PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 14 November 2013

(Extract from book 15)

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By authority of the Victorian Government Printer

The Governor

The Honourable ALEX CHERNOV, AC, QC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

The ministry

(from 22 April 2013)

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Deputy Premier, Minister for State Development, and Minister for Regional and Rural Development	The Hon. P. J. Ryan, MP
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Minister for Multicultural Affairs and Citizenship, and Minister for Energy and Resources	The Hon. N. Kotsiras, MP
Minister for Housing, and Minister for Children and Early Childhood Development	The Hon. W. A. Lovell, MLC
Minister for Public Transport and Minister for Roads	The Hon. T. W. Mulder, MP
Minister for Liquor and Gaming Regulation, Minister for Corrections and Minister for Crime Prevention	The Hon. E. J. O'Donohue, MLC
Minister for Local Government and Minister for Aboriginal Affairs	The Hon. E. J. Powell, MP
Assistant Treasurer, Minister for Technology and Minister responsible for the Aviation Industry	The Hon. G. K. Rich-Phillips, MLC
Minister for Environment and Climate Change, and Minister for Youth Affairs	The Hon. R. Smith, MP
Minister for the Arts, Minister for Women's Affairs and Minister for Consumer Affairs	The Hon. H. Victoria, MP
Minister for Agriculture and Food Security, and Minister for Water	The Hon. P. L. Walsh, MP
Minister for Police and Emergency Services, and Minister for Bushfire Response	The Hon. K. A. Wells, MP
Minister for Mental Health, Minister for Community Services, and Minister for Disability Services and Reform	The Hon. M. L. N. Wooldridge, MP
Cabinet Secretary	Mr N. Wakeling, MP

Legislative Council committees

Privileges Committee — Ms Darveniza, Mr D. Davis, Mr P. Davis, Mr Hall, Ms Lovell, Ms Pennicuik and Mr Scheffer.

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

Legislative Council standing committees

Economy and Infrastructure Legislation Committee — Mr Barber, Mrs Coote, #Ms Crozier, Mr Drum, Mr Finn, #Ms Hartland, #Mr Leane, Mr Lenders, Mr Melhem, #Mr Ondarchie, Ms Pulford and Mr Ramsay.

Economy and Infrastructure References Committee — Mr Barber, Mrs Coote, #Ms Crozier, Mr Drum, Mr Finn, #Mr Leane, Mr Lenders, Mr Melhem, #Mr Ondarchie, Ms Pulford and Mr Ramsay.

Environment and Planning Legislation Committee — Mr Dalla-Riva, Mr Elsbury, #Mr Finn, #Ms Hartland, Mrs Kronberg, #Mr Leane, Mr Ondarchie, Ms Pennicuik, #Mrs Peulich, Mr Scheffer, #Mr Tarlamis, Mr Tee and Ms Tierney.

Environment and Planning References Committee — Mr Dalla-Riva, Mr Elsbury, #Mr Finn, #Ms Hartland, Mrs Kronberg, #Mr Leane, Mr Ondarchie, Ms Pennicuik, #Mrs Peulich, Mr Scheffer, #Mr Tarlamis, Mr Tee and Ms Tierney.

Legal and Social Issues Legislation Committee — Ms Crozier, Mr Elasmar, #Mr Elsbury, Ms Hartland, #Mr Leane, Ms Mikakos, Mrs Millar, Mr O'Brien, Mrs Peulich, #Mr Ramsay and Mr Viney.

Legal and Social Issues References Committee — Ms Crozier, Mr Elasmar, #Mr Elsbury, Ms Hartland, #Mr Leane, Ms Mikakos, Mrs Millar, Mr O'Brien, Mrs Peulich, #Mr Ramsay and Mr Viney.

 # Participating member

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

President: The Hon. B. N. ATKINSON

Deputy President: Mr M. VINEY

Acting Presidents: Ms Crozier, Mr Eideh, Mr Elasmar, Mr Finn, Mr O'Brien, Mr Ondarchie, Ms Pennicuik, Mr Ramsay, Mr Tarlamis

Leader of the Government:
The Hon. D. M. DAVIS

Deputy Leader of the Government:
The Hon. W. A. LOVELL

Leader of the Opposition:
Mr J. LENDERS

Deputy Leader of the Opposition:
Mr G. JENNINGS

Leader of The Nationals:
The Hon. P. R. HALL

Deputy Leader of The Nationals:
Mr D. DRUM

Member	Region	Party	Member	Region	Party
Atkinson, Hon. Bruce Norman	Eastern Metropolitan	LP	Lenders, Mr John	Southern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Lovell, Hon. Wendy Ann	Northern Victoria	LP
Broad, Ms Candy Celeste	Northern Victoria	ALP	Melhem, Mr Cesar [2]	Western Metropolitan	LP
Coote, Mrs Andrea	Southern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Millar, Mrs Amanda Louise [4]	Northern Victoria	LP
Dalla-Riva, Hon. Richard Alex Gordon	Eastern Metropolitan	LP	O'Brien, Mr David Roland Joseph	Western Victoria	Nats
Darveniza, Ms Kaye Mary	Northern Victoria	ALP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Davis, Hon. David McLean	Southern Metropolitan	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Davis, Mr Philip Rivers	Eastern Victoria	LP	Pakula, Hon. Martin Philip [1]	Western Metropolitan	ALP
Drum, Mr Damian Kevin	Northern Victoria	Nats	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Petrovich, Mrs Donna-Lee [3]	Northern Victoria	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Elsbury, Mr Andrew Warren	Western Metropolitan	LP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Ramsay, Mr Simon	Western Victoria	LP
Guy, Hon. Matthew Jason	Northern Metropolitan	LP	Rich-Phillips, Hon. Gordon Kenneth	South Eastern Metropolitan	LP
Hall, Hon. Peter Ronald	Eastern Victoria	Nats	Scheffer, Mr Johan Emiel	Eastern Victoria	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tarlamis, Mr Lee Reginald	South Eastern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP

[1] Resigned 26 March 2013
[2] Appointed 8 May 2013
[3] Resigned 1 July 2013
[4] Appointed 21 August 2013

CONTENTS

THURSDAY, 14 NOVEMBER 2013

Thursday, 14 November 2013

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 9.34 a.m. and read the prayer.

PARLIAMENTARY LIBRARY

The PRESIDENT — Order! I take this opportunity to advise members, as I am not sure how far an email from Mr Bromley, the acting chief librarian, has been circulated, that today is the birthday of the Parliament's library. It is 162 years old — —

Hon. D. M. Davis interjected.

The PRESIDENT — Order! Mr Davis can pay homage to the library in due course — —

An honourable member — In silence.

The PRESIDENT — Order! Indeed, in silence. What is often overlooked in the history of Victoria is that this house of Parliament was the first in the colony of Victoria and therefore the state; the Legislative Council was formed first and undertook a number of responsibilities in preparing for the Parliament, which was established in 1856. The Legislative Council's responsibilities included commissioning this building and developing Victoria's constitution as well as setting up the Library Committee, one of the first two committees established by the Legislative Council, and the parliamentary library. The library has served the Parliament well for all of those 162 years.

Members would be aware that as part of the overall review of the organisation that we have been undertaking over the past three years the library has recently been subject to a review process, and I take this opportunity to commend the staff on the constructive way in which they have approached that review. A consultant made a number of recommendations in respect of what we could do to improve the library and its service to members and the Parliament itself, and some of the feedback and response from members of the library staff to that review and the recommendations was very positive. I think it will result in a very good outcome for the library service, and I expect that it will continue in the same vein of fine service to the Parliament and people of Victoria for another 162 years.

I also take the opportunity to mention that Annalies Engwerda, who works in the table office and occasionally graces the table in the chamber, will be married on Saturday and will return to us as Annalies McEvoy. We wish her very well for the wedding and for her bright future as Mrs McEvoy.

PAPERS

Laid on table by Clerk:

Budget Sector — Quarterly Financial Report No. 1 for the period ended 30 September 2013.

A Statutory Rule under the Public Health and Wellbeing Act 2008 — No. 137.

Water Act 1989 — Abolition of the Avon Water Supply Protection Area, Denison Groundwater Supply Protection Area and Tarra River Catchment Water Supply Protection Area (Surface Water) Order 2013.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 26 November 2013.

Motion agreed to.

MEMBERS STATEMENTS

Climate change

Mr BARBER (Northern Metropolitan) — In the state and federal parliaments it has been another week of resistance to climate change reality for the Liberal Party and The Nationals. Coalition MPs are suffering on this solid junk food diet fed to them by tabloid newspapers. This morning in the *Herald Sun* Andrew Bolt is able to quote accurately and approvingly from the Intergovernmental Panel for Climate Change. It is just a pity he cannot capture the whole of its findings. Mr Bolt assumes that his fans have the memory of goldfish and so tomorrow he can tell them to believe something completely different from what he told them today.

One of his ditto head fans is Mr Finn, who this week told us that arctic ice is growing, not shrinking.

Mr Finn — According to NASA.

Mr BARBER — Yes, last year was the record low for arctic ice coverage. This year is only the sixth lowest recorded in history. Mr Finn thinks this is a debate about tax. That huge, tearing sound is a great section of coalition members' voting base being ripped off them by the immediate reality of climate change against the anchor of their denialism.

Frankston Hospital emergency department

Mr TARLAMIS (South Eastern Metropolitan) — I rise to condemn the $826 million cut to the health budget and this government's failure to invest in vital health services and support Victoria's hardworking medical professionals. Under the Premier and the coalition, Frankston Hospital has become the worst performing hospital in the state, with more patients waiting longer for surgery and emergency care. The Peninsula Health annual report shows that patients at Frankston Hospital are waiting in pain in the emergency department longer than in any other regional or metropolitan hospital in the state.

Last financial year a massive 924 patients waited on hospital trolleys in Frankston's emergency department for a bed, and I remind the house that the target for this is zero. Recent figures also confirm that ambulances were ramped outside Frankston Hospital for a total of 15 297 hours during the 12 months to June 2013, an increase of 6778 hours since 2010 — the longest delays in the state. The government's actions will only make things worse with the introduction of its new dump-and-run policy, which will see ambulance paramedics unload sick patients into the care of Frankston's emergency department, which is unable to cope with the current demand. This is a policy condemned by doctors, nurses and paramedics as unsafe for patients and staff, and it shifts the crisis in our ambulance service to our hospitals for political expediency.

You would think this government's actions might start with fixing this crisis by delivering the promised 800 new hospital beds across the state or perhaps by restoring $826 million worth of cuts to the health budget. Instead of making excuses and blaming others, the Napthine government needs to urgently open more beds at Frankston and across the state to deal with the current and future demand before it makes it worse with its lazy and ill-advised dump-and-run policy.

Common Equity Housing Geelong development

Hon. W. A. LOVELL (Minister for Housing) — Last week I was pleased to join with the Premier; Andrew Katos, the member for South Barwon in the Assembly; and a member for Western Victoria Region, David Koch, to announce a $65 million redevelopment in the Geelong CBD. The redevelopment at the former St Mary's Primary School site, in partnership with Common Equity Housing, will include 193 apartments for social housing and other community facilities. The Victorian government has committed $7.36 million towards this project, which will create up to 100 jobs during construction. The development will provide a new attraction in the region, with the refurbishment of the heritage-listed St Mary's Hall, creating a cafe, plaza and regional health library.

Wangaratta Festival of Jazz and Blues

Hon. W. A. LOVELL — I was thrilled to recently attend the Wangaratta Festival of Jazz and Blues. It was wonderful to see so many tourists and locals enjoying a range of talented performances, including some by students from the Wangaratta High School stage band. This event highlights the creativity of local performers while attracting the best of the best from the broader music community. I would like to thank all involved and look forward to next year's festival.

Ovens riverside precinct, Wangaratta

Hon. W. A. LOVELL — Another recent event in my electorate, which I attended along with my colleague Tim McCurdy, the member for Murray Valley in the Assembly, was the official opening of the Ovens riverside precinct in Wangaratta. The celebration of this $3.3 million development involved live entertainment and children's activities, adding to the festival feeling already created by the jazz and blues festival. This development, which includes a promenade, boardwalk, civic square and plaza, is a collaboration between three levels of government. The Victorian coalition government — —

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

Monash eResearch Centre

Mr SOMYUREK (South Eastern Metropolitan) — A few weeks ago I had the pleasure of visiting the Monash eResearch Centre with the centre director, Mr Paul Bonnington, as part of my tour of the Monash technology research platforms. Members may have read in Fairfax media recently about the centre's $1.9 million room-size facility known as CAVE2 at the New Horizons Centre, which was demonstrated to me on the tour. CAVE2 is a next-generation immersive hybrid 2D and 3D visualisation tool comprising eighty 3D liquid crystal display panels in an 8-metre, 320-degree, curved wall formation. Inside CAVE2 doctors can observe a patient's brain from between the blood vessels; planetary scientists can walk on the surface of Mars, reconstructed from NASA data; and engineers can observe how a severe storm would batter infrastructure. For history buffs, you can stroll through the Egyptian mortuary temple of Ramses III at Luxor.

Typhoon Haiyan, the Philippines

Mr SOMYUREK — On another matter, I would like to take this opportunity to express my condolences to the Filipino community and the people of the Philippines in relation to the death and destruction produced by Typhoon Haiyan in that country. Whilst there may be some uncertainty over the exact numbers of people who died as a result of this tragedy, at this stage it is clear that the death toll will be in the thousands.

Monash Micro Imaging

Mr SOMYUREK — On a further matter, I had the pleasure of visiting the Monash Micro Imaging facility with its director, Associate Professor Ian Harper, as part of my tour of Monash's technology research platforms. Monash Micro Imaging is a microscopy and imaging research support facility located at Monash University. The staff has a considerable breadth of expertise in microscopy, imaging techniques and the equipment in the facility. The facility has expertise in optical and fluorescence microscopy — —

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

Family and Community Development Committee child abuse inquiry

Hon. P. R. HALL (Minister for Higher Education and Skills) — I have had the honour and privilege of sitting in this chamber for 25 years. Over such a period of time, if you cast your mind back and reflect on things, your memory is drawn to moments of great highlight; I think we all have those. One of the memorable moments that will stick in my mind forever occurred in this chamber yesterday with the tabling of the *Betrayal of Trust* report by the Family and Community Development Committee. It is a report that is bold, that is confronting, that is brave and that has evoked a lot of emotion on the part of people who constituted a part of the inquiry and those who were witnesses before the inquiry. I have to say I think we all felt that emotion. I felt that emotion and probably was not in a good position to add my comments as Leader of The Nationals in this house yesterday because of it.

This is a report that holds the Parliament in the most positive light and sets out something we all should aim for. It serves the purpose of enabling reflection on our behaviour, the way we go about our parliamentary business and what can be achieved if we set our minds, taking a bipartisan approach, to addressing issues of great importance and relevance to the people of Victoria. I want to congratulate all of those involved in producing that report, first of all the parliamentarians. It was a difficult task but one extremely well done; their work reflects on all of us and holds the Parliament of Victoria in a great light. I congratulate them for it and commend those who contributed in any way to this report.

Luke Gahan and Tiffany Jones

Ms PULFORD (Western Victoria) — I would like to congratulate Luke Gahan and Tiffany Jones on the recent launch of their book, *Heaven Bent — Australian Lesbian, Gay, Bisexual, Transgender and Intersex Experiences of Faith, Religion and Spirituality*. This fine collection of essays brings together academic, theological, activist, religious and political perspectives from a great variety of backgrounds — orthodox, Catholic and Protestant Christian, Islamic, Jewish, Buddhist, pagan and atheist. The book is a great contribution to the ongoing struggle of members of the lesbian, gay, bisexual, transgender and intersex community for equal rights in our society, and the editors are to be commended for the contribution this work will make to this endeavour.

Kevin Rudd

Ms PULFORD — I also note last night's announcement by former Prime Minister Kevin Rudd that he would retire from politics. Kevin Rudd has made a significant mark on Australia during not one but two tenures as Prime Minister. His service to the Australian community and to the Australian Labor Party is to be commended. His most memorable achievements include the apology to the stolen generations, the pricing of carbon pollution and the abolition of WorkChoices.

Phillip 'Smiley' Edmonds

Hon. M. J. GUY (Minister for Planning) — I rise to pay tribute to a great Australian and friend who recently passed away, Mr Phillip Edmonds. Many people in Melbourne's outer north would know Phil, although most would not know him by his actual name but by his army nickname, Smiley.

Smiley was a legend of the north. Originally from Western Australia, he was a former policeman, teacher, and army man. He was active in many local community groups and was never shy of expressing an opinion. Importantly, he was one of those community people who did not just talk — he worked. Smiley's service in Vietnam was recognised last week at his funeral, where hundreds of ex-servicemen attended and gave him a

moving farewell. His tour of duty in the 1960s was a defining point in his life. On his return to Australia, he married Marie, with whom he raised his two children, Kellie and Gavin.

I knew Smiley well, but not just as a community man, ex-serviceman or friend; for so many of us he really came into his own as a Black Saturday survivor. His harrowing story of having less than 60 seconds notice when he casually walked on to his balcony and saw the flames at the end of his street, ran inside to get the grandkids and his wife, jumped in the car and got to Kinglake as quickly as he could to seek shelter was truly astounding. That they survived when so many of his neighbours did not was amazing. That he lost everything and rebuilt, never asking for anything, always insisting that aid go to others first and becoming a local ambassador for this disaster was touching.

Smiley loved the hills. They are where he found his home, lost it, rebuilt it and will now stay forever. Rest in peace, mate.

Ambulance services

Ms BROAD (Northern Victoria) — I rise to speak up in support of Sunraysia paramedics and their right to ask questions of the Minister for Health and seek information from the Napthine government. It is outrageous that the Minister for Health and through him the Napthine government should attack Sunraysia paramedics for simply seeking information about ambulance response times in Sunraysia from the Minister for Health and the Napthine government. This is information that the whole of the Sunraysia community would like access to, and so would the Labor Party. It is completely unacceptable that the minister should attack hardworking Sunraysia paramedics for doing their jobs and seeking information which they and indeed the whole community have a right to know.

I call on the minister to provide that information to the whole community, not to block its release through freedom of information, and to cease these unwarranted and undignified attacks on Victoria's paramedics.

Typhoon Haiyan, the Philippines

Mr ELSBURY (Western Metropolitan) — I rise this morning to express to the people of the Philippines and the Filipino diaspora here in Victoria my deepest sorrow at the Typhoon Haiyan disaster. I wish them all the very best and send them my thoughts and prayers. If there is anything I can do to assist them in my seat of Western Metropolitan Region, I am more than happy to leave my door open to them.

Diwali festival

Mr ELSBURY — On a lighter note I congratulate the many Indian communities in the western suburbs that celebrated Diwali recently. I attended two of these celebrations, but I know that many more were going on. It was a great opportunity to celebrate Indian culture and for people of other cultures to gain that experience.

Jessie Deane

Mr ELSBURY — I highlight a fantastic art display at the Footscray Community Arts Centre by artist Jessie Deane of needlepoint works that show the grit and beauty of the industrial centres of the western suburbs.

McHappy Day

Mr ELSBURY — Last but not least, I note that McHappy Day was held on the weekend. I was happy to be a part of that endeavour, helping out Ronald McDonald House Charities. I think it is one of the few times that parents are more than happy to go to McDonald's and let their kids have a bit of fun and a burger.

Crime rates

Mr EIDEH (Western Metropolitan) — This government's platform during the election campaign was law and order, but unfortunately Victorians have been failed by it in this area as well. During the election campaign the then Leader of the Opposition, Ted Baillieu, the member for Hawthorn in the Assembly, claimed that Victorians had been asked to tolerate and accept escalating levels of violence, but the recent crime statistics paint an awful picture for this government which had pledged change and a safer community for Victorians. The most recent crime statistics highlight that the crime rate in Victoria has jumped again under the Napthine government, proving that the tough-on-crime stance, like other promises made to Victorians, is a complete failure.

In my electorate there has been a solid increase in crime rates, with some areas recording increases of 22 per cent in one year. The cities of Melton, Brimbank, Hume, Maribyrnong and Hobsons Bay have all recorded increases in the rate of crime, including family violence, assault, burglary, drug offences and motor vehicle theft. This government has destroyed Labor's 10 years of hard work in reducing crime statistics across Victoria. It seems to me that this government is continually cutting funding from vital services across the state. In fact the Chief Commissioner of Police has said:

There is no doubt at all that there has been a challenging time for us in relation to our finances.

Typhoon Haiyan, the Philippines

Mrs PEULICH (South Eastern Metropolitan) — I extend my sympathies and those of my region to the victims of Typhoon Haiyan and their families both here and in the Philippines. We are all deeply saddened by the loss of life and the damage the typhoon has inflicted on these people and their country. The scale of the destruction and suffering is shocking. The victims of the typhoon need food, water, shelter and basic health care and also need to rebuild their lives.

The federal government has approved a package of humanitarian assistance comprising the urgent deployment of an Australian medical assistance team at a cost of $1 million, $3 million to be deployed through Australian non-government organisations, $4 million for the United Nations flash appeal, $1 million for additional food and non-food items and $1 million for the Red Cross to assist in its disaster response efforts. I urge all members, everyone in our communities and others to make donations and give generously to the rebuilding process.

Victorian International Education Awards

Mrs PEULICH — I wish to congratulate those who conceived the Victorian International Education Awards 2013. The inaugural presentation was held on Monday this week, Remembrance Day, at Government House. The awards are designed to promote and reward outstanding achievement and excellence among students and education providers in Victoria, and it was truly inspirational to see them being so well received. In particular I commend the winner of the Premier's Award — International Student of the Year, Ms Huong Dang Thi, who received two awards. She is pursuing further studies after having had no formal education in the secondary school sector at all.

Movember

Mr MELHEM (Western Metropolitan) — I take this opportunity to reflect upon men's health, given that this is not only the month of November but Movember. Movember has humble Australian beginnings. In 2004 a group, which later came to form the Movember Foundation charity, organised an event where 30 men grew moustaches for 30 days to raise awareness of men's health. I acknowledge our colleague Mr Elsbury for his moustache, and hopefully he will raise a lot of funds for the cause. Since those humble beginnings the Movember Foundation has raised $174 million worldwide. It has spread to Europe, North America and South Africa. In 2012 the *Global Journal* listed Movember as one of the top 100 non-government organisations in the world.

It was reported last week that research conducted by the Cancer Council New South Wales found that the number of men diagnosed with prostate cancer increased by more than 250 per cent in the 20 years to 2007. This is likely because many men are now tested in various ways. It was not long ago that the elephant in the room when it came to men's health — the tough attitude of not seeking support, help or treatment — led to many men being diagnosed when it was too late, and that elephant remains in the room when it comes to men's mental health. One in eight men will experience depression in their lifetime. One in five men will experience an anxiety disorder. Left untreated, depression is a major risk factor for suicide. Currently males comprise 80 per cent of all suicides in Australia — that is, four out of five suicides. It is not tough to do it alone; it only hurts you and others around you.

Australian Labor Party union affiliation

Mr RAMSAY (Western Victoria) — I thank the house for the opportunity it gave me to be present yesterday in Canberra for the maiden speech of the new federal member for Corangamite — and to unexpectedly witness the resignation of a former Prime Minister, Kevin Rudd. I am not sure if that was a bonus.

This morning I want to talk particularly about Victoria. It is interesting to note the union power at the moment, whereby militant unions like the Construction, Forestry, Mining and Energy Union, whose members have constantly broken the law with their industrial disputes and have challenged the Napthine government in the Supreme Court, are now trying to infiltrate the Parliament of Victoria by parachuting union officials into the Legislative Council as members of Parliament.

Only recently we saw Cesar Melhem, a past secretary of the Australian Workers Union, given a seat as a representative of Western Metropolitan Region. We have the likes of Gayle Tierney, a former state secretary of the Australian Manufacturing Workers Union; Jaala Pulford from the National Union of Workers; Candy Broad from the Australian Services Union; Kaye Darveniza, a former union organiser; Shaun Leane, a former union representative of the Electrical Trades Union; John Lenders from the Australian Services Union; Lee Tarlamis from the Community and Public Sector Union; Brian Tee, formerly of the Liquor, Hospitality and Miscellaneous Workers Union; and Matt Viney from the National Union of Workers.

Local government is not immune to these tactics, with the Geelong Trades Hall Council strongly backing John Mitchell as a candidate for the directly elected mayoral position for the City of Greater Geelong. Now the Labor factions are in a tizz, with John Setka, the secretary of the Construction, Forestry, Mining and Energy Union, trying to muscle his partner Emma Walters into the newly created seat of Werribee in the Legislative Assembly. We will see more of this union muscle being used, with people being strategically placed in the halls of Parliament in the struggle to gain relevance and significance — —

The PRESIDENT — Time!

Typhoon Haiyan, the Philippines

Ms MIKAKOS (Northern Metropolitan) — I express my condolences to the people of the Philippines on the loss of thousands of their citizens resulting from Typhoon Haiyan. I hope they will be able to rebuild their country very quickly.

Con Karavitis

Ms MIKAKOS — I also wish to pay tribute to Con Karavitis, who passed away suddenly on 20 October. Con was passionate about his family, the Greek community, soccer and politics. In excess of 1000 people, including former Premier Ted Baillieu, attended his funeral. This was a testament to how well respected Con was. Con was a member of the Liberal Party. However, he put our shared Laconian heritage above politics, and my family and I always regarded Con as a friend.

I met Con through his involvement with the Pallaconian Brotherhood of Melbourne and Victoria, an organisation of which he was a past president, longstanding committee member and active member. His contribution to that committee was instrumental in the creation of the Brunswick-Sparta sister-city relationship. He was involved also with the Brunswick City Soccer Club. A strong advocate for his community, Con campaigned heavily for the installation of the Leonidas statue in Sparta Place in Brunswick. In 2012 he was also awarded a meritorious service award by the Governor for excellence in multicultural affairs.

I extend my deepest condolences to Con's family, his wife Triantafillia, his children and grandchildren and his friends.

Greek immigration monument

Ms MIKAKOS — On another matter, on 10 November I attended at the Holy Monastery Panagia Kamariani at Red Hill for the unveiling of a monument dedicated to Greek migrants. Congratulations to Father Lefteris on this achievement.

Catholic Ladies College, Eltham

Mrs KRONBERG (Eastern Metropolitan) — On Friday, 18 October, I attended at my former school, Catholic Ladies College in Eltham, for the year 12 final assembly. I find this event to be a most moving one as I witness this rite of passage for the school's young women who have studied hard to hopefully establish themselves in the professions and in careers that may see them serving humanity across the globe. I am always pleased to present the leadership and teamwork awards to such worthy students. My best wishes are extended to all year 12 students and especially to the outgoing college captains, Ilaria Bigaran and Georgie Sullivan.

Remembrance Day

Mrs KRONBERG — On another matter, on Sunday, 10 November, I attended the Remembrance Day service held at the Montmorency-Eltham RSL sub-branch in Petrie Park, Montmorency. The moving service was organised by the president, Bill McKenna, and the ladies auxiliary, led by Mrs Barbra Edis. Montmorency-Eltham RSL draws upon the services of a former serviceman who wears his grandfather's original World War I uniform of the Light Horse Brigade — including its ostrich plumes. This takes one back to that age in a moving and memorable fashion.

Youth Voice for Peace

Mrs KRONBERG — Finally, I wish to place on record the fine work of the planning group of the Maroondah community Remembrance Day ceremony called Youth Voice for Peace, held at the Karralyka Theatre in Ringwood. Students from local schools were piped in by Peter Falconer, a former Liberal member of the House of Representatives for Casey. Schools participating were Croydon Special Developmental School, Croydon Community School, Ringwood Secondary College, Norwood Secondary College, Melba College, Heathmont College and Blackburn English Language School.

The PRESIDENT — Order! I inform the house that very few members availed themselves of the chance to make members statements on the first two days of this sitting week. We have now reached the maximum number permitted under the standing orders for any day, which is 15. There are three more government members who would like to make a members

statement. Is leave granted for those three members statements?

Leave granted.

Common Equity Housing Geelong development

Mr KOCH (Western Victoria) — Last week in Geelong I was pleased to join the Premier, the Minister for Housing and the member for South Barwon in the Assembly for the announcement of a $7.36 million package to facilitate a $65 million redevelopment of a key site in the Geelong CBD. This redevelopment at the former St Mary's school site will be undertaken by Common Equity Housing Ltd and will include a mix of 193 apartments made up of private and social housing, along with other community facilities.

The $7.36 million contribution from the coalition government includes more than $3 million towards a $5.4 million refurbishment of the heritage-listed St Mary's Hall. The historic hall will include a cafe, plaza and new regional medical library that will be owned and managed by Barwon Health, which is contributing $2.4 million to this project. The St Mary's school site is a major redevelopment that will help revitalise the Geelong CBD with increased residential living and improved community and health services. This redevelopment is a significant project for Geelong and will provide a major economic boost to the city. It will create 100 jobs during construction and on completion will maintain 50 full-time ongoing jobs.

I congratulate the Napthine government on its substantial investment in the St Mary's school project that will contribute to social, private and Barwon Health family and medical specialist accommodation alongside this valuable regional medical library resource.

World Diabetes Day

Mrs MILLAR (Northern Victoria) — Today is World Diabetes Day, a day of great importance globally and here in Victoria. Members in this place will be aware that we have recently established the Victorian Parliamentary Diabetes Support Group, which was launched by the Honourable David Davis, Minister for Health. I am very proud to be a convenor of this group, together with Ms Jane Garrett, the member for Brunswick in the other place.

The theme of this year's World Diabetes Day is 'Protect our future', and it highlights a startling fact: if the number of people suffering from diabetes were the population of a country, that country would be the third most populous country in the world. Worldwide there are now 382 million people living with diabetes. Diabetes killed 5.1 million people around the world last year. All types of diabetes are on the increase in every country.

In Victoria the prevalence of diabetes more than doubled in the years from 2001 to 2011, and the trend continues. Over 268 000 Victorians have diabetes, and every day around 70 are diagnosed with diabetes. In my electorate of Northern Victoria Region alone there are over 34 000 people living with diabetes. It is estimated that diabetes will become the no. 1 disease burden in Australia over the next few years.

Next month over 10 000 people will be coming to Melbourne for the 22nd World Diabetes Congress from 2 December to 6 December. This will include a large cohort of fellow parliamentarians from around the globe, and the Victorian Parliamentary Diabetes Support Group will play a part in the event.

I thank the Victorian staff at Diabetes Australia for all they do in raising awareness, educating for prevention and continuing to support those managing diabetes and their families.

Remembrance Day

Mr O'BRIEN (Western Victoria) — On Monday, 11 November, I had the honour, along with other MPs, of representing the people of Western Victoria Region at the Remembrance Day commemorative service at the peace memorial at Johnstone Park, Geelong. We owe an eternal debt of gratitude to the soldiers in all wars who suffered and died so that we may live in freedom. Remembrance Day is a time when we can remember the sacrifice of soldiers serving in wars, including more recent wars and other peacekeeping operations such as those in Somalia, East Timor, Iraq and Afghanistan.

Yesterday was the 95th Remembrance Day since the signing of the Armistice between the Allies and Germany in 1918. Whilst we must be careful not to glorify war, it is appropriate to recognise the outstanding military achievements, courage and significant dedication of our many men and women in arms over many years.

Bacchus Marsh sporting facilities

Mr O'BRIEN — Last year I had the outstanding honour of announcing some significant funding in Bacchus Marsh, in my electorate of Western Victoria Region, which also has a nationally and internationally significant Avenue of Honour. The announcement was about sporting facilities in Bacchus Marsh and related

to seven different sporting fields, allowing more people to be more active more often.

I congratulate the new mayor of Moorabool Shire Council, Paul Tatchell, who describes himself as the man who is putting the culture back into agriculture, and council CEO, Rob Croxford. I also thank the shire for its contribution to these wonderful facilities.

CRIMES AMENDMENT (INVESTIGATION POWERS) BILL 2013

Statement of compatibility

For Hon. E. J. O'DONOHUE (Minister for Liquor and Gaming Regulation), Hon. D. M. Davis tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the 'charter act'), I make this statement of compatibility with respect to the Crimes Amendment (Investigation Powers) Bill 2013.

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

Overview of bill

The main purpose of the bill is to enhance provisions in the Crimes Act 1958 relating to DNA material in the investigation of serious criminal offences.

Clause 3 expands the list of offences for which DNA samples may be taken from suspects to cover all indictable offences, and clarifies destruction provisions in regard to DNA material and related information. Clauses 9 and 10 expand the list of offences for which police may apply to take a forensic sample from a person — following a conviction or finding of not guilty because of mental impairment — to include all indictable offences. Clause 11 of the bill changes the default position to retention of forensic samples (and any related material and information) taken from adult suspects who are subsequently convicted of a relevant offence or found not guilty because of mental impairment.

Charter act right that is relevant to the bill — the right to privacy

Section 13 of the charter act provides that all persons have the right not to have their privacy unlawfully or arbitrarily interfered with. Clauses 3, 9, 10 and 11 are relevant to the right to privacy.

A person's privacy is affected when Victoria Police gains access to, or is entitled to retain, that person's genetic information. However, any interference with privacy created by clauses 3, 9, 10 and 11 serves a legitimate purpose in assisting the investigation and prosecution of crimes and is subject to appropriate safeguards. Accordingly, any interference is lawful and not arbitrary, and does not infringe section 13 of the charter act.

Victoria Police's ability to take and retain forensic samples is a powerful tool in the investigation and prosecution of serious criminal offences. The power to take and retain forensic samples is constrained and is subject to appropriate safeguards.

