PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Thursday, 28 May 2015

(Extract from book 7)

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

By authority of the Victorian Government Printer

The Governor

The Honourable ALEX CHERNOV, AC, QC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

The ministry

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Minister for Emergency Services, and Minister for Consumer Affairs, Gaming and Liquor Regulation	The Hon. J. F. Garrett, MP
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Minister for Local Government, Minister for Aboriginal Affairs and Minister for Industrial Relations	The Hon. N. M. Hutchins, MP
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Minister for Families and Children, and Minister for Youth Affairs	The Hon. J. Mikakos, MLC
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Minister for Agriculture and Minister for Regional Development	The Hon. J. L. Pulford, MLC
Minister for Women and Minister for the Prevention of Family Violence	The Hon. F. Richardson, MP
Minister for Finance and Minister for Multicultural Affairs	The Hon. R. D. Scott, MP
Minister for Small Business, Innovation and Trade	The Hon. A. Somyurek, MLC
Minister for Planning	The Hon. R. W. Wynne, MP
Cabinet Secretary	Ms M. Kairouz, MP

Legislative Council committees

Privileges Committee — Mr Drum, Ms Hartland, Mr Herbert, Ms Mikakos, Ms Pulford, Mr Purcell, Mr Rich-Phillips, and Ms Wooldridge.

Procedure Committee — The President, Dr Carling-Jenkins, Mr Davis, Mr Jennings, Ms Pennicuik, Ms Pulford, Ms Tierney and Ms Wooldridge.

Legislative Council standing committees

Standing Committee on the Economy and Infrastructure — Dr Carling-Jenkins, Mr Dalidakis, Mr Eideh, Mr Elasmar, Mr Finn, Ms Hartland, Mr Morris and Mr Ondarchie.

Standing Committee on the Environment and Planning — Ms Bath, Mr Dalla-Riva, Mr Davis, Ms Dunn, Mr Leane, Ms Shing, Ms Tierney and Mr Young.

Standing Committee on Legal and Social Issues — Ms Fitzherbert, Mr Melhem, Mr Mulino, Mr O'Donohue, Ms Patten, Mrs Peulich, Ms Springle and Ms Symes.

Joint committees

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

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

Economic, Education, Jobs and Skills Committee — (*Council*): Mr Elasmar, Mr Melhem and Mr Purcell. (*Assembly*): Mr Crisp, Mr Perera and Ms Ryall.

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

President: The Hon. B. N. ATKINSON

Deputy President: Ms G. TIERNEY

Acting Presidents: Ms Dunn, Mr Eideh, Mr Elasmar, Mr Finn, Mr Morris, Ms Patten, Mr Ramsay

Leader of the Government:
The Hon. G. JENNINGS

Deputy Leader of the Government:
The Hon. J. L. PULFORD

Leader of the Opposition:
The Hon. M. WOOLDRIDGE

Deputy Leader of the Opposition:
The Hon. G. K. RICH-PHILLIPS

Leader of The Nationals:
The Hon. D. K. DRUM

Leader of the Greens:
Mr G. BARBER

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Morris, Mr Joshua	Western Victoria	LP
Bath, Ms Melina [2]	Eastern Victoria	Nats	Mulino, Mr Daniel	Eastern Victoria	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFP	O'Brien, Mr Daniel David [1]	Eastern Victoria	Nats
Carling-Jenkins, Dr Rachel	Western Metropolitan	DLP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Dalidakis, Mr Philip	Southern Metropolitan	ALP	Patten, Ms Fiona	Northern Metropolitan	ASP
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Davis, Mr David McLean	Southern Metropolitan	LP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Drum, Mr Damian Kevin	Northern Victoria	Nats	Pulford, Ms Jaala Lee	Western Victoria	ALP
Dunn, Ms Samantha	Eastern Metropolitan	Greens	Purcell, Mr James	Western Victoria	V1LJ
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Ramsay, Mr Simon	Western Victoria	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Shing, Ms Harriet	Eastern Victoria	ALP
Fitzherbert, Ms Margaret	Southern Metropolitan	LP	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Springle, Ms Nina	South Eastern Metropolitan	Greens
Herbert, Mr Steven Ralph	Northern Victoria	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Wooldridge, Ms Mary Louise Newling	Eastern Metropolitan	LP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Young, Mr Daniel	Northern Victoria	SFP
Melhem, Mr Cesar	Western Metropolitan	ALP			

