheme so that cracks do not appear and people do not fall through the cracks. But also one of the important things is that, as I mentioned, while technology can bring some risks into play and enable perpetrators to try to navigate through to the vulnerable children that are their prey, technology also provides some advances, and one of those is the ability to share information much more easily in an electronic form than we ever could in non-electronic and paper-based forms. So by making sure that that sharing of information happens, we can therefore prevent child abuse, as opposed to deal with it after it happens.

There is a broad definition of 'employee' in this bill in terms of applying to people who are 18 years and older who actually pose a risk to children. There are a number of phases to this, and obviously this needs to be rolled out in an appropriate and measured way, but certainly the first phase looks at those entities that have the highest responsibility for children and quite possibly deal with our most vulnerable children. Those entities are in the area of child protection and family services and are responsible for those that are in out-of-home care, in youth justice and in residential services for children and certainly those children with a disability. So education providers, government and non-government schools, and government departments are taken into consideration in that first phase of the rollout.

Then, six months later, the legislation looks at those in schedule 4 — hospitals and providers of disability services to children, religious bodies, boarding schools where there are residential facilities, overnight camps

and so forth. Certainly that rollout starts to encompass those areas where there is an opportunity for abuse and therefore is bringing them into the fold, making sure that that monitoring occurs. Then there is that final phase 18 months after the commencement of the bill which is looking at our early childhood services and those statutory bodies that have responsibilities for children. That might be art galleries or amusement areas, museums and the like.

In terms of this bill I am happy to support the approach to making sure that we strengthen our legislation and that we strengthen the practices to monitor those who might perpetrate these horrendous acts against our most vulnerable, who are our children. Given the trust that is placed in others, including by our children, when the opportunity arises we must continue to work to prevent child abuse as opposed to dealing with the horrendous consequences — the horrendous scars — that afflict our children at any time. With that, I wish the bill a speedy passage.

**Ms WILLIAMS** (Dandenong) — It is my pleasure to rise in support of the Children Legislation Amendment (Reportable Conduct) Bill 2016. I hope that throughout my contribution I may answer some of the questions that have arisen in the contributions of those opposite.

This is one of a number of pieces of legislation that respond to recommendations from the *Betrayal of Trust* report, and I am proud to have spoken in this place on many of these matters so far. I have previously acknowledged the work of the Family and Community Development Committee that resulted in the *Betrayal of Trust* report, and I will do so again because I am very conscious of the passion and commitment demonstrated by the members of that committee in doing that work but also of the difficult nature of the subject matter and of how it affected people on a very personal level. I have had conversations with many members in this place about their work on that committee and was left in no doubt of just how traumatic that could often be. In saying that, I would also wish to recognise those who made submissions and presented to the committee, many with very tragic and personal stories and many who clearly bear scars that have cast incredibly long shadows over their lives and over the lives of their families.

This government is committed to implementing all of the *Betrayal of Trust* report's recommendations, and this bill takes us further towards that objective by implementing recommendation 18.1 and a key part of 10.1 of the report. A central component of the bill concerns the introduction of an independent oversight

and monitoring scheme to improve the handling of child abuse allegations in certain organisations, including government departments and religious and non-government organisations. Organisational responsibility has been touched on in other legislation that has passed through this place — more recently in the child safe standards that were introduced — and this bill furthers that work.

This bill requires that any allegation of reportable conduct committed by an employee is reported and responded to. To this end the bill also expands the functions and powers of the Commission for Children and Young People to receive such notifications and allows for independent scrutiny of the way that organisations investigate misconduct that involves children. This gives the commission a far more active role in instances of reportable conduct and therefore a far more active role in the protection of children, and rightly so. Under this bill the commission would be able to share information in order to better prevent abuse and protect children from abuse, and this greatly reduces the likelihood that incidents are swept aside or forgotten.

For the purposes of the scheme outlined in this bill, reportable conduct includes sexual offences or sexual misconduct, physical assault, significant neglect and behaviour that is likely to cause significant psychological or emotional harm to children. Importantly this captures conduct that may fall below the criminal threshold, meaning it captures conduct that otherwise may not be able to be reported to police, to put it frankly. This is particularly important in order to capture conduct that amounts to grooming and other similar conduct that tends to escalate into or is in some way a precondition of more serious and offensive conduct.

The definition of ‘employee’ within the bill is quite broad. It includes adult employees, contractors, volunteers and religious personnel. This will ensure that broad protection is afforded and technicalities as to the legal status of an employee are not an obstacle to protection of the child. The bill sets out clear expectations and requirements that relevant organisations must have in place for reporting allegations and ensures that the head of an organisation is made aware of an allegation and that appropriate responses follow. This is fundamentally about accountability and closing gaps through which incidents can unjustly slip. We know this happens from time to time, and it is incumbent on all of us in this place to ensure that we do all we can to ensure that does not happen.

I will touch on these requirements in more detail. The head of an organisation must notify the commission of an allegation within three business days of first becoming aware of it. They must then provide more detailed information as soon as practicable and within 30 days. So there are quite strict time frames for how a response must take place. In terms of the response to allegations, a head of an organisation must respond to an allegation by undertaking an investigation or permitting another suitably qualified, independent body to conduct an investigation. Findings and reasons must be provided to the commission at the conclusion of such an investigation, which ensures that the commission is aware of the outcomes of these allegations and also aware of the processes that are in place to deal with these allegations, which again provides additional accountability. It ensures that stories are not just told but are taken seriously.

I mentioned earlier that through the bill the commission will be able to share information, and this includes sharing information with the Department of Justice and Regulation, say, for the purposes of a working with children check or with relevant professional registration bodies and regulators.

To enable it to fulfil these responsibilities, the powers of the commission will be expanded to include the ability, for example, to provide advice and education to organisations, which I think is an incredibly important role that they will be playing, particularly during the period of transition to this scheme, and the ability to oversee investigations into reportable conduct and conduct its own investigations into this conduct and other functions as well.

In this way, the commission also has an important role to play in building the capacity of organisations in dealing with these issues, which is hugely important in entrenching within the culture of our organisations vigilance in the protection of children and young people. That, for me, is a key and valuable part of the scheme in the time ahead. It is about making sure long term that we are not just putting a bandaid over things, but we are actually going straight to the heart of the culture. If we can do that successfully through this mechanism, then we would have done something that will be long-lasting and meaningful.

The scheme outlined in this bill will apply in three phases to organisations that have responsibility for children, as we have heard. Firstly, from the commencement of the scheme it will apply to child protection services, out-of-home care services, disability services providing residential services for children, certain education providers, government and

non-government schools, youth refuges, certain health services with inpatient beds and government departments. What we are really looking at there is organisations that are dealing with our most vulnerable children. Many of these organisations will have distinguished processes for reporting and responding to allegations of harm, and it is hoped that the reportable conduct scheme will largely leverage these existing processes to minimise duplication. So there is a very pragmatic approach being taken to that.

From six months after commencement, the scheme will apply to hospitals and other disability services for children, providers of overnight camps, religious bodies and boarding schools, or rather the residential facilities of boarding schools. From 18 months after commencement the scheme will apply to early childhood services, approved education and care services like kindergartens and after-hour care services, children's services such as occasional care providers and prescribed statutory bodies like public museums and galleries.

As we have heard, it is interesting to note that New South Wales has had a reportable conduct scheme in place for about 16 years, and the ACT has recently introduced a scheme as well. There are differences between the scheme we are putting forward today and that put forward in other jurisdictions. The bill broadly aligns with the schemes but, for example, in the proposed Victorian scheme there are additional categories of organisations covered and the Victorian scheme has a broader definition of 'employee', which includes a person employed or engaged by an organisation including a volunteer, contractor or office-holder, whether or not the person provides services to children. This is a point of difference with New South Wales and the ACT. There are a range of other differences as well.