The range of offences for which samples may be taken from a suspect will be expanded to all indictable offences. However, the Crimes Act carefully defines the circumstances in which Victoria Police may take DNA samples from a suspect, namely where this is relevant to an investigation and where:

- the suspect provides informed consent to the sample (s 464S); or
- in the case of a non-intimate sample, a senior police officer has authorised the taking of the sample (s 464SA); or
- in the case of an intimate sample, a court has made an order authorising the taking of the sample (s 464T).

Separate to the power to take a DNA sample from a suspect, Victoria Police's ability to take DNA from a person convicted of an offence will continue to require a court order. All samples must be taken in accordance with the procedures stipulated in section 464Z.

Clause 11 of the bill amends the default position in relation to the retention of forensic samples (and any related material and information) taken from adult suspects who are subsequently convicted of a relevant offence, or found not guilty of such an offence because of mental impairment. Victoria Police was previously required to apply for a court order to retain that material. Courts regularly grant such applications. To recognise this fact and reduce the administrative burden on police and the courts, the bill provides for the automatic retention of these samples and related information. This approach is consistent with that of other Australian jurisdictions.

These provisions will only apply to adult offenders. As is currently the case, Victoria Police will be required to seek a court order in order to retain a sample and related information of children. This recognises the vulnerability of children, particularly in the context of the legal system.

Clause 3 further clarifies what forensic material and information must be destroyed, when destruction is required under the Crimes Act. The new provision requires:

- the physical destruction of the DNA sample taken from a person,
- the removal of the DNA profile derived from the sample from any DNA database on which matching occurs, and
- the physical destruction of the DNA profile in any material form.

In addition, there are existing offences in the Crimes Act relating to the misuse of DNA material and information which are intended to prevent inappropriate use of a person's genetic information.

The European Court of Human Rights held in the case of *S and Marper v. United Kingdom* (applications 30562/04 and 30566/04 ECHR, 4 December 2008) that aspects of the United Kingdom regime for retention of DNA samples and

DNA profiles infringed the right to private life in article 8 of the European Convention on Human Rights. In considering the regime, the court noted it was an 'indiscriminate and open-ended retention regime'. The Victorian regime, as amended by this bill, does not have many of the features of the United Kingdom regime about which the court expressed concern in *S and Marper*.

In the UK at the time of that case, a sample could be taken from a suspect in relation to minor and non-imprisonable offences. Under this bill, in Victoria forensic samples will only be taken from a suspect where the person is suspected of having committed an indictable offence and other criteria are met. In the UK forensic samples could be taken from a child and retained indefinitely. In Victoria, a court order is and will continue to be necessary to retain samples from a child.

In the UK, DNA was retained whether or not the person was convicted. In Victoria, automatic retention of forensic samples will only occur where an adult is found guilty, or not guilty by reason of mental impairment, of the offence in respect of which the forensic procedure was conducted, or any other offence arising out of the same circumstances, or any other offence in respect of which evidence obtained as a result of the forensic procedure has probative value.

In the UK there was very limited scope to have DNA samples and related information destroyed even if the person was acquitted. In Victoria if a person is acquitted the samples and information must be destroyed without delay.

Edward O'Donohue, MP
Minister for Liquor and Gaming Regulation
Minister for Corrections
Minister for Crime Prevention

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. D. M. DAVIS (Minister for Health).

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

That the bill be now read a second time.

Incorporated speech as follows:

Introduction

Clear and efficient criminal investigation powers and procedures are essential for effective law enforcement. This bill strengthens two key aspects of criminal investigation powers. First, it gives police greater clarity and scope to collect and use DNA evidence and simplifies destruction procedures. Second, the bill streamlines the process for questioning people in custody who are suspected of another unrelated offence.

The collection and analysis of DNA evidence is a vital investigative tool in modern policing. As the use of DNA technology advances, the law must also advance to ensure that the intersection between science and criminal investigation is regulated effectively. It is important to achieve the right balance between law enforcement agencies' interest in identifying offenders and the expectations of innocent individuals that their genetic information will not be unjustifiably retained by law enforcement authorities. Consequently the law must both facilitate effective use of DNA evidence by law enforcement authorities and provide appropriate safeguards to the collection, use and retention of DNA samples and related information.

This bill:

expands police powers to collect DNA samples from suspects and offenders;

clarifies the destruction regime for DNA samples and profiles;

simplifies the ability of police to retain samples provided by suspects who are subsequently convicted;

regulates the use of DNA samples voluntarily provided by police and scientists for the purposes of crime scene elimination; and

streamlines the process for questioning people in custody.

Expansion of police powers to collect DNA samples

The Crimes Act 1958 regulates the collection of DNA samples for the purpose of criminal investigation. Under the act, DNA samples may only be collected from suspects and offenders who are suspected or convicted of committing an offence specified in the act. The list of offences specified for offenders is more extensive than that for suspects. Over time, each list has been amended and extended. The resulting lists are complex and difficult to apply in practice.

To reduce this complexity and to ensure that all offences of commensurate seriousness are included, clauses 3, 9 and 10 of this bill expand the range of offences for which a DNA sample may be taken from a suspect or offender to include all indictable offences.

This amendment will expand the number of offences for which police may seek a DNA sample from a suspect or offender. However, it does not mean that a sample will be sought in relation to all indictable offences. Rather, the police will determine whether a sample should be sought in any particular case.

Destruction regime

The Crimes Act also regulates the destruction of DNA samples and related information obtained pursuant to the act. The current provisions regulating destruction are unclear as to what material and related information must be destroyed. Compliance with these provisions imposes a significant administrative burden on police.

The purpose of the destruction provisions is to ensure that a DNA sample obtained from an individual under the act, and any information derived from it, cannot be used to identify that individual if the Chief Commissioner of Police is no longer authorised to retain it. Clause 3 of the bill inserts a new definition of 'destruction' to achieve this objective in a clear and practicable way.

Under the new definition, the act will require the physical destruction of the DNA sample itself, the removal of the DNA profile derived from the sample from any DNA

database on which matching occurs, and the destruction of any DNA profile in any form whereby it can readily be recombined with the name of the person who supplied the sample, unless the DNA profile is held on an electronic system used for forensic analysis by VPFSC.

The amended destruction requirements will be supported by a number of existing offences in the Crimes Act that prohibit the use and dissemination of samples and any related information that should have been destroyed under the act.

The new destruction provisions will clarify and simplify the destruction process. These amendments will significantly reduce the resource burden on police, and will streamline the management of DNA evidence in the criminal justice system.

Retention of a suspect's DNA sample

The Crimes Act permits some DNA samples and associated information to be retained indefinitely. This includes samples taken from suspects who are found guilty and suspects who are found not guilty because of mental impairment. Police must apply for a court order to retain such samples.

This court process adds an unnecessary step to the retention of suspect samples. To streamline the retention process, clauses 11 and 12 of the bill provide for the automatic retention of these samples and related information where a person is convicted or is found not guilty because of mental impairment. This amendment will ensure that all suspect samples and profiles are retained upon conviction or a finding of not guilty because of mental impairment of a relevant offence. This approach is consistent with that of Australian jurisdictions.

The amendments providing for automatic retention of suspect samples will not apply to children. The existing process requiring a court order for retention will continue to apply in those cases.

Elimination samples

Elimination of DNA from people who are not suspects is an important part of evidential analysis. When evidence is collected from a crime scene and analysed in a forensic laboratory, it may inadvertently be contaminated with DNA from investigators, forensic analysts and visitors to the laboratory. The use of DNA evidence in criminal investigations is more efficient if all DNA that is not from a suspect is detected during analysis and eliminated as early as possible.

To facilitate the elimination process, Victoria Police's forensic services currently collect DNA samples from police investigators, laboratory employees and visitors on a voluntary basis. Clause 15 of this bill regulates the existing voluntary system. It provides that a member of police, an employee of the Victorian Institute of Forensic Medicine and relevant visitors may voluntarily provide a DNA sample for the purpose of elimination.

This bill prohibits these voluntary DNA samples from being used under any act or process and restricts their use to elimination from a crime scene.

The bill also regulates the storage, use and destruction of elimination samples to further protect against inappropriate use and retention. In particular, a volunteer may request that their DNA profile be destroyed at any time.

The bill makes it an offence for a person to knowingly use or disseminate the sample provided under these provisions and any information derived from it, including a DNA profile. It will also be an offence to fail to destroy, or to use or disseminate information derived from a voluntary sample that is required to be destroyed.

This new scheme assures volunteers that their personal DNA information will be dealt with appropriately and destroyed in a timely manner.

Questioning of suspects held for another offence

The final key reform in the bill concerns the questioning of suspects who are already detained in custody for another offence. Currently, investigators need to apply for a court order to question a suspect about another offence, regardless of whether the suspect is willing to consent to the questioning. The time it takes to obtain an order can lead to unnecessary delays in investigations.

Clauses 4 to 8 of the bill will allow investigators to question an adult suspect held in a prison or police jail for another offence if the suspect gives informed consent to the questioning. If a suspect does not consent, or is a child or is unable to consent due to mental impairment, then the police must follow the existing process to seek a court order to authorise questioning. This requirement recognises the vulnerability of these suspects.

The bill also makes clear that the provisions regulating the questioning of a suspect detained for another offence are intended to have extraterritorial operation. It is important that investigators be able to question a suspect detained in Victoria about other offences allegedly committed in breach of the law of another jurisdiction.

Consequently, the bill provides that these questioning powers apply to all offences, whether they are alleged to have been committed in Victoria or elsewhere. It allows investigating officials from other Australian jurisdictions to question a suspect detained in Victoria for another offence either by consent or pursuant to a court order. Investigating officials from other Australian jurisdictions can apply for a questioning order or a Victorian investigating official may apply on their behalf.

Conclusion

This bill enhances and streamlines criminal investigation powers in Victoria. It gives police better tools so they can better combat crime. This will enable police to solve more crimes more quickly and thereby help keep Victorians safer.

I commend the bill to the house.

Debate adjourned for Ms MIKAKOS (Northern Metropolitan) on motion of Mr Lenders.

Debate adjourned until Thursday, 21 November.

TRANSPORT ACCIDENT AMENDMENT BILL 2013

Second reading

Debate resumed from 31 October; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr LENDERS (Southern Metropolitan) — I rise to speak on the Transport Accident Amendment Bill 2013 and advise the house that the Labor Party will be opposing it. I do not intend to speak on the bill for long because my colleague Mr Donnellan, the member for Narre Warren North in the Legislative Assembly, eloquently and adequately covered the Labor Party's problems with it, but I will address a couple of areas. Out of courtesy to the house and to the minister I advise that the Labor Party will ask a series of questions in the committee stage on the components of the bill that we have the greatest issue with. I will not repeat those now, but I will talk in general terms about the process of this bill and where part of the Labor Party's anxiety comes from.

The clauses that we have the greatest objection to are clauses 14, 18, 26 and 27, and as I said, we will deal with those in the committee stage of the bill. But we have an issue with this bill in that it changes rights, particularly rights which deal with relief from psychiatric injury. One of the things that has been disappointing about this bill is that several groups — a medico-legal group of psychiatrists, the Royal Australian and New Zealand College of Psychiatrists, the Australian Psychological Society, the Australian Association of Social Workers, the rural social workers network, Road Trauma Families Victoria, the federation of emergency services workers and Mind Australia to name but eight — are critically underwhelmed by the consultation process they have had with the state government on these areas of the bill. Therefore part of our opposition to this bill is that it is being done with undue haste and that the consultation process has been fairly inadequate. I would like to flag that as a particular concern the opposition has with this bill.

The other thing about this bill that I would say is that, other than some fairly brief commentary in the second-reading speech, there seems to be no case made on the need for this legislation other than a general policy across a series of acts to cut back on psychiatric injury claims. We saw that in the superannuation legislation in the last sitting week of Parliament, or it might have been the one before that. There seems to be a general trend for this government to make cutbacks in this area. There has been no compelling case made as to why this is important for the scheme other than the almost opaque and disingenuous discussion that has been going on, and every time it comes back to these rights being taken away.

The Labor Party welcomes the ability to have a clause-by-clause dialogue with the minister as we go through this bill that we oppose to try to get a more lucid description of how some of these changes will apply, because our view, from what we have seen on the Transport Accident Commission (TAC) website, from what we have heard in briefings and from the minister's response, or lack of it, to individual groups, is that this is a draconian cutback of common-law rights. But it is not just that; it is unclear, and on that basis we assume the worst.

I will touch on one other thing in my contribution to the second-reading debate, and I will then conclude my speech because most of my questions will be raised in the committee stage, and there is a long list of people who wish to make points in this debate and I do not want to repeat things that have been said in the Assembly. I want to read into the record a letter I received from a former police officer who is a beneficiary, if that is the term to use, of common-law damages for a psychiatric injury under the Transport Accident Commission scheme and who will have those benefits removed if this legislative change passes through this house.

The policeman's name is Keryn Glen, and I have a letter from him that I am happy to table or show to anybody who wishes to see it. It is a letter he wrote to the Premier, Dr Napthine, and also to the Deputy Premier, Peter Ryan, as well as to the Leader of the Opposition in the Assembly, Mr Andrews, and the member for Gembrook in the Assembly, Brad Battin, because he had taken exception to some comments that Mr Battin had made. He also sent the letter to me and, very bravely, has asked me to put it on the record. I will read the letter. The letter is from Mr Keryn Glen from Mildura, and it states:

> My name is Keryn Glen. I come from a family who are proud to have four generations of police officers. I was a long-serving police officer, and am now retired because of ill health.
>
> I am writing to you and other political leaders because I am aware that there are laws to change the TAC scheme before the Parliament and if they are passed, people such as me would not receive TAC common-law compensation in future. Police and other emergency services workers who suffer severe mental ill health from a fatal road accident would face additional barriers to compensation. I ask you to consider the human cost of a fatal accident on families and emergency services workers and what happens to those who survive.

> I lost my son Matthew James Glen in a fatal car accident on 3 July 2003. On the day of the accident I was working as a traffic patrol officer when my police patrol car received a call to attend the scene of an accident. I was unaware prior to arriving at scene that the accident involved my son, who had been thrown from his vehicle and had died as a result of the accident.
>
> I served as a police officer in Mildura from 1985 until 2006. After attempting to return to office work on a number of occasions, and suffering extreme levels of stress, depression and heart problems, I was medically retired by the police force in August 2006 at the age of 51. I continue to suffer from depression, anxiety and nightmares, all of which has been medically diagnosed. I have received common-law compensation from the TAC, for which I am grateful, and I am aware of other former police colleagues who have received common-law compensation for psychiatric injuries arising from horrific and fatal transport trauma.

As we can see, it was not an easy letter for Mr Glen to write. The letter continues:

> I attended to assist at the scene of a fatal accident in the course of my duties as a police officer, something that police officers must routinely do. Nothing could have prepared me for 3 July 2003. I did not know that this accident would require me to assist my fatally injured son.
>
> You may not think that this could happen to you, but it could happen to any parent, and I do not understand why the government would make things harder than they already are.
>
> I also hope that you can understand that police and emergency services workers, particularly in smaller communities, face a higher chance that when they are called to the scene of an accident it may be someone they know that has been killed.
>
> I have been told that a former police officer said in Parliament a few weeks ago that police officers are not affected by the changes to TAC compensation. I and other police officers who must as part of their jobs attend the scenes of horrific accidents are proof that this is not the case. I understand that had these proposed changes been law at the time of my injury, I would not have been able to access a common-law claim with the TAC. This assistance came at a time of great emotional and financial strain.
>
> Please do not dismiss the experience of my family as a rare and unfortunate instance. This tragedy can happen to any parent, in any country community. There is a risk that what happened to me could happen to anyone. I ask you to show compassion and to understand that nothing prepares you for the loss of your child in a car accident. I am prepared to speak to you privately —

and this is primarily addressed to the Premier —

> if you would give me the time.

I read that into the record — the difficult words of a brave man who offered this — to try to give context to the debate. When we in this house talk about making amendments to the Transport Accident Commission and the scheme that relates to it, and when we talk about taking away common-law rights for compensation in psychiatric injury cases, we are not just making decisions about numbers and hypotheticals; we are making decisions about real people. I thank Mr Glen for putting his case and giving us a very human context to assist the Parliament in making an assessment on whether this legislation is appropriate.

For the reasons I have announced, the Labor Party will be voting against this bill. There are a series of questions we will explore with the minister in the committee stage, particularly on the four clauses that I mentioned earlier, to try to get some clarity on what the detail of this means for individuals.

As I said earlier, Acting President, this is not just a hypothetical; there are people whose livelihoods are affected by this. There is conflicting and contradictory advice coming from government about in what circumstances claims can be made, and these are real people who rely on the TAC for assistance after accidents and the sorts of trauma that come from accidents on our roads. Mr Glen raises the issue of the interface between the WorkCover scheme and the TAC scheme on common-law damages claims, and we want answers from the government on this area. We would need an unbelievable amount of convincing to change our view. We stand in opposition to this bill, but we would like to better understand what policy perspective the government has in putting it forward, and in particular how these clauses will affect individuals if this bill passes this house and becomes law. I urge members to oppose the bill.

Mr BARBER (Northern Metropolitan) — The Transport Accident Amendment Bill 2013 makes changes to the Transport Accident Commission (TAC) compensation and common-law schemes for people who suffer injuries due to a transport accident or, as its purpose clause says, to further improve the operation of the act. Let us talk about what we are talking about: this is a no-fault scheme of road traffic accident compensation based on a compulsory payment made with car registration. It is there to ensure and reassure every Victorian that if they are involved in a traumatic road accident, they will be looked after.

It should be a matter of pride that as a society we have decided to come together to create a mechanism to ensure that for the negative consequences of our transport system we will treat everybody as an equal member of our society and in the process provide a form of, in this case, financial insurance. As is the case for so many of our basic tenets of society, this is a form of social insurance of which we should all be proud, not just for what it delivers but for what it represents. The bill before us attacks that core principle and is in many

ways a threshold that I would not like to see become a precedent for more and more changes as we move down the line.

The Greens have some major issues with the bill. Firstly, consultation has been completely lacking and is desperately needed. By our reading, the effect of many aspects of the bill was not intended by the Transport Accident Commission, hence the need for our reasoned amendment to defer further debate on this bill today and allow the TAC and the government time to undertake a range of consultations with road trauma victims, their representatives and the experts who work in this field. I am happy for that reasoned amendment to be circulated, Acting President, along with my other amendments.

Greens amendments circulated by Mr BARBER (Northern Metropolitan) pursuant to standing orders.

Mr BARBER — I move:

That all the words after 'That' be omitted with the view of inserting in their place 'this house defers reading this bill a second time until 18 February 2014 to allow for public consultation on the bill to be undertaken and for that feedback to be incorporated into the bill by the government.'.

There appears to be confusion among government members between the right to no-fault compensation claims and common-law damages claims, which is a matter that we must clarify during debate on this bill. After talking with the minister's staff and others from the TAC, we can only conclude that in many respects the bill goes far beyond what was intended. Firstly, we need to clarify the operation of the act, and secondly, the intent of the government in bringing forth the legislation.

With regard to those compensation rights, clause 14 provides the TAC with the broad power to exclude any injury from compensation, despite this not necessarily being its intention.

In our opinion, clause 21 will force injured people to either accept assessment of only some of their injuries or pay large sums for their own reports, which may not be considered by the TAC.

Clause 24 is an unnecessary catch-all authority, conferring extraordinary power on the TAC to obtain confidential information.

In relation to common-law rights, clause 26 creates inequality in common-law claims relating to injured and deceased people by family members and emergency services workers depending on how a person was injured or killed, which I believe offends the bedrock principles upon which this scheme was established.

It is our view — for which we have plenty of support — that clause 27 will bar virtually all common-law claims for mental injury. There is no information as to how it was devised and there is no equivalent provision anywhere else in Australia or New Zealand. We believe this is because the principle itself and the way this clause has been conceived is offensive to the principles that generally underpin these sorts of social insurance schemes and other aspects of the welfare system.

We have proposed some amendments to the bill — including the reasoned amendment — to delete clauses 14, 21, 24, 26 and 27 and any associated clauses.

There are some good things in this bill, but they have been blown apart by the bad aspects. The bill confirms that incidents involving the opening or closing of train, tram and bus doors are transport accidents. The bill raises the cap on family counselling benefits from $5870 to $15 000 per family claim. It increases the benefit for travel or accommodation expenses for immediate family members visiting an injured person in hospital from $7310 to $10 000 indexed annually, and that applies to both new and existing claims.

The bill extends reimbursement of reasonable travel expenses to people attending a registered training organisation, TAFE or university. It broadens the entitlement to payment for burial or cremation expenses by increasing the amount and making it CPI-indexed. The bill extends the period in which the TAC can provide taxi travel for a claimant to return to work from 12 weeks to 24 weeks. It increases the cap for aids, appliances or apparatus under individual funding agreements for severely injured clients from a transport accident.

It is for that reason that we have adopted a slightly different approach from that of the Labor Party. We would have preferred to see the bill go out for further consultation. If that course of action is not accepted by the government — which, as we know, has 21 votes out of 40 votes in this place — then we would prefer to excise the bad portions of the bill and leave the good portions intact. Depending on the government's response to our amendments, we may simply end up voting with Labor, which has signalled that it will vote against the bill, and say to the government, 'Go back and get it right'.

On consultation generally, the most cruel and unusual part of this bill is how it has come to be before this place today. For the first time that we are aware of, major changes are being made to the TAC scheme with absolutely no consultation — none, which generally is poor governance. The TAC scheme is an extraordinarily important insurance scheme which, as I have outlined a few times, is a bedrock public asset. To not ask members of the broader public — the total population of Victoria who have an interest in this matter — for their opinion, let alone the opinions of those who directly look out for the interests of victims of road trauma and experts who constantly work in this field, is really quite bizarre and shameful. It is a huge departure from the collaborative approach of previous times when disadvantage is being entrenched in this bill whether or not that is the intention of the government.

The Law Institute of Victoria (LIV), which has something to say about almost every important piece of legislation that comes before this Parliament, was first made aware of this bill when the bill came before the lower house. We are aware that LIV has since had a chance to meet with the Assistant Treasurer's office and reiterate its many concerns with this bill. It shared with us a copy of a letter to the Assistant Treasurer, in which it says:

> Unfortunately, the lack of external consultation by the TAC with the medical and allied health professionals, the LIV and claimant representatives appears to have contributed to the introduction of a bill … which would result in inequities with far-reaching consequences for seriously injured Victorians and their families, and we trust that this is unintended. The lack of consultation is a marked departure from the spirit and intent of the TAC dispute resolution protocols, and also having regard to the Transport Accident Further Amendment Bill —

which will be coming down the line —

> it would appear that the TAC has abandoned protocol processes and years of effort with stakeholders to foster cooperative relationships in the interests of injured Victorians. It is likely that with a constructive consultation process this could have been avoided.

That is the legal community generally giving its view, not individual plaintiffs' law firms which the government has attempted to demonise because of some long-running dispute it has with Labor Party-aligned law firms; that is not what this bill is about. This bill is about letting every Victorian go out on the road knowing that there is a safety net for them. Most particularly this bill is about people who have actually suffered as a result of a traumatic road crash.

Emergency services workers have also urged the government to defer this bill. In a letter to the Premier and Assistant Treasurer the Emergency Services Federation has said:

> The bill should be withdrawn from Parliament to allow for proper consultation and to ascertain whether or not there is any genuine policy basis for any of the changes, or whether the government is merely trying to diminish the numbers of Victorians able to access common-law compensation to enable growing TAC cash reserves to be used for other government purposes.

That is a good point. Heeding their call, the Greens will be asking the government to do exactly that through our reasoned amendment, which calls for the bill to be deferred for a number of weeks to allow for public consultation.

In its letter to the Assistant Treasurer dated last week the Royal Australian and New Zealand College of Psychiatrists said it is:

> … deeply concerned about the lack of consultation not only with the college itself but also with the AMA and the medico-legal group of psychiatrists. This leaves not only us but the community at large with the perception that the government is not interested in the opinion of those who work at the coalface.

In its letter to members the Australian Psychological Society (APS) said it is:

> … concerned at the limited and late consultation with clinical stakeholders regarding the proposed amendments. The APS raised our concerns with the Transport Accident Commission (TAC) at a hastily convened meeting this week. However, it is clear that our concerns are unlikely to be addressed prior to the debate of the bill.

The Road Trauma Families Victoria group told us that they are 'strongly requesting that time be given for further consultation with all stakeholders before any vote be considered'. I was with some members of that group at a press conference on the steps of Parliament this morning, and I hope that press conference is well reported because some very important points and unique perspectives were put forward. They said:

> We are quite confused as to why such a huge jump into a change to the act is a priority at all when the simple first step of evaluation and feedback from victims would clearly identify where the problems are and areas for improvement.
>
> Dollars are being viewed as more important than the reality of the TAC lack of victim support.

Road Trauma Families Victoria is concerned that government members are not fully informed of what they are planning to vote in support of today. It remains to be seen how many government speakers will come forward to demonstrate that they are fully aware of the bill for which they will be voting and that they fully understand its implications.

With this bill the government is making the TAC process more difficult for claimants when in reality more support is needed for claimants. Road Trauma Families Victoria has indicated to us its strong view that case management is urgently needed throughout the TAC process:

> … so that accurate measurement and longitudinal reviews and support can be tangible and ongoing through case management models. Victims need immediate, short-term and long-term support with ongoing reviews and personal contact —

which is best provided by a case manager. If the government and TAC would consider going down this road, they may actually find a cost saving in the long run. The measure that has been put here in an attempt to save money — I think this is at the base of it — could in fact turn out to be penny wise and pound foolish. This is not to mention the human cost that will be racked up over time.

Another person who has been touched by road tragedy in his family is Rohan Moore, whose pregnant wife, Lauren, was injured and whose unborn child was lost in a road crash. Mr Moore has an online petition with more than 17 000 signatures addressed to the Premier and Assistant Treasurer, and I will quote the terms of the petition:

> I urge you scrap TAC accident amendment bill 2013. This bill will hurt Victorians who have a psychological injury and has much wider impact on other injured people too.
>
> Please consult widely with mental health professionals and injured road trauma victims before drawing up new laws for the TAC.

Obviously there is serious concern right across the community, yet the government is refusing to listen and refusing to budge.

The bill contradicts the purpose and the extremely important philosophy behind the transport accident scheme and is counter to the cooperative way in which the scheme has been managed until now on behalf of all Victorians.

I will have a number of other comments when it comes to my amendments, which I will deal with in the committee stage, as well as a number of questions that go along with the individual clauses concerned. In the interests of allowing other members to come forward and make their contributions to the debate, I will stop there and pick up those matters during the committee stage of debate on the bill.

The ACTING PRESIDENT (**Mr Tarlamis**) — Order! Before Mr Ondarchie commences I remind members that we are now speaking on the bill as well as the reasoned amendment moved by Mr Barber.

Mr ONDARCHIE (Northern Metropolitan) — I rise to speak on the Transport Accident Amendment Bill 2013 and Mr Barber's reasoned amendment, which I will go to first. The government will be opposing Mr Barber's amendments.

I am advised that there has been a significant amount of consultation with senior psychologists and an academic group, including the Office of the Chief Psychiatrist, the Department of Health and the TAC clinical panel. Delaying this legislation will delay extra benefits for Victorians, and for that reason the government will be opposing Mr Barber's reasoned amendment.

The bill will improve the operational efficiency of the Victorian transport accident scheme through clarifying the original intent of the current legislation, reducing scheme costs and increasing some claimant benefits. It will also address court decisions and anomalies that have adversely impacted upon the operations of the Transport Accident Commission.

The measures contained in this bill include extending the time to make a dependency claim for dependants of a transport accident claimant who are under 18 years of age. The bill also provides for the inclusion of occupational therapy as a medical service, following changes to national health practitioner regulations. The bill amends the definition of 'travel expenses' to include travel to universities, TAFE colleges and registered training organisations, and amends the definition of 'transport accident' to include incidents involving the opening or closing of train, tram and bus doors.

The bill repeals part 2A of the principal act to finalise the government's response to the collapse of the Farrow Group of Societies in 1991. It also provides that TAC board directors will send a written resignation to the minister rather than to the Governor in Council. It excludes people from being eligible for benefits under the TAC scheme where they have been convicted of an offence in another state or territory that corresponds to an offence in Victoria that would make them ineligible to receive benefits. It includes commonwealth laws or proceedings under commonwealth laws in the definition of 'a place outside of Victoria'. It also clarifies that a person must have a claim in their own right to pursue common-law damages for injury.

The bill clarifies that the TAC is only required to determine the degree of impairment that is related to a transport accident and the method for apportioning the

degree of impairment due to that accident, and provides that the minister will approve the issuing of guidelines that modify or override the American Medical Association's guides used for impairment assessment. It clarifies that diminution of hearing must be assessed as a binaural hearing loss, and that vocational rehabilitation services can be funded as a medical or like expense rather than a function of the TAC.

The bill increases the family counselling cap from $5870 to $15 000 per claim, and increases funeral, burial and cremation expenses from approximately $10 592 to $14 135 per claim. It extends the period to claim for travel expenses from 12 weeks immediately following the accident to 24 weeks throughout the life of a claim, and increases non-client travel and accommodation expenses from $7310 to $10 000 per claim.

The bill provides that the TAC will be liable to reimburse only the cost of medico-legal reports jointly requested by the TAC and the injured person. It provides for the indexation of the TAC clients' contribution towards their daily living expenses in shared supported accommodation and provides for increases in the caps on aids, appliances or apparatus that can be purchased under individual funding arrangements from $200 to $1000. It provides that TAC clients will be required to sign an authority to release relevant information to enable the TAC to process, assess and manage their claims. The bill provides the TAC with the power to cease or review its liability to pay compensation in certain circumstances, such as when a claimant does not accept suitable employment or undertake reasonable vocational rehabilitation services.

The bill clarifies that the TAC is not liable to pay common-law damages for mental injury due to injury or death of the tortfeasor, and adds clinical criteria to the definition of a severe long-term mental injury or long-term behavioural disturbance or disorder for the purposes of defining a serious injury. It increases the time limit within which to initiate certain criminal prosecutions from two to three years after an alleged offence has occurred, and extends the definition of an employer of a person who was killed or injured in a transport accident.

The TAC is a government-owned organisation that was set up in 1986. The commission pays for treatment and benefits for people injured in transport accidents, promotes road safety in Victoria and improves Victoria's trauma system. Funding used by the TAC to perform these functions comes from payments made by Victorian motorists when they register their vehicles with VicRoads. The TAC scheme is a no-fault scheme, which means that medical benefits will be paid to an injured person regardless of who has caused the accident. The Transport Accident Act 1986 guides the TAC in the types of benefits it can pay and any conditions that apply. To ensure it remains a long-term compensation scheme, the TAC uses its funds fairly and responsibly. This ensures that the TAC is able to meet the needs of seriously injured people who need lifetime care.

This bill enables the government to introduce guidelines to address issues and other anomalies that arise with the application of the American Medical Association *Guides to the Evaluation of Permanent Impairment*. Any guidelines issued will be subject to a regulatory impact statement.

The bill clarifies that injury or death of a person through suicide, intention to commit suicide or predominantly through their own negligence does not give rise to an action by another person for damages with respect to mental injury, including nervous shock, where the other person was not directly involved in or witness to the transport accident.

Currently under the Transport Accident Act 1986, family counselling benefits are capped at $5870 per claim. The bill we are debating today will increase the cap on family counselling benefits to $15 000 per family claim. This will allow an immediate family member of a person who is killed or severely injured in a transport accident significantly improved access to mental health treatment to address their very understandable grief.

Currently travel or accommodation expenses for members of the immediate family visiting an injured person in hospital are capped at $7310. This bill increases that benefit to $10 000, and it will be indexed annually. The Transport Accident Act currently provides for the payment of burial or cremation expenses up to $10 592.66 in the event of a death arising from a transport accident. This bill introduces a far more flexible approach for assisting bereaved families by expanding this entitlement to cover a broader range of funeral expenses up to $14 135 and provides for this amount to be indexed in line with the consumer price index.

This bill extends the period available for those who receive assistance with travel to work from 12 weeks to 24 weeks. The act currently has a cap of $200 for aids, appliances or apparatus that can be purchased by clients under the terms of individual funding agreements. The bill increases that amount to $1000. The bill addresses

an anomaly for dependent children who are under the age of 18 at the time of the transport accident to ensure that they can make claims for dependency benefits at any time before turning 21 years of age. The bill will increase the time limit for certain criminal prosecutions under the act from two to three years after the alleged offence occurred.

I refer to the contribution made by Mr Lenders. I note that the Labor Party wants to talk in the committee stage about clauses 14, 18, 26 and 27. Mr Lenders talked about psychiatric injury and consultation with stakeholders. I remind the Parliament that the Office of the Chief Psychiatrist has been intimately involved in the construction of this bill. We have consulted with the Department of Health and the Transport Accident Commission medical expert panel as well. In saying that, my prayers go out to Mr Glen from Mildura on the loss of his son, and I extend my condolences to Mr Glen and his family. I have some experience of such a loss. I recently attended a motor vehicle accident only to discover that it was somebody I knew. No words can compensate Mr Glen for his loss, and my heart goes out to him. The issue around emergency services workers, such as police, fire brigade and ambulance officers, attending these sorts of accidents and the mental anguish they suffer as a result of that is something that can be dealt with through their own WorkCover scheme. We suggest that those who are affected pursue these avenues through their employer scheme.

The decision around not allowing claims by family members of deceased relatives who are at fault in a fatal crash is not one that this government makes lightly; however, a tragic set of incentives forced us to make this move. We do not want people to think that if they commit suicide through a car accident, their families will get compensation. Not only is this dangerous for those with suicidal tendencies, it is also dangerous for others on the road. We would like to stop that.