[1] Resigned 25 February 2015
[2] Appointed 15 April 2015

PARTY ABBREVIATIONS

ALP — Labor Party; ASP — Australian Sex Party;
DLP — Democratic Labour Party; Greens — Australian Greens;
LP — Liberal Party; Nats — The Nationals;
SFP — Shooters and Fishers Party; V1LJ — Vote 1 Local Jobs

CONTENTS

THURSDAY, 28 MAY 2015

Thursday, 28 May 2015

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 9.36 a.m. and read the prayer.

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Reference

The PRESIDENT — Order! I advise members that I have received a letter from Joshua Morris in his capacity as chair of the Standing Committee on the Economy and Infrastructure. He writes:

> I am writing to advise the Legislative Council that, pursuant to sessional order 6, at its meeting on 27 May 2015 the economy and infrastructure standing committee adopted the following terms of reference as a self-referenced inquiry:
>
> > That the economy and infrastructure standing committee undertake an inquiry into the State Taxation Acts Amendment Bill 2015, and that the committee reports its findings and recommendations to the Legislative Council by 23 June 2015 and that the inquiry in particular examines the likely effect of the bill on housing supply and housing affordability.

OFFICE OF THE PUBLIC ADVOCATE

Community visitors report 2013–14

For Ms MIKAKOS (Minister for Families and Children), Ms Pulford (Minister for Agriculture), by leave, presented government response.

Laid on table.

PAPERS

Laid on table by Acting Clerk:

Auditor-General

> Technical and Further Education Institutes: 2014 Audit Snapshot, May 2015 — *(Ordered to be published)*.
>
> Victoria's Consumer Protection Framework for Building Construction, May 2015 — *(Ordered to be published)*.
>
> Members of Parliament (Register of Interests) Act 1978 — Summary of Primary Return — May 2015 and Summary of Variations notified between 18 February 2015 and 22 May 2015 — *(Ordered to be published)*.

NOTICES OF MOTION

Mr O'DONOHUE having given notice of motion:

The PRESIDENT — Order! I will let the motion stand, but I am not sure that paragraph (5) is consistent with the rest of it. It is more editorial and debate material rather than about the substance of the motion, which is about what the government is or is not doing.

Ms TIERNEY having given notice of motion:

Mr DRUM (Northern Victoria) — I desire to move, by leave:

> That we debate this motion forthwith.

Leave refused.

Mr DRUM (Northern Victoria) — I desire to move, by leave:

> That debate on this motion be taken later this day.

This is so that the government has time to get organised.

Leave refused.

Further notices of motion given.

BUSINESS OF THE HOUSE

Adjournment

Mr JENNINGS (Special Minister of State) — I move:

> That the Council, at its rising, adjourn until 2.00 p.m., Tuesday, 9 June 2015.

Motion agreed to.

MEMBERS STATEMENTS

Kingston waste management

Mrs PEULICH (South Eastern Metropolitan) — The leaking of methane gas from an old tip that had been closed in the 1980s and was owned by the then Brighton council and located in the city of Kingston was cause for concern for the community, which necessitated the testing of homes for methane gas levels to ensure the safety of residents. Fortunately the trigger levels for evacuation were not reached. However, this again highlights the problem of having housing and residents in close proximity to waste facilities, including tips.