In addition to responding to recommendations in the *Betrayal of Trust* report, this bill also positions us well to respond to likely recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse which, as we have heard, is due to report at the end of this year.

To conclude, the member for Niddrie spoke very eloquently about the importance of victims being able to tell their stories and that they are believed. Proper reporting mechanisms are an important part of this. Many of us in this place will have met with constituents who have been victims of abuse in childhood, whether it be sexual abuse or other forms of brutality. I am no exception. I have met with victims of sexual abuse at the hands of Catholic clergy, particularly those

connected to the Holy Family parish in Doveton where, as we have heard, one of the more serious perpetrators of sexual abuse in Victoria was based. I have also met with victims who have faced all manner of horror during their time in state care, people who are still very much lobbying to be heard. I do feel they are getting somewhere in their endeavours to have their stories heard.

The damage to all these people, irrespective of the abuse they experienced, is burned into them. It is a phrase that was used to me and it has stuck with me. I think we owe it to them, and indeed to all children, to ensure that we do everything in our power — —

**The ACTING SPEAKER (Mr Angus)** — Order! The member's time has expired.

**Mrs FYFFE (Evelyn)** — I am pleased to speak on the Children Legislation Amendment (Reportable Conduct) Bill 2016. This bill, like many bills that have been before the house over the past four years, has come out of the *Betrayal of Trust* report, which was tabled in this house in November 2013. The coalition while in government and from opposition worked on a bipartisan basis with the Labor Party. Members from both sides dealt with this very distressing part of Victoria's history for a period of 18 months. It was one of the most important reports to come out from this place in the many years I have been here.

The inquiry worked cooperatively with the commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse in Australia set up by the then Prime Minister, Julia Gillard. I was saddened by an article in the *Herald Sun* this week which reported that Victoria was the centre of child sexual abuse in the Catholic Church over six decades. A report released on Monday by the royal commission found Victoria harboured a proportionally higher number of paedophile priests than any other state. Between January 1980 and February 2015, 4444 people alleged incidents of child sexual abuse to 93 Catholic Church authorities. This is a stain on Victoria and I hope that the work being done in this house will see this sad chapter on Victoria come to an end.

The committee tasked with the investigation dealt with a range of issues and came up with a series of recommendations. I am proud to see those recommendations have been received by both sides and are being enacted into law. The bill before the house seeks to deal with recommendation 18.1 of the *Betrayal of Trust* report, which recommended that the Victorian government authorise an independent oversight and monitoring scheme to improve the handling of

allegations of child abuse in relevant organisations, including government departments, religious and non-government organisations.

This bill will satisfy much of the report's recommendation by creating a scheme that will better protect children. After an organisation investigates a complaint, the outcome will have to be reported to the Commission for Children and Young People. The commission will be able to share its information with other relevant bodies — for example, the working with children check unit and other relevant professional bodies. The commission will act as an advisory service to assist organisations with better procedures to protect children.

The Children Legislation Amendment (Reportable Conduct) Bill achieves this by making changes to the Child Wellbeing and Safety Act 2005, establishing the reportable conduct scheme. To make information more freely available to the commission, the bill will make changes to the Commission for Children and Young People Act 2012 and the suitability panel under the Children Youth and Families Act 2005. For departments to be able to protect children, the commission also will need to be able to distribute information. Changes to the Education and Training Reform Act 2006 requires the commission to notify the Victorian Institute of Teaching if the commission becomes aware that a registered teacher is the subject of a reportable allegation.

This bill builds on the child safe standards that the former coalition government commenced with significant consultations with stakeholder industries. The relevant stakeholders support this bill. This bill seeks to implement the recommendations from the Betrayal of Trust inquiry that the former coalition government agreed in principle to implement. I support this bill.

**Ms EDWARDS** (Bendigo West) — I am very pleased to rise to make a contribution on the Children Legislation Amendment (Reportable Conduct) Bill 2016. I was listening intently to the contribution of the member for Evelyn and I agree with her that this week has been a very dark week for the people of Victoria, particularly for those from the Catholic Church. The figures released by the Royal Commission into Institutional Responses to Child Sexual Abuse are, were and have been shocking. There is no other way to describe them. In fact, from my perspective, they are truly horrific. The member for Evelyn is correct when she says that in Victoria, even in my own diocese of Sandhurst, the numbers were truly extraordinary.

Generations of children, in fact almost 4500 people, were allegedly abused as children in more than 1000 Catholic institutions — generations of children who have been betrayed, generations of children who have lost their innocence and, more importantly, as the member for Wendouree rightly described, generations of children who have lost trust in the very institutions that were there to protect them.

Before I go on to talk about the legislation further, I just wanted to respond to some questions that the member for Ringwood raised in her contribution. I think she was questioning how the scheme would capture perpetrators who move across jurisdictions. It is important to acknowledge that this legislation does in fact address that issue. Existing criminal and child protection laws and protocols already provide mechanisms for information to be shared across jurisdictions, and the bill interfaces with existing laws to enable information to be appropriately shared, which means that people who are found to have committed misconduct will be excluded from working with children. Of course Victoria has taken its lead from the New South Wales legislation and indeed the legislation in the ACT so that we can ensure that perpetrators do not travel across jurisdictions and repeat-offend from state to state. That is a really important part of this legislation.

As we have heard, the bill proposes amendments to the Child Wellbeing and Safety Act 2005 to better protect children from abuse and child-related misconduct by establishing a reportable conduct scheme. I have spoken on matters around child protection before in this house, and my firm belief is that we as legislators must take the lead when it comes to protecting the most vulnerable people in our communities. Of course that includes our children, but it also includes our disabled and our aged. The reportable conduct scheme will improve oversight of responses to allegations of child abuse, sexual misconduct and other child-related misconduct in organisations that exercise care, supervision and authority over children.

This government is committed to and will continue to be committed to implementing all of the *Betrayal of Trust* report's recommendations, and we have already responded to the majority of those recommendations. I would like to point out that this bill substantially implements recommendation 18.1 and a key component of recommendation 10.1 of *Betrayal of Trust*. Like the member for Dandenong, I would like to acknowledge the members of this house and former members of the Parliament who were on the Family and Community Development Committee, which I now chair, during the previous Parliament and who worked on the *Betrayal of Trust* report. It was indeed a very

challenging report. It was emotionally draining, and I know that the member for Broadmeadows has spoken to me on numerous occasions about how emotionally challenging and very complex and difficult the inquiry was, not just for the members of the committee but for all of those who made contributions and submissions and those who went to public hearings.

The *Betrayal of Trust* report recommended that the Victorian government authorise an independent oversight and monitoring scheme to improve the handling of allegations of child abuse in relevant organisations, including government departments and religious and non-government organisations, and that is exactly what this legislation does.

The *Betrayal of Trust* report also recommended that we implement legislation whereby employees who have been investigated under the scheme and found to have committed reportable conduct can be assessed for suitability to continue to work or volunteer with children. In particular this bill will enable information to be shared with the Department of Justice and Regulation, for the purposes of working with children checks, and with relevant professional registration bodies and regulators. This of course will enable the regulatory system to assess suitability and, where appropriate, exclude people who have been found to pose an unjustifiable risk to children from working or volunteering with children.

This is important because we just cannot take the risk of not ensuring that we have the right checks and balances in place for every employee from every organisation, whether it be volunteer or paid employment, so that we never have to stand in this place again and talk about children who have been abused in organisations because we did not legislate properly to make sure that they were protected. That is why this ongoing legislating and the implementing of the *Betrayal of Trust* report recommendations are just so important. We cannot afford to lose another generation of children to sexual abuse or emotional abuse or physical abuse; we just cannot do it.