I have been actively involved in mental illness prevention and help strategies, and I am concerned about the fate of the mentally ill as much as anyone in this place. This bill does not take away the ability of the mentally ill to make a claim; it just means they have to have suffered a significant intervention in their ability to live their day-to-day lives. Those with a serious mental illness will still be able to get compensation through access to counselling services across the three-year period that they have to wait for a lump sum payment. The government has not abandoned mentally ill people. It just wants to make sure that claims for lump sum payments are given to those who are deserving. They have a right to make a claim against the Transport Accident Commission, and if that is not successful, they can access the County Court.

This is a serious bill. In a sense it is worth noting that serious mental injury requirements have been tightened. The definition was made by the chief psychiatrist of the Department of Health, Dr Mark Oakley Browne. The qualification for a compensation claim will be that you will have suffered significant long-term mental injury as the result of road trauma over three years. We have taken expert advice on this bill.

The opposition is worried that the bill will limit the ability of emergency services workers to claim compensation under the law from TAC and that it means a lack of compensation. However, I remind the opposition that if emergency services workers experience sad trauma in their workplace, they will still be able to make a claim under WorkCover.

As I outlined earlier, this bill lifts the caps on family counselling benefits, burial and cremation expenses, accommodation expenses and any aids, appliances and apparatus needed. The bill enables TAC to reimburse medico-legal report expenses if the medico-legal report is requested jointly by TAC and the person who was injured. I have already talked about the increase in the time limit for criminal prosecutions.

The bill makes sure that those who make a claim for a mental illness are those who are deserving. We will make sure that it is not an incentive for those thinking about suicide so that families receive compensation as a result. Who knows how people think at the time they commit suicide? As I expressed to the house, recently I lost a friend who took their own life. This is a highly emotional bill and the government recognises that. We are putting TAC on a sure footing to make sure that those who should rightly get compensation do get compensation. The government opposes Mr Barber's reasoned amendment and commends the bill to the house.

Mr MELHEM (Western Metropolitan) — Rising to speak on the Transport Accident Amendment Bill 2013, I note the Labor Party supports Mr Barber's reasoned amendment. The bill presented to this chamber can be summarised as a cowardly and socially blind reform. It is an attack on those who, for one reason or another, find themselves in an incredibly vulnerable position. The only rationale for the bill I have heard so far lies in the budget's bottom line. This government will shamelessly cling to achieving a surplus no matter how many people it must disadvantage in the process. According to the minister, this so-called reform package will save the Napthine

government around $30 million to $35 million a year. Last year the Transport Accident Commission (TAC) made a profit of $973 million, and the Napthine government received a hefty dividend from that.

No case has been made for these changes. When a government proposes reforms in relation to compensation, whether involving TAC or workers compensation, it has to put the case for the reform. Is the scheme running out of money? Are there hundreds or thousands of claims being putting in, with people abusing the system? Is the whole scheme in chaos? That is not the case with TAC. It is a very profitable scheme. Most of the claims that will be excluded by this legislation — which in my understanding number not even 20 or 30 a year — do not even make it; they are not even successful. For the life of me, therefore, I cannot understand why, for the sake of saving $30 million or $35 million, we are going to take these rights away from these victims.

We need to understand why TAC is there in the first place. It represents a premium paid by motorists in Victoria basically to provide care for and look after people who are injured on our roads. What we are doing here is punishing some of those people. As I said earlier, if the scheme was in disarray and losing heaps of money, and if people were abusing the system, I would get that we would need to do some reform and streamline the system, but that is not the case here. Why, then, attack the most vulnerable people?

I will go through a particular case in a minute, but first I will go through some of the amendments this legislation's clauses will make. Clause 14, for example, relates to the modification or overriding of the American Medical Association guides. I do not understand why we would want to take those away — why, rather than relying on the American Medical Association guides, we would instead give TAC a blank cheque in its determination to use whatever guide suits it in relation to some of these issues.

Another clause relates to reimbursement of medical report costs. The change means that unless the Transport Accident Commission and the claimant jointly apply for a medical report, TAC will not pay for it. Some of these reports cost somewhere between $3000 and $5000. At the moment the claimant can seek a medical report, and TAC will pay for it if seeking of the report is reasonable. If there is an argument about the word 'reasonable', the courts or other jurisdictions can deal with that, but making this change very simply means that right is taken away. The clause means that unless TAC agrees and there is a joint application for a medical report, then bad luck; you have to pay the money yourself. As I said, $3000 to $5000 is not a small amount.

Another clause relates to the issue of authority to release information; again there is further restriction there.

Clause 27 relates to what the test for compensation is. Under the proposed changes a person must demonstrate that for a continuous period of three years they (a) have had a mental illness as a result of a transport accident, (b) have not responded to treatment provided by a registered mental health professional and (c) have severely impaired relationships and social and vocational functioning. A lot of people go through mental illness over a period of time — it could be 6 or 12 months — and then feel a bit better, so they try to get themselves back together and go back to work but during that period have the problem triggered by something again.

Mental illness is not like a physical injury. With a physical injury such as a broken arm, you can go and get it put together again and have a plaster put on or have an operation and so on, and then you are good again, but mental illness is not like that. Mental illness comes and goes. In cases where people are feeling better so they go back to work and think everything is good and then suddenly have a recurrence, those people could miss out because the illness has not been continuous for three years. I do not know where the government is coming from.

I have a relevant example, a case of a 49-year-old cyclist. I will refer to him as Richard for the sake of legal confidentiality, but I am happy to provide the details if I need to. This case was successfully defended by Maurice Blackburn lawyers. This cyclist was travelling downhill at 50 kilometres per hour when he collided with a car which had attempted to turn across his path. After surgery and rehabilitation for his physical injuries, which included a bladder rupture and various other injuries, he was discharged from hospital. However, he was not able to work for an extended period of time due to psychological issues, including post-traumatic stress disorder, nightmares, heightened anxiety and low mood. Richard is now back to working four days a week. He still suffers flashbacks. Under the proposed changes Richard would not receive any support or compensation for the mental harm that he has suffered and continues to suffer.

There is an additional problem in that there are large numbers of individuals who for a variety of reasons are either unable or reluctant to seek appropriate mental health treatment. The World Health Organisation has

said that 400 million people worldwide are affected by mental illness and about 20 per cent reach out for treatment. Despite the work of organisations such as beyondblue, there is still much stigma attached to seeking mental health treatment. This will be especially true now that people will have to prove that they have been mentally ill for three years, and if they cannot prove that, they are not covered — they cannot seek compensation.

Clause 26 makes changes regarding common-law damages claims for mental injury due to injury or death, again making much higher the hurdle that people have to jump over. I see the Assistant Treasurer shaking his head. He may be able to clarify that later on, and we would be happy to hear that clarification. We are supporting Mr Barber's reasoned amendment, which calls for further consultation, so that all these issues can be clarified and we will all be happy people.

Mr Barber — A Greens-Labor alliance!

Mr MELHEM — We can do exactly the same thing as we did with the WorkCover legislation last week.

Former High Court Justice Michael Kirby in his judgement on *Coates v. Government Insurance Office of New South Wales* said:

> … it is as much the direct emotional involvement of a plaintiff in an accident or perilous situation, as her or his physical presence at the scene or directly at its aftermath that is pertinent to the level and nature of the injury suffered, and the consequent psychological damage.

That is why we need to be very careful about tweaking or making changes that make it difficult for people to make claims for having sustained a mental injury as a result of witnessing or being involved in an accident.

Emergency services providers and personnel, the Emergency Services Federation, psychiatrists at the Australian Medico-Legal Group, the Law Institute of Victoria, Maurice Blackburn, Slater & Gordon, Ambulance Employees Australia, the United Firefighters Union and the Police Association have all opposed the changes that the government is pushing through this Parliament. Each organisation has offered to collaborate with the government so as to ensure that injustice does not result from this legislation. Every request has been ignored by this government.

The bill is cowardly, cruel and callous to those who have suffered mental harm. As I said, no case has been made for these changes apart from a projected saving of $30 million to $35 million. The government should reconsider its position. The bill is another kick in the guts to the most vulnerable Victorians. It will go on to add to the policy wasteland that is the only legacy the Napthine government will leave behind.

As I said, the government has not made a case for the legislative changes. The TAC scheme has made $973 million — it is a very profitable scheme. If the minister thinks we are just talking propaganda, he will have his chance to tell us we are wrong and he is happy to rewrite the bill to give comfort to potential victims of mental injury that if this legislation passes they will not be negatively affected. It is very simple: the minister can stand up and say, 'No Victorian will be worse off under the proposed legislation than they would be under the current legislation'. It is a simple test, but I bet that commitment will not be made. For these reasons, I ask members to oppose the legislation and vote against it.

Mrs COOTE (Southern Metropolitan) — I take a great deal of pleasure in rising to speak on the Transport Accident Amendment Bill 2013. In their haste to come up with criticisms of the bill, it is a great shame that members of the opposition and the Greens — as Mr Barber so rightly said, the Greens-Labor alliance — have forgotten to have a look at its many benefits. It is a great shame that they have not highlighted some of the ways Victoria does so well with the Transport Accident Commission (TAC).

To reiterate and follow on from what Mr Ondarchie said, presently the TAC is able to provide travel and accommodation expenses for the immediate family of the injured person in hospital; however, this amount is capped at $7310. The bill increases that amount to $10 000 and allows it to be indexed annually, helping family members to spend more time with their hospitalised loved ones. This is an important issue.

Funeral benefits are not pleasant to talk about, but it is essential to understand that currently funeral benefits are covered by the TAC; however, burial and cremation expenses are capped at $10 592. The bill increases this amount to $14 135 and allows it to be indexed. These are important initiatives. Likewise counselling expenses for family members are currently capped at $5870 per family claim, and the bill increases this to $15 000.

I recently had occasion to have a close look at the TAC in the context of a national approach. With the introduction of the national disability insurance scheme we have had a close look at how a no-fault claims scheme works, what insurance does and what is being done in Victoria vis-a-vis other states. All of us should stop for a moment and think about how successful we are in Victoria and how well our system works. This

bill reflects some of the particular issues experienced by people who are under stress at the time of an accident. We have addressed that, and the bill is very good.

Someone in this state who has a traffic accident can get huge benefits, including the ones I have just outlined, being counselling, funeral, cremation, travel and accommodation expenses. If you look at what happens to a person who is given that sort of support in comparison to someone in this state who is born with a disability, you see that they get nothing. They have to scrimp, save, barter, bargain, lobby and beg for everything. However, under the bilateral agreement the Victorian government has made with the federal government for the national disability insurance scheme, which is built upon some of the frameworks of the TAC scheme, this will change for the benefit of all people in this state who have a disability. It needs to be understood that a provision for no-fault claims is an important element, and in the debate we are having today we must remember how successful the TAC is.

This bill fundamentally reforms the TAC scheme and makes important changes to the way it operates. It is important because, as the Treasurer said during his second-reading speech, it will ensure that the scheme remains financially viable so that it can support injured Victorians into the future. This is absolutely vital. Although we have reduced the road toll in this state, there are still far too many accidents, and the subsequent injuries have long-lasting, lifetime effects on people. We must have a sustainable program, and this bill goes a long way to achieving that.

Some of the key amendments contained in the bill include that it clarifies the definition of a severe long-term mental or severe long-term behavioural disturbance or disorder for the purposes of the serious injury provisions. It repeals part 2A of the act, which deals with the TAC's obligations in relation to the winding up of the Farrow Group of building societies and associated entities. These are small technicalities, but it is important that we have clarity. As we have said in this chamber before, we as a government are about reducing red tape and making it easier for people to work with government and understand government rules and regulations.

The bill extends the reimbursement of reasonable travel costs to a person attending a registered training organisation, TAFE institution or university who was studying before their transport accident but is unable to travel by their pre-accident means of transport because of their injuries. This is a sensitive approach. It is about looking at what issues actually affect people who are engaged with this program, and as a consequence that is the success of the bill.

In conclusion, the bill will strengthen the TAC scheme. It will also provide more equitable funding for families in various situations. It is about fairness along with maintaining the financial viability of the system. I commend the bill to the house.

Mr SCHEFFER (Eastern Victoria) — The Transport Accident Amendment Bill 2013 makes a number of changes to the Transport Accident Act 1986 that diminish access to benefits by persons or families of those who are killed or seriously injured in transport accidents, and the opposition will not be supporting the bill. The bill has generated widespread alarm, and Labor members will not support it, because we believe the provisions in the bill will diminish fair access to compensation.

Suspicion is immediately aroused when we read in the second-reading speech that the purpose of the bill is to maintain the integrity and improve the operational efficiency of the transport accident compensation scheme to ensure that it remains financially viable. These are honeyed words, and when the second-reading speech tells us that there is nothing to worry about because the coalition is simply extending the fixed-cost approach that Labor took in 2010 in relation to the Victorian WorkCover Authority, we know we have to tread carefully because there has to be something up the coalition's sleeve — and there is.

For a start, Labor's 2010 changes to WorkCover came after an exhaustive consultation phase before any legislation was introduced, and it is pretty clear that the coalition has done none of that. Secondly, the government has indicated that it will consult with stakeholders on the details of the revision of the legal costs from the day after the bill receives royal assent and is passed into law. Opposition members believe it would be completely irresponsible to support this legislation when we have not seen the detail of the proposed revised costs. Labor will not be supporting the provisions in the bill, because its provisions deny compensation to family members of close relatives who are severely injured or who die as a result of a transport accident.

By any measure, the transport accident compensation scheme in Victoria is a successful insurance system that over time has provided medical benefits and compensation on a no-fault basis and has allowed people who have survived a serious injury to make common-law claims for damages, and Mrs Coote attested to that in her contribution. The current scheme

permits family members to claim for mental injury and nervous shock when the family has suffered the death or serious injury of a close relative — that is, a family member. I think Victorians universally consider it to be a fair and measured approach to have an insurance scheme that supports all citizens who at times of crisis have unforeseen costs, experience severe stress and may need counselling or mental health support.

We on this side assess the amendments contained in this bill to be a cruel and savage attack on the accepted rights of road trauma victims. The bill will heap further harm and suffering on family members after they have already experienced the death of a close relative in a transport accident, because under this legislation they can only claim to have suffered if they can prove that they have been unable to work for three years after the accident. The widespread concern is that these provisions mean that people who do not work — for example, children, retired or disabled people or those unable to work for some other reason — will be unable to meet the requirement to prove that they have been unable to work for three years after the accident.

Clause 27 of the bill states that serious injury will be defined as a severe, long-term behavioural disturbance or disorder lasting for a continuous period of at least three years. The bill introduces a test that requires a person to prove and demonstrate that their mental illness is the result of the transport accident and that for a three-year period they have not responded positively to professional medical treatment. A person is required to prove that over a three-year period their social relationships have been impaired and their functioning at work has been severely diminished. The problem with all this is that it ignores the fact that mental illness does not follow the kind of regular pattern that the test assumes. Mental illness, as we all know, is sometimes worse and sometimes better. Its symptoms sometimes recede and at other times worsen, depending on factors in the environment or deep within the psyche of the person who suffers the condition. Under this legislation affected people will not be eligible for the support they need to put their lives together after a transport accident has had a profoundly shocking effect on them.

As if this were not enough, clause 26 of the bill removes the existing right of family members to make a claim where the family member was not involved in the accident or did not personally witness the accident. Clause 26(2A)(d)(i) states that family members cannot claim where the deceased or injured relative suicided, where the injuries were sustained through an attempted suicide or where the negligence of the deceased or seriously injured person caused the accident.

During this debate the opposition has put the example that an emergency worker who suffers a severe psychiatric reaction as a result of attending an incident in the course of their work would not be eligible for compensation because he or she was not involved and was not a witness to the accident. Is that fair? Another example we have used to illustrate the unfairness of this bill is where a number of young people are involved in a motor vehicle fatality. If the driver of the vehicle, one of the four people killed, is found to have caused or contributed to the cause of the fatality, the parents of that young person, no matter how stressed and psychologically harmed they are, cannot bring a compensation claim to assist them through their stress and heartache.

It is longstanding practice in Victoria for the Transport Accident Commission (TAC), when determining the eligibility of an injured person to receive compensation, to rely on medical guides that are approved by the American Medical Association — guides that are internationally recognised. This legislation, however, gives the minister responsible for the Transport Accident Commission the power to determine the eligibility of a person to secure compensation. Under these provisions the minister can also determine whether or not medical bills are covered if he or she does not agree with the patient's choice of doctor. This unprecedented extension of the minister's power has caused dismay and drawn widespread criticism. It is becoming a habit for the government not to consult with experts or with potentially affected parties when drafting legislation, and this bill is no exception. I am advised that the minister and the government did not effectively consult — or consult at all — with medical doctors, psychiatrists, lawyers or people affected by transport accidents when drafting this bill.

None of this goes, however, to the fundamental question of why the government would want to do this to vulnerable Victorians. After a transport accident people are at their weakest; they are at their most hurt, disoriented and vulnerable. Of course if we follow the money trail, we will find that in the 2012–13 financial year the TAC produced a $973 million profit. We also know that the coalition has taken dividends for each of the three years it has been in office, and the government is now keen to limit the financial run down. Grieving families and those injured on our roads are marked in this bill to be the ones to pay the $35 million that the minister says these amendments will bring in.

Mrs MILLAR (Northern Victoria) — It gives me great pleasure to rise to speak on the Transport Accident Amendment Bill 2013, which aptly demonstrates the coalition state government's

commitment to simplifying procedures surrounding transport accidents and providing a better deal for all parties involved. The purpose of this bill is to clarify and improve: it aims to clarify the intent of the original transport accident legislation and to improving the effectiveness with which the Victorian transport accident scheme operates. I know full well that the Victorian transport accident scheme needs to operate in the most effective manner possible. Although I am pleased and grateful to reflect that I have never personally been involved in any motor vehicle accident during my 24 years as a driver, I am aware of the huge impact of road trauma on families and the community.

Here is, I think, an opportunity to reflect on the experience of those who have lost loved ones through accident trauma in the past — family members, dear friends, those with great potential and talent, lost to their communities. We express the sympathy and sorrow we have for those left behind by these tragedies. Whilst this bill will not apply to those injured or killed in past road accidents, we reflect on their experiences, their pain and their loss in seeking to improve support for those who will face the same tragic experiences into the future.

During my short time in this Parliament I have personally come across no less than two incidents at the Ravenswood interchange. The most recent of these was a serious motor vehicle accident at that intersection only last Friday, which occurred only minutes before I came through the intersection returning from St Arnaud. At this very chaotic accident scene there were people getting out of their cars to halt other cars and there were people assisting injured persons in the car while they waited for the paramedics to arrive — all of which happened during the few minutes I was at the interchange.

Motor vehicle accidents have real impacts and affect Victorians every day. The people in those accidents deserve simple, clear and effective processes to help them receive the treatment and benefits that they are entitled to at a time which is extremely difficult for them.

In the case of the Ravenswood interchange, I am pleased to reflect on the fact that the coalition government led the way on addressing this intersection by announcing a $41 million investment to improve it. This funding was then matched with a $45 million announcement from the then coalition opposition and now federal government. Continuing to invest in roads and road infrastructure, like the Ravenswood interchange, which are the location of serious motor vehicle accidents over time is one way in which the state government is addressing and reducing the road toll and the number of motor vehicle accidents.

Addressing and reducing the road toll is a priority for the coalition government. I think we are all in this place pleased to reflect on the fact that this year's road toll is down significantly on previous years, with 196 deaths in the year to 11 November 2013 compared with 241 in the previous year — a reduction of 18.7 per cent. This is still 196 deaths too many, and it gives us all the incentive to keep working on this priority. But the downward trend is an important one that we all want to see continue. I wish to also reflect here on the fact that the Minister for Roads, Terry Mulder, noted this week that the number of road trauma deaths in the 18 to 20 years age group has halved this year and say how pleased we all are to know that this is the case.

This government is working actively to reduce the road toll through a variety of measures, such as investing in and upgrading roads right across regional and rural Victoria, including many in my own electorate that I have been involved in; working on campaigns and tools to assist with driver education, including, as announced by Minister for Technology Gordon Rich-Phillips, a new website for parents of young drivers to help them actively assist their children with becoming better and safer drivers; and finally, through enacting legislative reform.

Often forgotten in the discussion on reducing the road toll is the very important role played by innovations in automotive engineering. We talk about education, legislation and improved roads, but we often forget that it is innovation in braking systems, the introduction of seatbelts and airbags and other engineering design enhancements which have most critically seen a dramatic reduction in the road toll since the horror period in 1970 when 3798 Australians were killed in motor vehicle accidents compared to an Australian road toll of 1309 last year.

In a thought-provoking article which appeared in the *Australian* of 18 September, former Labor federal member for Robertson, Barry Cohen, noted:

> Australia's contribution to stemming the road toll can be attributed to initiatives taken by state governments, particularly Victoria. We didn't invent the seatbelt, but thanks to the Victorian Legislative Council we were the first country where wearing one was made compulsory. The impact was dramatic. By 1973, all states and territories had compulsory seatbelt legislation.
>
> So too with the breathalyser. Australia didn't invent it, but we ensured its use was enforced.

In the same article Barry Cohen referred to Ralph Nader's 1965 book entitled *Unsafe at Any Speed* and went on to say:

> Nader's campaign about dangerously designed vehicles had a profound impact. US congressmen and senators took up the issue with the media.

He remarked that Nader summed it up succinctly when he said:

> It is faster, cheaper and more enduring to build operationally safe and crash-worthy automobiles that will prevent death and injury than to build a policy around the impossible goal of having drivers behave perfectly at all times under all conditions in the operation of a basically unsafe vehicle and often treacherous highway conditions.

I think that statement is particularly telling in this context.

Barry Cohen went on to conclude his article by saying:

> The endless headlines about tragic deaths have inured our governments to the road toll and made them complacent. They have become convinced that any further reduction will depend on reining in the nut behind the wheel. Instead they should trust our engineers and scientists to continue their work of the past four decades and achieve a zero toll. I long for the day when families no longer fear the knock on the door in the middle of the night.

Whilst taking all of these vitally important actions to decrease the road toll and road trauma in this bill we are also focusing on improving the system for those who are directly and tragically impacted by motor vehicle accidents.

Other members have already spoken at length on the provisions in the bill, so I would just like to briefly speak on some of the provisions which I feel are significant and warrant noting. Clause 6 of the bill proposes to insert the definitions of 'RTO' — which stands for registered training organisation — 'TAFE institute' and 'university' into the act and extend provisions in the act to allow for the reimbursement of reasonable costs to a person who was attending a registered training organisation, TAFE institution or university but can no longer do so using their pre-accident means of transportation. This clause in itself allows for those who are involved and injured in transport accidents, those who have previously been studying, to carry on their normal life in a dignified and reasonable manner. Without this clause the majority of people attending the institutions I have already mentioned would otherwise be unable to do so post-accident.

Clause 7 expands the act to include transport accidents involving tram, train or bus doors. Previously no incident involving a tram, train or bus door was considered a transport accident under the act, thus preventing the victims involved in such incidents from receiving treatment or benefits that any other transport accident victim would be provided with. It is common sense that the definition in the act allow for these types of incidents to be classified as transport accidents.

Clause 17 increases the family counselling cap. Counselling is provided to the families of people who die or are severely injured in a transport accident. It allows for members of the victim's family to come to terms with the accident and assists with what is a most difficult time for all parties involved. The coalition government is committed to raising this cap to $15 000 per claim from the previous limit of $5870 per claim, which is almost $10 000 extra per claim. I am sure it will provide real and meaningful assistance to the families and victims of transport accidents.

Clause 18 increases the client benefit to provide for the cost of funerals, burials or cremations up to an amount of $14 135. It removes a huge burden from the shoulders of the family members of a victim who dies in a transport accident. The families of many victims will not have saved or budgeted for funeral expenses, and as such this clause will make life easier for them at a truly difficult time.

Clause 24 proposes an extension of the time in which travel expenses can be claimed by the victim of a transport accident in travelling to and from work. Previously this period had been limited to 12 weeks; however, clause 24 extends it to 24 weeks.

The improvements, clarifications and common-sense simplifications made by the bill to the Transport Accident Act are numerous. The increased benefits will be both real and great. The bill will ensure fairer outcomes for all people at a time when they most require it — that is, as a victim of a transport accident. It will improve the circumstances of not only the victim but their family members as well, who no doubt share in the difficult and frequently traumatic circumstances surrounding a motor vehicle accident. For these reasons it gives me pleasure to commend the bill to the house.

Mr LEANE (Eastern Metropolitan) — In opposing the bill I would like to reacquaint the chamber with something said by the Minister for Housing this morning, when she said that in tough economic times like these the soul of a government can be seen in the areas it prioritises for funding. That could also be said of funding cuts as well. The government will be judged on this bill and actions that arise from it. The government hopes to save around $35 million. It has

gone through a process of very little consultation with the people it will affect, and it will take away workers rights.

I understand the changes the bill will make. Emergency services workers who make a claim in the future as a result of witnessing a horrific occurrence — say, a traffic accident that has cost of a life — will have to have been present at the time of the incident. I take on board what Mr Ramsay said in his 90-second statement today when he talked about people on our side coming from backgrounds of being union officials. I can tell Mr Ramsay that I spent a long time working as an electrician, and for a number of years I worked in a service that had responsibility for maintaining traffic signals across Victoria. This type of work was termed an 'emergency service', because obviously you cannot have traffic signals on the blink and you cannot have a traffic pole on the ground where there is the potential for people to come into contact with electricity.

A number of times while I was doing that role I was called out — it was usually in the early hours of the morning and when the weather was inclement — to a severe accident where there had been a fatality. I had to isolate the power from the traffic signal pole when there was a car with one or two dead people in it. My role was to isolate the power to the pole to make it safe for the other emergency services — the State Emergency Service, the fire brigade and the police — to get access to the smashed car in order to do what they had to do in terms of removing the bodies and the smashed car and making the area as safe as they could.

From then I was not to leave the site during that process in which the police take measurements of the roads and a number of other things after the bodies have been taken away. I had to be available on the site for up to 5 or 6 hours so that the other emergency services personnel could call on me to do any other alterations to the traffic signals around the area to assist them in their work. When the bodies and the debris from the carnage were finally taken away and the other emergency services personnel had gone, my job was to get the traffic signals back up and running, whether that meant doing so with one less traffic pole or calling in other personnel to help me put another one up. Most of the time it was safe enough to leave one of the traffic signals out overnight, and then a day crew would come along and fix the pole. So I would be there by myself after the police, the fire brigade and the State Emergency Service personnel had gone.

Anyone who has attended a scene like this understands that the paramedics do not muck around. They do whatever they have to do, and then — rightly so — they rush back to the depot or perhaps the morgue or hospital. They would leave bandages covered in blood and a lot of used medical equipment at the scene. I would get the power pole back up, but I would also clean up any debris, including that medical equipment.

I was never there when the cars smashed into the poles and those people died — and the cops, the fireys and the ambos were never there at that time — but as I said, from firsthand experience I can say that just because a person has not witnessed a horrible event when it happened, when someone's life ended, that does not mean that they would not have residual trauma from being involved in that sort of situation. It would be misguided of the government to take away the right for any claim for residual trauma, no matter how long after the event the claim is made. It would show complete and utter disregard for what our emergency services workers have to deal with and have to do.

If this move is simply about saving less than $35 million, it would be petty of the government to try to supplement its budget in this way, only to divert those funds to things like a hole in the ground at the end of the Eastern Freeway that is not going to change anything in relation to traffic flow. The government needs to go back to its statement about its soul being seen in the areas it prioritises for funding. In this case the government needs to think seriously about that comment that was made by one of its senior ministers.

Mr P. DAVIS (Eastern Victoria) — In the brief time I have available to me before we adjourn debate for question time, I will try to deal with some of the substantive issues that have been raised by the opposition in the debate today. One of the unfortunate things about having been in this place for an extended period of time — that is, a couple of decades — is that you regularly get to see debates on the various accident compensation arrangements, because all governments, no matter what hue, have an obligation to the community to ensure that the legislative framework for accident compensation is brought up to a contemporary standard on a regular basis.

I think it is true to say that in every Parliament in which I have sat through debate, I have listened to arguments proposed by ministers from both sides of the house and, indeed, by the oppositions. It is noteworthy that you could probably interchange the political colours of each of the exponents of the arguments for and against and find that there was a shared view over time. I am not being very clear and deliberately being opaque, because I do not want to verbal what the various responsible shadow ministers from my side might have had to say in the past about the changes to legislation being

proposed by the then Labor government. However, I note that, while Mr Melhem and Mr Scheffer in their contributions set out a case to say the traffic accident compensation scheme is a very profitable scheme, the reality is it is only a notional profit because the scheme is funded by contributions from the Victorian community. That is to say, it is funded by the mums and dads of Victoria who, under the requirements of registering a motor vehicle, pay a levy or a contribution to the Transport Accident Commission (TAC) operations to cover the cost of the compensation scheme.

The profit is derived from earnings on investments and the profit on insurance operations. I note that while Mr Scheffer and Mr Melhem talked about the Baillieu and Napthine governments in each of their years in office taking a dividend from the TAC, in fact under Labor every year a dividend was declared on the TAC scheme. Not only was a dividend declared in all the years in which the operations were showing a profit, but Mr Lenders took the responsibility on himself to amend the parameters and change the basis of calculation so that even in the year in which the TAC operated at a loss, a dividend was still declared. That runs against the notion of good governance and I recall the debate around that at the time, that it was not an appropriate basis for a change to be made in estimating the way in which dividends should be paid.

I believe that all members of this house believe absolutely that there should be a just, equitable and efficient transport accident compensation scheme to deal with the tragedy — which previous speakers have spoken of — of members of the public being victims of what I prefer to call collisions rather than accidents. There is human error that leads to a collision and a victim, and it is not just one victim generally, it is the families of those who are injured in the incident or perhaps even killed, that suffer greatly, and I acknowledge that. But the more I see of the debate around these issues, the more I realise that we have more in common in this house on these issues than members are willing to declare during the effort to debate the minutia of bills. I think the amendments to the act which the minister is proposing at this point are appropriate, because what the minister is doing is ensuring that the integrity of the scheme remains sound, that it is financially viable and that it remains efficient.

Importantly, however, the government is seeking to clarify some anomalies which inevitably develop over time. It is human nature for those who litigate on behalf of claimants to seek to expand, amend and bend interpretations, and therefore it is appropriate from time to time to seek legislative clarity. The biggest argument run in the last few weeks, since the bill was first introduced, has been around the impact on emergency services workers. I, like many members, was initially concerned about the impact on entitlements to assistance in the case of emergency services workers, if those rights and entitlements were being dealt with in an inequitable way. However, my inquiries led me to conclude very quickly that the substance of the claims that have been made have little to do with the facts of the legislation before the house.

It is clear that an emergency services worker who attends a traffic accident in the course of their employment and, as a result of the connection with that traffic accident, has any form of claim that is potentially compensable — that is, that they can make a compensation claim or need some assistance — will make those claims not under the traffic accident legislation but under WorkCover in relation to their employment. Those people who are employed in emergency services will not in any way have their present rights affected because this legislation does not seek to change the basis of employment conditions relating to claiming against the WorkCover scheme in relation to those particular matters.

In summary, the bill proposes to amend some anomalies which are apparent in the act, to address some court decisions that have extended the intended operation of the provisions since the time in which those provisions were drafted and which are having an adverse effect on the scheme, and to increase client benefits in certain areas. Indeed the intention of the bill is to clarify the detail of the operation of the act and significantly extend some benefits to claimants, the details of which have been addressed by previous speakers.

I am conscious of the time and therefore will conclude my remarks by saying that I have seen some extremely passionate debates in this place about compensation. Indeed I believe it was a former member, Mr Theophanous, who, in the first Parliament of which I was a member after my election to Parliament in 1992, spoke for 13 hours on a WorkCover bill. I am not sure if it is a record, but in my time it was an outstanding contribution. It is easy to forget the contribution on the basis that the key lines were repeated time and again, but my point is that I have seen a great deal more passion in debates on compensation legislation than I am seeing in this debate today. I believe the reason for that is that the opposition knows the bill is a sensible contribution to ensuring the financial viability of the traffic accident compensation arrangements in this state, which are funded entirely by contributions from the community. There is no honey

pot other than for a handful of compensation lawyers, and I do not criticise them for going about their proper business, because they are representing their clients.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Government legislative program

Mr LENDERS (Southern Metropolitan) — My question without notice is to Mr Davis in his capacity as Leader of the Government. Given the anarchic disintegration of the Legislative Assembly today and the government's inability to get any legislation through, could the Leader of the Government update this chamber as to the status of the government's legislative program that was due to come from the Assembly this week specifically and more generally for the rest of this year?

An honourable member — He is happy to answer.

The PRESIDENT — Order! I am sure he is happy to answer it. I will give the Leader of the Government the opportunity to answer the question. However, I indicate that I have some concern about the direction of this question in that what happens in the other place is quite a separate matter to what happens in this place. I accept that the Leader of the Opposition's question is in respect of business that might come here — legislation for the rest of the year — and I am sure that that is the context in which the minister will answer, but proceedings in the Legislative Assembly are not matters that we would canvass in this house per se.

Hon. D. M. DAVIS (Minister for Health) — I thank the member for his question. I note that it is a matter for the other house as to how it conducts its business. Each of the houses, as the member well understands, are quite separate in that regard. His question had a number of parts to its preamble and reflected on the lower house. In responding to it, it is important to correct the views about the lower house and indicate that the misbehaviour in the lower house has been by the Leader of the Opposition, the manager of opposition business — —

Mr Jennings — On a point of order, President, your very clear intervention before the minister answered this question was to prescribe the range of matters that were appropriate for the minister to respond to. He has clearly not listened to your direction and is actually talking about the very matters that you encouraged him not to discuss.