That is the reason Kingston City Council has unanimously adopted planning scheme amendment C143 to the Kingston planning scheme, which enshrines the transitioning of waste-related activities out of the green wedge. This is in direct conflict with a government policy that has identified the Kingston green wedge as a waste hub. Kingston City

Council has written to local members of Parliament urging the government to resolve this conflict in favour of the residents and in favour of the position taken by the council in relation to its adoption of planning scheme amendment C143 forthwith. I urge the minister to respond to this correspondence and put in place a vision for a better use of the Kingston green wedge rather than the waste facilities and landfill which have caused enormous amenity problems for the local community. Of course these problems will continue for many decades into the future. Being 25 kilometres out of the CBD, this land deserves to be used for better purposes.

Peninsula North Men's Shed

Mr MULINO (Eastern Victoria) — Recently I was fortunate to attend the opening of the Peninsula North Men's Shed at Baxter. It has taken eight years of hard work to get this men's shed to the point where it is able to be open. This has been a journey, and a number of local leaders of the men's shed movement have been pushing it the entire way along. I would like to acknowledge that this is particularly due to the efforts of Mr Russ Davidson and Mr John Drysdale, who have led this project across a number of state and local government administrations and have worked tirelessly along with a number of other locals and council officers.

During the course of the eight years it has taken to get this men's shed to the point where it is today, the number of men's sheds across Victoria has grown from around 30 to around 300. This is an important movement across the state and indeed the nation. Men's sheds across Victoria offer an opportunity for their members to not only contribute to society but also provide each other with important social networks and support. Their members are often people who do not have many other avenues of support. Many of the men I spoke to at this opening said this particular men's shed has become like another family to them. I welcome the $750 000 for more men's sheds in the recent budget and congratulate those involved with the Peninsula North Men's Shed.

Internet pornography

Dr CARLING-JENKINS (Western Metropolitan) — I rise today to speak about an event I recently attended and spoke at. Organised by Pastor Peter Stevens from FamilyVoice Australia, the theme was 'Keep our kids porn free!'. I learnt more about the harmful effects unchecked internet access is having on our children, our families and our society. I am absolutely staggered by the fact that the massive volume of sexually explicit material accessible at just the click of a button within our own homes is being readily accessed by adolescents. I am equally staggered by the appalling statistics and facts on the increasing incidence of crime and antisocial behaviour linked to pornography addiction.

Consistent findings have emerged linking adolescent use of pornography that depicts violence with an increased degree of sexually aggressive behaviour. This is a threat to healthy relationships and to stable families. I listened to advocates from the UK, Miranda Suit and Pippa Smith from Safermedia, who have made great progress there in making internet service providers and mobile phone operators provide customers with the choice of an internet service that excludes pornographic content. We need to realise that the problem here is a serious one. I hope that meaningful deliberation and strong leadership will ensure a reduction in the harmful effects that unchecked access to internet pornography has on our children, our families and our society.

Port of Melbourne

Mr BARBER (Northern Metropolitan) — One hundred years ago Labor members would have come into this place and railed against some of the ugly private monopolies that then existed in the Victorian economy; now Labor members have put forward a bill to create a new one through the lease for 50 years of the port of Melbourne. This proposal is an absolute stinker. For the Victorian public it means that one of our last remaining publicly held strategic economic assets is to be handed over to an operator with only profit in mind. Anyone who is a user of the port for export purposes can expect to see their prices rising. That is, after all, the whole point of a private operator leasing the port — to squeeze more juice out of the orange.

At the moment it seems that the coalition is sitting on the fence. As this bill makes its way through the Parliament over the next few weeks the coalition should give serious consideration to where it stands. The Nationals are already losing votes by the bucketload to the Greens over the issue of coal seam gas, and this issue is likely to be of equal concern to farmers across the landscape, never mind the manufacturers, given the increasingly important role manufactured food exports play in our economy.

Shooting Sports Facilities program

Mr DRUM (Northern Victoria) — I am using this member's statement this morning to respond to a press release that was put out by the Labor government yesterday or the day before to the effect that I have been

misleading Victorians and that the Labor government has safeguarded the sports shooting fund. I do not know how the Labor government has worked out that it has safeguarded the sports shooting fund when it has simply eradicated the fund's $9.8 million out of the budget, yet it is now saying that it is safeguarding the fund.