As I said, there are a range of organisations that exercise care, supervision or authority over children, and they will be covered under this scheme. To ensure the effective operation of the scheme and provide organisations with additional time to prepare, the scheme will apply to organisations that have responsibility for children in three phases. Those three phases are as follows. From the commencement of the scheme it will apply to child protection services, out-of-home care services, disability services, organisations providing residential services for children

with a disability, certain education providers, government and non-government schools, youth refuges, certain health services with inpatient beds and, as I mentioned, government departments.

From six months after commencement the scheme will apply to hospitals, other disability services for children, providers of overnight camps, religious bodies and the residential facilities of boarding schools. From 18 months after commencement the scheme will apply to early childhood services, approved education and care services such as kindergartens and after-hours care services, children services such as occasional care providers, and prescribed statutory bodies that have functions of a public nature — for example, public museums and galleries. What this in effect means is that the scheme applies to the conduct of people working within an organisation whether as an employee, a volunteer, a contractor or an officer and whether or not they are employed in connection with work or activities that relate to children. That is important because that means it covers almost everybody that you can think of.

Clearly we have ongoing phases to this scheme, and importantly, given what has been revealed by the royal commission this week, religious organisations will be covered in the second phase of the scheme, which is expected to be around six months after the scheme commences, in January 2018, if the bill is proclaimed to commence on 1 July 2017. It is really important that religious organisations are captured by this legislation. As I mentioned in my opening remarks, that is because, as we have heard this week, religious organisations, and particularly the Catholic Church, have for too long covered up abuse and for too long not assisted in any way the children who have been abused within those institutions for generations. I commend the bill to the house.

**Mr THOMPSON** (Sandringham) — I am pleased to make some remarks in relation to the Children Legislation Amendment (Reportable Conduct) Bill 2016 and in doing so acknowledge the work of Anthony and Chrissie Foster and their resolve and their determination to ensure that what happened to their children did not happen to anyone else. I pay tribute to the members of the Victorian parliamentary committee that investigated this matter as part of the process that led to *Betrayal of Trust* report. I note that the legislation before the house has the objective:

- (a) to amend the **Child Wellbeing and Safety Act 2005** to establish a scheme which requires that—
  - (i) an allegation of reportable conduct, or misconduct that may involve reportable conduct, committed by

an employee within or connected to certain entities be reported by that entity to the Commission for Children and Young People for investigation, or oversight of the investigation, of the allegation; and

- (ii) information be shared with the Commission for Children and Young People, the head of the relevant entity, the relevant regulator, Victoria Police, the Secretary to the Department of Justice and Regulation and any other prescribed person or body, as necessary; and
- (iii) the Commission for Children and Young People administer the reportable conduct scheme; and
- (b) to make consequential and other amendments to other Acts.

I note the wording in the definition of 'employee', which is:

... in relation to an entity to which the reportable conduct scheme applies, means a person of or over the age of 18 years who is—

- (a) employed by the entity, whether or not the person is employed in connection with any work or activities of the entity that relate to children; or
- (b) engaged by the entity to provide services, including as a volunteer, contractor, office-holder or officer, whether or not the person provides services to children; or
- (c) if the entity is a religious body (within the meaning of section 81 of the **Equal Opportunity Act 2010**) — a minister of religion, a religious leader or an employee (within the meaning of paragraph (a) or (b)) or officer of the religious body; or
- (d) on and after a prescribed date, if the entity has placed a child in the care of a foster carer or a person who engages in child-related work described in section 9(6) of the **Working with Children Act 2005** and —
  - (i) a permanent care order has not been made in respect of the child; or
  - (ii) a permanent care order has been made in respect of the child and a reportable allegation in relation to the child is made concerning the permanent carer in respect of the period before the making of the order—

the foster carer of the child or the person who so engages in child-related work in relation to the child ...

One passing observation in relation to the legislation is that it does have the benchmark of a person of or over the age of 18 years. I am of the personal view that some aspects of assault can be effected by a person under the age of 18 years.

During my time as a lawyer and as a member of this house, numbers of cases have been brought to my attention involving abuse of children by clergy, by scout leaders and by schoolteachers and, in more recent

days, by a volunteer official with a railway organisation. Having taken instructions in relation to these matters from people whose lives have been adversely and grievously impacted and in some cases irreversibly tragically impacted, measures that might improve the safety and wellbeing of children and might provide protection to children are strongly merited, and the bill before the house has the support of the opposition.

**Mr McGUIRE** (Broadmeadows) — *Betrayal of Trust* revealed the cover-up that killed. The bipartisan report examined crime, not faith, but like the journey through Dante's *Inferno*, the deeper the descent the more horrific the suffering. Many share the blame. Perpetrators claiming to represent God committed the foulest crimes against children — formerly hanging offences — while religious denominations practised wilful blindness, protecting paedophiles through cultures of concealment. The Catholic and Anglican churches and the Salvation Army frequently took steps to conceal wrongdoing, according to their concessions and a substantial body of credible evidence.

Victorian governments failed in their duty in orphanages and homes. Children suffered multiple betrayals of neglect or abandonment as infants. Then, when taken into the community's care, they were grievously abused physically, emotionally and sexually. Children bear the sense of guilt and shame. A horrendous consequence is that perpetrators often remain unrepentant, while some victims do not survive.

This has been a harrowing journey for so many of the people who testified before the inquiry that was instigated in the 57th Parliament. Now in the 58th Parliament we are seeing legislation again being supported in a bipartisan way. We have had two different governments and three different Premiers. I think the way that this has been handled goes to the credit of restoring at least a measure of trust in the institution of Parliament. I want to acknowledge everybody's contribution in the way that this issue has been addressed.

Despite high-profile criminal prosecutions and incontrovertible evidence, victims have previously reported that there are still people who refuse to accept the reality and consequences of abuse or the extent to which respected individuals concealed their knowledge. Admissions secured during the inquiry surely end the era of blind faith and cover-ups once and for all, as I noted at the time when referring to this issue.

We have to remain vigilant about this because, with the ebb and flow of issues and the concentration of the

media and even institutions such as parliaments, you have to be careful that the follow-through actually occurs — that the legislation and the change are delivered. That is why it still startled everybody, it was still horrific, to this week hear more evidence and more detail, particularly about the extent of the Catholic Church's role in this tragedy. That has been laid bare before the royal commission and in its public analysis of reports of the institution's personnel.

The commission's figures are that between 1950 and 2010 almost 4500 people made claims of abuse at the hands of 1880 alleged perpetrators associated with the Catholic Church. The commission found that 597 alleged offenders were religious brothers, 572 were priests, 543 were lay employees or volunteers and 96 were religious sisters and that the religious status of 72 alleged perpetrators was not known.

One of the fears that emerged during the inquiry was particularly about paedophile clusters. I specifically raised this issue in other contributions after we tabled our report, particularly about Ballarat and Doveton and what had happened there and also then how perpetrators had been removed and had gone to new parishes, to innocent families and to innocent children and the impact that had. Quite often that was right through country and rural Victoria.

The nature of this horror is still being disclosed. What I think is important from today's legislation and the approach that has been taken by the Victorian Parliament is that there were 15 recommendations made by the inquiry, and continuing to bring these to the fore and continuing to implement them is still an incredibly important duty to make the community safer for Victoria's children and to improve access to justice for survivors of child abuse.

The legislation before the house today looks at how we improve the ability to do that. It introduces a scheme to provide oversight and organisational responses to allegations of child abuse or child-related misconduct. This is particularly important because it really is about scrutiny, accountability and then compliance: they are the key propositions that we need to continue to monitor to make sure they are being implemented.