Hon. D. M. DAVIS — On the point of order, President, it is absolutely clear that I was responding directly to the question and correcting matters in the preamble before I came to the substantive matters around the government business program.

The PRESIDENT — Order! In terms of the point of order, I am quite clear that this house does not discuss the business of the other house. For all intents and purposes the other house does not exist to us until a message comes across indicating what business it has transacted. We do not reflect on the business of the other house. I also think that where there is commentary on what might be happening there or on individuals within that house, it is not in order to canvass those matters in this house as part of this answer. I was quite specific in what I said in commenting on the Leader of the Opposition's original question, and I ask the Leader of the Government to move to the substantive answer.

Mr Jennings — On a further point of order, President, I seek clarification of your direction, of which I am wholly supportive and as I have already defended through one point of order. In relation to the comment that you have just had to make on the spot, you have indicated that it is not the interest of the Legislative Council to understand the business of the Legislative Assembly. I encourage you to perhaps reflect on that and refine it, if you think appropriate, in relation to the activities and behaviours and the manner in which the Legislative Assembly undertakes its important work on behalf of the Parliament and the people as distinct from the business, which is in fact the government business.

The legislative program is very much a concern for the Legislative Council, in terms of the amendments that may take place there, the scheduling of the government business program and the subsequent work program of the Legislative Council. In that sense the business is actually relevant to the Legislative Council, even though the manner in which that business is acquitted by the Legislative Assembly is none of our concern.

The PRESIDENT — Order! In respect of the further point of order, or the member seeking clarification, I generally support the comments he has made. In fact it was in that context that I allowed the question of the Leader of the Opposition to stand, insomuch as there are some issues for this house in terms of the legislative program going forward. Certainly the Leader of the Government in this house is part of the leadership team of the government and is therefore in a position to advise the house on what his expectations are of the legislation coming forward to

this house. It is fair for him to comment on that, but in terms of the actual business of the other house, as I indicated, until such time as it transmits messages to us we have no opportunity to comment on the proceedings in that house. The matters that it deals with are matters of concern to that house.

Hon. D. M. DAVIS — What is clear is that the Leader of the Opposition and member for Mulgrave in the Assembly, Daniel Andrews, has sought to hijack democracy. He is defying the standing orders in that chamber and that can impact — —

Mr Lenders — On a point of order, President, the minister is now clearly debating the matter and not dealing with the transmission of legislation from the Assembly.

Hon. D. M. DAVIS — On the point of order, President, it is clearly a matter for the democracy of our state that our chambers and the Parliament as a whole are able to transact business smoothly, and that includes movement of legislation from one house to the other in both directions. Where one party is determined to hijack democracy through misbehaviour, that will impact directly — —

The PRESIDENT — Order! Mr Davis is debating. He is not actually raising a point of order or commenting on the point of order. Does he have a comment on the point of order?

Hon. D. M. DAVIS — The point, President, is that the activity of the lower house Labor Party opposition members is of significance because it does impact on democracy and impact on the capacity of our chamber to deal with things in a timely manner.

The PRESIDENT — Order! In relation to the point of order, I ask the minister to discuss the impact on the legislative program if the Assembly does not pass legislation. I do not wish him to canvass by way of debate who might be the villains or the heroes in this matter.

Hon. D. M. DAVIS — President, it obviously impacts on the ability of the Parliament as a whole, including this chamber, to debate matters in a timely way if there is disruption in the Assembly caused by the Leader of the Opposition trying to hijack democracy. That is a clear point.

Mr Jennings — On a point of order, President, I have paid close attention to the responses of the Leader of the Government, both in terms of his substantive answer and his comments on the points of order, and on at least three occasions he has chosen to ignore your clear direction. If the minister cannot comply with your direction, I encourage you to sit him down.

The PRESIDENT — Order! I will be inclined to do so if the minister persists.

Hon. D. M. DAVIS — We are obviously at a point where the progress of the key bills that the government seeks to have debated has been frustrated by decisions — —

Honourable members interjecting.

Hon. D. M. DAVIS — In fact I think it is very clear what my view — —

Honourable members interjecting.

The PRESIDENT — Order! Where there are interjections of the nature that have been occurring, opposition members invite the minister to stray away from my direction. I will have a lot more difficulty in sitting the minister down if members encourage him to take a different tack in his answer. I ask members to be mindful of that in their interjections.

Hon. D. M. DAVIS — The functioning of our democratic system depends on sensible behaviour by all the parliamentarians who form our Parliament, both in the lower house and in the upper house. A collaboration and a cooperation between the chambers enables bills to be passed and enables the legislative program of the government and the scrutiny and accountability procedures that are critical to our democracy, our Westminster system of democracy, to proceed. If somebody were to intervene in those processes, if one particular party in a chamber were to become petulant, truculent and, in a broader sense through childish stunts, seek to intervene in the progress of bills to try to pull down, for narrow party-political reasons, the government's legislative agenda, that would have a direct impact on democracy. It would slow the legislative agenda, and it would make it difficult for our Parliament to operate in the open and fair way that it needs to.

The scrutiny that is important — that we are seeing now in this question time — is a part of that, but so is the cooperation of parties. In this chamber that cooperation can work very well, but it is equally important to our democracy and the progress of bills from this chamber to the Assembly, for example, or from the Assembly to this chamber, that all in the other chamber keep on their minds the important principles of Westminster democracy. It is important that those principles are kept to the fore and that people look at the community interest rather than the narrow sectional

interests of one political party or one particular leader of a political party.

Where there is truculent or petulant behaviour, you will get antidemocratic results, there will be a hijacking of democracy, and that is the fear that everyone has about the misbehaviour that occurs from time to time in parliamentary chambers. It may be we will see what happens in the lower house in terms of the government's business agenda and in terms of the flow of bills.

Supplementary question

Mr LENDERS (Southern Metropolitan) — My supplementary question to the minister regarding my first question on the status of the government's legislative program is as follows: will the minister advise the house on whether any of the six bills that Ms Asher, Leader of the House in the Assembly, announced on Tuesday as being urgent, necessitating them going on the government business program, have a 1 January 2014 start-up date that makes it urgent for them to get through the Parliament?

Hon. D. M. DAVIS (Minister for Health) — I am not going to speculate about each and every one of those bills. I would be prepared to look at those bills closely. I am aware of the details of a number of those bills and their implementation dates, but I am not aware of the details of every single one of them. I would be happy to take on notice the request from the member as to the details of each of those bills, and I can provide that for him later today. In fact he may wish to walk down to the papers office and seek a copy of those bills because they will contain those details.

Teacher performance assessment

Mrs KRONBERG (Eastern Metropolitan) — My question without notice is directed to the Honourable Peter Hall, the Minister responsible for the Teaching Profession. Will the minister provide the house with details of the settlement reached between his department and the Australian Education Union regarding performance assessments of teachers and principals?

Hon. P. R. HALL (Minister responsible for the Teaching Profession) — I thank Mrs Kronberg for her question and her interest in matters of education, and particularly this matter which relates to the action before the Federal Court brought on by the Australian Education Union (AEU) with regard to the 2013–14 teacher and principal salary progression cycle. It is important to emphasise in answering this question that this particular action sought by the AEU related directly to the 2014 salary progression cycle, not future years. I make that point first of all.

I am pleased that the Department of Education and Early Childhood Development and the AEU in this instance came to an agreed position in this matter. That agreement essentially clarified a number of issues that I have talked to this chamber about before, when it came to the need for assessments and how those assessments should be judged. Members will recall that on a number of occasions now I have stood in this house and said the performance assessment of teachers should be based on merit. I have also said on a number of occasions that there will be no cap or quota applied to those receiving positive assessments. I have said that on a number of occasions.

Guidelines were issued purely for the purpose of giving some indication of those schools that do better than others and those that do worse than others and using those results to assist schools to either improve their performance or share their fine performance with other schools. That was the purpose of those guidelines. Nevertheless, the court action with respect to 2013–14 suggested that there should not be reference to such guidelines. However, the important thing about these agreements is that the AEU, the government and the department now agree that performance assessments should have regard to overall school outcomes and should be conducted in a 'serious and diligent manner'. That is some of the terminology used in this agreement. We welcome that, because I remind members that the original purpose of the whole advancement assessment process was to address the way in which it was being applied previously.

I remind members that in the cycle just past, of the 24 000 eligible for promotion, all but 28 were deemed to have performed satisfactorily and therefore progressed to the next salary level. No reasonable person, including in the Australian Education Union, would therefore give credibility to those figures. If a process of properly assessed performance were to be applied, then I do not think anybody would expect that 99.8 per cent of employees in the teaching and principal profession would be subject to and worthy of a tick with respect to their positive performance.

This agreement now signals an agreement by all sides to apply a rigorous process of performance assessment. Yes, the assessment for this 2013–14 cycle will, as has been repeated many times by the department secretary, be applied on the current arrangements in place, and we will work with interested parties to develop a revamped performance and development assessment process from

2014–15 onwards. We look forward to working with teachers unions and principals associations in that regard. That is why I welcome the agreement. It certainly clarifies for everybody exactly what is expected of them, it demonstrates an acceptance that we need to be more thorough in the way we assess performance and, more importantly, it sets a path that will lead to improved student learning outcomes, which is what we should all be interested in.

Government legislative program

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Corrections. I refer to the delay of the Legislative Assembly in dealing with the Justice Legislation Amendment (Miscellaneous) Bill 2013, and I ask: can the minister advise the house whether the failure of the bill to be dealt with by the Legislative Assembly will impact on the ability of Corrections Victoria staff to deal with sex offenders?

Honourable members interjecting.

Hon. E. J. O'DONOHUE (Minister for Corrections) — I welcome the question from Mr Tee. Let me say, President, that I am very pleased to receive two questions in the one week from Mr Tee, because as I said yesterday, I have been waiting since before the winter recess — —

The PRESIDENT — Order! I really do not like that line of response in so much as I noticed that when Mr Tee rose to ask the question, some disparaging remarks about Mr Tee posing that question were made by members by way of interjection. The reality is that any member in this place has an opportunity to ask a question of any minister as they see fit, and whether or not they have asked a question in the past six months, six years or six decades is irrelevant. The fact is they have an ability to ask a question in this place, and that question and their right to have asked that question needs to be respected. We do not need a commentary on how frequently a member might have asked a question on a particular matter.

There are a limited number of questions that members can ask in this place on any single day. I am sure that if we were prepared to amend the standing orders, members would have lots more questions for every minister on all sorts of matters, and perhaps then everybody would be satisfied that they had had enough questions and responses, but I do not want to see this reflection on members who are asking questions.

Hon. E. J. O'DONOHUE — Thank you, President, for your guidance. Mr Tee asked me a question about sex offender management and sex offenders and the legislative arrangements around them. Let me give Mr Tee some information about what this government has done. This government has added significant investment to sex offender treatment — —

Mr Lenders — On a point of order, President, Mr Tee's question to the minister was specifically on the consequences of a bill being delayed, so by definition it is narrowed down to those clauses in the bill. I put to you, President, that the minister is now debating the issue by referring to general government policy and saying, to paraphrase him, 'Let me tell you what I have done'. What the minister is being asked is: what are the consequences of clauses in a bill if that bill is not passed? I ask you to direct him to stop debating.

The PRESIDENT — Order! I do not uphold the point of order on this occasion because the minister does have a little over 3 minutes still to respond to the question, and I believe he is able to put a context to the answer he intends to give Mr Tee. The matters he is referring to in terms of overall government policy may well be relevant to the point he is making to Mr Tee and to his response.

Hon. E. J. O'DONOHUE — As I said, this government has significantly increased investment in programs for sex offenders within both prisons and the community corrections system. We are investing to address recidivism, to reduce the risk of offenders committing those crimes again. We have significantly increased that investment. As the Minister for Corrections I was very pleased to announce the awarding of a contract for the rollout of GPS technology, which is now available to the courts when considering appropriate orders for offenders and to the Adult Parole Board of Victoria when making assessments about parole. Importantly, those people who reside at Corella Place — —

Mr Tee — On a point of order, President, I am aware of your ruling on Mr Lenders's point of order, but the bill I asked about specifically deals with the Office of Public Prosecutions. It is quite a narrow bill in terms of the responsibility of this minister. He is giving a very broad-ranging answer, and I do not think he has come back, as you suggested he ought, to my question. I ask you to bring him back to the question I asked.

The PRESIDENT — Order! I will uphold the point of order in part, in the sense that I note the minister still has a little over 2 minutes to answer, and I would hope the minister is moving towards a direct response to the question that was put. I think the context is certainly

established now, and I am expecting the minister to move towards that response.

Hon. E. J. O'DONOHUE — As I was saying, I am providing the context to this very important part of our justice system and corrections system. We have invested in sex offender treatment, rolled out GPS technology and toughened the parole system, notwithstanding the disparaging remarks of Mr Tee.

Mr Tee asked me a question about what has happened in the other place. You ruled on that, President, in the first question from Mr Lenders to the Leader of the Government. Let me just say that the behaviour of the opposition — —

Mr Lenders — On a point of order, President, the question to the minister was specifically with regard to public policy. It did not reflect on what happened in the Assembly. The question was: if this bill is not passed, what are the consequences for the government administrative program? That was the narrow nature of the question from Mr Tee, based on your rulings on the first question in question time. I put it to you that the minister is now seeking to debate the bill and not answer the question about the specific effects on the government administrative process if this legislative reform does not happen.

The PRESIDENT — Order! On the point of order, I was concerned when the minister uttered that last sentence that his answer was starting to move towards debate. I agree that the question that has been put is relevant in terms of the consequences of that legislation not being passed. I do not believe the question reflected on proceedings in the other house; I believe that rather it was specifically about what the implications are for the legislation, which I think is relevant, as distinct from processes or what may or may not be happening in terms of the consideration of that bill by the other house. It is more a question of, where will the legislation stand if it is not passed? That is relevant, and I would ask the minister to respond to that question.

Hon. E. J. O'DONOHUE — The behaviour of the opposition in the Legislative Assembly is most — —

Ms Pulford — And that is relevant?

Hon. E. J. O'DONOHUE — I pick up Ms Pulford's interjection.

The PRESIDENT — Order! The minister is going in a direction which I have counselled him against. Perhaps I was too subtle. I ask the minister to respond to the question and not reflect on the behaviour of anyone anywhere else.

Hon. G. K. Rich-Phillips — On a point of order, President, the question raised by Mr Tee, and repeated by Mr Lenders, very much goes to a hypothetical situation. The question as Mr Lenders restated it was, what will happen if the bill does not pass? The question could just as easily been, what will happen if the bill is amended? This is a hypothetical situation, and I suggest to you that because it is a hypothetical situation, the question itself is out of order.

Mr Tee — On the point of order, President, the question was not as has been suggested. I was very clear. The question was, what is the impact of the delay in the passage of the legislation? It is not hypothetical in any sense.

Mr Drum — On the point of order, President, based on my 10 or 11 years experience in this chamber, provided a minister is being pertinent to a question and talking to the question, on the topic, the minister has the right to hold his feet and give his answer. Whether or not the opposition likes the answer has nothing to do with this. If the minister is being pertinent to the question, talking around or referring to any part of the question or the preamble, the minister is entitled to hold his feet, and points of order should be ruled out of order.

The PRESIDENT — Order! I thank Mr Drum for his help. I will deal with his point of order first. The fact is that this was a very specific question. It did not contain a preamble, it went directly to a matter, and a minister is expected by the house, as a courtesy to the house, to respond in an apposite fashion to that question and not bring in other matters. As I said, I allowed some leeway in this because I believed that the minister was entitled to provide some context for his answer. But I do expect a minister, whoever the minister is, to be responsive to a question. The question in this case was not dressed up with a preamble. It did not allow for a lot of conjecture or debate or such like; it was quite a direct question.

The point of order raised by Mr Rich-Phillips is a far more significant one and is more important in terms of the conduct of the house. There is relevance in the point of order Mr Rich-Phillips raises, because I would be concerned, and the standing orders certainly guide me, that ministers should not be expected to answer hypothetical questions. In that respect Mr Rich-Phillips is quite right that if this is perceived to be a hypothetical question, it ought to be ruled out, and the minister will not be obliged to answer.

In this case we are in a fairly grey area in terms of the question that was asked. I do not see it as being totally

hypothetical. It does call for some speculation by the minister in terms of what might be the implications, and I suggest that the minister may well have an opportunity to respond in that context by saying, 'I'm not going to speculate on this', or, 'I'm not going to canvass what may or may not happen if that legislation doesn't come through', because obviously there are other mechanisms a government can use in the sense that if a piece of legislation does not come through in a particular time frame, the world does not end; there are other things that can happen. I am not sure that the minister is necessarily in a position to speculate on those things at this time.

The minister could well respond in a way that reflects some of what Mr Rich-Phillips raises as the prospect of a hypothetical question, but as far as the question asked by Mr Tee goes, I do not see it as purely hypothetical. It is a relevant question, and the minister has full opportunity to discharge that question, but I do not want the discharge of that question to be based on debate about what somebody else is doing somewhere else. I would rather have the question discharged by the minister saying, 'I don't want to speculate on that', or, 'I am going to have to consider what may be the case or what I may need to do if the legislation doesn't come through'. The minister has some opportunity there, and I certainly think the point of order Mr Rich-Phillips raised is instructive to the house.

Hon. E. J. O'DONOHUE — President, thank you for your guidance and your ruling. The legislation to which Mr Tee refers and how it relates to me is about adding protections for Corrections Victoria staff. It is designed to replicate some existing provisions to protect Corrections Victoria staff with regard to the transmission of pornographic material in the course of their duty and to protect them from being prosecuted by way of an omission. That is not time critical, but of course it is important. As the minister I see it as important to give that protection to staff discharging their duties as part of their jobs and as part of their investigations of inappropriate behaviour in the prison environment. It is incredible that Labor is standing in the way of the passage of that legislation.

The PRESIDENT — Order! Apart from anything else, that is not even factual, because Labor did not suspend the sitting of the lower house. It is debate, and I will not entertain the debate. The minister has sat down.

Supplementary question

Mr TEE (Eastern Metropolitan) — I thank the minister for that answer. As the minister said, the bill deals with the protection of Victoria's corrections staff who are dealing with the transmission of pornographic material. Can the minister assure the house that the delay in dealing with the bill will not hamper the ability of those Corrections Victoria staff to properly deal with the transmission of pornographic images?

Hon. E. J. O'DONOHUE (Minister for Corrections) — The government has identified the need for this change, the government has introduced the legislation to the Parliament and the government seeks that this legislation pass through the Parliament. Of course the government does not pre-empt the decision of the Parliament. Indeed, as Mr Rich-Phillips said in his point of order, legislation can be amended, legislation can be changed and other factors can occur. As a minister I have brought forward this amendment to seek to provide this additional protection to the hardworking and dedicated staff of Corrections Victoria. There are many things I would like to say about behaviour, but in line with your ruling, President, I will resist that temptation.

Mrs Peulich — On a point of order, President, notwithstanding the careful wording of the minister, I believe that question was indeed a hypothetical question.

An honourable member — Actually the minister did not ask the question; it was Mr Tee.

Mrs Peulich — I beg your pardon, Mr Tee. It was a hypothetical question, and I do not believe it should have been allowed. I suspect the member will continue that line of questioning, and I think you should be alert to it, President.

The PRESIDENT — Order! I have already ruled on that matter. From my point of view the supplementary question was pertinent to the substantive question.

Fringe benefits tax

Mr KOCH (Western Victoria) — My question without notice is to my colleague Mr David Davis, the Minister for Health. Can the minister outline to the house any recent decisions about fringe benefit tax (FBT) entitlements for health and not-for-profit sector workers, and other recent commonwealth decisions impacting on the Victorian public health sector?

Hon. D. M. DAVIS (Minister for Health) — I thank the member for his question and for his very strong advocacy for health workers across his region, particularly those at Barwon Health and a number of other health services in his region. I can inform the house that at the Standing Council on Health on

8 November these matters were discussed — matters relating to the fringe benefit tax changes that were made by the previous Labor government in Canberra. Those changes impacted very directly on health workers, not-for-profit workers and others who were seeking to access FBT arrangements of longstanding. Mr Koch, as somebody who represents Geelong and that region — —

Mr Lenders — On a point of order, President, on the issue of government administration, a future policy promise from a government that lost office in September is hardly pertinent to public administration today. I put it to you that the minister is debating a hypothetical matter. It is not legislation, it is not intent from a government. It is purely a policy position from a previous government that will not be enacted. It does not relate to public administration in Victoria today, and it is beyond the remit of this debate.

Hon. D. M. DAVIS — In fact, the previous government did enact the changes to the FBT arrangements. This was discussed by health ministers in Tasmania on Friday because of its impact on hospitals and health services.

Honourable members interjecting.

Hon. D. M. DAVIS — I have to tell you, they enacted it. They enforced it.

The PRESIDENT — Order! This is on the point of order?

Hon. D. M. DAVIS — Yes, exactly. The point here, President, is that it is a matter of government administration, because the impact on the Victorian hospital and health sector is very significant.

An honourable member interjected.

Hon. D. M. DAVIS — It actually did happen.

The PRESIDENT — Order! It is not a conversation, it is a point of order.

Hon. D. M. DAVIS — I can indicate that in the real world people stopped buying cars, they stopped packaging FBT arrangements and health workers were directly impacted. It began to cost our hospital system a significant amount more.

The PRESIDENT — Order! In terms of this matter, we need to be very careful about entering into debate when we are talking about the policies of other governments, including the federal government. I understand that decisions are made by the commonwealth which impact on state administration, including the cost structures involved in state government delivery of services and its ability to provide those services to Victorians. In that context, as I understand it, the changes that were made — and it is my understanding that these changes were effected — did have an impact, or could potentially have had an impact, on services and cost structures for the Victorian government.

Notwithstanding that, it is important that the minister consider the fact that the caravan has moved on. There is a new government, and as I understand it the new government has made some changes in this area. I may be corrected on that, but as I understand it, it is making changes in that area. Therefore, that may be the area on which the house might be better informed, rather than on a historical position with regard to these matters. I do not wish to have it presented as debate; rather it should be information to the house.

Hon. D. M. DAVIS — I can read from the communiqué of the ministers — six state, two territory and one commonwealth — from their meeting in Tasmania on 8 November:

> Ministers welcomed the decision by the federal government… The tax benefit supports health professionals to continue their professional development —

this is in relation to the tax deductibility of self-education expenses —

> and to meet their mandatory professional development requirements. Ministers also welcomed the commonwealth government's reinstatement of FBT entitlements for car leases for health and not-for-profit sector workers.

That is the communication of health ministers as part of their advocacy and activity with the sector to ensure that the unfortunate decisions of the previous government were not impacting too harshly on our system. They sought a direct reversal of a number of those matters, so papers were put on the agenda for the Standing Council on Health.

The decision of the previous government to put a cap on self-education expenses was one of the dumber decisions that I have seen in my time in public life. In the case of the health sector it was particularly onerous, because the 14 registered groups of health professionals are required as part of their registration to undertake mandatory continuing education. This means you have one part of government mandating continuing education and another part of government putting a cap on continuing education — what a bizarre decision of the former government!

I welcome, as did my colleagues, the decision of the new government to reverse that bizarre decision to cap continuing education expenses that people are made to put on themselves.

Mr Jennings — On a point of order, President, I am only doing this very reluctantly, in the spirit of protecting the directions that you clearly gave the minister. He is flouting your direction in relation to commenting on past matters as distinct from the contemporary situation. I feel the Chair deserves some support in the chamber so I am drawing this to the attention of the house.

The PRESIDENT — Order! Thank you very much, Mr Jennings, much appreciated. After I intervened on the last occasion following a point of order, the minister did make his answer contemporary in the sense that he informed the house of a communiqué from a very recent meeting. That made his response to the question contemporary. The minister would obviously be mindful of the reminder that Mr Jennings has provided in terms of his continuing response to this question, but certainly I think he did return to a matter that I saw as contemporary.

Hon. D. M. DAVIS — Members of the chamber would understand why health ministers want to see registered health professionals undertaking continual education and why it is of interest and significance to all our hospitals and health services, both public and private, to ensure that those who are registered health professionals are able to undertake continual education that is consistent with the mandated requirements of their registration authorities, and that that requirement should not be frustrated by a self-education cap imposed by the Rudd government in its desperate search for revenue.

We welcome the decision of the new government to reverse that cap; we welcome the capacity of the 14 registered health professional groups, including doctors, nurses, optometrists, pharmacists and all the other health professional groups — —

The PRESIDENT — Order! Time, Minister.

Kingston planning scheme

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Planning. I refer to the Kingston planning scheme amendment C155, which effectively discouraged the building of construction and demolition material recycling plants in the south-east green wedge. When that planning scheme amendment expired, the Kingston City Council asked the minister to extend it. It is now more than 12 months later and the minister has still not responded to that request. In the meantime an application has been made to build a concrete crusher and transfer station in the south-east green wedge. I ask: why has the minister not extended the protection as requested by the Kingston City Council?

Hon. M. J. GUY (Minister for Planning) — Mr Tee walks into this chamber making accusations when he does not even know if they are right or wrong. How does Mr Tee know that I have not had a conversation with this council about this matter? A constant in this chamber is that Mr Tee just makes things up — and he has made it up again today.

Mr Tee — On a point of order, President, it is unparliamentary to suggest that I just walked in and made that question up. I ask that the minister withdraw that accusation.

The PRESIDENT — Order! On the point of order, I request that the minister withdraw. The minister, indeed any minister, needs to extend courtesy to a member of Parliament. To suggest that a member has made something up is to suggest that they have been untruthful. A member may come in and pose a question which contains inaccurate information. A member may pose a question but not have a full understanding of the facts, therefore the premise of the question could be wrong. That is fair enough. However, to suggest that a member has made a question up is a very different matter, and one which I regard as unparliamentary because it suggests that somebody has been untruthful. I ask Mr Guy to withdraw the remark that Mr Tee made it up.

Hon. M. J. GUY — I withdraw. Noting that the house is being a bit precious about what I say, let me put it this way to Mr Tee. He should do his research about how a planning scheme amendment can work. Just because a council gives a request to a minister does not mean the council cannot still progress a planning scheme amendment itself. Kingston could have progressed this amendment itself in the last 12 months if it felt it was so pressing. Mr Tee could have had conversations in the last 12 months with his good friends on the council rather than coming into the chamber and asserting that somehow this is the fault of the government.

Mr Leane interjected.

Hon. M. J. GUY — I take up Mr Leane's interjection. When Mr Leane's colleagues come into this chamber and assert that a fault is entirely that of the government when they themselves can play a part in

solving what they perceive to be that problem, then it is their problem. I have had a conversation with the new mayor of Kingston City Council, Cr Paul Peulich. Cr Paul Peulich has asked me to progress controls for that area of land. He has suggested to me, as the mayor should have and could have, that the council can do it itself, but he would like to work with me to do this fairly soon.

Let me advise you, President, this chamber, Mr Tee and his friends in the City of Kingston, that we will be very happy to progress that amendment with the new mayor, who has come to me in the spirit of cooperation, in a way that this government believes is good not just for state but also local government relations.

Supplementary question

Mr TEE (Eastern Metropolitan) — The council asked the minister on 27 August 2012 to extend a planning scheme amendment which had expired. It has asked in meetings on three other occasions that the minister extend that planning scheme amendment. Can I take it that the position adopted by the minister today is that he will not agree to that request and he is referring that matter back to the council for it to deal with?

Hon. M. J. GUY (Minister for Planning) — Mr Tee should have listened to what I just said.

Ms Broad — You should answer the question.

Hon. M. J. GUY — Ms Broad, I just did, but Mr Tee did not listen to it. Ms Broad might not understand planning scheme amendments and her shadow minister may not understand them, but the new mayor of the City of Kingston certainly understands them. I simply say again to the house for people who just do not listen. Mr Tee has criticised me for intervening in planning schemes. He has moved motions criticising me for intervening, and now he asks me to intervene — it is astounding. It beggars belief.

Hon. D. M. Davis — You can't have it both ways.

Hon. M. J. GUY — Labor cannot have it both ways. The previous council asked me, through Mr Tee it seems, to intervene. Mr Tee has criticised me for intervening. I have spoken to the new mayor, Cr Paul Peulich. We will together, through sections 20(4) or 20(5) of the Planning and Environment Act 1987 or a council process, resolve this matter very soon.

Royal Exhibition Building

Mr ONDARCHIE (Northern Metropolitan) — My question this afternoon is to my good friend and colleague the Minister for Planning, the Honourable Matthew Guy. The Royal Exhibition Building is a very important, historic and iconic building here in Melbourne, the place of the very first Australian Parliament. It has seen a range of activities that Melbourne well loves. I wonder if the minister could explain to the house what the government is doing to give total planning protection to our wonderful Royal Exhibition Building?

Hon. M. J. GUY (Minister for Planning) — What a wonderful question from Mr Ondarchie about one of the most important buildings in Australia. It is iconic.

Mr Barber — I'm on the edge of my seat.

Hon. M. J. GUY — Mr Barber, it is an iconic building and the area around it is iconic.

Mr Tee interjected.

Hon. M. J. GUY — Mr Tee, just tell us how that carbon tax is going for you. How is that carbon tax going for you? Do you still support that carbon tax?

It is with great pleasure that I inform the house that I have approved a new management plan for the world heritage site that is the Royal Exhibition Building and its environs. It has been a long and detailed process, and it is one that this government is very proud to have approved. As a member for Northern Metropolitan Region, like Mr Ondarchie, I am very proud to have approved the management plan for this world heritage site that indeed was the site of the first sitting of the Australian federal Parliament and was home to the Legislative Council and Legislative Assembly for 27 years of the last century when this chamber was the federal Senate, President — and you would have been the President of the Senate at that stage.

Mr Finn interjected.

Hon. M. J. GUY — Mr Finn might want to try to reinstate part of that term. It is very important, and it is with a great deal of pride that I have approved that management plan. Through Plan Melbourne and a number of other pieces of heritage work this government believes a management plan is important in preserving that great area around our Royal Exhibition Building and giving it world heritage status. It is something this government believes needed to be put in place. We have done it. I am proud of it, and so is this government.

South-east tertiary education plan

Mr LENDERS (Southern Metropolitan) — My question is to the Minister for Higher Education and Skills, Mr Hall. When will the Kwong Lee Dow south-east tertiary education plan on university provision be publicly released?

Hon. P. R. HALL (Minister for Higher Education and Skills) — On the plan that Kwong Lee Dow has produced for the government in respect of that, a number of different providers in the area are being consulted. Some of the things that have been suggested are being actively sorted through, discussed and workshopped with the providers in that region. When appropriate I will release that plan.

Supplementary question

Mr LENDERS (Southern Metropolitan) — I think the minister hit the nail on the head. There is a consultation going on with providers, and a clear area of angst that is coming through to me and other Labor members is their fear that the government is about to flog off Monash University, Berwick campus. Will the minister rule out that he will approve the sale of Monash University, Berwick campus?

The PRESIDENT — Order! I am a little concerned about the question in the context that I think it pushes the envelope in respect of being a supplementary question. It may well be hypothetical, but it goes a lot further than the original substantive question. Unfortunately I am not in a position to know what the review entailed as to the pertinence of this matter. On that basis I will allow the minister to respond, but he might be mindful of the fact that I see this supplementary question as going a fair bit further than the substantive question.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I think that it is largely hypothetical in content, because it is not the government's plan as such; Monash University owns that campus. But let me give Mr Lenders an indication of my approach to these matters.

Clearly on the record, I have not given approval for Victoria University to sell off land at Sunbury, and I would not until I had a clear definition of where a tertiary education provision was going to be provided as an outcome of that. With Monash in Gippsland, again I did not approve of anything until we were assured that there would be ongoing provision of tertiary education in that area. Lilydale is also an interesting analogy, because what I am trying to do is attract a tertiary education provider to that area to replace Swinburne's planned exit. There is one person opposite me who stood directly in the way of that by making me withdraw $100 000 in assistance to find a provider there.

In respect of Berwick, I would adopt that same view — that is, we want to see good provision in tertiary education. I will not approve anything that would bring about a different outcome.

Children's services assessment

Mrs COOTE (Southern Metropolitan) — My question is for the Minister for Children and Early Childhood Development. Can the minister update the house on how the Victorian children's services are faring against the national quality framework's quality standards?

Hon. W. A. LOVELL (Minister for Children and Early Childhood Development) — I thank the member for her question and her ongoing interest in early childhood development and the quality programs that we deliver here in Victoria. I am delighted to inform the house of how Victoria's children's services are faring against the national quality standards under the national quality framework.

As we all know, the national quality framework was introduced on 1 January, and it aims to improve the quality of children's services and better inform parents about the education and care that their children receive. The national quality standards, against which services are assessed and rated, set a much higher standard than was previously required of early childhood education and care services. Over time all long day care, family day care, outside-school-hours care, preschools and kindergartens on the national register will be assessed on their progress in meeting the national quality standards.

Data released on 6 November on the website of the Australian Children's Education and Care Quality Authority shows that 88 per cent of Victorian kindergartens that have been assessed are meeting or exceeding the national quality standards. This is a fantastic result for our kindergarten services — 88 per cent. Nationally about 58 per cent of early childhood services are meeting or exceeding the national quality standards, but here in Victoria 77 per cent of our overall services are meeting or exceeding the national quality standards. I am extremely proud that Victorian services continue to lead the way in Australia in the delivery of quality early childhood, education and care services.

Questions interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! Before I call Mr Jennings I acknowledge that former minister Phil Honeywood is in the gallery today, and we welcome him to this place.

QUESTIONS WITHOUT NOTICE

Questions resumed.