It is very similar to its eradicating the $8 million for the country football netball program and then trying to tell the Public Accounts and Estimates Committee that the money is in the budget. When the Minister for Sport, Mr Eren, was there, the committee members and everyone in the room were laughing at him because he could not point to a line item. He kept saying the money is in the budget; he just did not know where.

Now the government is saying it has safeguarded the sports shooting fund and it is back on the books. It sacked the chair because he happens to be a former Liberal politician; instead, it has put in place a former Labor politician. It does not matter that David Hawker has a whole lifetime membership of the field and game association. It has replaced him with Joe Helper.

The matter is that it is now up to the Treasurer to show Victoria where the $9.8 million is in the budget. He can also show us where the $8 million is for the country football netball program.

John Parker

Ms SHING (Eastern Victoria) — I rise this morning to pay tribute to a Gippsland local hero and treasure who has made an enormous contribution to the area and the workers and families of the region for many years. Mr John Parker, formerly secretary of the Gippsland Trades and Labour Council, has worked tirelessly with enormous stamina, enthusiasm and goodwill to make sure that issues of local importance for workers, families and people who live in Gippsland and call it their own are brought to the fore as regularly as possible.

John was secretary of the council from 2002 until 2014 and has fought enormously hard for the rights of workers across the area for apprenticeship opportunities as well as in joining the fight to save the Coal Creek community park, Wonthaggi state coalmine and the Pakenham golf course. He has also played an enormously important role in the fight against asbestos, in assisting the Gippsland Asbestos Related Diseases Support group to design and produce the domestic asbestos home removal kit and has been one of the drivers of the council's Just Transition strategy since 2005 to make sure that workers' needs and priorities are highlighted and given the attention and resourcing they deserve.

John is an absolutely suitable and deserving recipient of a meritorious service award. I congratulate him for all his efforts, and also his wife, Alison, who is the rock who has enabled him to do everything he has done.

Sporting Shooters Association of Australia

Mr YOUNG (Northern Victoria) — I rise today to congratulate the Sporting Shooters Association of Australia (SSAA) on a wonderful event held last weekend, the 2015 SSAA SHOT Expo. We had a fantastic turnout, with numbers for Saturday alone expected to be more than the entire weekend last year.

That is an indication of how the shooting sports have grown and are encompassing various disciplines, such as big bore and small bore target, pistol shooting, shotgun clay target shooting, hunting of all kinds and archery and paintball, which is growing in popularity. A most encouraging factor of the weekend was the demographics of all the visitors. This event does not just attract rednecks such as myself — the typical shooter; we spoke to families, including women and children of many ages, people of various ethnic backgrounds and many people with disabilities. It was a perfect example of social cohesion and inclusiveness, with people coming together to enjoy and share in a common interest.

If anyone from the government would like a briefing from me on the economic value of the weekend and the benefits the event provides, I am happy to have a chat with them about the $2000 that I seem to have misplaced over the weekend. It was an amazing event, and I congratulate all the organisers on their hard work.

Melbourne Victory Football Club

Mr HERBERT (Minister for Training and Skills) — Sport is an important part of people's lives, for none more so than the proud soccer fans of Victoria. It gives me great pleasure to congratulate Melbourne Victory Football Club on its outstanding win in the A-League grand final. Its 3-0 defeat of Sydney Football Club was comprehensive, and it would only have been sweeter had the Victorian flag been flown on the Sydney Harbour Bridge, as has been the case with the AFL in the past. I congratulate the Melbourne Victory players on their performance on the day and during the course of the entire season. I would also like to make mention of the club as a whole for building enormous support in Victoria.

The rousing renditions of the great John Lennon song *Stand by Me* by the crowd at the beginning of the game and *Victory The Brave* at the end set the scene for an emotion-packed game enjoyed by all. These great theme songs — a couple of the best across all codes — highlight the importance of music in our lives and at events like these. The crowd was enamoured by both these songs. They helped lift spirits and create a war cry and call to action, and to hear them echoed across the great new stadium was truly an experience that gave everyone goosebumps. At last week's Victory medal presentation, where I was joined by the President of this place, Bruce Atkinson, we again had the opportunity to sing *Stand by Me* as the entire team stood in front of us on the stage.