The Children Legislation Amendment (Reportable Conduct) Bill 2016 will introduce a reportable conduct scheme. Under the bill, heads of entities captured by the scheme will be required to report to the Commission for Children and Young People allegations of child abuse and child-related misconduct made against their employees. 'Employees' is defined broadly, which is appropriate, and includes paid and unpaid employees,

contractors, officers, other persons engaged by the organisation and kinship and foster carers. The commission will work collaboratively with relevant bodies to monitor and improve entities' responses to allegations of reportable conduct.

The bill will also enable information to be shared with professional bodies and the Department of Justice and Regulation, enabling assessment or reassessment of any individual's eligibility to hold a working with children check and/or professional registration. This is important because the inquiry revealed the nature of the manipulation that perpetrators undertook: basically they led double lives, and they were highly trained in grooming or they learned how to groom in a way that was incredibly predatory. They preyed not only on children but also on parents — they sought access and preyed on vulnerability. This is a proposition for all of us to be aware of, because there is a certain percentage of men whose sexual identity is that they are attracted to children. So it is beyond religion or faith, background or ethnicity. This is something that we have to be careful of because it does not change. That is a critical point.

The bill will apply to entities that exercise care, supervision or authority over children and to those with limited independent oversight, including schools, out-of-home care providers, early childhood services and religious bodies. It enables other entities to be prescribed within or out of scope — for example, this could occur in response to future recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse or in response to future quality and safeguarding arrangements for the national disability insurance scheme. It is important to try to get a national, uniform approach because we need to be aware of how people in the past have been moved from one jurisdiction to another, and in some cases the evidence showed that they had been moved overseas. This was the level of the conspiracy to conceal or cover up and this was the cover-up that killed.

The other critical issue that still awaits is redress. With the ebb and flow of issues and events, we should not take for granted how much this still bears down on people. I want to mention with high respect and regard Wendy Dyckhoff, who is a constituent of mine in Broadmeadows. She has gone through an incredibly harrowing time like many people, but they are still fighting because they see that there is hope, that finally they are being listened to, and that it is now understood that the children were always innocent.

**Mr PEARSON** (Essendon) — I am delighted to make a contribution on the Children Legislation

Amendment (Reportable Conduct) Bill 2016 and to follow my good friend the member for Broadmeadows. As I have said on many occasions in this place, this Parliament owes a great deal of gratitude to the member for Broadmeadows and indeed Ms Crozier from the other place for the work that they performed in the 57th Parliament on the *Betrayal of Trust* report.

I cannot imagine how trying, difficult and confronting that committee work would have been for those present. As a Parliament we delegated that committee to do this work — the Parliament resolved that — and they discharged their duties admirably. It is fitting that halfway through the 58th Parliament we are continuing with their work and implementing the work that they did. Again, I think it is fitting that the member for Broadmeadows has spoken. I just want to reiterate my thanks as a new member in the 58th Parliament for the work of the previous Parliament in this place.

I have had a longstanding interest in early childhood development; as a policy area I have always found it quite fascinating. I was the president of the Early Learning Association Australia for about 18 months and I was on the board of that organisation for about six years, I think. I found it quite interesting to learn about the way in which you can ensure that a child can reach their potential. If we broadly have an appreciation for human capital theory and we want to try to ensure that the individual can reach their potential, then early childhood development plays a critical role in that. Certainly I think in the case of Britain under Tony Blair's government there was a real focus on the first thousand days of a child's life.

I have spoken with Professor Sharon Goldfeld from the Murdoch Children's Research Institute and June McLoughlin, a fellow board member with me who has taught at Doveton College. You can look at the way in which a child's brain develops in terms of the connections in their brain and compare a child that has grown up in a stable, functioning, well-adjusted, loving, caring and nurturing environment to a child who has not.

I remember being at a presentation. They had put electrodes on a child's head and they put different things in front of the child's face and look at the way their brain responded — how quickly it responded and how rapidly it adjusted to what they saw. What struck me is that — I think, from memory, these children were in preschool, probably about four years of age — in a child who had grown up in a safe, warm, loving, nurturing environment, the brain was alive. Stimulation came before it and it was alive. You could see the electrodes were quite bright. For a child who had been

abused, what you saw happen was that there was very little in the way of brain activity. The brain basically starts to shut down because the child has been traumatised or because the child has been abused. They do not want to look. They do not want to engage. When they have done that in the past they have been hurt, and as a consequence of that the brain shuts down.

What does that mean? It means that when a child starts primary school at the age of five there is an achievement gap in place. Those kids enter into an environment where they are expected to join with their peers. They are expected to be able to master English, master mathematics, develop strong social relations with their peers, have a functional environment and respect authority — understand the fact that they have a teacher and they must work within certain rules and they must respect authority and they must behave in a certain way. The problem is that if you have a child who has been traumatised so badly that they are not reading — they might have the brain development of a two-year-old — how can that child close the achievement gap?

I have spoken in the Parliament before about adverse childhood experiences. There are 10 adverse childhood experiences, and if you get a score of four or more, then you are far more likely to smoke, to drink and to be incarcerated. I think the figure for a male who has been abused, or the figure for a score of four or more, is that they are 47 times more likely to be an intravenous drug user than someone who has not. You do have to ask yourself the question: how many of those people are currently incarcerated? How many of those people are currently committing illegal acts?

How many of those people could be leading fulfilled lives? They could be leading decent, functional lives. They could be good parents. They could be pillars of our community. They could be loving fathers or loving mothers. They could be raising their children. How many of those people are incarcerated? How many of those people have overdosed on drugs or are alcoholics or are homeless? How many of those people are in our midst? They could be doctors. They could be lawyers. They could be engineers. They could just be ordinary rank-and-file people, just going about their day, having a loving relationship with their spouse, raising children — or not. But they are denied that, and they are denied that because of the trauma that has been inflicted on them at a very early age.

A bill like this is important because it is about recognising the fact that there have been systemic failures over decades, and so many of these children have been victims. They have been denied the

opportunity to lead rich lives or to have fulfilled lives. As I said, in terms of the adverse childhood experiences, a figure of four or more is the number. I would hazard a guess that the overwhelming majority of the 128 members of this Parliament would have adverse childhood experience scores of less than four. That would be my guess. Clearly members of this place and the other place have experienced trauma and they have had adverse childhood experiences, but I suspect you would not find that a significant proportion of the membership of this place and the other place have had a high number of adverse childhood experiences.

As a consequence of that, I would argue that many of us have led fulfilled lives. Many of us have had great careers, have got loving relationships with our partners, have got functional relationships with our children, contribute to our communities and engage with our communities. Regardless of which party we belong to, we have been able to, to varying levels, reach our potential, and broadly speaking we are functional members of our community. A bill like this is important because it is about making sure that the next generation are protected and that they do not experience the abuse or the trauma that so many previously have done.

I was interested, so over the break I did a bit of light reading. I was reading a working paper by Raj Chetty called 'The impacts of neighbourhoods on intergenerational mobility: childhood exposure effects and county-level estimates'. While this bill is focusing on abuse, it is also worth thinking about the notion of the way in which we raise our children. Chetty's thesis is simple. He looked at commuting zones (CZs) in the United States of America, and he found that, for example, Salt Lake City is a very good place to raise a child — there are low levels of intergenerational poverty, there are low levels of concentrated poverty and there are low levels of crime. Chetty found that this had the highest causal effect on children in below-median income families.

Chetty's thesis is that if you remove a child from a concentrated area of poverty and disadvantage where there is crime and you put them in a place like Salt Lake City, it increases a child's earnings by 0.166 percentiles relative to the average CZ, and it relates to each year a child is placed there, so it is a \$136 increase in annual income per year of exposure, roughly a 0.52 per cent increase. Across 20 years, that is a 10 per cent increase in a child's income growing up in a city like Salt Lake City compared to another CZ. So Chetty's argument is that if you can pull a child out of a depressed area where they might have a high level of adverse childhood experiences and you put them in a warm, loving, nurturing environment, then it leads to a

significant change in the way in which that child can lead a productive life.