Monash Children's

Mr JENNINGS (South Eastern Metropolitan) — My question is for the Minister for Health. It is almost the third anniversary of the Liberal-Nationals coalition government, and when it came to office it made a commitment to the people of the south-eastern metropolitan area that the Monash Children's hospital would be built. It gave the impression that the $250 million project of the Labor government would be matched by the incoming government. However, because the government has delayed that tender by three years it is now being reported that the helipad, sleep laboratory, early in life mental health facility, children's learning centre and the covered walkway between the hospital facilities now fall outside the scope of the tender that is proceeding. Can the minister allay the concerns of families in the south-eastern metropolitan area and say that those items will be included in the redevelopment of this children's hospital?

Hon. D. M. DAVIS (Minister for Health) — Yes, I can. It is important that there is some historical context so that we fully understand the history of the Monash Children's hospital — —

Mr Jennings — You know nothing.

Hon. D. M. DAVIS — I actually do; let me tell the member. I know the whole lot. In 2002 and 2003 there were early studies, and who was the Parliamentary Secretary for Health in 2002 and 2003? It was Daniel Andrews, the member for Mulgrave in the Assembly. What did he do? He did not build a thing. Later he was the Minister for Health, and how much money did he allocate for the Monash Children's Centre? Not a cracker!

Mr Lenders — On a point of order, President, Mr Jennings asked a specific question on whether components of a government election commitment of 2010 would be delivered. The Minister for Health said he is putting in place a historical content, which simply seeks to accuse a former parliamentary secretary of not having carried out ministerial functions. I put to you, President, that it is not context, it is debate. The question was about his government's election commitment and specifically some component parts. I ask you to bring him back to answering a question on his government's administration, rather than debating what happened in 2002.

Hon. D. M. DAVIS — On the point of order, President, it is important to understand the original work and needs analysis done in 2002 and 2003. It assessed the needs of people, specifically the need for paediatric services, in the south-eastern metropolitan area of Melbourne, which is a very significant growth area. I am referring directly to those studies.

The PRESIDENT — Order! On the point of order, the response from Mr Davis to the point of order was much more pertinent than his response to the original question. In other words, his original response ought not have reflected on previous office-holders in the Parliament as to what they may or may not have done but rather on the specifications of the projects, which he went to in the point of order. That is the relevant matter and that is not debating, whereas reflection on what other people may or may not have done as office-holders in the past is debating. I ask the minister to explore this further in the line he takes in his response, which was not really a point of order.

Hon. D. M. DAVIS — As I outlined, in 2002 and 2003 serious work was done in the south-east in those studies that made it very clear that there was a need for additional paediatric and children's services there, and the concept of a Monash Children's was developed. But there was no money allocated and no resources were put forward to deliver on that. In our first full budget on coming into government we allocated money to purchase the land — —

Mr Jennings — How much?

Hon. D. M. DAVIS — Eight and a half million for the land purchased next to the Monash Medical Centre.

Mr Jennings — What did the Premier say the day after the budget about how much it was?

Hon. D. M. DAVIS — Let me be quite clear. We bought the land to build the Monash Children's. You cannot build it — —

Mr Jennings — He said it was 10. This lie was made from day one.

Hon. D. M. DAVIS — Let me be clear. In the second year further money was allocated to move the project forward. We found that the project was not scoped adequately. The work was not done when we came into government, and we have done that work. We have purchased the land, and the full money has been allocated to build a Monash Children's hospital with massive scope and expanded — —

Mr Jennings — When?

Hon. D. M. DAVIS — In the budget update last year was the final tranche of the money, but the first money was allocated in our very first full budget to buy the land and progress the project.

Mr Jennings interjected.

Hon. D. M. DAVIS — Yes, it was. Go and have a look at it. Go and have a look at the budget papers; I suggest you do.

Mr Jennings interjected.

Hon. D. M. DAVIS — When we came to government we found that the work had not been done prior. We had to finish the work. We had to get the scoping done. We had to buy the land. You cannot build a hospital without the land to put the hospital on.

Let me be quite clear. The full money is allocated, the process is going forward. Let me be absolutely clear here. The scope of what is going to be built is bigger than what Labor had proposed. The floor area is larger, and more services will be put into the hospital than Labor proposed for the hospital. More services will be delivered for the people of the south-east, yet now Mr Jennings comes forward with the gall — with the gall, I have to say, President — to criticise, having been part of a government that delivered not a cent, nothing on the ground, nothing at all. Now our government is delivering this. The tender is out there. We are waiting for the conclusion of the tender with the managing contractors to push forward. I have to say we are in a strong position to go forward with this hospital and deliver for the people of the south-east, unlike the Labor Party, which delivered nothing over 11 years — nothing at all.

People have talked about a helicopter. Let me be clear about what is at Monash now. There is a helipad on the site where the new Monash Children's is going to be built, and unless I am deeply mistaken, you cannot build a 230-bed hospital and still land a helicopter on that flat bed of ground there. I defy any helicopter pilot in the world to land underneath a 230-bed hospital.

Mr Jennings interjected.

Hon. D. M. DAVIS — What a whacker! You cannot land underneath a 230-bed hospital. Yes, the helipad will move — that is true — and we will have to put the helipad very near the emergency department, and we will have to do that in a way that enables continuity of service at the Monash Medical Centre.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — I have reason to doubt that the minister's answer is a complete, fulsome and accurate description of the history of this matter. For posterity I want him to be crystal clear in his commitment to those of the south-east: there will be a helipad, there will be a sleep lab, there will be an early in life mental health facility, there will be a children's hearing centre and there will be a covered walkway between all those facilities, and they will be included in the tender document which will be approved — and the hospital built — by his government.

Hon. D. M. DAVIS (Minister for Health) — The first thing is that the helipad will not be on the same spot. It will be moved, because we cannot land helicopters underneath hospitals. That is the first point. Let me be quite clear. The scope is still being worked through in terms of the final outcome, because we are putting more into the hospital than Labor had in it. The footprint will be bigger, and the floor area will be bigger. There will be more in the hospital than Labor had in it. Many of the services the member listed are already provided at Monash. We will be putting more in the hospital than Labor had in its shonky business case — its unfunded business case. Yes, there will be a helipad. There will be more services there. I have to say we need to be a little careful about the final detail, because we are in a live contract period. But I can be absolutely careful and clear.

Prison smoking ban

Mr FINN (Western Metropolitan) — My question without notice is directed to the Minister for Corrections, and I ask: will the minister inform the house of what the coalition government is doing to improve the health of Victorian prisoners and prison staff?

Hon. E. J. O'DONOHUE (Minister for Corrections) — I welcome Mr Finn's interest in the health of the Victorian prisoner population. I am pleased to announce to the house today that smoking in Victoria's prisons will be banned from 1 July 2015.

This is a significant proposal, and one which the government hopes and believes will improve the health and safety of the prison environment for prisoners and all those who work within the prison system.

Smoking is the most common cause of preventable deaths in Victoria, and we know that smoking increases the risk of developing a number of chronic health conditions. A total smoking ban in Victorian prisons will reduce health risks for those prisoners who smoke and also eliminate the risk to prisoners of being exposed to second-hand smoke. Importantly, a total smoking ban will also provide a healthier and safer workplace for all prison staff.

This is more than just a health issue; it is also an important safety issue. Tobacco is often used as currency in prison, and as such it can result in standover and intimidation incidents. Lighters and matches have the potential to be used as weapons in prisons, so a ban on smoking will mean that these items can be treated as contraband, addressing what can be a risk to prisoners and staff.

Generally speaking we know our prison population is not a healthy one and that there are much higher rates of smoking in prisons than in the general community. A recent report by the Australian Institute of Health and Welfare on smoking in prisons shows that the prevalence of smoking in prisons is much higher than in the general community — in fact, it is approximately six times higher. Despite some efforts in recent years to address smoking by banning smoking indoors in prisons, about 85 per cent of prisoners smoke — a very high figure — compared to around 14 per cent of the general Victorian community. The report also identifies that 46 per cent of prisoners who smoke would like to give up smoking but found it challenging to do so in the prison environment.

Other jurisdictions have taken steps in this regard as well. The ban I have announced today will bring Victoria into line with other jurisdictions. The Northern Territory and New Zealand have banned smoking in prisons, and South Australia, Tasmania and other jurisdictions have announced their intention to ban smoking in prisons.

The government is announcing this today with a long lead-in time to allow for adequate planning, education and implication strategies to occur before the ban in 2015. The smoking ban is a continuation of the government's commitment to reducing the impact of tobacco smoking on the Victorian population. Indeed the Minister for Health has taken significant steps in this regard. Banning smoking in prisons will be another step towards changing the norms around smoking in Victoria and reducing the health and economic impacts of smoking in the broader community. I hope the Labor Party sees sense on this matter and endorses this sensible initiative of the government.

Sitting suspended 1.14 p.m. until 2.17 p.m.

TRANSPORT ACCIDENT AMENDMENT BILL 2013

Second reading

Debate resumed.

Mr RAMSAY (Western Victoria) — It gives me great pleasure to speak on the Transport Accident Amendment Bill 2013. As I do so, I also acknowledge some significant milestones for the Napthine government in relation to the road toll. It is worth putting on the record that in 2012 there were, sadly, 241 road deaths. In 2013 we have reduced that number to 197. It is a small but important reduction.

It is pleasing to see that some of the work being done by the Transport Accident Commission (TAC) and the Napthine government is reducing not only the number of road deaths but also road trauma. Not only the advertising campaigns but also the tools and mechanisms that are in place are reducing speed and putting the onus on road travellers to take responsibility for their actions and be more aware of the dangers of road travel. It is pleasing to see that with significant investment in trying to reduce the road toll the Napthine government has, by a small measure, reduced the road toll between 2012 and 2013. The government is obviously fully committed to continuing to reduce the road toll by a range of options.

The bill amends the Transport Accident Act 1986 to enable the introduction of a fixed-cost model for common-law actions. The provisions in the bill enable the Governor in Council to make legal costs orders to fix legal costs payable under any claim, application or proceeding for common-law damages.

I appreciated the contribution Mr Leane made before lunch. I was somewhat surprised by his very emotive and serious contribution when telling a story relating to his prior role as an electrician and describing some of the challenges he faced in that role and also some of his safety work in coming across road trauma. It always worries me when opposition members speak in an emotive sense about bills they oppose, because many times their contributions are not related to the impact of

the bills but merely try to create some sort of sensationalism about their effect.

That is not to show any disrespect to Mr Leane. Although my contribution this morning in relation to members on the other side of the chamber belonging to unions was fact, it was not meant to be disrespectful about where they have come from, whether it be the unions or some other factions.

Mr Leane made the point that the unions have been quite proactive in the area of safety. I agree with him. In fact I think one of the strengths of the unions has been their work on workplace safety. However, I think Mr Leane went a tad too far in trying to draw parallels between the impact of the bill and the matters he referred to in his contribution prior to lunch. I do not see any sort of connection between what the government is trying to do with this bill and the experiences he was describing to the chamber.

The bill will improve the operational efficiency of the Victorian transport accident scheme by clarifying the original intent of the current legislation, addressing anomalies and increasing some benefits to the clients of the Transport Accident Commission. The reality is that the TAC's scheme was looking to become unviable in the longer term. We also have a scheme that has been proving to be a gravy train for plaintiff lawyers.

Many recipients of compensation from the TAC scheme require long-term assistance. It is a long-tail fund — recipients require long-term health responses — and there is quite a lot of grey in its detail. When you do not have clarity of detail, for some reason lawyers like to exploit that opportunity. Plaintiff lawyers make the most of any unclear wording or presumptions in a document that is not easy to clarify.

Quite simply this bill tries to take away the grey to reduce the legal argument associated with claims. It tries to remove the gravy train that these plaintiff lawyers have been on for many years and to return the money to those who most need it — the clients of the scheme.

The Victorian transport accident scheme is experiencing increasing pressure from plaintiff lawyers' costs, which total about $50 million a year, particularly from those lawyers who do not participate in the TAC's common-law protocols. The proposed fixed cost order will assist in managing these costs. Labor previously supported that model. The fixed cost order is very similar to the Victorian WorkCover Authority's legal costs orders.

This bill extends the period to claim for travel expenses from 12 weeks immediately following an accident to 24 weeks throughout the life of a claim. It extends the travel expense entitlement of students to cover attendance at a university, TAFE, registered training organisation or school, as is currently the case. It increases the cap on individual funding agreements from $200 to $1000 for the purchase of aids, appliances and apparatus, and it increases family travel and accommodation expenses from $7310 to $10 000 per claim.

In the tragic event of a death from a road transport accident the entitlement of surviving family for funeral expenses will be increased from around $10 600 to $14 800 and expanded to cover all funeral-related expenses. Access to common law for Victorians who suffer serious injury in a transport accident is an important element of the scheme, and the legislation continues current entitlements through the impairment and the narrative gateways.

Much of the contribution by members of the opposition this morning was scaremongering and was about the perceived effect of this bill taking rights and injury claim eligibility from emergency services workers or other sectors. None of that is true. The coalition government is committed to maintaining access to common law as an important part of the TAC scheme. That has not been compromised. The legislative package provides greater clarity around the definition of severe mental injury. For the first time there will be clinical criteria for what constitutes a severe long-term mental or severe long-term behavioural disturbance or disorder for the purpose of defining serious injury. The bill provides clarity, particularly for those seeking support for a severe long-term mental or behavioural disorder.

The TAC has worked closely with the chief psychiatrist to develop a definition of severe mental injury which is consistent with the views of modern medicine. There has been close collaboration with the Department of Health. Defining severe mental injury will encourage people to access treatment from a medical specialist for their mental injuries and will also ensure that mental injury claims are treated consistently within the TAC scheme. The amendments also provide for the making of fixed costs orders in respect of legal costs associated with TAC common-law claims. This follows the successful introduction by the previous Labor government of a fixed-cost model for legal costs under the Victorian WorkCover Authority scheme.

It is worth noting that the TAC spends around $50 million per year on plaintiff legal costs. The

common-law scheme exists to compensate accident victims, not lawyers. As I said from the outset, the gravy train will stop for plaintiff lawyers. The money will be diverted to where it is most needed — that is; to the people seeking support for injuries or trauma associated with road accidents.

The reform package is also intended to reduce the number of medico-legal examinations a client needs to attend by requiring agreement between the TAC and the client before the reports are funded, and they are funded through premiums paid by motorists, with the average two-car family paying more than $900 for the TAC scheme each year. I am sure they would not be happy to find that part of their premium — up to $50 million — is being soaked up by plaintiff lawyers.

I want to touch on a couple of points that Mr Lenders raised in his contribution, but before I do I want to put on the record that any person will be able to make a claim. The government is not removing the right of a person to be able to make a claim. In 2009–10 the TAC paid $4.7 million in compensation for mental health treatment and in 2012–13 it paid over $6 million, an increase of $1.3 million. The opposition has suggested that we are reducing the opportunity to make a claim or reducing payments in relation to mental health treatment. That is not the case. In fact we are increasing them, as we are increasing the compensation payable for consulting fees and for associated costs such as funerals et cetera. Nothing in the bill will reduce the ability to claim for mental health treatment. The bill will increase the compensation payable for family counselling services, as I said, up to $15 000, to assist families who have unfortunately been affected by a road transport accident.

In response to Mr Lenders's contribution there is one very important point I would also like to put on the record. Mr Lenders read into *Hansard* a letter from a TAC client, Keryn Glen. The implication is that under this legislation the client would miss out; he would not be able to access compensation under the scheme. This is totally incorrect. Mr Glen, who tragically lost his son, received no-fault compensation under WorkCover and common-law damages under the Transport Accident Act 1986 He had a whole-person impairment of 35 per cent, and nothing in this bill would restrict those rights.

In summary, as I said I would like to congratulate the Napthine government for its efforts in reducing the road toll, given there are an increasing number of motorists each year using our road networks. There is more work to be done, and I congratulate the minister responsible for the TAC and WorkCover, Assistant Treasurer Gordon Rich-Phillips, for his work under his portfolio in reducing the road toll, using the tools and mechanisms available to him in making drivers more aware of their responsibilities when in charge of a motor vehicle and introducing new legislation that reduces the potential risks and increases the safety of not only drivers but passengers and other road users.

I also commend the minister for introducing this bill in that it improves clarity around some of the definitions for access to compensation for road trauma but also removes innuendos which allow some plaintiff lawyers to maximise their profit opportunities by arguing around the definition of wording in claims by clients wanting to access compensation.

Most importantly for me, this legislation moves some of the benefits of the scheme away from opportunistic plaintiff lawyers and returns funds to where they should rightfully be in the first place — that is, to those who have been affected by road trauma and are seeking help and support. It is on that basis that I am happy to support this bill.

House divided on amendment:

Ayes, 17

Barber, Mr	Mikakos, Ms
Broad, Ms	Pennicuik, Ms
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Scheffer, Mr
Hartland, Ms	Somyurek, Mr (*Teller*)
Jennings, Mr	Tarlamis, Mr
Leane, Mr (*Teller*)	Tee, Mr
Lenders, Mr	Tierney, Ms
Melhem, Mr	

Noes, 19

Atkinson, Mr	Hall, Mr
Coote, Mrs	Koch, Mr (*Teller*)
Crozier, Ms	Kronberg, Mrs
Dalla-Riva, Mr	Lovell, Ms
Davis, Mr D.	Millar, Mrs
Davis, Mr P.	O'Donohue, Mr
Drum, Mr (*Teller*)	Ondarchie, Mr
Elsbury, Mr	Peulich, Mrs
Finn, Mr	Rich-Phillips, Mr
Guy, Mr	

Pairs

Darveniza, Ms	O'Brien, Mr
Viney, Mr	Ramsay, Mr

Amendment negatived.

House divided on motion:

Ayes, 19

Atkinson, Mr	Hall, Mr
Coote, Mrs	Koch, Mr
Crozier, Ms (*Teller*)	Kronberg, Mrs
Dalla-Riva, Mr	Lovell, Ms
Davis, Mr D.	Millar, Mrs
Davis, Mr P.	O'Donohue, Mr
Drum, Mr	Ondarchie, Mr
Elsbury, Mr	Peulich, Mrs
Finn, Mr (*Teller*)	Rich-Phillips, Mr
Guy, Mr	

Noes, 17

Barber, Mr	Mikakos, Ms
Broad, Ms	Pennicuik, Ms
Eideh, Mr (*Teller*)	Pulford, Ms
Elasmar, Mr	Scheffer, Mr
Hartland, Ms	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr (*Teller*)
Leane, Mr	Tee, Mr
Lenders, Mr	Tierney, Ms
Melhem, Mr	

Pairs

O'Brien, Mr	Darveniza, Ms
Ramsay, Mr	Viney, Mr

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Mr BARBER (Northern Metropolitan) — My question for the minister is: why was no consultation undertaken prior to the introduction of this bill?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I thank Mr Barber for his question. There are three key areas to this bill and what it does. The first is increasing a range of statutory benefits, which I can go through in the clauses; the second is clarifying and putting beyond doubt a number of existing practices around the Transport Accident Commission (TAC) scheme; and the third, in relation to clause 27, is inserting a new definition of serious mental injury. With respect to two of those areas, improving benefits and confirming existing practice, the government did not deem it necessary for there to be external consultation. With respect to the third area, the new definition of serious mental injury, consultation was undertaken with the Department of Health, with the chief psychiatrist and with the mental health representatives on the TAC clinical panel to ensure that that definition is an appropriate definition.

Mr TEE (Eastern Metropolitan) — On that issue of consultation, why there was no consultation with the Law Institute of Victoria (LIV)?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I will say to Mr Tee that the government consulted with the parties it thought were appropriate for this legislation given what the legislation does.

Mr TEE (Eastern Metropolitan) — The law institute has protocols with the TAC in terms of how you deal with claims. Those protocols are affected by this bill. Why was it not deemed to be appropriate in terms of consultation? Why was it not consulted with in that sense at least?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I think the matters Mr Tee refers to relate to another bill which we are not considering at this point in time, and I reiterate that the government consulted with the parties it thought were appropriate given the circumstances of the legislation.

Mr TEE (Eastern Metropolitan) — To be clear on that issue: the TAC dispute resolution protocols are the ones I refer to. They set in place the pre-litigation processes and have been in operation since 2005. They were established by way of an agreement between the TAC, the LIV and the Australian Lawyers Alliance to deliver benefits. It is that protocol.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Again I say to Mr Tee that the government has consulted with the parties it thought were appropriate for this particular piece of legislation.

Mr BARBER (Northern Metropolitan) — The government seems to think that the appropriate representative of the psychological/psychiatric profession is the chief psychiatrist rather than the representative professional bodies of those who operate at the coalface and who will have to work in partnership to implement this legislation. Where does the chief psychiatrist ordinarily come into the TAC system? I do not believe he has a specific role anywhere within the legislation. What duties of the chief psychiatrist ordinarily see that office engaging with matters relating to this particular principal act?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I say to Mr Barber that the role of chief psychiatrist through the Department of Health is essentially as the government's chief source of information on psychiatric matters, and that is why he was consulted in the preparation of this legislation. It is correct to say the chief psychiatrist does not have a role

under the Transport Accident Act 1986, but his role is to provide advice to government.

Mr BARBER (Northern Metropolitan) — It is common ground that the government did not go out and consult the psychologists and psychiatric professionals who work with this legislation. The government was trying to come up with a definition for a particular set of mental illnesses and injuries, that we will have to debate down the track, and so it reached around for the nearest thing it could find, which was the chief psychiatrist. What role does the chief psychiatrist ordinarily play in the administration of the act? Does he have any background in working with these matters? Is he someone you would ordinarily consult on these changes or did you simply reach around to find someone who was in-house, who would guide you or approve of — if that is what we are suggesting — your new definition?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Again I say to Mr Barber that the chief psychiatrist does not have a role under the Transport Accident Act, but I also reiterate that the Transport Accident Commission clinical panel members, the psychiatrist members of the clinical panel, were engaged in this process as well, and obviously they are practising in their field and are engaged by the TAC on mental health matters.

Mr TEE (Eastern Metropolitan) — Was the Royal Australian and New Zealand College of Psychiatrists consulted?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — The college was not among the people I named before, so no.

Mr TEE (Eastern Metropolitan) — Were there any professional organisations, external to the Transport Accident Commission, that the minister did consult with?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I think I have explained to Mr Tee who the government consulted with. It was the chief psychiatrist and the TAC clinical panel members relevant to the legislation.

Mr TEE (Eastern Metropolitan) — And no organisations representing the victims of road trauma?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I think we are going around in circles. I outlined to the house the parties that were consulted in respect of the relevant sections of the legislation before it was introduced.

Mr BARBER (Northern Metropolitan) — During their second-reading contribution one of the lead government speakers explained that one of the provisions being inserted in the bill was necessary because, in his words, we could have instances of 'suicide by car' and that the purpose of this provision was to ensure that no person would be motivated to commit suicide in order to ensure that a compensation payment would accrue to their family. I do not think I am being unfair in characterising the way the member explained that situation. What evidence does the government have that such a phenomenon even exists? How can the government claim that the frame of mind of someone who commits suicide in a motor vehicle could in any way or to any extent be motivated by their family getting a payout? If the government has any evidence of this or any description of this occurring, could he please describe it for us?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I think Mr Barber is referring to clause 26, which seeks to clarify the existing practice of claims being brought by family members where a person has been injured in an accident resulting in an injury or death of another person, that may have been caused through suicide or through negligence. We need to be mindful that this is referring to the common-law gateway, and in such a scenario what would be required for a matter to proceed would be, to use Mr Barber's example of a family, for the family member to sue their deceased family member in order to receive compensation. That is a scenario which has not occurred under the TAC scheme, it is not a scenario that was ever intended to occur under the TAC scheme, and that is why clause 26 is being inserted — to put beyond doubt that it is not a scenario that can arise under the TAC scheme.

Mr TEE (Eastern Metropolitan) — If I can just clarify the position, I have a number of questions on clause 26, but I think it might be easier if we deal with that when we get there.

The ACTING PRESIDENT (**Mr Elasmar**) — I have thought about that, but if the minister is happy, then I am happy to let it go. It is up to the minister. Let us finish clause 1. Do you have any further questions on clause 1?

Mr TEE — No. But if I can be of assistance, I am not seeking to interrogate the operation of the clause, just simply to talk about the policy basis on which it is being brought forward.

Mr LENDERS (Southern Metropolitan) — On clause 1 my question to the minister goes to the savings

that the government is seeking to achieve through these changes to common law. I refer to an article in the *Age* where the minister talked of savings of the order of $30 million to $35 million — including the costs order changes, which obviously are no longer being proceeded with. My question to the minister is: what are the annual savings to the TAC scheme that the government is expecting from this reduction in the ability to claim common-law damages?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I can advise, netting out the costs order of the further amendment bill, a figure of approximately $20 million a year.

Mr LENDERS (Southern Metropolitan) — I thank the minister for that answer. He is talking about a figure of $20 million a year for common-law damages for psychiatric injury.

Hon. G. K. Rich-Phillips — For the extent of the bill, the provisions of the bill.

Mr LENDERS — Yes, for the extent of the bill. I make an observation and invite the minister to make a comment, given that this is a debate on clause 1. It seems to me that there has been no attempt at outlining a general government policy. There has not been a ministerial statement or any announcement about the government's desire to wind back common-law claims for psychiatric injury. But two weeks ago in this place we had a bill regarding public sector superannuation removing injury, including psychiatric injury, which, paraphrasing the minister in response to a question in this place, was the main driver of those claims. We had a bill regarding public sector superannuation where psychiatric injury was closed.

We have here a TAC bill. However, as I am sure other members and I will go through when we deal with later clauses, the interconnectivity with the WorkCover scheme is clear in this bill. The observation I make is that there appears to be a government policy in this particular area, but there has been no enunciation as to reasons or purpose. It is incrementally happening, and this is obviously a much bigger increment in the two schemes that it affects than was the case in those close public sector superannuation schemes that we were addressing two weeks ago. I invite the minister to comment or advise the house on when we will get a policy position from the government as to what its particular problem is with common-law compensation for psychiatric injury.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I say to Mr Lenders that the government does not have a problem with common-law psychiatric injury. The government is not seeking to remove access to common-law psychiatric injury. What the government is seeking to do through this legislation is put certainty around the way in which common-law access with respect to mental injury will be treated within the TAC scheme and to ensure that the scheme continues to be viable into the future.

We have seen growth of around 30 per cent in mental injury common-law claims in 12 months. It is a substantial area of growth. Obviously it is the nature of the common-law element of the TAC scheme that boundaries shift over time, judicial interpretations change as new avenues are considered by plaintiffs and the overall viability of the scheme needs to be maintained. As Mr Lenders would appreciate, an estimated $20 million in annual cost impact through this package is not significant in the context of the TAC scheme. The TAC pays out a bit over $1 billion a year in various kinds of compensation, statutory and common law. In terms of the impact on where the scheme is today, this is not significant. However, the intent is to ensure that in the future the viability of the scheme is maintained through restoring in various provisions what was previously the status quo and putting in certainty around existing practices.

Mr BARBER (Northern Metropolitan) — The minister is quite likely to be successful in his aim of implementing certainty, because if this bill passes, it will be almost certain that people will be unable to make those claims and hence we will know the precise amount the government will save. However, the difficulty I have with this — and it goes to Mr Lenders's wider question — is that in recent times we have been making efforts to encourage people to recognise and open up about their mental health problems.

The minister talks about a rising number of claims in the last 12 months. We are running ads on TV that say, 'Are you okay?'. It is a campaign to encourage people to ask their friends to open up about mental health problems that they are having. We are trying to destigmatise mental illness. We are trying to get people to open up and talk about it. Surely at the other end of that must come the resources to treat it. I would not want to ask a friend, 'Are you okay?'; he says, 'No, I am not okay', and then I have absolutely no idea where I can send him next. That is the reason we have a real problem with these provisions being inserted at this time. I think Mr Lenders is quite right to ask if there is some overall general government push or policy being worked out to limit through a range of schemes and measures people's access to assistance at the other end

of acknowledging and recognising that they have a mental health problem.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Just to respond to Mr Barber, who referred to resources to treat mental conditions in the community generally but also in the context of the TAC scheme, it is important to keep in mind that what we are talking about here with the TAC scheme is not access to treatment for people making mental injury claims. It is purely about access to lump sum common-law claims — that is, getting through a gateway to then have the opportunity in court to prove that someone else was negligent, which led to a person developing a mental injury. This does not impact upon a person getting treatment for mental injury claims. It does not impact upon a person having access to loss-of-income benefits for mental injury claims. It does not impact upon a person having access to an impairment benefit for mental injury claims under this scheme. We are purely talking about access through the gateway to bring a common-law claim.

Mr BARBER (Northern Metropolitan) — As the minister said, it is for compensation. That compensation must be related to the extent of the losses that they have suffered, and it therefore gives them a payment that they can use to rebuild their life. If they choose to spend it on a cruise ship trip, that might not be a bad use of the money to address their own needs, as seen by them. Nevertheless, the minister points out that there are gateways someone has to go through. There is also the cost burden the bill is putting in of getting through those gateways, which we have a significant concern about and which comes up in the clauses that we seek to amend.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Just to take up Mr Barber's point about compensation, it is worth bearing in mind that under the TAC scheme today not everyone with a mental injury has access to that compensation Mr Barber talks about, because there is a 30 per cent threshold — or the narrative threshold — and what this legislation is doing is putting clarity around how that narrative threshold for severe mental injury applies. There is already a threshold for mental injury which must be passed before a person can access common-law compensation. Not every mental injury claim under the TAC scheme has access to common-law compensation.

Mr LENDERS (Southern Metropolitan) — I have a comment to make in this debate and then I have a question. The minister made the comment before that $20 million in the context of the scheme was not a lot of money. I put to him that it is a lot to Treasury in terms of its dividend component and, far more seriously, it is a lot to those individuals who actually received the amounts of their claims. Following that comment with a question, I ask the minister: is that $20 million savings achieved through a regime change in the TAC or is it quantified in the 20, 30, 50 or 100 individual psychiatric injuries claims that are being taken out of the scheme? From an actuarial basis I would be interested to hear where the savings come from and how much comes from common-law payments. Or is it something else?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I say to Mr Lenders the saving is across the suite of things which are contained within the legislation, including obviously costs where there are increased statutory benefits. Mr Lenders is right in saying it is an actuarial assessment. The TAC's actuaries assess what claims have succeeded in the past and what claims may not succeed under these definitions and where those other changes may impact costs.

Mr LENDERS (Southern Metropolitan) — I wonder if the minister would oblige me: would there be a figure that the TAC would allocate to an average common-law payout for these psychiatric injury cases?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that the average common-law settlement is around $270 000, but that is across all common-law claims within the TAC scheme, and mental injury claims are typically lower than that.

Mr LENDERS (Southern Metropolitan) — If mental injury claims are $200 000 each, on the basis of that maths, of the order of 100 families a year will lose their compensation because of these changes which the minister described as minor in terms of the scheme. In terms of the scheme he is correct, but in terms of those individuals that minor amount for which the policy change is being made is actually fairly massive. I am just making an observation, and I am not asking the minister to respond. If we use the test of Wendy Lovell, the Minister for Housing and a member for Northern Victoria Region, that the soul of a government is judged in difficult economic times by the decisions it makes, I rest my case on the government.

Mr BARBER (Northern Metropolitan) — This is a new matter, but one that still relates to the purpose of the bill, which is extraordinarily broad; it says it aims to improve the operation of the TAC scheme. In my consultation with groups representing families of victims — something the government did not do — I heard questions relating to the experience of claimants

and how the TAC managed those. It was put to me that individuals who have suffered a tragic loss find it difficult, as anyone would, to deal with the requirements, provisions, forms and anything else that is involved in making a claim, much less sustaining one and achieving one, and that case workers or case managers would be ideal for ensuring that people get what they are entitled to without further adding to their trauma. Is it TAC's intention to introduce such a model, is it thinking of it or has it already taken such steps in some instances?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — The TAC is now changing the way it handles claims through the First Service model, which is the new model being introduced to remove a lot of the administrative burden imposed upon claimants when they contact the TAC. Even basics like the TAC application form have been simplified and largely removed for claimants. It is the TAC's intent to improve that engagement with the TAC to remove a lot of those administrative burdens. Mr Barber may have noticed one of the provisions in this bill relates to lifting from $200 to $1000 the cap on the agreements under which TAC claimants can procure their own support services rather than needing to get approval from TAC for every individual purchase. Measures like that are being put in place.

Mr BARBER (Northern Metropolitan) — But is that a case management model, which was the specific issue I asked about? If so, how many people have been through a case management model?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that case managers are used typically with respect to severely injured TAC claimants for the more complex cases, while other cases are dealt with on an issue-by-issue basis.

Clause agreed to.

Clause 2

The ACTING PRESIDENT (**Mr Elasmar**) — Order! Mr Barber has circulated some amendments, but before I ask Mr Barber to move his amendment 1, I indicate that his amendments 1 and 2 are consequential amendments and a test for his more substantive amendment 7. It seeks to omit clause 27, which amends section 93 of the principal act in relation to serious injury applications. Mr Barber's amendments 12 and 13 to clause 30 are also consequential on the substantive amendment. I therefore invite Mr Barber to canvass his more substantive amendment at this time.