I also congratulate Bluestar Global Logistics — a company founded by one of our members — on its sponsorship of a great Victory night. As proud, passionate Victory supporters, these are very special memories.

Western Victoria Region

Mr RAMSAY (Western Victoria) — I would like to continue my members statement from yesterday when I was informing the chamber of my representation in western Victoria last week. It was a pleasure to be at the opening of the Grovedale community hub, in which the coalition government invested $2 million in, and the City of Greater Geelong contributed $4.7 million. Ms Mikakos also attended the hub opening, one of the only openings she attended during the week.

I also attended the Ocean Grove community hub opening, which was again supported with a $500 000 grant by the Napthine government, with the City of Greater Geelong contributing $960 000. I congratulate Nicki Dunn for her strong advocacy for the Ocean Grove community. I inspected the $6 million Barwon Heads kindergarten facility, which was again a shared funding project between the coalition government and the City of Greater Geelong. I truly believe it is a magnificent building and a fully integrated community facility that represents world's best practice. I thank the staff for inviting me to tour the building.

All in all, over the week I visited $8 million worth of coalition government-funded community hubs in western Victoria. These were funded from a very successful $135 million fund overseen by former minister Wendy Lovell's department. Sadly, Ms Mikakos has cut $55 million out of the community hub budget, which will mean a significant loss for western Victoria in the future.

Thomas Carr College

Mr MELHEM (Western Metropolitan) — On 11 May I had the honour to attend a Malaya and Borneo veterans remembrance service at Thomas Carr College in Tarneit, along with Mr Finn and Mr Languiller, the Speaker of the Legislative Assembly. It was quite a moving occasion. I would like to start by commending the college for taking on that service. It has become part of its annual program to remember our veterans who fought on behalf of this country in the Malaya and Borneo region, where these soldiers — men and women — sacrificed their lives. They were not only from Australia but also from Britain, New Zealand, South Africa, Singapore, Malaysia and Nepal.

The service brought out the true comradeship of those who served in the Malaya and Borneo region in the war. The college wanted to maintain a commitment to the memory of these soldiers and their service and sacrifice. I was quite moved by an address by Mr Alan Day, a 93-year-old veteran. As we know, veteran numbers from the Second World War are dwindling, so this service encourages young kids to continue to remember them. I acknowledge the captains of the school, Emily O'Connor, Jacqueline O'Brien and Julius Torres, for doing a wonderful job. I also congratulate the college on holding the event.

CRIMES AMENDMENT (REPEAL OF SECTION 19A) BILL 2015

Second reading

Debate resumed from 7 May; motion of Ms MIKAKOS (Minister for Families and Children).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise this morning to speak to the Crimes Amendment (Repeal of Section 19A) Bill 2015. The coalition will be supporting this legislation. The bill is quite simple legislation which, as the title suggests, repeals what is currently section 19A of the Crimes Act 1958. Section 19A of the Crimes Act says:

> (1) A person who, without lawful excuse, intentionally causes another person to be infected with a very serious disease is guilty of an indictable offence.

The act further goes on to define 'very serious disease' as meaning HIV, as defined within the Public Health and Wellbeing Act 2008, so the offence is the offence of intentionally infecting someone with HIV.

The reason this legislation is before the Parliament today and the reason its passage is being supported by the coalition is that it was a commitment made by the coalition in July 2014, on the occasion of the International AIDS Conference in Melbourne. To his credit the then Minister for Health, the Honourable David Davis, made a commitment that a coalition government would repeal this section of the Crimes Act in recognition that intentional infection by HIV should be treated no differently to intentional infection by any other disease. It has been unique under Victorian statute to have this provision in the Crimes Act relating exclusively to HIV when no other medical disease is called out in this way under the Crimes Act.