This is a really important piece of legislation. Again, I commend the member for Broadmeadows and those others who have worked so tirelessly, and I commend the bill to the house.

**Ms HALFPENNY** (Thomastown) — I also rise to speak in support of the Children Legislation Amendment (Reportable Conduct) Bill 2016. Along with the member for Broadmeadows I also was on the committee that produced the *Betrayal of Trust* report. This legislation is a result of recommendations from that report.

Just before I go on I would like to pay tribute and give thanks to all those who came before the committee and gave evidence of the most horrific accounts of criminal abuse that had been inflicted upon them, and also those who were unable to tell their stories because they are either no longer with us or because their lives have been so broken. As mentioned by the member for Essendon we received many accounts and written submissions from individuals who were in fact incarcerated, again telling their stories of the terrible abuse they had been subjected to as children.

This legislation is one aspect of a long rollout of legislation in response to the inquiry's recommendations in order to protect children and to try to prevent the awful things of the past occurring now and into the future. It talks about organisations being mandated to report allegations or circumstances of abuse or various conduct against children, but it must be made clear that is not about taking away from the role of the police and the requirement to report criminal conduct to police. This legislation will make sure that individuals who are responsible in organisations do actually report allegations or even suspicions of abuse, and that they also ensure they have proper and thorough investigations of any allegations or suspicions that look like they may, even in the very early stages, lead to some sort of abuse of children. Of course there are also penalties for those who do not provide those reports. The Commission for Children and Young People is where reports are to be made.

This is also about educating organisations in how to deal with allegations and suspicions and also to ensure that children are made safe. One of the most outrageous and incredibly shocking things discovered through all the investigations of abuse, particularly within the church sector, is where responsible people knew that the abuse was occurring, allowed it to happen and

reported it nowhere, so the abuse continued and further children were harmed.

I will leave my contribution at that. I know there are many people on the government side who would like to contribute to the debate on this legislation. I think we can all be proud that we have seen this legislation come in and that there will be more of it. This is only one step in the process of acquitting all of the recommendations in the *Betrayal of Trust* report, and I look forward to further legislation that will keep children safe and ensure there are proper penalties and financial punishments for those organisations that do not keep children safe.

**Ms GREEN** (Yan Yean) — I rise to speak in support of the bill before the house and, as so many have said before me, the members of this chamber and the other place in the Victorian Parliament who worked on the *Betrayal of Trust* report by the parliamentary inquiry into the handling of child abuse by religious and non-government organisations. In particular I commend the member for Broadmeadows, who spoke a couple of speakers ago, and also the member for Thomastown, who spoke immediately before me, and any other members who were on the committee as well. Overwhelmingly I want to thank those brave men and women who spoke up about their own abuse, the abuse of their children or the abuse of others they have known.

It seems that not a week goes by when we do not hear more about the terror and the depth of what happened, and although there were many institutions that this applies to, I know particularly for the member for Broadmeadows and me, being raised as Catholics and having gone through Catholic school and spending each Sunday at Mass, it was particularly horrifying to hear the evidence that was presented to the royal commission this week from counsel Gail Furness, who said that 4444 alleged child sex abuse incidents were reported in the survey publicly released to the commission by the Catholic Church.

Data has revealed that 7 per cent of priests working between 1950 and 2009 have been accused of sex crimes and that, disturbingly, so many religious orders and brothers had much higher rates than that. With the brothers of St John of God, who are responsible for caring for people with disabilities in a number of institutions in the state, including Churinga in Greensborough on the edge of my electorate, it is particularly horrifying that the figure is in excess of 40 per cent — it is 40.4 per cent.

When you think of people with disabilities, it terrifies me to think that maybe there are more who do not have the ability to speak or who have not been believed. One of the other things that counsel Furness said this week was that the average time for people coming forward after their abuse was 33 years. Statistics show that there are rather low figures for the 2000s, and it is speculated that in this century it does not mean that the abuse has diminished; it probably just means that we are yet to hear about it. With those sorts of figures I am not surprised.

I am really glad that this scheme has come before us. Every victim must be heard, but there ought to be no victims in the future. There needs to be prevention. The member for Essendon talked about the impact on children's brains, on their development, on their ability to parent, on their ability to earn an income, on their ability to learn right and wrong and on their ability not to become a perpetrator. That is not disrespect to those victims. But so often they are in the criminal justice system — and this is data from around the world — and prisons and jails around the world are full of victims of childhood trauma. We need a system that means that we do not have people who are impacted in this way, especially not the most vulnerable, especially not children or people with disabilities.

I applaud the bill before the house and the fact that it will apply in a phased way from 1 July this year to government and non-government schools and a range of other education providers that are detailed in the bill, including drug and alcohol providers and mental health service providers. On 1 January — six months later — it will apply to religious organisations; boarding schools; overnight camps for children; public, denominational and private hospitals; and disability service providers. In phase three, 12 months after that, it will include approved education and care services, children's services and statutory bodies that have responsibility for children such as public museums and galleries. It is appropriate that we support this, and I commend the bill to the house.

**Ms D'AMBROSIO** (Minister for Energy, Environment and Climate Change) — I am pleased to add my voice to the Children Legislation Amendment (Reportable Conduct) Bill 2016, and I do so noting the shortness of time. I wish to keep my comments brief to lend my voice to the very eloquent contributions that have been made right across the house today on what is a vitally important tranche of the government's full response to the *Betrayal of Trust* report's recommendations. I cannot say it any better than what has already been put by so many members, some of whom have been directly involved in sitting through

testimony — very difficult testimony — through the work around the *Betrayal of Trust* report.

Regarding the abuse of children, I do not need to repeat the stories. There is story after story of abuse and thorough degradation of life. It has known no bounds in many of the examples that have been put forward during that period and since then. But what I do say is that we owe this to every child so that they can live the life that they are entitled to, to their full potential, to live a life and not just to merely exist, and unfortunately we have had so many children who were consigned, after repeated failure on the part of not just individuals but institutions, to have simply been a mere shell of what their full potential could have been and could have produced for them. Many, as we know, took their lives; many of them went on to be perpetrators themselves; and the cycle goes on and on. It is incumbent on all of us of course to break that cycle of abuse.

We say this, and it has always been said, and it is as truly said by us today as it has been over the ages: children are innocent. The conditions of their lives are often very much imposed upon them by external factors — the people who let them down, the institutions which let them down, the people who abuse them. It is incumbent upon us of course to make good, and to make good as fully as possible, in terms of the recommendations that have come out of that *Betrayal of Trust* report so that we can start the very, very large job of allowing children to be able to live the lives that they are all entitled to and not just to merely exist.

As others have said, the bill before us is one tranche of the government's full response to the *Betrayal of Trust* report's recommendations. There is more work to be done, and more will be coming down the pipeline. I do want to acknowledge all of the work done by so many members here — the members for Thomastown, Broadmeadows and Ferntree Gully — and others in the other place. I commend the bill.

**The ACTING SPEAKER (Mr Angus)** — Order! The time set down for consideration of items on the government business program has expired, and I am required to interrupt business.

**Motion agreed to.**

**Read second time.**

*Third reading*

**Motion agreed to.**

**Read third time.**

## RESOURCES LEGISLATION AMENDMENT (FRACKING BAN) BILL 2016

*Second reading*

**Debate resumed from 8 February; motion of Mr NOONAN (Minister for Resources).**

**Motion agreed to.**

**Read second time.**

*Third reading*

**Motion agreed to.**

**Read third time.**

**Business interrupted under sessional orders.**

## ADJOURNMENT

**The ACTING SPEAKER (Mr Angus)** — Order! The question is:

That the house now adjourns.