Mr BARBER (Northern Metropolitan) — I move:

1. Clause 2, line 6, omit "Subject to subsection (2), this" and insert "This".

As you, Acting President, have just said, the operative clause is clause 27, so what I need to do is ask the minister some questions that relate to clause 27. That is how I am intending to proceed, unless you guide me otherwise. The first question for the minister on that is: why does this clause have retrospective operation?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — This clause has retrospective operation back to the date the bill was introduced into Parliament to avoid a situation of behavioural change. It is not dissimilar to taxation measures where a government is seeking to introduce a new measure and does not want to have a situation where behaviour is changed to avoid the particular circumstance or particular provision. This provision is retrospective to the date of the bill's introduction to Parliament to ensure that, in the event that it passes the Parliament, future claims are dealt with under it rather than having a flood of claims come in prior to this provision being enacted.

Mr TEE (Eastern Metropolitan) — Just on the retrospective nature of it, will this mean that an injury that was sustained as a result of an accident which occurred some days, weeks or years ago will be affected by this clause?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised this will apply to applications from the date of 16 October.

Mr TEE (Eastern Metropolitan) — So it relates to the date of the application, but if the accident occurred months or years before, would it be affected by these changes?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — It would apply to any application from that date, which would obviously relate to an earlier accident.

Mr BARBER (Northern Metropolitan) — I would also like to ask the government whether it can give some examples of people who will meet this test for mental injury. The minister has made some claims about the likely cost saving, but what would be the number of payouts that would have occurred if this legislation had been operative? Because the mental health professionals who work at the coalface and who I have consulted with — and who the government has not consulted with — tell me they cannot give an example of a client in their professional experience who would meet this test.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I have an example here. I do not know if Mr Barber would like me to read the details into the record. It is an example that has been provided by the TAC with respect to a client. Obviously the name has been changed. It refers to Dorothy, who was involved in a high-speed car accident in 2008. She was admitted to hospital reporting neck, shoulder and back pain. The TAC accepted Dorothy's claim and paid her ambulance, hospital and medical treatment, provided income support, reimbursed the cost of appropriate treatment for injuries, including X-rays, scans, physiotherapy et cetera, and approved and funded psychiatric treatment. In 2011, which was three years after the event, Dorothy was admitted to hospital to assist with her deteriorating post-traumatic stress disorder and depression. Dorothy attempted to continue to work after her accident but as a result of her depression had to resign and has not been able to work since. She continues to see her psychiatrist every week and will be on long-term antidepressant medication. Dorothy's social and family life have also suffered and she is now isolated. Dorothy would satisfy the definition of severe mental injury for the purposes of compensation.

Mr LENDERS (Southern Metropolitan) — I am very interested in the minister's example and would like to drill a little bit more into that example. By my layperson's reading of proposed section 93(17A), inserted by clause 27, there is a very specific requirement that for a person to claim serious injury, they must be affected for a continuous period of at least three years, et cetera, but also that the person (a) has a recognised mental illness and (b) displays symptoms and (c) is severely impaired. My limited reading of the minister's example of Dorothy would imply an 'or' rather than 'and' relationship between those conditions. The test in proposed section 93(17A) on his reading seems to me to be actually 'or' not 'and'. If it is the case that it is an 'or' not an 'and', it seems a very strange bit of statutory interpretation for this particular paragraph that (a) is linked to (b), which is linked to (c) by 'and'.

It sounds pedantic, and we are not discussing the Statute Law Amendment Bill, which tends to deal with pedantic matters. Going back to the earlier point on clause 1 that as a society we try to get people to go back into the workforce on light duties wherever possible, if this clause is to be read as including 'and' and not 'or', then basically it says to anyone who wants to claim common-law damages in this space, 'Don't set foot in a workplace again, don't try to rehabilitate or any of that, because if it goes from "or" to "and", you have no claim at all'. I ask the minister about the and/or issue. I think it is a very significant issue.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I can tell Mr Lenders that in respect of (a), (b) and (c) 'and' is and. There are three elements there to that test, with respect to recognised illness, symptoms et cetera; not responding; and impact — so the three elements are required to meet the definition of severe mental injury.

Paragraph (c) refers to impairment with respect to relationships and social and vocational functioning, and that is to be read as it would be considered in a clinical environment, with a clinician considering this definition. The advice from the Office of the Chief Parliamentary Counsel is that relationships and social and vocational functioning would be considered as appropriate to a particular case. It is not necessary to have an impairment in a relationship, to have an impairment in a social setting and to have an impairment in a vocational setting. That would be considered dependent upon the individual circumstances of the particular case. The word 'and' in this case should not be read as 'and' but as 'or', but in terms of paragraphs (a), (b) and (c), those three elements need to be present.

Mr LENDERS (Southern Metropolitan) — Continuing to pursue this point, I am a tad sceptical about whether the Supreme Court reads *Hansard* to discover the government's intent, but I know some people have a view that the courts attempt to discover that intent. With that minor caveat on paragraph (c) concerning 'and' versus 'or', will the minister emphatically state that it is the government's intention that 'and' means 'or'?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — In (c).

Mr LENDERS (Southern Metropolitan) — In the interests of papal infallibility — the minister has his crosier and his hat, the incense is going and he is making a deliberative statement. I do not mean to be belittling; I refer to the infallibility of the words. In all seriousness, I am seeking from the minister that he, as a minister of the Crown, make absolutely clear whether 'and' between (a) and (b) and 'and' between (b) and (c) is actually 'and' or 'or'. I think he put a caveat on the 'and' between (b) and (c) but not on the one between (a) and (b).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — To be quite clear, all three elements — (a), having a recognised illness; (b), displaying symptoms and not having a response to treatment; and (c), that having an impact on the person — need to be present to meet the definition. It is (a) and (b) and (c).

With respect to the elements contained within (c), those are to be read with regard to the circumstances of the particular case, as to whether it is a vocational setting, a social setting or a relationship setting.

Mr BARBER (Northern Metropolitan) — This is a problem that the government has made for itself, because the psychiatrists who advise me admit they are not lawyers, and lawyers certainly are not psychiatrists. However, by my reading of the bill, I believe the government is for the first time introducing a specific clause in the bill that seeks to make a diagnosis, if you like, of someone's condition. Elsewhere this legislation provides for doctors telling politicians who is sick. Now we have politicians writing a test that doctors must meet before they can say someone is sick.

Just to be clear on how this clause works, we are talking about a person who has a severe long-term mental or severe long-term behavioural disturbance or disorder. The clinical advice is that people with post-traumatic stress disorder of the type we are discussing have intermittent incidents of the syndrome; hence the claim made by the expert psychologists that I dealt with that they could not find an example that met this test. Someone would have had to have been catatonic for that period and quite possibly confined to their bed before it could be said that they had been continuously suffering that behavioural disturbance or disorder.

The government is going to go ahead and disagree with me, but I think I am accurately reflecting what I have been told. Then the person has to have:

> … a recognised mental illness or disorder (other than abnormal illness behaviour) as a result of a transport accident.

Fair enough; there needs to be some connection between the accident and the stated or claimed disorder.

Paragraph (b) provides that the person needs to display:

> … symptoms and consequent disability that have not responded, or have substantially failed to respond, to known effective clinical treatments provided by a registered mental health professional who is registered under the Health Practitioner Regulation National Law to practice (other than as a student).

In other words, any intermittency in your course of treatment will strike you out. We are talking about something a little bit more variable than the example of Dorothy that the government brought up.

Under paragraph (c), the person must have:

> … severely impaired function with symptoms causing clinically significant distress and severe impairment in relationships and social and vocational functioning.

In other words, if you are still in your marriage or you have a job, you cannot pass this test. That is the difficulty the government has created for itself here in seeking — for the first time, from what I can see — to write into statute a definition that appropriately should be made as a diagnosis by clinical professionals.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I say to Mr Barber that the intent of these provisions is that they will be interpreted by clinicians. They have been prepared by mental health professionals and the chief psychiatrist with reference to the TAC clinical panel. On paragraph (c), which Mr Barber referred to, the advice from the Office of the Chief Parliamentary Counsel in the drafting of this was that those elements of relationships and social and vocational functioning would be considered as they are appropriate to a particular case. It is not necessary for all three elements of functioning in those three areas to be impaired for this provision to apply. The advice was that if it were the intention that all three elements need apply, they would be listed as separate subparagraphs (i), (ii) and (iii) under paragraph (c). By putting them as they are it does not require all three elements to be present in a particular case.

Mr TEE (Eastern Metropolitan) — I just want to tease out paragraph (c), because it seems that essentially what the minister is saying is that you only need one of those three to qualify under that paragraph. You could have a severe impairment in relationships but continue with social and vocational functioning. Is that essentially what the minister is saying? Is the minister saying that you do not need to have all three; it is sufficient that you have one or two or indeed three?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — What I am saying is that the assessment would be based on the particular case. If you were a person in a relationship, in a social environment and you had a vocation, you would be assessed against those three criteria. If you were a person who did not have a vocation, you would not need to demonstrate vocational impairment. If you were not in a relationship, you would not need to demonstrate impairment in a relationship situation.

Mr LENDERS (Southern Metropolitan) — It goes back to the 'and/or' debate. The minister is then saying categorically that in paragraph (c) it is not 'and', it is 'or'. I must admit that it does not give me a great deal of comfort when some of the stakeholders have been saying to me, for instance, on the issue of vocational functioning, 'What if the person is a student? What if the person is a retiree?'. I would as a layperson assume that that is vocational functioning, and if it is 'and', as

the plain English says here — I hear the minister's interpretation, which is that it is 'or', but if it is 'and' — this excludes students and retirees, amongst others.

Again, without going back to papal infallibility, I would seek to get a clear, unequivocal statement that a lawyer could use in the Supreme Court that actually says that the intention of the Napthine government on 14 November 2013 is that in proposed section 93(17A)(c) it is 'or' and 'or' rather than 'and' and 'and'. I just seek that unequivocal statement.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I can assure Mr Lenders, based on the advice of the Office of the Chief Parliamentary Counsel as to the structure of this draft — that is, why it was drafted in this way — that it reflects the fact that this will be an assessment by clinicians, who will consider the three elements, 'relationships', 'social' and 'vocational', having regard to the circumstances of each particular case. If a person, to use the student example, does not have a vocation, they will not need to be assessed or show any impairment in vocation. If they have a vocation, they will need to be assessed against that, but if they do not have one, that will not be required. Each case will be considered individually as to whether it has those three essential factors before any impairment against those factors can be considered. Mr Lenders wants a situation of papal infallibility, but I can only give him the advice of the Office of the Chief Parliamentary Counsel. I do not know whether Mr Lenders regards that as infallible, but the advice of the Office of the Chief Parliamentary Counsel is that it has been drafted in that way to give effect to that intent.

Mr TEE (Eastern Metropolitan) — I suppose this comes back to the issue of consultation, because the Law Institute of Victoria has a different interpretation. I suspect it would have been helpful if the minister had consulted with it, because then we might not be spending this time debating this now. In its letter to the minister dated 25 October the law institute says that:

> … children, retirees, people with a disability and stay-at-home parents will not satisfy the proposed amended definition regardless of the level of their psychiatric injuries.

The law institute's interpretation of that clause is very different to the interpretation the minister has just given to Mr Lenders. As I said, I think that confusion has arisen in part because of the minister's failure to consult with the Law Institute of Victoria. It is difficult for us to reconcile the views of the law institute, which are quite clearly set out in its letter to the minister, with the minister's interpretation. Obviously this is an issue that is going to create a degree of anxiety, so I ask if, as part of his response to that letter from the law institute, the minister will set out his view that the law institute is effectively wrong in the way it has expressed the operation of that clause in its letter.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I can say to Mr Tee that the government has already communicated with the Law Institute of Victoria, and I can advise him of subsequent correspondence from the law institute addressed to me and dated 12 November. It states:

> We are grateful for the clarification during our meeting that it would not be necessary for a claimant to satisfy each and every element of proposed section 93(17A)(c) notwithstanding the use of the words 'and vocational functioning' —

et cetera.

Mr LENDERS (Southern Metropolitan) — Without belabouring the point, in response to my earlier comment, and I think in response to Mr Tee's, if the minister were to stand and say unequivocally that it is government policy, as expressed through this legislation, that a student or a retiree is not precluded from claiming under this section by the fact that they are not in employment, that would probably give me a lot more confidence than saying, 'This is what the Office of the Chief Parliamentary Counsel has said' or, 'This is what I have said to the law institute, yada yada' — if 'yada yada' is a parliamentary term. An unequivocal statement that it is government policy that this section will not preclude those categories of retirees and students would give me a lot more comfort.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am happy to give Mr Lenders that comfort: it is not government policy that people without a vocation — students, retirees et cetera — be excluded by the operation of this provision.

Mr BARBER (Northern Metropolitan) — I am still nowhere near comfortable, and that is why I have moved an amendment, the intent of which is to excise this clause and its related clauses from the bill. If that were to be successful we could have this argument another day, perhaps after some better consultation and consideration. I am certainly still persisting with my amendment.

Mr TEE (Eastern Metropolitan) — I know we have skipped around a little, but is this my opportunity to ask questions on clause 27?

The ACTING PRESIDENT (**Mr Elasmar**) — Order! Yes.

Mr TEE — I want to go back to the example the minister gave of Dorothy. Essentially what he said is that she is on antidepressant medication. I am wondering whether she would fail the test in proposed section 93(17A)(b) in that she has responded to clinical treatment?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I can say to Mr Tee that in the example I gave, Dorothy has not responded. As such, she does not fail the test.

Mr TEE (Eastern Metropolitan) — As I understood it she was managing on antidepressant drugs. Therefore it is a question of the drugs being effective in managing her illness and her symptoms, in which case, does she then meet the threshold set out in proposed section 93(17A)(b), given the effectiveness of the antidepressant medication in helping her manage her symptoms?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Yes, she does.

Mr TEE (Eastern Metropolitan) — So she is managing because of her antidepressants, and the minister is saying that will not exclude her according to the conditions in proposed section 93(17A)(b). I want to ask then about the continuous period of three years. Again, I think the minister said that Dorothy attempted to go to work, so if she attempts to go to work and has a couple of successful days, will that exclude her, because it is then not a continuous period of at least three years?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — No, it would not.

Mr TEE (Eastern Metropolitan) — I am wondering how the minister defines the word 'continuous', if Dorothy is able to have good days — if I can use that expression.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — The intent is to recognise a mental illness over an extended period of time — three years. Obviously symptoms and the condition will change over that period. This is not meant to exclude someone on the basis that they have had a good day or a bad day, or a good month or a bad month, or anything like that. It is recognition of an illness over an extended period of time, and it certainly does not exclude people because they have had good days.

Mr BARBER (Northern Metropolitan) — What types of phenomena would create a discontinuity in that three-year period?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I guess it would be an environment where an illness had ceased in less than a three-year period and perhaps a different illness had developed. If it was not the same illness or issue, and there was not the history of an ongoing problem for three years, that would create a discontinuity.

Mr BARBER (Northern Metropolitan) — We have a bunch of non-psychiatrists writing a definition of an illness. I understood post-traumatic stress disorder, or PTSD, to be a collection of symptoms forming a syndrome. Is it the suggestion that PTSD as a diagnosed illness would cease and that some other kind of mental illness would then after a period arise? Is that type of thing common?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — If PTSD was regarded as an ongoing illness that expanded and covered the three-year period, then it would be covered. Mr Barber refers to the definition being written by politicians; the definition was written by a psychiatrist having regard to clinical knowledge of mental illness. Obviously if PTSD has the characteristics Mr Barber talks about — I do not know whether it does or does not — then it would be covered within that three-year period as an ongoing illness.

Mr TEE (Eastern Metropolitan) — In a letter to the minister dated 25 October the Law Institute of Victoria (LIV) states that:

> The practical impact of this clause —

being clause 27 —

> if enacted, will be that a significant proportion of psychiatric claims would be excluded.

Is that the government's view?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — The letter I have from the law institute is obviously different to the one Mr Tee has, because the reference here to three years is not on that particular issue.

Mr TEE (Eastern Metropolitan) — Just to be clear, the law institute letter to which I am referring is dated 25 October 2013. The sentence states:

> The practical impact of this clause, if enacted, will be that a significant proportion of psychiatric claims will be excluded.

I just wanted to be clear about what I am reading from.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — The intent of the provision is that it will

cover severe mental illness. Bear in mind that the definition that is being put in place is already meant to reflect severe mental illness. The clinical advice the government has received is that that means an illness which covers an extended period — beyond three years.

Mr TEE (Eastern Metropolitan) — That is right in the sense that the legislation as it currently stands uses the language of severe long-term mental or severe long-term behavioural disturbance or disorder. The law institute's proposition is that a significant proportion of psychiatric claims will be excluded — claims that would fit under the current legislation will no longer fit under this bill. That is how the law institute puts it. Is that the government's view?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — The government's view is that this definition will reflect what is recognised as a severe mental illness. If claims have been previously accepted without being deemed severe as defined here, then, yes, they will be excluded.

Mr TEE (Eastern Metropolitan) — That is right. I am trying to get a sense from the minister as to whether a significant proportion of psychiatric claims that would have been made under the current act will now be excluded, which is essentially what the LIV is stating.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that no, it would not.

Mr TEE (Eastern Metropolitan) — The other issue the LIV raises is that as far as it is aware the definition in clause 27 of the bill has not been used in any other jurisdiction. Is the government aware of any other jurisdiction that uses this definition?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that the government is not. This definition was developed by the chief psychiatrist for this purpose.

Mr LENDERS (Southern Metropolitan) — I wonder if the minister could help me with the definition of what in proposed section 17A(b) is a 'registered mental health professional'. Is that a mental health social worker? Is it a GP? Can the minister elucidate further on what that actually means?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — It would be a practitioner registered under the health practitioner regulation national law. In effect that means it would be a psychiatrist or a psychologist.

Mr LENDERS (Southern Metropolitan) — Then it would not be a GP or a mental health social worker?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — That is correct.

Mr TEE (Eastern Metropolitan) — The current definition of severe long-term mental or severe long-term behavioural disturbance or disorder has been in place since 1987. What issue is the minister seeking to address by adding these three additional layers? Is there a concern? Have issues been identified as result of the current definition?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Mr Tee says it has been defined since 1987. The term has been in the legislation, but the point is it has not been defined other than through practice and case law. Going back to the point I made earlier, the concern is around ensuring the ongoing viability of the scheme — that is, to ensure that where serious mental injury claims are coming forward, they genuinely are severe and do exhibit characteristics of a severe mental injury. That is why this definition has been put together to reflect characteristics of a severe mental injury.

Mr TEE (Eastern Metropolitan) — I just want to tease that out a bit, because again the Law Institute of Victoria has said in a letter to the Assistant Treasurer dated 25 October 2013 that the definition:

> … has been in existence since 1987. The courts have interpreted it and have determined cases since that time. The definition is well understood …

Is the reason the government is changing it that it does not believe that is the case, or is there some other issue it is trying to address by putting paragraphs (a), (b) and (c) in place?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — The government is seeking to put this definition in place to ensure that there is a consistent definition of what a severe mental injury is. As Mr Tee rightly says, the substantive term 'severe long-term mental or severe long-term behavioural disturbance disorder' has been in legislation, not defined in legislation. Obviously over a period of time courts interpret that, and that interpretation changes and shifts. The intent here is to ensure that claims made under this provision are indeed of a severe mental injury nature.

Mr TEE (Eastern Metropolitan) — The existing definition, the definition in the act as opposed to the definition in the bill, also applies in the Victorian workers compensation scheme. Will there now be an

inconsistency between the workers compensation scheme and the definition in this legislation if it goes through?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — This bill does not seek to amend the accident compensation act — the workers compensation scheme — and the government has no plans to amend the workers compensation scheme, so this will stand alone as a definition in the TAC legislation.

Mr TEE (Eastern Metropolitan) — The obvious question is that you will then have an inconsistency, so you will have the same practitioners operating two different tests in two different legislative schemes. Is that an issue that concerns the government?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — No, because they are different schemes with different characteristics around claims. It has been in the area of transport accidents that we have been keen to determine whether severe mental injury is indeed severe, in accordance with a clear definition. There has not been an issue of that nature in the WorkCover scheme.

Mr LENDERS (Southern Metropolitan) — The minister has defined what the registered mental health worker is. Without overly delving into the supply of paramedical staff in Victoria, I put to the minister that there will be a lot of areas in Victoria, particularly in some of the more remote regional areas, where these medical professionals are not in abundance. In fact a patient, or someone requiring treatment, would have to travel significant distances to find such a person. I would invite the minister to comment on what would happen if a person, hypothetically in Ouyen or somewhere a long way from such a psychiatric professional, needed their services and could not get to them either because it is a conundrum — there is a financial issue in doing so — or simply because it is not practical to do so. How does that impact on their ability to have this treatment for the three years continuously under this clause?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I can give Mr Lenders a couple of answers to that question. Firstly, where medical and like services are not available in local communities the TAC provides assistance for transport for people to come to centres where those services are available. That is a general provision — and indeed the bill is increasing some of the transportation entitlements — but specifically on the availability of mental health services I am advised that that is not the case with respect to TAC clients, that wherever TAC clients around Victoria have mental injury claims there are appropriate mental health practitioners in their communities who have been able to treat them and that there have not been gaps with mental health service provision throughout Victoria for TAC claimants.

Mr TEE (Eastern Metropolitan) — On that point, in its letter the law institute said that people who live in parts of Victoria without ongoing access to psychiatric services will also be potentially excluded. Do you have a different view to the LIV on that issue as well?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Yes, the government does have a different view to the LIV on that, because the evidence from the TAC is that that is not the case — that is, wherever the TAC has claimants with mental injury needs, including psychiatry and psychology, those needs are able to be met in local communities. There are sufficient numbers of practitioners, so we do not have gaps in the provision of service to those clients throughout Victoria.

Mr LENDERS (Southern Metropolitan) — This minister has a lot more credibility than the Minister for Health, who asserts every time that there is not a problem in health, so I will be more generous to this minister than I may be to the Minister for Health. However, it would give me a lot more comfort if the minister could give us — and perhaps this could be taken on notice, although it would be nice if we could get an answer before the debate on this bill is concluded today — some TAC report or provide a performance measure on this. To assert that it is not a problem is fine, but what if a potential claimant is denied it under this clause because they had not had the treatment yet the TAC says the treatment is available and can be provided by the TAC?

To use the example of Ouyen again, the TAC may well tell a person to go to Bendigo — or to Warrnambool or Melbourne or whatever — for that particular treatment, but a person may not be up to that, given the health of the people we are dealing with. It would give me a lot more comfort to have a bit more depth to the response that these service requirements are met and people are receiving them, or at least a statement that if a person cannot go from Ouyen to any of these regional centres because they are ill, then they will not be penalised under clause 27.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Obviously the principal concern of the TAC scheme is treating people's injuries. Before anyone got anywhere near common-law claims they

would have been through the statutory benefits process, which is about treating and repairing injuries. From the TAC's perspective there is a vested interest in ensuring that people are able to access the services they need. Mr Lenders referred to Ouyen. In terms of a breakdown of where TAC clients are receiving mental health treatments, I can advise that in the Barwon region there are 125; the Grampians, 58; Gippsland, 55; the Hume region, 46; and Loddon Mallee, 83. People are receiving mental health services in their regions. This has not been identified as an issue in terms of access to services. As I said, the primary concern is getting that treatment up front rather than getting an assessment for common law at some time in the future.

Mr LENDERS (Southern Metropolitan) — Without dwelling on it, on the statutory benefits to which the minister has pointed — which are the entitlements under common law obviously for the medical treatments or the psychiatric treatments and the like — I would put an example to the minister of Dorothy's friend, who lives in Ouyen and is a bit tired of all this. As part of the statutory benefit she has the option of going to Bendigo or wherever for a series of treatments, but in the end she decides that she does not feel like travelling to a regional centre — which I imagine, not being a psychiatric clinician, would happen.

For the purposes of the common-law entitlement set out in clause 27 of the bill, would the consequence for someone who clearly has an ongoing condition not having treatment because they were not up to travelling a great distance for that treatment be that the gap in having treatment would become an impediment to their making a claim for a serious injury, given the continuous three-year requirement? Obviously the gap has more to do with the tyranny of distance and tiredness than with the condition being fixed, cured or dealt with — however you wish to describe it.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — No, it would not, because regularly attending a practitioner is not a requirement under the definition.

Committee divided on amendment:

Ayes, 17

Barber, Mr (*Teller*)	Mikakos, Ms
Broad, Ms	Pennicuik, Ms
Eideh, Mr	Pulford, Ms (*Teller*)
Elasmar, Mr	Scheffer, Mr
Hartland, Ms	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lenders, Mr	Tierney, Ms
Melhem, Mr	

Noes, 19

Atkinson, Mr	Hall, Mr
Coote, Mrs	Koch, Mr
Crozier, Ms	Kronberg, Mrs
Dalla-Riva, Mr	Lovell, Ms
Davis, Mr D.	Millar, Mrs (*Teller*)
Davis, Mr P.	O'Donohue, Mr
Drum, Mr	Ondarchie, Mr (*Teller*)
Elsbury, Mr	Peulich, Mrs
Finn, Mr	Rich-Phillips, Mr
Guy, Mr	

Pairs

Darveniza, Ms	O'Brien, Mr
Viney, Mr	Ramsay, Mr

Amendment negatived.

Clause agreed to; clauses 3 to 12 agreed to.

Clause 13

Mr TEE (Eastern Metropolitan) — I just want to understand how this clause works. As I understand it, it relates to an individual who has a pre-existing injury. If you have, for example, a pre-existing spinal or knee injury causing a 10 per cent impairment, and then you have an unrelated injury covered by Transport Accident Commission provisions causing a less than 10 per cent impairment, that excludes you from compensation under the legislation?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that the intent or the practice is to exclude pre-existing injuries. If there is an impairment score for a pre-existing injury of, say, 10 per cent, and a total impairment score of 15 per cent, you would take the 10 per cent off to get a residual 5 per cent for the new injury. This recognises there was 10 per cent related to a pre-existing injury. This is existing TAC practice, and this provision is simply to clarify that it is existing practice.

Mr TEE (Eastern Metropolitan) — I suppose I had a slightly different understanding. If you had a pre-existing injury causing 10 per cent impairment and you get a subsequent unrelated injury causing 5 per cent impairment, so that you have a total of 15 per cent impairment, are you saying you are still entitled to compensation for the 5 per cent caused by the new injury?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — My advice is that your impairment for the purposes of the transport accident injury would be 5 per cent. If your total impairment is 15 per cent after the injury, and you already had 10 per cent impairment, the amount related to your transport injury would relate to the 5 per cent.

Mr TEE (Eastern Metropolitan) — So essentially what the minister is saying is that you separate out the pre-existing injury, and you get compensated for the new injury — effectively the TAC injury. Can the minister just confirm for the record that that is right?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Yes, that is correct.

Mr TEE (Eastern Metropolitan) — Then I suppose the question is: how does this provision change the existing operation of the TAC scheme?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — It does not. This is current TAC practice. It has been TAC practice, and it is simply being put beyond doubt in terms of the legislation that this is how injuries should be assessed. There will be no change as a consequence of this provision.

Mr TEE (Eastern Metropolitan) — Again, there has been some concern about this clause. Can the minister put that beyond doubt by providing an assurance or a guarantee that no-one will be worse off as a result of the operation of this clause?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Yes, I can. I can advise the house that people will be treated exactly the same under this clause as they are now, because the way the TAC assesses impairment will not change.

Clause agreed to.

Clause 14

Mr BARBER (Northern Metropolitan) — I invite members to vote against this clause. I have a couple of quick questions for the minister. First of all, why is this clause not specific to spinal injuries so that it just addresses certain spinal injuries such as in the Supreme Court case known as Serwylo the minister must be aware of?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — The reason this is not specific is to provide that if in the future there were a Serwylo-like scenario where the interpretation of the American Medical Association (AMA) guides was changed, there would be an opportunity to restore the original interpretation of those guidelines. Clause 14 is only intended to apply in respect of the Serwylo matter. There are no other matters on foot or that the TAC is aware of where it envisages using this provision. It is simply to have the provision in the event that another Serwylo-like scenario arises.

Mr TEE (Eastern Metropolitan) — On the Serwylo case, the proposition as I understand it is that the bill makes an amendment to stop Serwylo-type cases from succeeding. Can the minister advise the house of the number of cases that would be affected by the Serwylo decision?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that it is roughly 50 cases over a three-year period which would engage the Serwylo decision.

Mr TEE (Eastern Metropolitan) — Is there an average quantum we are talking about for those cases?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am not really able to answer Mr Tee's question, because the cases where Serwylo will apply are, firstly, prospective cases — they will be on foot — but they do not necessarily relate just to that injury. That injury might be part of what contributes to their impairment score, which gets them through the gateway to common law, but it may not be the substantive part of their injury — that is, the Serwylo factor in the final assessment might be just an element of each of those 50 cases.

Mr TEE (Eastern Metropolitan) — One of the concerns is that it is a very broad power to substitute or replace part or all of the American Medical Association (AMA) guides, and the bill simply gives the commission the power to do that. Is there any oversight proposed for a case of a decision by the commission to substitute or replace part or all of the AMA guides?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — The intention is only to address the issue arising from the Serwylo case, and that amendment to the AMA guides will be developed through a regulatory impact statement (RIS) process — a formal RIS undertaken with oversight by the Victorian Competition and Efficiency Commission to determine exactly what that amendment should look like to restore the original interpretation of Serwylo. I want to make it very clear that the only area in which the government sees this applying at this point in time is the Serwylo case. As I said to Mr Barber, it is a prospective measure in the event that there is a future interpretation that varies the accepted interpretation of the AMA guides.

Mr TEE (Eastern Metropolitan) — The concern with the RIS process is that it is about regulatory impact. Will it cover things such as whether an appropriate level of compensation is provided to an individual or their family as a result of the accident?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — No, it will not, because this does not relate to compensation; it relates to the assessment of impairment. The AMA guides are used to assess impairment under the scheme. Compensation is a further question, once you go through the common-law process. It does not relate to compensation; it is only about how an injury, how an impairment, is assessed.

Mr TEE (Eastern Metropolitan) — I am still trying to get my head around it. As I understand the RIS process, it is normally about regulatory impact on businesses. How does that translate in terms of impairment and how impairment is measured under the AMA guides? It does not necessarily seem to be a good fit.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — The purpose of the RIS process with respect to making guidelines is to undertake a consultation process around the best way in which the original interpretation, the original intent of the AMA guides with respect to spinal injury, can be restored. The intent of the RIS process is not about dollar assessments; it is about having the process to get back to the original intent.

Mr BARBER (Northern Metropolitan) — Is there any other provision in the principal act where the government gives itself power to make guidelines as to how the AMA guides are to be read?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Yes, there is. There was a provision inserted circa 2004 with respect to the AMA guides as they relate to mental injury. It was inserted by the previous government; I think it is circa section 46 of the act.

Mr TEE (Eastern Metropolitan) — I want to go back to the issue of the RIS process. The minister said that part of the reason for that process is around consultation. I suppose part of the concerns that have been raised has been about the lack of consultation until now. Can the minister give us any assurance that organisations such as the Law Institute of Victoria will be included as part of the consultation process picked up through the RIS?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Yes, I can. The reason that it is being done as a RIS is that it falls under the guidelines put down by the Victorian Competition and Efficiency Commission, which has a broad requirement around consultation and consultation mechanisms.

Mr TEE (Eastern Metropolitan) — The amendments that the government will make to the guidelines to pick up the Serwylo case will mean that these Transport Accident Commission provisions are inconsistent with the accident compensation act. Is the government considering amendments to the compensation act to ensure consistency?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — No.

Mr TEE (Eastern Metropolitan) — What about the Wrongs Act 1958?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am not the minister responsible for the Wrongs Act. I am not in a position to say, but I am not aware of it.

Mr BARBER (Northern Metropolitan) — Much as I want to take the minister at his word, the fact that there is a set of guidelines that indicate who must be consulted when writing guidelines, the purpose of which is to change guidelines, does not satisfy me that this is an appropriate clause. It is quite clearly another example of law-makers telling doctors who is sick or at least how to interpret who is impaired. Notwithstanding the fact that a previous government may have gone down this road, it is not a road that the Greens want to see us keep going down.

Mr TEE (Eastern Metropolitan) — Did the government consult the AMA before drafting clause 14?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — No. I outlined earlier in the committee stage the parties who were consulted, and the AMA was not one of them.

Mr TEE (Eastern Metropolitan) — Can the minister explain why not, given that we are talking about amendments to the AMA guidelines? I understand that the minister is saying that at this stage the government has no intention to do so, but this gives the minister or any future minister unlimited potential to rewrite or exclude any or all parts of the AMA guidelines and yet the minister did not consult with the AMA. Why is that?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I advise Mr Tee that subsequent to the introduction of the bill the TAC engaged with the Australian Medical Association with respect to this provision. My advice is that the AMA is comfortable with the TAC and the government's intent with regard to restoring the original intention of Serwylo. As to the

member's question of consulting the AMA about the AMA guides, what we need to bear in mind is that the Australian Medical Association is not the author of the guides. The guides are in fact from the American Medical Association.

Mr TEE (Eastern Metropolitan) — I understand that. The minister indicated that the AMA is happy with the intent in terms of the Serwylo case. Can the minister confirm whether the AMA has concerns about the broad scope of clause 14, which potentially goes much further than the Serwylo case?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I advise Mr Tee that I am not aware of that.

Mr TEE (Eastern Metropolitan) — I understand the government's intent to limit the scope of clause 14 to Serwylo, but it provides the TAC with an extraordinary power to affect any number of entitlements. Why did the government not limit clause 14 to the issue identified through the Serwylo case?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — As I said before, it was so that in future the TAC would have the capacity in the event of Serwylo-type outcomes where the accepted interpretation of the guidelines is changed by virtue of judicial interpretation to restore that purpose.