Section 19A was inserted into the Crimes Act in 1993 at a time when some of the current treatments for HIV were not available. It was in response to then community concerns about the potential for or the threat of syringes filled with HIV-infected blood being used in crimes — used to hold up people or in robberies — or for HIV to be transmitted through sexual behaviour without the knowledge or consent of the other party. In the early 1990s there was concern within the Victorian community that HIV, which at that stage was a relatively new disease — it had only been known about for a decade or 15 years — could be used in that way to harm members of the community. Section 19A was put in place, which made it an explicit offence for HIV to be transmitted in that way, as called out in section 19A.

Importantly, since section 19A was put in the Crimes Act it has not been used in prosecutions. This provision has never been used to prosecute people who intentionally and deliberately spread HIV, either through syringes in the case of committing crime or through sexual behaviour. What we have seen is that other provisions of the Crimes Act, such as those with respect to causing serious injury, which will continue in place following the passage of this legislation, are equally applicable to offences such as the deliberate transmission of HIV. Those provisions have been available where cases have been brought forward where this type of behaviour has occurred, and that will continue to be the case following the passage of this legislation.

It is the view of members of the coalition who first proposed this at the International AIDS Conference last year that treating HIV infection on a level playing field with other potential communicable diseases is the appropriate way to go. There is no reason to stigmatise people who have the HIV virus by calling for a separate offence for the transmission of that virus. This bill is a simple bill. It removes that specific provision relating to HIV. It preserves the general provisions with respect to causing serious injury, which is an appropriate mechanism by which any deliberate infection by HIV can be dealt with as a criminal matter, as indeed the deliberate infection by any other communicable disease can be dealt with as a criminal matter. That is appropriate, and the coalition strongly supports the passage of this bill.

Ms SHING (Eastern Victoria) — It is a great privilege to rise to speak in relation to this bill, and it is a great pleasure to hear that the bill enjoys support from around the house. This is an important day to mark in relation to the removal of a provision from the Crimes Act 1958 that has long enforced stigma and long entrenched a basis for discrimination in relation to HIV and the way it was first brought into popular focus and then treated in the law. This provision has had enormous consequences for individuals, it has had enormous consequences for the idea of HIV as a treatable and manageable condition, and it has created enormous upset and distress in the course of its operation.

As Mr Rich-Phillips indicated in his contribution, the bill is a relatively straightforward one. It repeals section 19A of the Crimes Act, which created a disproportionately high and serious penalty for the intentional causing of a very serious disease, namely HIV. The genesis of this offence as it was introduced into the Crimes Act by way of amendment is chequered. It relates to a period in our history and understanding of communicable disease which was fraught with fear, mythology, concern and hysteria.

People were not only scared, they were outright aggressive. They condemned people for the very notion of risk. We saw people concerned about the Grim Reaper. We saw advertisements which depicted the bowling over of women and children. We saw the way people with HIV were turned into pariahs. The law then created a particular offence with a penalty of a maximum of 25 years imprisonment for intentionally causing another person to be infected with a human immunodeficiency virus, or HIV, when comparable offences in the Crimes Act attracted maximum penalties of 20 years imprisonment.

At the time this provision was introduced into the principal act it was thought that anyone infected with HIV would invariably die. This view was well entrenched and it encouraged enormous amounts of fear, suspicion and mythology, as I have indicated. It did not, however, achieve the ends or the initial objectives it set out to achieve. There has been only one

successful case involving a conviction for the offence set out in section 19A, which is based on the intentional transmission of HIV during sexual intercourse.

We have moved on since 1993. We have moved on medically. We have moved on in relation to research and development around the way HIV is managed, around the way associated attacks on the immune system are managed, around the way people are not only in a position to lead normal, healthy and productive lives whilst living HIV-positive but are also in a position to manage side effects and vulnerabilities in relation to other communicable diseases. We have moved on in relation to stigma, I would hope. We have moved on as a consequence of the important work of grassroots organisations, of public figures and of people who stood up and were not afraid to say that we got it wrong in relation to concerns about HIV being a death sentence. Medical science has caught up and has helped to prolong the lives of and the quality of life for people living positive.