### Public housing

**Mr SOUTHWICK (Caulfield)** — (12 235) My adjournment matter is for the Minister for Housing, Disability and Ageing, and the action I seek is for the minister to review some of the systems and approaches applied to tenants in public housing to ensure that the tenant matches the cohort of people in the housing units in which they are located and, particularly, that we do not see situations in which there are threats to community or threats to people within the units in which they reside.

I raise this adjournment matter because on 24 January I sent a letter to the Department of Health and Human Services regarding Ripponlea constituents' concerns over public housing tenants who are causing a great deal of disruption and engaging in threatening behaviour. This is a situation where there are a number of units, some of which are privately owned and some are leased. Within the units there is one particular unit owned by the Department of Health and Human Services, which is rented, and there is a particular tenant in that unit who is conducting a whole range of abusive and violent behaviour. I went and met with the tenants, and they have recorded information over a number of months on various concerns that they have raised. These have been submitted to the police, these have been submitted to the department and no action

has been taken. This is just one example of many that have come across my desk in recent months.

We all know there is a large waiting list for people seeking social housing, and many of these people would give their right arm for appropriate accommodation, and some have been waiting for up to two years for accommodation. What really concerns me is when people take the accommodation that they are given for granted, when they engage in the sort of threatening behaviour that these people are, and seem to get away with it time and time again.

I think the minister needs to review the systems and procedures to make sure that the people who really deserve the accommodation get the accommodation and the people who, quite frankly, are taking this for granted and taking advantage of the system are not given this type of accommodation. It is a difficult situation, I know, but with the sorts of crime and violence and law and order issues that we are seeing in this state, this is just another example of where I think the people who do the right thing should be rewarded, and I call on the minister to review the systems of his department and ensure that the right people receive appropriate accommodation.

### **Thomastown electorate roads**

**Ms HALFPENNY** (Thomastown) — (12 236) I seek to raise a matter with the Minister for Roads and Road Safety, and the action I seek is for him to update residents on the building of the O'Herns Road interchange and the Findon and Epping roads upgrade to lights. We all know that the federal Liberal government is blatantly and nastily discriminating against Victorians, not giving us our fair share of funds for desperately needed infrastructure. There was yet another report in the press today revealing that Victoria is only getting \$82 per person on average for infrastructure. The state with the second-lowest allocation per capita is New South Wales, which is getting a whopping \$253 per person, in spite of the fact that the Victorian population is growing faster than all other states.

We also know the project should have been nearly finished by now, but the federal Liberal government has refused to agree to the project and it is now one year overdue. While the federal Liberal government was holding the project up the Andrews Labor government was doing what it could to prepare for the project. We have already completed the mandatory flora and fauna assessment, the cadastral survey, the cultural heritage assessment and the feature survey. The services investigation and proving, which identify where the

phone lines, gas and other utilities are, will be completed next week.

The geotechnical investigations, including the pile integrity test and drill rigs, have also been done. But we cannot go any further without the federal government properly coming on board. The congestion that people have had to endure in this area is just horrific, and the frustration people feel for not being able to spend time with their families because they are stuck in traffic is absolutely terrible. We need the road project fixed now, and I hope the federal Liberal government does not do anything else to further delay this much-needed program.

### **Warrnambool rail services**

**Ms BRITNELL** (South-West Coast) — (12 237) My adjournment matter is for the Minister for Public Transport, and the action I seek is for free travel for Warrnambool line passengers until speed restrictions are lifted.

As the minister would be aware, trains on the Warrnambool line have been slowed down as a bandaid solution to safety issues. This is resulting in lengthy delays on every service, but passengers are still being asked to pay the full amount and are being told to allow more time for their journey. It is wrong. Why should passengers have to pay full price for a journey that is going to be delayed by quite an amount of time through no fault of their own? Only 15.4 per cent of the services on the Warrnambool line were on time in December, and I doubt the January figure will be any better when it is finally released.

It is not just the delays causing headaches for passengers. The trains are plagued with other problems like no air conditioning, no lights, and toilets that are either out of order or so dirty people do not want to use them. Sometimes the buffet car is not open. This is a train that is used by people who travel from Melbourne to Mount Gambier. If there is no buffet car, then that is over 6 hours without access to food or drink, with no notice. Yet we are still to pay a premium price for what is fast becoming a second or even third-rate service.

Free travel was offered during the wheel-wear debacle in 2016 where trains were being delayed and cancelled, so a precedent has been set. This is by no means a reflection on the staff at the stations or on the trains; they are all doing their absolute best. They are being hamstrung by a situation out of their control and are the ones who bear the brunt of the passengers' frustrations.

The minster has sat on her hands during this whole debacle, only wanting to talk about the new service that has been added to the line, which has run late every day since it was introduced in January despite extra travel time being added to the new timetable. It is not what these passengers want to hear, Minister. The passengers who are coming into my office daily, who are emailing me and who are calling to complain about the state of the Warrnambool line service want to know what is being done to fix the problem, when it is going to be fixed and why it is taking so long.

There was one passenger, an international tourist, who was so frustrated she penned a poem about the rail service. It was dropped into my office last week and published in today's Warrnambool *Standard*. Passengers want a safe, reliable and comfortable rail service. They do not want bandaied solutions that slow down trains and treat the people of South-West Coast with utter contempt.

### Whittlesea police station

**Ms GREEN** (Yan Yean) — (12 238) I wish to raise a matter for the attention of the Minister for Police. I ask her to respectfully seek information from the police commissioner about the Whittlesea police station and to again reiterate to my community that Whittlesea police station will not be closed when the Mernda 24-hour station, which is currently under construction, opens later this year.

Every informed person understands that where police are deployed is a matter for the Victorian Chief Commissioner of Police. Inspector Paul Tysoe, the Whittlesea commander, who does a fabulous job in his engagement with the community and in responding to the needs of the community, has continually reiterated that when the Mernda police station opens later this year there are no plans to close Whittlesea police station and that they are examining a number of options for police resources across the City of Whittlesea when Mernda opens, and none of them involve station closures.

It seems that the word of Inspector Paul Tysoe, a respected member of the Whittlesea community and a respected leader of the community, is not enough for some. It is just not good enough that people are undermining the leadership of Victoria Police, particularly those on the other side; they have got form on this with the Chief Commissioner of Police, Graham Ashton, and with his predecessor. They have got form in interfering with operational matters, and I have very good information that there is a concerted campaign of fear in the township of Whittlesea to deliberately

undermine the confidence of the community in police resources in the City of Whittlesea.

Before the last election we were the ones that responded. Labor responded to the call to build a 24-hour police station in Mernda. We are the only ones that have ever opened new police stations in Melbourne's north. We opened seven on our watch; in four years those opposite opened none. Police Association Victoria's number one ask was that the Mernda police station be opened. We now have a new method of staff allocation that the police commissioner has sought, that the police association has sought. I will quote Ron Iddles for anyone who is in any doubt as to what the police association thinks:

Many governments and many politicians talk the talk but they don't walk the walk. I will say this, that the Andrews government has talked the talk and they've walked the walk.

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

### Maroondah Highway–Tarnpirr Road, Narbethong

**Ms McLEISH** (Eildon) — (12 239) My adjournment matter is directed to the Minister for Roads and Road Safety, and the action I seek is that the minister improve the dangerous intersection of Maroondah Highway and Tarnpirr Road in Narbethong so that the risk of accident is reduced. The improvements required are civil and structural, and better signage is also required.

I note that the Maroondah Highway is managed by VicRoads and Tarnpirr Road by the Murrindindi shire. The residents of Tarnpirr Road, Parisi Lane and the Maroondah Highway describe this intersection as hazardous and as posing a great risk to road safety. The intersection is hazardous on a number of fronts, regardless of whether a vehicle is entering or exiting Tarnpirr Road. The design of the intersection is the major contributing factor to its hazardous nature. In particular, Tarnpirr Road is at a substantially lower level than the highway. There is a sharp incline at the point of intersection. The intersection is too narrow. There is no shoulder, and on top of this the view of and from the intersection is at times obstructed by signs and vegetation.