Committee divided on clause:

Ayes, 19

Atkinson, Mr	Hall, Mr
Coote, Mrs	Koch, Mr
Crozier, Ms	Kronberg, Mrs
Dalla-Riva, Mr	Lovell, Ms
Davis, Mr D.	Millar, Mrs
Davis, Mr P.	O'Brien, Mr (*Teller*)
Drum, Mr	O'Donohue, Mr
Elsbury, Mr	Ondarchie, Mr
Finn, Mr (*Teller*)	Peulich, Mrs
Guy, Mr	

Noes, 17

Barber, Mr	Mikakos, Ms (*Teller*)
Broad, Ms	Pennicuik, Ms (*Teller*)
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Scheffer, Mr
Hartland, Ms	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lenders, Mr	Tierney, Ms
Melhem, Mr	

Pairs

Ramsay, Mr	Darveniza, Ms
Rich-Phillips, Mr	Viney, Mr

Clause agreed to.

Clauses 15 to 17 agreed to.

Clause 18

Mr LENDERS (Southern Metropolitan) — Clause 18, according to a reading of the second-reading speech, purports to say there is an increase in compensation from $10 500 to $14 000, and Mrs Coote went on at some length in her speech in the second-reading debate about this great increase. My question to the minister concerns the base that this legislation is coming from. Am I correct in saying that that is the current practice rather than an internal guideline from the TAC or a legislative requirement, and that there is always discretion to move? I put it to the minister that several years ago when terrible deaths occurred in the Kerang rail crash, which the TAC was quite involved with, there were a number of funerals in that area for which the TAC paid amounts way in excess of $10 000 because it was appropriate. It was a large community, and there was a lot of grieving. There was a need. The TAC exercised its discretion in the Kerang rail crash to go way beyond $10 000. My question to the minister then becomes: if that is the case, is not a legislative cap of $14 000 actually a constraint on the TAC exercising the appropriate sensitivity it did in Kerang, and would not this clause stop it from doing so?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am unable to confirm what Mr Lenders is saying in respect of the funerals at Kerang. I do not have advice to that effect, but that is not to say that that is not the case. I guess what we are seeking to do here is reflect for the families of the 284 people who died on Victorian roads last year an increase versus what is generally paid for funerals. A figure of $10 000 has been the guideline. This represents a substantial increase, and it will be indexed into the future. It also provides a much broader scope as to the types of funeral-related benefits that can be paid because the existing definition is quite narrow under the legislation. I cannot confirm what Mr Lenders was saying about those Kerang examples, but I can say that it is a substantial increase versus what is generally paid under the TAC guidelines.

Mr LENDERS (Southern Metropolitan) — I thank the minister for that response, but I ask: what is the impediment under the existing legislative regime to the TAC board or him as minister or the Governor in Council — whatever the instrument is — increasing the limit in order to get the positive social outcome he is seeking in most cases without the provisions in the clause in a number of cases reducing the amount of

money that can go to a grieving family to deal with a larger than anticipated funeral?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — The benefit of this clause is that it ensures that the figure of $14 135 is indexed into the future; it will not require periodic re-gazetting or restating of policy guidelines to ensure that it continues to increase. The opportunity was taken to expand the type of funeral benefits which are available and to put the figure into the legislation so it becomes an indexed figure and will continue to increase.

Mr LENDERS (Southern Metropolitan) — My dilemma here is that while we have a proposal which for most cases is unequivocally an improvement, the discretion for the TAC to approve a larger amount for appropriate geographic, cultural or whatever reasons, as I am advised it has done in the past, is being removed. If we move it to the hypothetical rather than to a specific case, I understand the minister is effectively blindsided by this. I am exploring, as I can in a debate with the minister, ways we can address this. I do not want to vote against this clause for the 200-odd cases he has mentioned, but I certainly do not want to vote for it for the smaller number of cases it precludes. Can the minister assure me that this does not preclude a discretion for either himself or the TAC? Perhaps if we defer this clause to the end of the committee stage, it might assist in getting an answer. If the answer is that it does not preclude a discretion to be more generous, then I have no problem with the clause. If it does, I have a problem with the clause.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I can advise Mr Lenders that there is no discretion with respect to funeral benefits — —

Mr Lenders — There is?

Hon. G. K. RICH-PHILLIPS — There is no discretion with respect to funeral benefits. However, as I stated before, this is a substantial increase from what is currently normally paid for funerals, and I have not been able to confirm that amounts larger than normal were paid with respect to Kerang. It will ensure that the amount is indexed, and it will ensure that the types of funeral benefits which are payable are broader than those currently set out under legislation.

Mr LENDERS (Southern Metropolitan) — My interpretation of this clause is that it removes a discretion, which is a bad public policy outcome. What I seek at this stage is to defer consideration of clause 18 to later this day, which would give us the chance to come back to it rather than getting bogged down in it at the moment.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am not sure what Mr Lenders is seeking to achieve by postponing the clause. My advice is that there will not be the discretion to pay more than the $14 135, as indexed from time to time, in respect of funeral benefits. On the upside, the breadth of funeral benefits that can be paid for would be increased.

Mr LENDERS (Southern Metropolitan) — Two things: it would be a great sign of goodwill from the government to allow this clause to be voted on as the last item today rather than in this particular sequence; and it would give me a chance to talk to more of my colleagues about the choices we have in this matter. I am not convinced, and more advice from the minister would be of assistance. The minister said that it is administratively complex to increase the $10 000 to $14 000. This is a simple way of doing it. I would be interested in exploring what impediments there are in doing this in another form. Is the administrative complexity that this would be a Governor in Council order? A regulation can have an indexation factor built into it. I do not understand what the onerous complexity would be of putting this provision into place through a regulation or another form versus knocking out the discretion altogether, which this clause seeks to do.

In her second-reading speech Mrs Coote boasted about how great this is and how generous it is. That may well be the case for 95 per cent of claimants. However, I am confident that this could be done more effectively and achieve the positive outcome the government seeks to put in place and not, in that small number of cases, limit the amount that the TAC can pay for funeral costs.

The minister asked me what I hope to achieve. I seek to gain a bit more time. The minister has provided us with some feedback, but it would be nice if he could report on exactly what the process would be to increase the $10 502 to $14 135 other than by this legislation. That would assist me. If he says that it is a little bit administratively complex but it can be done, then I would vote against this clause. If he were to say to me that it cannot be done in any way shape or form and this class of people would miss out, then my colleagues and I may have a different view on how we vote on the clause. If the question is what we would gain by having another half-hour or hour, having more time would give us the chance to get more information before we vote on the clause.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am quite relaxed with Mr Lenders's

proposal to finalise clause 18 later today during the committee stage, if that is the committee's will and if he wishes to speak further to his colleagues. On the point he raised, I am advised that the current amount of $10 000 is provided by way of a TAC policy position. Of course that requires that it be indexed, which may or may not occur, as happens with administrative instruments. The point I am making is not so much about administrative complexity. I am saying that reflecting in the legislation the higher cost of contemporary funerals ensures that the amount will be automatically indexed, whereas the policy may or may not be, as happens from time to time with administrative instruments.

Clause postponed; clause 19 agreed to.

Clause 20

Mr TEE (Eastern Metropolitan) — As I understand these amendments, what they mean now under section 60 is that in order to qualify under this clause you must live more than 100 kilometres away from the hospital. Is that the way this clause will operate?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Yes, the clause will operate exactly as it does now because these benefits are paid in respect of a family member who is in hospital. Although the current legislation does not refer to 'in hospital', that is in fact the current practice. There will be no change in the circumstances under which the benefit is paid. What will change is the increase in the amount that is paid.

Mr TEE (Eastern Metropolitan) — The current provision does not require you to be in hospital. I suppose I want to explore the inclusion of the words 'in hospital' and what impact that will have in terms of the benefit.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — That is my point; it will have no impact because that is the current practice where this provision is used. Where benefits are paid under this provision, it is in respect of people who are in hospital. That is the current practice, so there will be no change to that practice.

Clause agreed to.

Clause 21

The ACTING PRESIDENT (**Mr Elasmar**) — Order! I call Mr Barber to move his amendment 4, which seeks to omit clause 21, which makes changes relating to the reimbursement of medical reports. This amendment is also a test for Mr Barber's amendments 8 to 10.

Mr BARBER (Northern Metropolitan) — I invite the committee to vote against this clause. I have a quick question for the minister. Is it the intention of this bill that the TAC will only consider medical reports that it has jointly requested?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — These are medico-legal reports — that is, reports that are commissioned with respect to a common-law action. I want to draw the distinction between reports which are commissioned with respect to treatment under the statutory benefits regime and providing treatment to injured claimants. The intention of this clause is to get agreement between the parties as to which medico-legal reports will be funded, and therefore in order to be assured of TAC funding of those reports they will need to be jointly agreed medico-legal reports.

Mr TEE (Eastern Metropolitan) — I want to explore the fact that it appears that, as well as being reasonable costs — the wording to be inserted by proposed subclause (2F) — they need to be jointly requested. The way the clause seems to operate is that a reasonable cost that is not jointly requested will not be compensated. Is that right?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — It is not a question of compensation. It is a question of paying costs and incurring costs. The situation has arisen — again this is not about treatments or medical reports for treatment; this is about medical reports commissioned in respect of taking a matter to court — where in some instances there have been a large number of reports commissioned by the plaintiff in a common-law matter on the basis that the TAC will automatically pay for those. There are tens of thousands of dollars worth of reports. One example is $37 000 worth of reports for one particular case, and those costs were immediately transferred to the TAC. As I said, those reports do not relate to a person getting treatment; they are purely in relation to being able to run a common-law legal case. That is why this provision requiring TAC engagement in that circumstance is being proposed.

Mr TEE (Eastern Metropolitan) — I am not aware of the example the minister gives, but let us assume that those costs are unreasonable costs; then there may be an argument that they ought not to be reimbursed rather than compensated. But what we are dealing with in this clause is not unreasonable costs; we are dealing with reasonable costs, for which the clause provides. Unless

those reasonable costs are jointly requested, they will not be reimbursed. Can the minister explain why a reasonable cost is not reimbursed unless it is jointly requested?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — As I said, this is about ensuring that you do not have plaintiffs in a common-law matter requesting a range of medico legal reports because it suits their purpose in pursuing a common-law matter and then passing those costs on to the TAC. The reason the requirement for joint request is being inserted is to put some control over those costs being impressed on the TAC scheme in what is a common-law, contested matter. This is not about medical reports that are used for treatment or assessing injury for treatment or providing medical treatment, these are medico-legal reports purely for contesting a common-law matter, and that is why the TAC is seeking to have some control over what it is automatically required to pay.

Mr TEE (Eastern Metropolitan) — The difficulty I have is that we are not talking about unreasonable costs — and I do not know whether I can take that any further — but it appears that there can be a conflict where for a legal case one has to get a report that is agreed to by the TAC, which will be on the opposite side in that legal case. How does the minister justify that clear conflict of interest where you are asking the TAC to agree to a report which may not enhance its capacity to defend a claim?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — The issue is not one of restricting who a plaintiff can get legal reports from. A plaintiff will be able to get legal reports from whatever medical practitioner they wish to get reports from. The issue here is which reports the TAC pays for, and this provision is about the TAC, in defending a common-law matter, only paying for the reports that it jointly commissions with the plaintiff. If the plaintiff believes getting a report from doctor X will aid their case, they can get that and use it in their common-law action, but it will not be automatically paid for by the TAC under the reasonable 'medical and like' provision of the TAC act unless it is a report that the TAC is seeking.

Mr TEE (Eastern Metropolitan) — The issue then becomes one of fairness. It may be that the capacity of a claimant to obtain a report to further their legal case is dependent not on the reasonableness of it but on their capacity to pay for that report. Does that concern the minister?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — That is a matter that would be dealt with through the disbursements and costs issues surrounding the case. It would be dealt with as a disbursement of case costs, as other disbursements are dealt with.

Mr TEE (Eastern Metropolitan) — It is not as if the TAC is going to be objective in this matter. It is trying to defend a claim, and at the same time what this provision does is effectively provide it with a veto in terms of not funding medical advice that does not further its claim. It seems to me that that is quite an inappropriate impost on both the claimant and also the TAC.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I say again that it does not prevent a plaintiff from seeking whatever medical reports they want to in order to advance their case. But as Mr Tee points out, it is a contested matter, and what that will mean is that medical reports will not automatically be paid under the medical and like benefits provision of the TAC act as they have been in the past. They will be dealt with as part of the costs of a contested court matter, with each side commissioning whatever experts they deem appropriate.

Mr TEE (Eastern Metropolitan) — Has there been an assessment in terms of the savings to the TAC as a result of these provisions? The minister mentioned reports of some $30 000.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that the actuarial estimates are approximately $2 million per year.

Mr TEE (Eastern Metropolitan) — Will this provision apply to both common-law and no-fault disputes or is it limited to common-law claims?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that it applies to reports commissioned for assessments under both streams, the impairment assessment and for a common-law matter.

Mr TEE (Eastern Metropolitan) — If there is a dispute as to whether or not the report should be jointly obtained, is there any way to resolve that dispute? If a claimant wants to get a report and the commission refuses to request it jointly, will there be a process for resolving that?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that a decision not to fund a report would be a reviewable decision, like any other decision of the TAC, and subject to review by the Victorian Civil and Administrative Tribunal (VCAT).

Mr TEE (Eastern Metropolitan) — Again — my ignorance in these matters — it is reviewable by whom? Is it an external review?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I said by VCAT.

Mr TEE (Eastern Metropolitan) — On another matter, as I understand it in order to consider whether or not to initiate a claim an applicant or a potential applicant and their solicitor may seek to obtain medical advice, so before you initiate a complaint you might get this advice. Would there be a capacity to get that covered by it being jointly requested by the commission and the person who was injured? This is before a complaint is made, in order to assess whether or not to make a complaint.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that if it were subsequently used by the TAC in assessing the impairment, then yes.

Mr TEE (Eastern Metropolitan) — I suppose the difficulty there is that the provision requires that it has to be jointly requested. What the minister is saying is that even if it is not jointly requested, if it is subsequently used by the TAC, the person may be reimbursed for the cost of that.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Yes, I am advised that is correct. The TAC could elect to do that if, as I said, it is used in assessing impairment.

Mr TEE (Eastern Metropolitan) — Was there any consultation with the LIV on this clause?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Again, the consultation was as outlined in relation to clause 1.

Mr TEE (Eastern Metropolitan) — I know we have gone through this, but the LIV's concern in relation to this provision is that it affects the dispute resolution protocols to which the LIV is a party. The LIV's concern is that it is a party to dispute resolution protocols that are affected by this provision, yet there was no consultation with the LIV. My question is why.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Again, for the reasons outlined in relation to clause 1, the government consulted where it thought it was appropriate.

Committee divided on clause:

Ayes, 19

Atkinson, Mr	Hall, Mr
Coote, Mrs	Koch, Mr
Crozier, Ms	Kronberg, Mrs
Dalla-Riva, Mr (*Teller*)	Lovell, Ms
Davis, Mr D.	Millar, Mrs
Davis, Mr P.	O'Brien, Mr
Drum, Mr	O'Donohue, Mr
Elsbury, Mr (*Teller*)	Peulich, Mrs
Finn, Mr	Rich-Phillips, Mr
Guy, Mr	

Noes, 17

Barber, Mr	Mikakos, Ms
Broad, Ms	Pennicuik, Ms
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Scheffer, Mr
Hartland, Ms	Somyurek, Mr (*Teller*)
Jennings, Mr	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lenders, Mr	Tierney, Ms
Melhem, Mr (*Teller*)	

Pairs

Ondarchie, Mr	Viney, Mr
Ramsay, Mr	Darveniza, Ms

Clause agreed to.

Clauses 22 and 23 agreed to.

Clause 24

The ACTING PRESIDENT (**Mr Elasmar**) — Order! I advise that Mr Barber is inviting the committee to vote against this clause.

Mr BARBER (Northern Metropolitan) — I am doing exactly that, but I would like to ask a couple of questions of the minister first. What can the TAC not do under its current authorities that it can do under the new type of authorities that this clause creates?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that the answer is nothing. These provisions replicate the current capacity the TAC has to collect information. In the past it has been collected via the application form, which was a prescribed form of some 27 pages. That is no longer the form that is used, and this clause is simply inserting into the legislation the same capacities to collect and use information that the TAC currently exercises.

Mr BARBER (Northern Metropolitan) — Under this clause is there any instance in which a person can place a limit on the type of relevant information they will permit the TAC to access?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — No, there is not. Of course the claimant has a discretion as to whether or not to sign the form, and obviously that would have ramifications on a claim. But as I am advised it has the same effect as the current requirement as set down in the TAC application form.

Mr BARBER (Northern Metropolitan) — By not signing it they are not making a claim, and the new subsection (1) inserted into clause 24 says that a person must 'sign an authority to release relevant medical or other information'. So presuming the commission mounts its claim that it is relevant, there is no limit to the information that a person would have to sign over in order to even commence a claim.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — That other information relates to things such as income information. Obviously the TAC pays loss-of-earnings compensation et cetera, and it is necessary to establish what a person's pre-injury earnings were. It is broader than just medical information, but that information is currently collected and used to assess claims.

Mr TEE (Eastern Metropolitan) — Does that mean that the other information has to be relevant information?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Yes, that is correct. It has to be relevant to the claim.

Mr TEE (Eastern Metropolitan) — The difference at the moment, as I understand your position, is that this information is currently being collected and what this clause is doing is enshrining that current practice in legislation.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — That is correct. I guess the difference here is currently any person making a TAC claim signs this release as part of their form. Under this provision that will not be necessary as part of the application; it will only be necessary if the TAC subsequently needs a release to access information. Currently everyone does it as part of their application. This provision will only require a release to be signed if it is needed by the TAC for the purposes of managing the claim.

Mr TEE (Eastern Metropolitan) — Is there any process for ensuring that privacy will be protected? Are there any limits in terms of who within the TAC will have access, the period of time for which the information will be kept and so on?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that there are already protocols within the TAC as to the management of personal information. Information is collected and is obviously held for use during a claim and management of a claim, and quite often that involves engagement with medical practitioners and the like. The intent is that the information will be managed in the same way it is currently, and obviously that is within a framework that protects the privacy of TAC claimants.

Mr TEE (Eastern Metropolitan) — The law institute says that there are no guidelines for the use of the authority.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that the current framework includes provisions of the Information Privacy Act 2000 and the Health Records Act 2001 controlling how information is used. Protocols with medical practitioners that TAC engages with are currently in place, and those protocols to protect claimants' privacy will continue after this. This does not override other provisions in the Health Records Act or the Information Privacy Act, for example, and the protocols that TAC has in place will continue in place, as they are now.

Mr TEE (Eastern Metropolitan) — I am just understanding the concern that the LIV has. It might be that those protocols are not public. Are they public?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am advised that they are disclosed when a claimant signs the release form. They are disclosed as to how the information will be used.

Committee divided on clause:

Ayes, 18

Atkinson, Mr	Koch, Mr
Coote, Mrs	Kronberg, Mrs
Dalla-Riva, Mr	Millar, Mrs
Davis, Mr P.	O'Brien, Mr
Drum, Mr (*Teller*)	O'Donohue, Mr
Elsbury, Mr	Ondarchie, Mr
Finn, Mr	Peulich, Mrs
Guy, Mr	Ramsay, Mr (*Teller*)
Hall, Mr	Rich-Phillips, Mr

Noes, 15

Barber, Mr	Mikakos, Ms (*Teller*)
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Scheffer, Mr
Hartland, Ms (*Teller*)	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lenders, Mr	Tierney, Ms
Melhem, Mr	

Pairs

Crozier, Ms	Pennicuik, Ms
Davis, Mr D.	Viney, Mr
Lovell, Ms	Darveniza, Ms

Clause agreed to.

Clause 25 agreed to.

Clause 26

The ACTING PRESIDENT (**Mr Elasmar**) — Order! Mr Barber's amendment 6 seeks to omit clause 26, which amends section 93 of the principal act in relation to common-law damages claims for mental injury due to the injury or death of the tortfeasor. This amendment is a test for his amendments 11 and 13.

Mr BARBER (Northern Metropolitan) — I invite the committee to vote against this clause. I have a couple of quick questions for the government about the operation of this clause in certain not-so-hypothetical circumstances. Can the government explain how an on-duty police officer sustaining a mental injury after being first on the scene at a road crash where a driver alone in a car has negligently hit a tree will make a common-law claim for the injury after the passage of this bill?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — An on-duty police officer would make a claim under the Accident Compensation (Occupational Health and Safety) Act 1996. But to cut to the chase, if hypothetically an on-duty police officer were to make a claim under the TAC act, they would not be precluded from making that claim by virtue of having attended the accident scene.

Mr TEE (Eastern Metropolitan) — I want to move from the hypothetical to the example that Mr Lenders read out, which was the letter from Mr Keryn Glen, who wrote to the Premier. His case was not hypothetical. He was a police officer who was on duty when he was called to attend an accident, and that accident involved his son who had been thrown from his vehicle and had died as a result. Mr Glen then attempted to return to work on a number of occasions. He had extreme levels of stress, depression and heart problems, and he was medically retired. He continues to suffer. He received common-law compensation from the TAC. I suppose the question is: would he be able to receive that compensation under this legislation?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — There are a couple of important points about that case. I am advised that in that particular case the claim was brought as a consequence of Mr Glen losing his son, so it was in the circumstances of a father losing his son rather than of a police officer suffering a mental injury after attending an accident. It is important to make that distinction. It is my advice that it was not a workplace injury claim; it was a Transport Accident Commission claim by virtue of being a father losing his son in a transport accident, unrelated to the fact that he happened to be a policeman attending. The fact that he was at the scene means he would not have been excluded by this provision. In any case, I am advised the victim of the accident had a whole-of-body impairment, which exceeded the 30 per cent threshold, in which case this provision would not have come into play. If it had come into play, he would have passed the threshold.

Mr LENDERS (Southern Metropolitan) — I would like to explore this a bit further with the minister. The policeman was there, whether in his capacity as a policeman or in his capacity as a father. He was not there when the accident occurred but came after the accident. However, the minister is saying that the policeman would be able to claim at common law under the WorkCover regime.

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

Mr LENDERS (Southern Metropolitan) — The minister is saying the policeman could claim under TAC even after these changes have come into play and even though the person who died was technically at fault.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — This is a particularly complex case because someone was working, but my advice is that this claim was made under the Transport Accident Commission Act 1986, not as a workplace-related claim. It was related to the fact that a person died and a family member was affected by that death. I am advised that by virtue of the fact that the person affected attended the scene, they would not be excluded under this provision because they were at the scene. Attending the scene in the aftermath of the accident would not be excluded by this provision.

Mr TEE (Eastern Metropolitan) — I want to explore that point, because clause 26, as I understand it, states that compensation is excluded if the person did not witness the transport accident. Mr Glen did not witness the accident — he came after the accident — so how is he not excluded by this clause?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Mr Tee only read half of that provision.

The other half says, 'directly involved'. By being at the scene, Mr Glen was directly involved.

Mr TEE (Eastern Metropolitan) — As I understood the term 'directly involved', I assumed it meant that a person was directly involved in the sense of being in the car. You are saying that 'directly involved' means it is sufficient if you attend after the event?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Yes, I am advised that that is the case. 'Directly involved' would include attending in the aftermath of an accident as an emergency services worker, as was the case there. Ultimately that was not the basis of the claim, but that was the reason the person was there. That would be direct involvement in the accident.

Mr BARBER (Northern Metropolitan) — That is good news, but then we come to the final provisions, which say at new subsection (2A)(d)(ii), 'solely or predominantly by the negligence of the other person'. My specific example was an on-duty police officer first on scene — the minister says that that means being directly involved — at a road crash where a driver, alone in a car, negligently hits a tree. The minister said that they would not be precluded from making a claim; anybody can make a claim about anything. I cannot ask the minister for a legal opinion as to the likelihood of success of this hypothetical claim, but is it not the case that in that instance it would be knocked out at the third test because of the negligence of the driver?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — No, that is not the case, because all elements here need to occur for a claim to be knocked out. The element in paragraph (b), the element with respect to not being directly involved, does not exist in the scenario Mr Barber gave, and therefore the claim would not be excluded.

Mr TEE (Eastern Metropolitan) — I do not know the circumstances of the incident involving Mr Glen's son, but essentially the minister is saying that if the accident were solely or predominantly caused by the son's negligence, that would not stop or prevent a claim by Mr Glen because he meets some of the other thresholds, such as — as the minister is saying — being directly involved in the accident.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — That is correct.

Mr LENDERS (Southern Metropolitan) — I know we have dealt with clause 27 and are now referring to clause 26, but the minister's answer in relation to clause 27 when we were talking about the phrase 'and severe impairment in relationships and social and vocational functioning' was that if there were unequivocally no vocational functioning, that did not apply. We are now going to clause 26 with a question of and/or. The minister is saying categorically that it is 'and'; (a), (b), (c) and (d) all have to occur before the person claiming cannot rely on the TAC and might need to go back to WorkCover, where it is specific payments for a much shorter period of time. The minister is categorically saying that (a), (b), (c) and (d) all need to occur before there is an exclusion.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — That is correct. Mr Lenders goes to the discussion we had before about drafting. The fact that these are represented, as I am advised by OCPC, as individual paragraphs connected by an 'and' between each paragraph indicates the intention — and it is the government's intention — that all four elements be met for the exclusion to occur.

Mr TEE (Eastern Metropolitan) — Maybe I am coming at this from the other direction, but the way I understand it what you are essentially saying is that as long as the person fits within one of those categories, then the fact that they are excluded by the other three categories does not preclude them from making claims. Perhaps if I can put that in a positive way, if a person witnessed an accident, then it would not matter who was at fault in terms of that accident.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — That is correct. All four elements would need to be present before a matter was excluded.

Mr BARBER (Northern Metropolitan) — On the basis of that definitive statement from the government, I think I should not proceed with my amendment.

Mr TEE (Eastern Metropolitan) — The other issue that I want to tease out is that if all four elements are met and you are excluded, then you are effectively locked out of your common-law claim, which will then include pain and suffering, loss of future earnings and so on. Is that how clause 26 applies?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Clause 26 is a gateway test for common law. It does not impact upon any statutory benefits, such as income, net loss of earnings, impairment benefit, medical treatment and the like; it only applies to a common-law gateway.

Clause agreed to; clauses 27 to 31 agreed to.

Postponed clause 18

Mr LENDERS (Southern Metropolitan) — I am not convinced by the minister's answers, because as I understand it in the end it is a policy decision of the TAC board that determines the funeral rate, and for the life of me I cannot work out what is so administratively complex that that policy decision needs to be reviewed once a year, taking into account the indexation factors. I certainly do not want to get in the way of the majority of people getting the 40-odd per cent increase that is proposed, but I note that it is a pretty inflexible government that takes this position going forward when requiring the TAC board to make that policy decision once a year with an indexation would not actually preclude some people.

I guess in conclusion to my comments on this bill, if we were to put Minister Lovell's position — that the soul of a government is determined by how it deals with these issues — to the test, I think the Napthine cabinet and government would be found not to have met that test. Nevertheless, I will not pursue anything further on clause 18, and I will not oppose it.

Postponed clause agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

That the bill be now read a third time.

I thank members for their contributions to the second-reading debate and the committee stage.

The ACTING PRESIDENT (**Mr Ondarchie**) — Order! The question is:

That the bill be now read a third time and do pass.

House divided on question:

Ayes, 18

Atkinson, Mr	Hall, Mr
Coote, Mrs	Koch, Mr
Crozier, Ms	Kronberg, Mrs
Dalla-Riva, Mr	Millar, Mrs (*Teller*)
Davis, Mr D.	O'Brien, Mr
Davis, Mr P.	O'Donohue, Mr
Drum, Mr	Peulich, Mrs
Elsbury, Mr	Ramsay, Mr (*Teller*)
Finn, Mr	Rich-Phillips, Mr

Noes, 16

Barber, Mr	Melhem, Mr (*Teller*)
Broad, Ms (*Teller*)	Mikakos, Ms
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Scheffer, Mr
Hartland, Ms	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lenders, Mr	Tierney, Ms

Pairs

Guy, Mr	Viney, Mr
Lovell, Ms	Darveniza, Ms
Ondarchie, Mr	Pennicuik, Ms

Question agreed to.

Read third time.

ROAD LEGISLATION AMENDMENT BILL 2013

Second reading

Debate resumed from 12 November; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr FINN (Western Metropolitan) — It is indeed a delight to rise at 22 minutes to 6 on a Thursday afternoon to speak on this particularly important piece of legislation. I know the legislation is particularly important because otherwise I would not be speaking on it at 22 minutes to 6 on a Thursday afternoon. This piece of legislation is about equity but it is also about road safety. Demerit points, as we know them, are all about sending a message to the drivers of Victoria to discourage bad behaviour and bad driving practices on the roads.

Unfortunately we have had a situation for quite some years where drivers from interstate have largely escaped receiving demerit points for misbehaving on the roads. That seems to me to be wrong and grossly unfair. It does not matter whether someone is from Queensland, New South Wales, Western Australia, South Australia, Tasmania, the Northern Territory, the Australian Capital Territory or indeed Victoria, if they are driving badly clearly they have the capacity to cause — I am loath to call it an accident because I think there are some driving practices that militate against referring to what occurs as an accident, so let me call it a prang, to use a good old colloquial expression.

If people from interstate travel to our state — and of course they are very welcome to come to our state, as we are a very welcoming people in Victoria — they have an obligation to behave on the roads. They have an obligation to know the road rules and to follow them. I have to say to the house that I have noticed over

an extended period a number of bad driving practices that are not necessarily picked up by the police. I believe it is something to which we should be paying more attention.

The issue I raise tonight is one that I have raised before in this house — that is, those who drive too slowly on the roads. I am sure that members will know, and particularly those members who live in country areas — —

Mr Ondarchie interjected.

Mr FINN — As Mr Ondarchie says, members from the country who might be from areas where roads are just one lane each way. People make a unilateral decision that 100 kilometres an hour, or 80 kilometres an hour, is far too fast, even though VicRoads has declared those speeds as the speed limit.

Mr Ondarchie — In a Massey Ferguson.

Mr FINN — Not even driving a Massey Ferguson, Mr Ondarchie; not very many but some of them are even in a Commodore, although I will get to Commodores in a moment. We have these situations where people take it upon themselves to unilaterally declare that the speed limit is far too high, and they will drive anything up to 30 or 40 kilometres below the speed limit on these particular roads. The road that probably annoys me more than anything else is Sunbury Road, which borders the back of the airport. I drive along there quite often, at least once and maybe twice or three times a day. Drivers along that road often decide that the 100 kilometre an hour limit is far too high.

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

Quorum formed.

Mr FINN — I thank my dear friend Mr Lenders for the increased audience in the chamber to hear my words on this particularly important bill. As I was saying, we have some people who take it upon themselves to drive exceedingly slowly. I see Mrs Millar in the chamber at the moment, and I am sure she knows Sunbury Road and the section of which I speak. I am sure Mrs Millar would drive along that stretch as well, but I am sure she would not be the sort of person that I refer to, those who decide to take it upon themselves to drive at 20, 30 or 40 kilometres an hour lower than the speed limit might dictate.

Mr Barber — Instead of 'limit', it should be 'minimum'.

Mr FINN — Perhaps it should be.

Mr Barber — What does the word 'minimum' mean in the dictionary?

Mr FINN — If Mr Barber has a dictionary, I would be very happy to get that definition. If Mr Barber would like to go down and get his Funk and Wagnalls, I can assure him I will peruse that at length.

To make my point, just the other day I was driving along Sunbury Road at the back of the airport, and a driver had taken it upon himself or herself — I am not sure which it was — to drive at 60 kilometres an hour, which is 40 kilometres an hour below the limit. This sort of thing is not just frustrating, it leads people behind the said offender to commit acts of frustration. It leads to people committing acts on the road that they might not otherwise commit, such as passing or attempting to pass and endangering other drivers, other road users, themselves and their passengers.

My understanding is that there is a law which says that travelling too slowly is regarded as bad driving practice and that the police can act on that; however, I am not aware of this happening. It is about time it did, and it is also about time that some of these people — some of whom wear hats and some who do not — were held to account for their particular driving and told that it is not reasonable to hold up other road users in the manner in which they do.

Mr Barber — Which road law is this you are quoting?

Mr FINN — I understand it is in the road laws. I am not exactly sure of the number, but whilst Mr Barber is searching for his Funk & Wagnalls, he might reach into his legislative bag of tricks, pull it out and show me exactly what we are talking about so that I can — —

Mr Barber interjected.

Mr FINN — No, I am open to assistance. I know that the Greens like to help. I also know that that has not been known to happen to this point, so I am giving Mr Barber the opportunity to show what a caring and compassionate human being he is. I look forward to him doing that, possibly for the first time in his life.

Mr Barber interjected.

Mr FINN — No, it is not a question of wiping off 5; it is a question of driving responsibly on the road so that you do not annoy other road users and drive them to the point of frustration where — —

Mr Barber interjected.

Mr FINN — I am not talking about your Commodore drivers. I am told by police that the Commodore is the chosen car of hoons everywhere, which I have to say is my experience. When one sees a Commodore driver wearing a baseball cap — some of them backwards with the doof-doof music going flat chat — you know that you are in trouble.

Honourable members interjecting.

Mr FINN — I am not talking about them; I am talking about the people who take it upon themselves, as I said earlier, to lower their speeds — —

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

Quorum formed.