The law has an obligation to adequately reflect the concerns, priorities and policy objectives of the day. It is no longer a particular concern, priority or objective of the law or of good government to isolate this offence to create a greater and disproportionate penalty. We now have options which mean that the Crimes Act 1958 already encompasses offences which could very well, very easily and very appropriately cover any sort of intentional transmission far beyond the disproportionate and unreasonable way in which section 19A operates.

This is an important symbolic change as well. It says that there is no need to unreasonably discriminate against people who are living positive and that there is no need to perpetuate the mythology in relation to HIV that was allowed to bloom and blossom in the 1980s. The fruit of that mythology, the fear tactics and all the other things that came across our television screens and our airwaves, was used to scare people. The presence of HIV in popular plots of movies and miniseries enabled us to alienate and isolate people, apparently with good reason.

The risks simply are not what we thought they were because of the leaps and bounds that have occurred in medical science. We have an improved understanding of what transmission means and of what living positive means. They are not what we thought they were. Education information has been allowed to stamp out the myths and, hopefully to an increasingly larger degree, stamp out the stigma associated with people who are living positive.

I have spoken with many people in my electorate of Eastern Victoria Region for whom this is a very real and practical problem and a very real and practical source of stigma. In the aggregate, provisions such as these amount to what would seem to be a declaration that people living positive are somehow second-class citizens who are able to be freely discriminated against or subjected to harsher penalties in the way in which the law operates as they live their lives.

This government recognises, as it must be said the former government recognised, that intentional transmission of any infectious disease is a serious concern that poses a public health issue. It is important that we make sure that any intentional transmission of infectious disease is not allowed to occur without penalty. However, there are offences in the Crimes Act, as it will stand without section 19A, that can be used to capture exactly the conduct that was isolated and specified in section 19A. This will mean that we will have a level playing field involving a maximum penalty of 20 years imprisonment as opposed to the disproportionate level of 25 years that operated under section 19A.

However, the law itself is only one element of making sure that we properly manage public health concerns. We need to properly educate and provide information to the community about the actual risks, the preventive mechanisms that should be applied and how to reduce the risk of exposure and transmission. The Public Health and Wellbeing Act 2008 provides the chief health officer with disease-control powers, including the ability to place restrictions on certain behaviours and movements, and in really extreme circumstances — should they occur — to detain or isolate a person. The government has also put in place nationally consistent guidelines for the management of people living with HIV who put others at risk. The guidelines detail the increasingly coercive responses available to the chief health officer to manage incidents of people placing others at risk.

Importantly this bill removes the basis for negative stereotypes for people who are living positive. I work with people who live positive, I know people who live positive and I know people who are positive in Living Positive Victoria. Through the organisations that have supported people and through organisations that support law reform, we are now beginning to understand the incredibly negative effect that such stereotyping and stigma can perpetuate.

Finally, we are now understanding the need for the law to properly reflect community standards in relation to the protection of public health. We are entitled to be

protected from risk, but people are also entitled to the best extent possible not to be exposed to the sort of discrimination and stigma that section 19A perpetuated.

I will never forget as a young law student being taught about the application of section 19A in the Crimes Act and being completely aghast because it seemed to me to be so counterintuitive. The Crimes Act itself sets out a range of offences which can be applied in circumstances where there has been intentional transmission of an infectious disease. That HIV was singled out struck me as being utterly counterintuitive, as a duplication, as unfair and as discriminatory. I remain of that view now, and to that end I am extraordinarily proud to be part of a Parliament that has recognised the need to strike a better balance in relation to public health outcomes and the minimisation of risk on the one hand — with penalties applying for intentional transmission where it occurs — and on the other hand has repealed a law on the statute book to remove an unnecessary source of extraordinary stigma.