In addition, the location of the bus stop poses problems for both those catching the bus and the bus pulling up, so much so that I understand bus users actually do not use the designated stop at the intersection and instead get on and off the bus at a slightly different point but still in the immediate vicinity of that intersection.

The mix of local traffic, tourist traffic and larger vehicles such as trucks and buses, together with pedestrians and cyclists, is a deadly combination. I know this intersection and I know the residents are passionate in their belief that it is menacing and dangerous and poses an unacceptable hazard. I ask the minister to investigate the matter with the view to having necessary changes made in the near future. Residents would also be extremely appreciative if there was increased funding to Murrumbidgee Shire Council so that it could grade the road and undertake surface treatment activities such as the use of dust suppressant, which would go down extremely well with the residents on Tarnpir Road.

### State Emergency Service Broadmeadows unit

**Ms BLANDTHORN** (Pascoe Vale) — (12 240) My adjournment matter is for the attention of the Minister for Emergency Services, and the action I seek is that the minister accompany me on a visit to the Broadmeadows State Emergency Service (SES) to see firsthand the great contribution these volunteers make to our community, but also to discuss with them alternative sites for the unit once the lease on its current site in Mahoneys Road expires.

I spoke earlier today in this chamber about the contribution of the Broadmeadows SES when I acknowledged that the former unit controller, Steve Lapworth, was awarded the emergency services award in the Australia Day honours. This achievement for him goes to the work of the volunteers across the whole of the unit, and most of these volunteers it should be noted actually come from the Moreland area, despite the fact that the service itself services the whole of the local community from Moreland across to Hume and up to Whittlesea.

The Broadmeadows SES is often the first to arrive on the scene, whether it is crime, flood, fire or storms, and they provide vital assistance to the Country Fire Authority, the Metropolitan Fire Brigade and Victoria Police. The unit has recently been advised that upon the expiry of the lease on its current site in Mahoneys Road it will have to find a new home. A number of sites are being considered for the Broadmeadows unit, including a site on the corner of Boundary Road and Sydney Road in Hadfield, next to Fawcner police station. This is the preferred location for the unit to establish its new station, given it has the ability to accommodate all the unit's equipment and operational activities, and it is obviously a unique location with the police next door. It is the logical location, also given that most of the volunteers, as I have said, come from the Moreland area and not from the Hume or Whittlesea areas.

In order to allow for the unit to focus on its core operations it is crucial that a new site is found for the unit as soon as possible. It is also important, given the vital role the Broadmeadows SES plays in ensuring the safety and security of our community, that long-term considerations are taken into account when finding a new home for the unit. I would ask that the minister accompany me on a visit on a Monday night to meet with the many volunteers who are always there, rain, hail or shine, going through their routines in practice for the services that they deliver to our community, and to talk with them about the best place for the future of the Broadmeadows SES.

### South Kensington railway station

**Ms SANDELL** (Melbourne) — (12 241) My adjournment matter is for the Minister for Public Transport, who I am happy to see in the chamber today. I ask the minister to write to me to explain the rationale for why South Kensington railway station will not be included as part of the Melbourne Metro rail project and whether the station can expect an upgrade.

South Kensington railway station was opened in 1891 to serve the many factories and abattoirs in the area. At the time of opening it was one of the busiest stations for goods and passengers. Obviously Kensington has changed over that time and South Kensington station has become more and more unloved and run-down. In 1994, when most stations on the metropolitan network were de-staffed, this led to South Kensington train station further descending into disrepair.

The station has very limited and exposed seating, no toilets, limited bike parking and unfortunately no real disability access. The station could hardly be called inviting, because its design and layout require patrons to access the station through a dark underpass and there is only one single entrance and exit point for the station. Many services also do not stop at the station because of the poor design — the fact that there is no space and not enough platforms — so many people say to me that they cannot rely on it as their primary form of transport to and from the city for work or for study.

My community was quite saddened to learn that South Kensington would not be part of the Melbourne Metro project, but they want to know whether there will be any upgrades to the station, at the very least, as part of the project. The people who live around the station in South Kensington, particularly at Kensington Banks, have the worst public transport access in the city of Melbourne. These areas are forecast to grow, with several new developments meaning more people are moving to the area, but a lot of them will not have access to adequate public transport, even though they

are only 4 kilometres or 5 kilometres away from the CBD. If this station will not be part of the Melbourne Metro rail project, I think constituents would love to see an upgrade to have a comfortable, clean and safe train station with more frequent services that they can rely on. I know that they would love to hear from the minister about any plans to do this.

### Early childhood health and development

**Mr PEARSON** (Essendon) — (12 242) I direct my adjournment matter to the Minister for Health, and I ask what action is the government taking to support increased research into genetic and other factors that affect early childhood health and development?

### Wangaratta–Bright bus services

**Mr McCURDY** (Ovens Valley) — (12 243) I rise to raise an issue for the Minister for Public Transport, and the action I seek is for the minister to help me to improve the Wangaratta to Bright V/Line bus weekend timetable. Residents from Bright, Myrtleford and Eurobin have raised this concern with me regarding the weekend V/Line timetable between Wangaratta and Bright.

The current timetable has the coach departing Wangaratta at 10.05 a.m. and returning from Bright at 2.15 p.m. on Saturdays and Sundays. The major issues continually raised by travellers with this timetable are that the earliest a passenger from Beechworth, Myrtleford, Porepunkah or Bright can travel on public transport and reach Melbourne is 6.30 p.m. To be able to arrive at this time customers are still faced with the option of having to catch the less popular New South Wales XPT train. To maintain an integrated V/Line coach-train connection, passengers are faced with a 2½ hour wait in Wangaratta and an arrival time in Melbourne closer to 10.00 p.m. There is no way to make a return daytrip to Melbourne by public transport from these locations; even to make a return weekend trip is practically unachievable.

For such a large tourist region the transport options are very limited, especially when compared to the services between Benalla and Yarrawonga-Mulwala. As the minister well knows, public transport is very unreliable in north-eastern Victoria. The federal minister for transport has agreed to join the member for Euroa and me on a trip on the north-east line, and I hope the Victorian minister may join us at some stage to do the same. But clearly the Bright, Porepunkah and Harrierville residents need a better weekend timetable, and I ask the minister to give these residents a more regular fixed timetable for their weekend services.

### Early childhood education

**Mr RICHARDSON** (Mordialloc) — (12 244) My adjournment matter is for the Minister for Families and Children, and the action I seek is that the minister update my community on what the Victorian government is doing to provide certainty to families in my electorate who have young children in light of the federal government's lack of commitment to four-year-old kindergarten funding into this year.

Kinder funding and the universal access to early child care was a landmark report and investigation in 2008–09. We know that a dollar invested into early childhood education is so very fundamental to a child's development, and the Victorian government has had an ongoing commitment not only to investing in early education from a resources point of view but also into capital works. An example of that in my electorate is Chelsea Kindergarten, Chelsea Heights Kindergarten and the Mentone Park Primary School collaboration with Acacia Avenue Kindergarten, which will provide that certainty into the future.

Just like infrastructure funding, where we only get 9 per cent of a contribution from the Turnbull federal Liberal government, just like the Gonski reforms that they turned their back on and walked away from, even when their own crew in New South Wales was pleading for them to sign up to those funding reforms, we see further uncertainty with the meningococcal W strain. The federal government turned its back on taking any action, and the Victorian Labor government has stepped in to provide \$7.1 million for that very important program of preventive measures and vaccines.