Mr FINN — As a matter of import, drivers appreciate good roads, and I think that generally speaking Victoria has a pretty good road network. However, there is one missing link at the moment — that is, the east–west link. I believe that once the east-west link is up and running, we will have a situation where the motorists of Victoria will be able drive in a manner which is safer, more relaxed and more enjoyable. You would have to say that relaxation and enjoyment of driving are part of the safety experience. If somebody is behind the wheel of a car, not stressed and enjoying the drive, then there is less of a chance of them doing something stupid on the roads, of them speeding and of them breaking the road rules. A road such as the east–west link, when it is up and running, will be of major benefit not just to — —

Ms Hartland — On a point of order, Acting President, on the issue of relevance, I do not believe the east–west link is mentioned at all in this bill. I ask that the member come back to the bill.

Mr Ondarchie — On the point of order, Acting President, Mr Finn was talking about road safety and travel on roads in general. The east–west link is part of this discussion, so I ask you to rule the point of order out of order.

Mr FINN — On the point of order, Acting President, I could have mentioned the Princes Highway or the Hume Freeway or any other highway, but I mentioned the east–west link as an example of the sort of road we are talking about which people will be safer on. It is very much a part of this bill.

The ACTING PRESIDENT (**Ms Crozier**) — Order! This is a broadbased bill so Mr Finn has a little bit of scope, but I ask him to come back to the main aspects of the bill.

Mr FINN — I will endeavour to drive back to — —

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

Quorum formed.

Mr FINN — I am honoured that my contribution this afternoon has been so effective as to keep Mr Leane and Ms Hartland awake this late on a Thursday afternoon. I regard that as almost a badge of honour, and I will take it as a pat on the back.

This legislation is important for the safety of every Victorian, not just road users but those who come into contact with the roads, such as pedestrians, and those who use our roads on a daily basis for any reason.

Mr Ondarchie interjected.

Mr FINN — Cyclists could be road users, even though they do not pay for the roads — and perhaps that is something we could and should debate another day — but we are talking here about road users and their safety. I urge the house to support this bill.

Mr ONDARCHIE (Northern Metropolitan) — I rise today to speak on the Road Legislation Amendment Bill 2013. It is a very important piece of legislation because we are talking about saving lives on our roads and dealing with those who are not successful on the road and must either improve their behaviour or get off the road. I will pick up on Mr Finn's point about slow drivers, inconsiderate drivers and reckless and inexperienced drivers on the road. This bill goes towards dealing with them. The main purpose of the bill is to amend the Road Safety Act 1986 to enact new provisions in relation to the demerit point scheme that will accommodate multiple sanctions arising from the rapid accumulation of demerit points.

At this point I move:

> That we adjourn debate on this bill until the next day of meeting.

Mr Lenders — On a point of order, Acting President, before the question is put, I am nervous of the words, 'That we adjourn debate'. I want an assurance that that motion does not mean that the house is adjourning but that we are postponing debate.

Mr ONDARCHIE — With due consideration to Mr Lenders's advice, I propose that we postpone debate on this bill until later this day.

The ACTING PRESIDENT (**Mr O'Brien**) — The advice of the Clerk is that 'adjourned' is the correct term.

Motion agreed to and debate adjourned.

Debate adjourned until later this day.

DISABILITY AMENDMENT BILL 2013

Introduction

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

> That I have leave to introduce a bill for an act to amend the Disability Act 2006 in relation to the review by VCAT of a decision of a disability service provider to issue a notice of a proposed increase in a residential charge and for other purposes.

Leave refused.

ENERGY LEGISLATION AMENDMENT (GENERAL) BILL 2013

Introduction

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

> That I have leave to introduce a bill for an act to amend the Electricity Industry Act 2000 and the Gas Industry Act 2001 and for other purposes.

Leave refused.

PARKS AND CROWN LAND LEGISLATION AMENDMENT BILL 2013

Introduction

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

> That I have leave to introduce a bill for an act to amend the Crown Land (Reserves) Act 1978, the National Parks Act 1975, the Carlton (Recreation Ground) Land Act 1966, the Land (Miscellaneous Matters) Act 1988, the Land (Reservations and other Matters) Act 1997, the Shrine of Remembrance Act 1978 and the Water Industry Act 1994 and to revoke certain permanent Crown land reservations and Crown grants and for other purposes.

Leave refused.

DRUGS, POISONS AND CONTROLLED SUBSTANCES AMENDMENT BILL 2013

Introduction

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

> That I have leave to introduce a bill for an act to amend the Drugs, Poisons and Controlled Substances Act 1981 and for other purposes.

Leave refused.

MINERAL RESOURCES (SUSTAINABLE DEVELOPMENT) AMENDMENT BILL 2013

Introduction

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

> That I have leave to introduce a bill for an act to amend the Mineral Resources (Sustainable Development) Act 1990 and for other purposes.

Leave refused.

ADJOURNMENT

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

> That the house do now adjourn.

Government legislative program

Mr LENDERS (Southern Metropolitan) — The matter I raise on the adjournment tonight is for the attention of the Premier, and it deals with the dysfunctional nature of the government's legislative program and the communication between houses in a time of anarchic chaos in the Legislative Assembly. I particularly raise for the attention of the Premier that in a chamber that operates on cooperation and goodwill the first the opposition knew of the Leader of the Government's stunt in proceeding tonight to introduce by leave four or five bills into this house — names of the bills unknown — was when the government continued debate on a bill after we had been assured the activities of the house today involved just one bill. That bill was finished, and without any consultation with this side of the house we had a procedure where suddenly ministers were running around, backbenchers were filibustering and we were told it was to get this series of bills before us. The first we heard was that there was a series of bills to be introduced for which leave was being sought.

Among them are bills that are in the consideration-in-detail stage in the Legislative Assembly. The Disability Amendment Bill 2013 has been second read in that house and is in the consideration-in-detail stage, yet the government has come in here and sought to move that that bill be first and second read today in this house, with the only consultation being, 'We've got some urgent bills to do'.

I understand the government is in a bit of a pickle: the sensitivity of not being willing to face the Legislative Assembly means the Premier has trouble with his legislative agenda. I understand that, but I would have thought that to come in here and, out of nowhere, lob these bills — in particular a bill that had been second read in the Assembly and is halfway through a consideration-in-detail stage — into this house and seek to first read them makes the anarchic circumstance of the Assembly pass into the Council.

The action I seek of the Premier is that he impose some professional discipline on his legislative program and not bring his contagion into this chamber. If the Premier wants cooperation on legislation, if he wants leave for bills that are being second read or are in the consideration-in-detail stage — something more than being lobbed into this chamber — the action I seek is that he change the Leader of the Government in this place and replace him with someone who respects the institution.

The PRESIDENT — Order! I realise that we are in difficult waters here, and I regret that I was not in the chair when Mr David Davis sought to have some legislation considered by this house. I was briefed by the Clerk to the effect that there had been some advice sought from parliamentary counsel in terms of whether or not the legislation could be introduced — in other words, whether or not it involved financial implications for the state. I am assured that there are a number of pieces of legislation that are currently on the agenda of the Legislative Assembly that do not have financial implications for the state and therefore could have been introduced into this house in other circumstances.

The matter that the Leader of the Opposition refers to is not so much questioning whether or not the bills are valid but why the Leader of the Government sought to have them introduced into this house when they are currently before the other house, and that is a valid matter. In my view the Leader of the Opposition tended to debate the matter in terms of raising the issue, but again I will show him some leniency given that it is an extraordinary matter — as far as I am aware, this is not ground we have traversed before.

I have some concerns about whether the action sought — that the Premier change the leadership of this house — is the most appropriate one to put to the Premier. I do not think that is necessarily a matter that should be canvassed in the way it was put in the adjournment debate, because it is a matter of the internal party affairs of the Liberal Party and the coalition government, and indeed it is also a matter of the business of this house rather than it being across the two houses.

However, given those considerations, I will let the matter stand for the minister to discharge as he sees fit. As I said, I have some concerns about this matter, albeit that I understand the context in which it has been raised and I have some sympathy for that.

Skills training

Mr O'BRIEN (Western Victoria) — The adjournment matter I raise is for the Minister for Higher Education and Skills, Mr Hall, who is in the chamber. The action I seek is for the minister to visit Geelong to update the community on actions being taken by the government to address the challenges of industrial changes in the region.

Together with my parliamentary colleagues, I certainly acknowledge the recent news that a number of Qantas employees and contractors at Avalon Airport will lose their jobs in March 2014. This was unwelcome news, and unfortunately it was ultimately a business decision taken by Qantas to rationalise its operations. This year also brought the news that Ford has decided to cease manufacturing in Australia from October 2016. This situation is obviously concerning for those manufacturing employees, their families and others in the wider Geelong community.

There are, however, other initiatives in Geelong that are worthy of further consideration. One of those initiatives, Skilling the Bay, has been led by the minister. This initiative has been the subject of job summits that have been consistently attended by the minister and other parliamentary representatives, including me. It will assist the Geelong region to not necessarily transition, because manufacturing is still very much a part of Geelong, but to upskill the bay, as the program name suggests.

I am aware that Mr Ramsay, Mr Koch, Mr Katos, who is the member for South Barwon in the Assembly, and the new federal member for Corangamite, amongst others, have also been active in this space. I am aware that earlier this year Minister Hall announced this initiative and its two complementary objectives that

address the changes impacting on Geelong: firstly, to develop a long-term jobs vision for Geelong and a workforce development action plan to achieve it; and secondly, to support the growth of existing and emerging industries through targeted demonstration projects. This consultation is being done with the various participants in the Geelong community.

I know that Minister Hall continues to work closely with Gordon TAFE, Deakin University, the Committee for Geelong and other bodies to support the strengthening of workforce skills in our regions, and I look forward to confirmation of his visit at the earliest opportunity on this important initiative.

St Columba's Kindergarten future

Mr LEANE (Eastern Metropolitan) — My adjournment matter is for the attention of the Minister for Children and Early Childhood Development, and it concerns the ongoing question of the future of St Columba's Kindergarten in Balwyn. As the minister would know, the Uniting Church in Australia has decided to divest itself of a number of its properties, and St Columba's Kindergarten is currently located in one of the properties the Uniting Church has decided to sell. This means the kindergarten's future for 2015 is not guaranteed. At this point it is actually quite dire.

This is a huge problem. At the moment there are 60 young people attending the kinder, and there are 60 young people booked to attend it next year. Those numbers are expected to continue, considering that the kindergarten has excellent relationships with the primary schools it feeds into. These schools include Balwyn Primary School, Mont Albert Primary School and Chatham Primary School. The kindergarten has been established for a long time, and it would be an absolute disaster if it did not remain in this particular area of Melbourne.

The action I seek from the minister is that she get directly involved with the kindergarten to ensure its future beyond next year. I ask that she get directly involved, whether it is through capital grants, talking to the local council directly or assisting the council and the kinder in any way she can to ensure that the kindergarten remains in this area. As I said, its location is very important. There will still be 60-plus young people needing to go to kinder after the end of next year, when the location it currently operates at will be sold.

Women's Health West

Mr ELSBURY (Western Metropolitan) — The matter I raise this evening is for the attention of the Honourable Mary Wooldridge, Minister for Mental Health, Minister for Community Services and Minister for Disability Services and Reform. It relates to an organisation in Melbourne's western suburbs called Women's Health West. This organisation assists women across the western suburbs, be they in the municipalities of Melton, Wyndham, Maribyrnong or Hobsons Bay council areas. I think they are is all the areas the organisation particularly covers. It assists women from different ethnic groups and with different skills to gain the knowledge they need to participate in our society with confidence and to meet their health needs.

The people in the organisation run support programs, including a family violence outreach service. Their slogan is 'Equity and justice for women in the west', and they have been conducting seminars and doing work on various issues related to helping women who are in situations of domestic violence.

Unfortunately we seem to have had an increase in domestic violence. That may be a reflection of what is going on in our society at the moment with upward financial pressure on families. In 2006–07 the organisation had 708 referrals on family violence issues, and in 2012–13 it had more than 4000 referrals. I am pleased that in the last budget the government was able to give Women's Health West a much larger slice of the pie. In the 2012–13 budget the organisation received a funding increase of 14 per cent, which shows that the government is taking seriously the issues being faced by women and families in the western suburbs.

With the need in the western suburbs increasing, what I seek from the minister is that some consideration be given to whether some further resources might be made available, either through other programs or through funding in the next state budget to help provide services to women across the western suburbs. It is very important for the health of women and families that women be empowered as much as they possibly can be to look after their affairs, and organisations such as Women's Health West should be given all they help we can give them.

Automotive industry future

Mr SOMYUREK (South Eastern Metropolitan) — I raise a matter for the attention of the Minister for Manufacturing, Mr David Hodgett, concerning the Victorian automotive manufacturing industry. Allen

Consulting Group was commissioned by the Federal Chamber of Automotive Industries to prepare a report into the automotive industry. In the report, entitled *The Strategic Role of the Australian Automotive Manufacturing Industry*, Allen Consulting stated that the result of the loss of the automotive industry would be devastating for the Australian economy as a whole and in particular for Victoria and South Australia.

It is contended, amongst other things, that the loss of the auto industry to Australia would mean that by the year 2018 Australia's gross domestic product would, in today's dollars, be $7.3 billion smaller. Also, billions of dollars of direct foreign investment would be sucked out of the Australian economy and not redirected to other productive areas, so a lot of capital would be exiting. Further, there would be a loss in economic welfare which, measured as loss of consumption expenditure, would amount to $21.5 billion, or $934 per person, and employment would fall by 1.5 per cent.

In view of the above I ask the minister if he has sought modelling from his department on the impact of the loss of the auto industry on the Victorian economy and Victorian jobs.

Mount Helen Country Fire Authority station

Mr RAMSAY (Western Victoria) — My adjournment matter tonight is for the Minister for Police and Emergency Services, Kim Wells. The matter I wish to raise with the minister is in response to comments made last week by the member for Ballarat East in the Assembly, Geoff Howard. He seems to have found some vigour in his announcement that he will stand for the new Buninyong seat, which must be news to the Leader of the Opposition in the other place, Daniel Andrews, and he is now creating mischief by suggesting that the Napthine government is not committed to building a fire station at Mount Helen.

Mr Leane — On a point of order, President, I fail to see how whichever member of Parliament or candidate decides to nominate for a seat relates to an adjournment matter in this place. If a member wants to bring up issues concerning a particular member in either house, they need to do it by way of substantive motion.

Hon. P. R. Hall — On the point of order, President, the fact that Mr Ramsay is only 29 seconds into his contribution to this debate should be enough to rule the point of order out of order as it stands. But for Mr Leane to suggest that Mr Ramsay is raising a matter of party importance and not government importance is hypocritical in the extreme given that his leader's contribution to this adjournment debate was purely about party politics. If there is a rule for Mr Ramsay, it should apply to everyone. I suggest to you, President, that as Mr Ramsay has just started his contribution it is premature to make that judgement, and as I said, it is the pot calling the kettle black given the comments of Mr Leane's leader a little while ago.

Mr Lenders — On the point of order, President, Mr Ramsay's comments were specifically about the internal preselections of the party. Mine were about government administration.

Mr Finn — On the point of order, President, if Mr Lenders and Mr Leane had been listening to Mr Ramsay as closely as I was, they would be aware that Mr Ramsay had moved on from the brief reference he had made to a member of the other place and that he had begun to make some comments about a fire station in the Buninyong area. Clearly it is a matter regarding that fire station, and I believe there is no point of order.

Mrs Peulich — On the point of order, President, the member was clearly making a passing reference. He was creating context, which is important for matters that are raised on the adjournment. In addition to that, it is not unusual for members on all sides to make comments about how vigorously or otherwise a certain representative has been undertaking their job. The fact that it has taken this long, including 11 years of government, shows the member has not been particularly vociferous or active.

The PRESIDENT — Order! I thank the members for their various comments on the point of order. I will firstly deal with Mr Hall's response. I have some sympathy with the point that he made that I have allowed Mr Lenders's initial item in the adjournment debate to stand and for the minister to deal with that. In normal circumstances I would almost certainly have ruled that matter out. In fact I had a side conversation with Mr Lenders to that effect. The reason I have allowed it to stand on this occasion is in some ways a courtesy to Mr Lenders as the opposition leader because of the circumstances in which the Leader of the Government was looking to bring in legislation.

I was not in the chair at the time. I had asked if any legislation was to be introduced — I was advised by the Clerk that this was a possibility — that I be in the chair to handle that matter because it would be outside the normal course of action for this house. Given that I was not in the chair at the time, I was extending a courtesy to Mr Lenders in allowing him to put his view on the record as part of the adjournment debate. In itself that goes outside my normal rulings and my normal approach to the adjournment debate. To that extent

Mr Hall is quite right. On this occasion, as I said, I saw the circumstances as rather extraordinary.

I am concerned where members raise matters going to the affairs of other parties. As Mr Hall quite rightly said, the leadership of the government parties is a matter for them and them alone. Once people are in those positions the opposition can contest their competence and so forth, but the actual selection of the leadership and of ministers is a matter for parties alone, as are matters of preselection. It is unfortunate for the house to have passing references made to a preselection for somebody when it is not really a matter of any relevance to the issue that is being raised in any part of the Parliament's proceedings. Particularly in the adjournment, as has been indicated, if there are concerns about a member's performance or even a member's lack of advocacy on a particular project, there are other mechanisms that can, and ought to, be brought before the house, including substantive motions, rather than passing references being made which do not reflect well on the work of the house. I take Mr Finn's point that Mr Ramsay has apparently moved on to the substantive issue in his adjournment matter, and I would be pleased to entertain that.

Mr RAMSAY — I think I was saying that the member for Ballarat East in the Assembly, Mr Howard, is now creating mischief by suggesting that the Napthine government is not committed to building a fire station at Mount Helen. The hypocrisy of Mr Howard is undeniable, as he had 11 years to commit to and build a fire station at Mount Helen, but he fuddled his way through most of that time while the Bracks and Brumby governments delivered nothing for the residents of Mount Helen and Mount Clear.

The coalition made an election commitment to build a fire station at Mount Helen and purchased the land for that project in its first two years of government. It has also committed to providing a new fire station in Stoneleigh and new fire trucks at Daylesford, Pomonal, Lexton and Burnbank, a new fire station at Mortlake, new fire trucks at Wendouree, Glenlyon, Waubra, Cardigan, Burrumbeet, Buninyong, Gordon, Mount Buninyong, Mount Wallace, Balliang, Blackwood, Eynesbury, Parwan, Rowsley and Bacchus Marsh. For the Assembly electorate of Ripon we have made announcements that there will be new fire trucks in Ararat, Avoca, Burrumbeet, Callawadda, Haddon, Maryborough, the Pyrenees shire, Smythesdale, Snake Valley — and I could go on.

If Mr Howard had bothered to ring Don Kelly, the manager of the Grampians region of the Country Fire Authority, as I did, to find out the priority timing of the construction of the station — which is a Country Fire Authority responsibility and not the government's — instead of indulging in cheap politics by playing on the emotions of a fire-sensitive community, he would have found that construction is due to start later this month. The contracts with the builder have just been signed, after the normal bureaucratic process of planning permits, cultural survey, siting and contract tendering. This is one of 35 signed-off constructions to be built in the next few months.

I remind Mr Howard that it is not sheds that save lives in fires; it is volunteers.

The PRESIDENT — Order! This is becoming very much a setpiece speech, especially when Mr Ramsay is reminding Mr Howard of something. I ask Mr Ramsay to move to the action or the matter he wishes to bring to the minister's attention, rather than something he wishes to bring to Mr Howard's attention, because as far as I am aware Mr Howard is not the minister.

Mr RAMSAY — President, I will be guided by your ruling and go straight to the adjournment matter, as I did when I started my contribution.

I ask the minister whether he can reconfirm the commitment that the Baillieu government made to build a fire station at Mount Helen, to inform the community that we are committed to building a fire station at Mount Helen and that he attend the turning of the sod at the start of construction of the fire station at Mount Helen, which will make a mockery of the theatrics in which the member for Ballarat East has been engaged.

Geelong region job losses

Ms TIERNEY (Western Victoria) — My adjournment matter is for the Minister for Employment and Trade, and it relates to job losses in Geelong. As the minister will be aware, last Friday, 8 November, saw yet another blow struck at Geelong as the decision by Qantas to make 300 of its employees redundant next year was handed down. On the same day Barwon Water announced that 53 jobs would go from its operations as it has made a decision to outsource certain services.

These announcements of job cuts in the Geelong region are the latest in a list which includes Ford, Alcoa, Target, Boral, the Queenscliff Marine Discovery Centre and Gordon TAFE, as well as the hundreds upon hundreds of public sector jobs slashed by the Napthine government. The Geelong region just needs direction and strong leadership and a plan for job growth.

On Friday morning journalist Jon Faine on ABC radio interviewed the new federal member for Corangamite, Sarah Henderson, about the Qantas decision. When asked about factors influencing the string of job losses in Geelong, Ms Henderson said that the region had been crippled by the carbon tax. Jon Faine then made the obvious point that the carbon tax has nothing to do with Qantas job losses because the work was moving to Queensland and not to a country that does not have a carbon tax. He also stated that Qantas had not mentioned that the carbon tax was a part of its decision. Ms Henderson then tried to explain that Holden had spoken out strongly against the carbon tax, with Jon Faine rebutting this assertion by saying that when former Holden CEO, Mike Devereux, was last in the ABC studio he had stated that the carbon tax was almost irrelevant. This kind of excuse-ridden, factually inaccurate, unhelpful rhetoric is consistent across the conservative side of politics in Victoria and the country.

However, the people of Geelong do not need or want excuses. They certainly do not need or want excuses that are clearly wrong, as were those given by the member for Corangamite on Friday morning. The Geelong community needs a government, whether it be state or federal, that will stand up and have a go. It wants a political party that has a plan to create new jobs. Labor launched its plan in Geelong almost two weeks ago. What this needs — —

The PRESIDENT — Order! Again this is taking on the characteristics of a set speech, especially when it refers to what Ms Tierney's party might do or should do. I ask Ms Tierney to move to the action she is expecting of the minister or the matters that she wishes to bring to her attention. I understand the substance of what she is bringing to her attention, but I ask her to move to that rather than discussing what the Labor Party might well have done.

Ms TIERNEY — The action I seek is for the minister to develop a jobs plan, a growth plan, for Geelong now and not wait until just prior to the election. It is needed, and the people of Geelong are looking for at least some direction from this government, which is failing to even comprehend what is going on in Geelong.

Circus hall of fame

Mrs PEULICH (South Eastern Metropolitan) — The matter I wish to raise is for the attention of the Minister for the Arts, Ms Victoria, and it is in response to a representation made to me by a Frankston resident, Mr Michael Robinson, whose family history is richly embedded in the culture of the circus. I am not talking about his family having served in the Labor Party in the Assembly; it is actually the real circus.

Honourable members interjecting.

Mrs PEULICH — The ringmaster, Mr Daniel Andrews, the Leader of the Opposition and member for Mulgrave in the Assembly, is no relative. However, Mr Robinson, who comes from a rich tradition of circus performers, believes there is a need to investigate the feasibility of establishing a circus hall of fame. He points out that many international jurisdictions have circus halls of fame — and no, this would not be a rogues gallery of MPs, especially Labor Party MPs; it would be a museum that could be operated by a not-for-profit organisation under the supervision of an expert committee drawn from the circus industry.

Clearly there would need to be some assistance provided in order to work up a firm proposal for a suitable site and building. Mr Robinson believes it should provide housing and display a vast collection of material. Mr Robinson believes there is a lot of material in private hands that could be drawn upon, catalogued appropriately and preserved. He says that the hall of fame should also contain an auditorium, which could consist of staging and seating for around 300 people, including a removable circus ring, extra chairs for stage productions and a movie screen.

This is an exciting proposal and certainly something worth considering. I believe it would be viable to draw on the enthusiasm and rich history of circus performers in Australia and provide a home for them. I believe this needs to be investigated by the minister, and I call on her to do so.

Uniting Church kindergartens and playgroups

Ms MIKAKOS (Northern Metropolitan) — My adjournment matter is for the Minister for Children and Early Childhood Development. Like the matter raised by Mr Leane, it relates to the recent decision by the Uniting Church of Australia to divest itself of a number of its properties to, amongst other things, help generate funds to extinguish its Acacia College debt. The properties are a mixture of vacant land, churches, halls and tennis courts but also include three kindergartens — Ewing Kindergarten in Malvern East, St Columba's Kindergarten in Balwyn and the Crossway Preschool in Strathmore — as well as a number of playgroups, including those in Bentleigh East and Williamstown.

There is a great deal of uncertainty around the future of these kindergartens, and parents and staff are

understandably very concerned. Both St Columba's and Ewing kindergartens will honour their 2014 kindergarten enrolments, but they will be unable to operate as kindergartens in 2015. I understand that potential buyers went through Ewing Kindergarten this week to look at the site. The Crossway Preschool in Strathmore is managed by the City of Moonee Valley, and I have been advised that the council has already diverted enrolments for next year to other nearby kindergartens and that it is therefore likely that the kindergarten will close at the end of this year. The minister appeared to have incorrect information when I asked her about this.

As the minister knows, it takes a considerable period of time to build new kindergarten buildings, which is why I asked her yesterday whether she would be prepared to prioritise any of these local council applications for funding under the children's facilities capital program in order to relocate the kindergartens to another site. I am sure the minister can understand that when parents are looking to enrol their children in kindergarten, they are looking for, amongst other things, continuity of service provision. That is why it is of the utmost importance that these kindergarten programs are able to be adequately relocated within the local council areas if possible.

Minister Lovell has a responsibility to ensure that all children have access to quality kindergarten services under the universal access commitment. If she is serious about a statement she made in a media release of 8 November 2012, in which she said:

> I think the soul of a government can be seen in the areas it prioritises for funding …

she should lobby the Uniting Church to exclude these kindergartens from sale, and if she is unsuccessful in that, she should prioritise the affected councils if they wish to proceed with an application under the children's facilities capital program.

Responses

Hon. P. R. HALL (Minister for Higher Education and Skills) — I have written responses to the adjournment debate matters raised by Mr Somyurek on 15 October and Ms Pennicuik on 17 October 2013. In addition to that, nine matters were raised on the adjournment this evening.

Mr O'Brien raised a matter for me. He requested that I visit Geelong to talk to the community about what the government is doing to improve employment programs. I am pleased to advise Mr O'Brien that I intend to be in Geelong both next week and a couple of weeks thereafter. On one of those visits I will announce further initiatives arising out of Skilling the Bay, a particularly good plan headed by my department with the support of other government departments, which will deliver exactly what the Geelong community wants and what Ms Tierney asked for on the adjournment debate this evening — that is, the development of employment opportunities and the means by which we can attract and improve employment opportunities in the Geelong region. Mr O'Brien, and indeed Ms Tierney, would be welcome to come along and hear those announcements I intend to make in Geelong in the next few weeks.

Mr Elsbury raised a matter for Ms Wooldridge, Minister for Mental Health, regarding Women's Health West. He seeks support for that organisation, and he commented on the good work that organisation does. I will certainly pass that on.

Mr Ramsay raised a matter for the attention of the Minister for Police and Emergency Services regarding the fire station at Mount Helen. He outlined the efforts of the government to establish that and was looking forward to turning the first sod and then to the completion of the project in due course. I will pass on the request to the Minister for Police and Emergency Services.

Mrs Peulich raised a matter for the attention of the Minister for the Arts. It concerned a suggestion by one of her constituents, Michael Robinson, to establish what will be called the circus hall of fame museum. Given the excellence of people in the Frankston area, who I know are very interested in the arts, and the presence of those involved in philanthropy in that area, I am sure there will be good local support for that project. I will ask the Minister for the Arts to contribute any effort she can, either personally or through her department, to bring about that dream for one of Mrs Peulich's constituents.

Mr Leane raised a matter for the Minister for Children and Early Childhood Development.

Ms Mikakos also raised a matter for the attention of the Minister for Children and Early Childhood Development.

Mr Somyurek raised a matter for the attention of the Minister for Manufacturing regarding automotive manufacture.

I will refer those matters to the respective ministers.

I have left to the last the matter raised by the Leader of the Opposition, Mr Lenders. For those of us who were unfortunate enough to be in the chamber at the time to

hear what I can only describe as a self-righteous rant by the Leader of the Opposition — —

Mrs Peulich — Another one!

Hon. P. R. HALL — Another one! It was a rant that I think was designed to cover up the contemptuous actions taken by Mr Lenders just moments before the adjournment was moved. That action was to stand in the way of a legislative program the government attempted to introduce into this chamber. That is a contemptuous act, and it continues the contemptuous and self-interested behaviour of the Labor Party in the Parliament over the last two days. To shut down and to be the facilitators that shut down — —

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

Quorum formed.

Hon. P. R. HALL — It was a self-righteous rant full of bluster and bravado on the part of Mr Lenders purely designed to prevent the government from introducing a decent legislation program through the Parliament. It was a continuation of the self-interested behaviour being demonstrated by the Labor Party, both in the lower house earlier today and yesterday, and again here in the Legislative Council this evening.

I said self-interest because it is not in the interests of the people of Victoria. They want to see their important legislation get through this Parliament. They do not want to see the self-serving interests of the Labor Party being demonstrated. Mr Lenders knows this is important legislation that his party has prevented from being debated in this chamber and in the other chamber. During question time today he asked about two pieces of legislation, and he asked generally of the Leader of the Government whether any of the legislation was critical to get through and if any of it had a critical time frame. It has, and Mr Lenders knows that. He knows that because he has looked at the legislation himself. His purpose in raising those questions is purely to serve Labor's self-interest and shows the devastation it has caused to the legislative program in Victoria.

I say to Mr Lenders that it will backfire on him because the people of Victoria are not interested in what the Labor Party wants. The people of Victoria are interested in seeing good legislation passed through the Parliament, and he has stood in the way of it again this evening.

With respect to the specific matter raised by Mr Lenders about calling on the Premier to depose the leader in the upper house, as the President has clearly said, that is a matter for the parties; it is not part of government administration. Mr Lenders is as experienced as anybody in this chamber, and he knows it is out of order to raise that sort of question. He knows the adjournment is about one thing — that is, about raising matters concerning government administration, not party administration.

He asked me to raise it with the Premier. My comments suggest that I will not raise it with the Premier and that the matter is dispatched by my comments here this evening. Mr Lenders may laugh about this, but his actions tonight reflect poorly on the Parliament. I made the comment in the 90-second statements this morning that yesterday was one of the most memorable days in this Parliament. It showed the best of the Parliament, but this afternoon we have seen the worst of it.

Ms Mikakos — On a point of order, President, yesterday during questions on notice you referred to some correspondence you had received from me. One of the items of correspondence was a letter to the Leader of the Government in relation to questions on notice 9001, 9002 and 9003. I remind you that during your ruling in respect of that correspondence you sought from the Leader of the Government an indication either yesterday or today as to how work was progressing in respect of those three questions and whether I would be able to look forward to more detailed responses to them.

Given that I have not heard from the Leader of the Government in relation to those matters and that the house is about to rise, I seek your further guidance on this matter. It is unfortunate that the Leader of the Government is not in the house at this time. With government members accusing the opposition of stymying the operations of Parliament, it is important to remind them that this house has rules, that answers to questions on notice are outstanding and that you have given a direction to the Leader of the Government in relation to these matters.

The PRESIDENT — Order! I advise Ms Mikakos that I have not heard back from the Leader of the Government in respect of those three questions either. I am aware of the matter raised yesterday and the fact that I sought advice as to when more fulsome answers might be forthcoming, given the initial responses that you had had to your questions on notice. I will follow them up with the Leader of the Government, ask him what the position is and come back to you, if not before, then on the first day of our next sitting week.

Mr Lenders — On a further point of order, President, the Leader of the Government undertook in

question time today to get back to me before the house rose as to the start-up dates of the six pieces of legislation that did not originate in the other place. Therefore I am seeking from you information as to what redress I have when the Leader of the Government undertakes to do that and then does not provide me with the information.

The PRESIDENT — Order! One of the issues here is that we are in a time of flux in which we have been somewhat surprised by the events during the progress of the day, and no doubt that has had implications for the Leader of the Government's work today. I have not discussed this with him, but I suspect that that is what is at play rather than anything more sinister or mischievous. I think he has probably just been overtaken by events. I will also have that discussion with the Leader of the Government, and hopefully the advice to you on those matters will be received as soon as possible and will not carry over to the next sitting week. Your matter is perhaps more urgent in a sense than Ms Mikakos's. It is not that I do not wish to prioritise hers either, but the advice you were to be provided with perhaps had a much tighter time frame. I will convey the matter to the Leader of the Government, and hopefully he will be able to fulfil the commitment he gave to you earlier this day.

Hon. P. R. HALL (Minister for Higher Education and Skills) — As the minister at the table I might be able to clarify that point to some extent. I think the Leader of the Government tried to answer the very question asked. He tried to introduce five pieces of legislation in this chamber. Each of those have a commencement date, which is exactly the information that Mr Lenders was seeking: whether they were urgent and whether there was a commencement date. The Leader of the Government attempted to do what he said he would do, and it was Mr Lenders himself who prevented him from giving the answer that he sought.

The PRESIDENT — Order! I thank Mr Hall for that advice. It probably does go some way towards the point raised by Mr Lenders, but they were not necessarily the same bills that Mr Lenders was seeking advice on. In other words, there would have been some overlap between the ones that the Leader of the Government was introducing and some that perhaps were not subject to the intended motions of the Leader of the Government, given that some of those bills in the other house have financial implications and therefore would not be able to be introduced into this house at all, as a first step. From that point of view I think Mr Lenders's request of earlier today is not entirely satisfied, albeit that some of the dates that Mr Hall has referred to may well have provided satisfaction on that question. I will have the discussion with the Leader of the Government. I thank Mr Hall for his assistance on that matter as well.

On that basis, at the end of a routine week — —

An honourable member — For the Council.

The PRESIDENT — For the Parliament! The house stands adjourned.

House adjourned 6.48 p.m. until Tuesday, 26 November.