Now we see further uncertainty in early childhood education. It is an absolute disgrace. It is time that this federal government, which is too addicted to itself, its day-to-day survival and the Canberra theatrics, put Victorians first. Early childhood education is the next frontier. My community and our state will not stand for it any longer, so in conclusion I ask the Minister for Families and Children to update me on what actions are being taken by the Andrews Labor government to support early childhood education and four-year-old kinder.

### Responses

**Mr FOLEY** (Minister for Housing, Disability and Ageing) — Can I thank the member for Caulfield for his adjournment matter and indicate that I have not had any advice yet from the department on the correspondence that he indicated he had brought to the department's attention regarding an incident on 24 January in Ripponlea, where a public housing tenant

has allegedly caused some disquiet in the wider community.

Of course our public housing tenants — the 165 000 of them around the state — are some of the finest people in Victoria, but like any community there is a diversity of people within those communities. Those 165 000 people, just like every other renter in this state, are subject to the provisions of the Residential Tenancies Act 1997. The Residential Tenancies Act applies equally to all renters. I will certainly seek advice from my department as to the circumstances of that particular correspondence.

But I would bring to the honourable member's attention that — and I understand he has sought, as part of his adjournment matter, that I review the systems and procedures dealing with this issue — the systems and procedures that are in place are those systems and procedures that the former government had in place when it comes to public tenants. I did listen to the honourable member's contribution, and I would not accuse the opposition of pushing stigma and discrimination against public tenants, 93 per cent of whom are on some form of fixed commonwealth support. We are not exactly talking about the most well-to-do segment of our community, and we need to be very careful when we raise these legitimate issues that we do not contribute to stigma and discrimination against vulnerable public tenants and social housing tenants.

Having said all that, I will do the member the courtesy that his adjournment requires and seek some advice from my department as to that particular incident. I can assure the member in terms of his particular adjournment request that we review the policies and procedures with regard to how we deal with — particularly as I understood it — a single public housing or social housing unit in a mix of private sector rental arrangements, that we would do so in accordance with the Residential Tenancies Act and in accordance with the same system that was in place when the honourable member was a part of the former government.

**Ms ALLAN** (Minister for Public Transport) — The member for Ovens Valley raised a matter about public transport services between Wangaratta and Bright, particularly on weekends, and he spoke of some of the constraints both local residents and visitors to the region are likely to face in terms of the availability of services. This is an issue that I well understand, particularly in this region, which is an area I visit pretty regularly and appreciate deeply as a great tourist destination for our state as well. These matters came up through the regional network development plan

consultation process. The consultation was held as part of the first ever regional plan that was put together for public transport in regional Victoria. As a result of this, the department will be undertaking a review across the Hume region. As I am sure the member appreciates, this is not the only connecting service between smaller towns and larger regional centres that this is an issue for. There are many other communities that this is an issue for, and as demand changes and patterns change, that is something that is under constant review.

In his contribution the member also made mention of the north-east line and made reference to the fact that the federal infrastructure minister and his fellow National Party colleague, Darren Chester, had accepted the invitation from two state-based National Party MPs to travel on that line. I am pleased that the federal government are finally accepting that they take responsibility for this part of the track. I have spoken to the federal infrastructure minister a couple of times now — at least twice — most recently a couple of weeks ago, about how the issues that affect the north-east line are those that are shared between the state and federal governments. We have the responsibility for maintaining and managing the rolling stock and the services, and the federal government, through the Australian Rail Track Corporation, is responsible for the maintenance of the line. It is good to see that the federal minister understands this, because many of the issues around the delays of services and the punctuality are caused by the maintenance issues along that line. I look forward to continuing the conversation with him about the shared responsibilities we have in improving rail services in the north-east of this state.

The member for Melbourne, we wish you all the best. I think this is your last day?

**Ms Sandell** — Yes.

**Ms ALLAN** — I wish the member for Melbourne all the best for the impending birth of her child. She raised a matter to do with South Kensington station and how it intersects with the Metro Tunnel project. Of course I can well appreciate the desire of the local member to have an improvement to the South Kensington train station, because it is one that is well used and is not in as good a nick as it probably should be. However, they are two separate matters. The Metro Tunnel project and alignment does not travel through South Kensington station, and therefore it is not part of that project.

I do know that this is something that was raised in the public hearing process for the recently completed environment effects statement and the independent panel report, and the minister's response to that has

considered these issues, so it is something that we are looking at. However, based on the work that has been done through the business case process and given the cost and the fact that it would not provide an improvement to services, it is not part of the Metro Tunnel project. However, the need for improvements at that station is understood and is something that is being looked at by Public Transport Victoria.

Finally, the member for South-West Coast raised the issue of free travel being provided for passengers on the Warrnambool train line as a result of the recent — well, I say as a result of the recent timetable changes, but they are a result of some longstanding issues that the Warrnambool corridor faces. Her request was that free travel be provided. She referenced what she claims is a precedent that was set at the start of 2016 when buses replaced those trains that were taken out of service as a result of an increased wheel-wear rate problem that was affecting a large part of the network.

There is no precedent for free travel to be provided here because the trains are still running. I acknowledge they are running more slowly than they had been. It should be remembered why they are doing that. They are doing that because of the temporary speed restrictions that have had to be put in place because of the significant safety issues on this line. It is an absolute miracle that the truck driver that was involved in the awful accident and crash with a train at Pirron Yallock last year survived. It was remarkable, and we are deeply grateful that he did. However, it does highlight that there are significant safety issues at level crossings along our regional network, and the Warrnambool line is affected by some of these. V/Line has therefore, quite understandably, taken a safety-first approach and indeed is working with the national safety regulator in terms of putting in place temporary speed restrictions on this line.

In her contribution the member made all sorts of claims about what the government had and had not been doing. I can make it very clear to the house that I have met on numerous occasions, indeed countless occasions, with the department, V/Line and Public Transport Victoria as we work very hard on looking at what are the short-term measures that need to be put in place to address these temporary speed restrictions — measures that can be put in place that address safety and lift the temporary speed restrictions — and then of course how we address these issues for the longer term.

These are issues that did not spring up overnight. These are issues that have been in place for a very, very long time in this corridor. Of course under the previous government this was the rail line that ran through the Premier's electorate and the former public transport

minister's electorate, and they did nothing to address these issues along this corridor. We have to address these issues, as I said, because we do have some significant issues around safety. You can absolutely appreciate that that is the priority we have to put at the top of the list, but I am not blind to the fact that this is causing some real frustrations for passengers in the corridor. Indeed I was fortunate enough during the summer break to spend some time in the south-west and to talk to families who were affected by the timetable changes and some of the unreliability that that was causing and the challenges that was causing them, so I am absolutely determined to put in place the shorter term solutions and the longer term infrastructure works that are needed to address these issues.

I should also say we have also recently added an additional service on this line, again something the former government kept promising the communities — their own communities. The former Premier's own community and the former public transport minister's own community kept being promised an additional service, but it never happened. Well, we have done that. We put on that extra train service, which started from the end of January this year. Again it is running to a changed timetable as we address these issues that will restore the timetable to improved services. As I said, it is not something that is going to be able to be addressed overnight. We are determined to work through it and address these issues, and that is exactly what is happening at the moment.

I would hope the member for South-West Coast can support these initiatives instead of engaging in the politics of this. That forces me to remind the member for South-West Coast that her government ripped around \$120 million out of V/Line, which really saw a deterioration of services under the former government's watch.

The remaining matters raised by members will be referred to ministers for their attention and action.

**The DEPUTY SPEAKER** — Order! On behalf of all honourable members, I wish the honourable member for Melbourne all the best for herself and her new baby when it arrives. The house is now adjourned.

**House adjourned 5.35 p.m. until Tuesday, 21 February.**