People living positive already have it tough. They have it tough despite all the advances in medicine and in research and development, and despite all the gains we have made in terms of accepting that this is no longer a death sentence and that we have come an awfully long way. Removal of this section will mean there is one less thing on our books — one less part of the law — which constitutes an unnecessary basis for discrimination. It will mean that there is one less reason for people living positive to feel like they are other. I am proud to support the way people live positive and to support positive health outcomes for people with infectious and communicable diseases and blood-borne diseases living in our communities. I am proud to support research and development. I am proud to support education and communication to make sure that to the best extent possible we are not allowing witch-hunts, lynch mobs or stigma to get in the way of thinking clearly.

This is a rational bill. This is a proper bill. This is a bill which is ready to be passed. It should have been passed a long time ago. I am proud to be speaking on it today. I commend the bill to the house.

Ms HARTLAND (Western Metropolitan) — This bill repeals section 19A of the Crimes Act 1958, which created an indictable offence for intentionally causing another person to be infected with a very serious disease. In the case of this section 'very serious disease' solely means HIV. The Greens strongly support this bill. Deleting this provision will assist in the struggle to end the stigmatisation of and discrimination against people living with HIV. This is the only HIV-specific criminal offence in Australia. It was introduced by the then Liberal government in 1993 in response to escalating community concern about the use of hypodermic syringes filled with blood as weapons in robberies and assaults. I am old enough to remember this period, and it was filled with fear and loathing, mainly because people are often afraid of what is unknown.

There are a number of problems with this law, and they have been highlighted by Living Positive Victoria and the Victorian AIDS Council. They include that it treats intentional infection with HIV as inherently more serious and repugnant than any other form of violence, thus reinforcing the stigma around HIV. It ignores the significant medical advances which have been made in HIV treatment since its enactment. And it enforces stereotypes suggesting that people living with HIV are dangerous to the community.

Further reasons section 19A should be repealed include that it has never been used in the circumstances for which it was originally enacted — the deliberate transmission of HIV by a blood-filled syringe. And very importantly, it is not necessary since offences of general application exist that could be applied in the case of intentional HIV transmission. For example, the Victorian Crimes Act already makes it an offence to intentionally cause serious injury. The definition of injury in the Crimes Act specifically includes infection with a disease and is not limited to any specific disease.

The political motivation for introducing section l9A to the Crimes Act seems to me to have been highly problematic given there were already laws covering intentional infection with disease. HIV-specific criminal laws are expressly condemned by international agencies. The Global Commission on HIV and the Law and the Joint United Nations Programme on HIV/AIDS argue that laws such as section l9A are counterproductive to HIV prevention and the interests of justice.

There is no justification for legislating for different maximum penalties for identical conduct based only on specific diseases involved, yet section 19A applies the harsher penalty of 25 years maximum for the transmission of HIV. Other offences involving intentionally causing injury or intentional infection with a disease attract a 20-year maximum penalty.

Our own Equal Opportunity Act 2010 and Charter of Human Rights and Responsibilities Act 2006 provide that there should be equal treatment and protection by the law of people living with HIV. A 25-year penalty for HIV intentional infection versus 20 years for intentional infection with other diseases is not

consistent with the charter or the Equal Opportunity Act.

Further, our efforts to increase HIV testing, which is part of the Victorian government's health policy, are undermined by HIV criminalisation such as that which exists under section l9A. This law discourages people with HIV from disclosing sexual behaviour to medical practitioners. The Greens believe this bill strikes the right balance between appropriate criminal law, achieving public health goals and promoting human rights, and we are extremely proud to vote for it. I am in my 50s, and I remember when the epidemic started 30 years ago. I remember what it was like for my friends who were HIV-positive or AIDS-positive. They had a terrible time during that period. It is very pleasing to see that sense has finally prevailed on this particular section.

Mr JENNINGS (Special Minister of State) — I would like to distil the very essence of what I think is taking place today. The Crimes Act 1958 in Victoria should be for crimes. Matters dealt with by the Crimes Act should be clearly defined and understood to be crimes. Let us be very clear about it: being HIV-positive is never a crime. It is never a crime in its own right, and it is never a crime when it is added to or associated with another crime.

In my view an injustice was done in the name of fear when section 19A was added to the Crimes Act. Today we are removing that injustice from Victorian law. Removing that injustice from Victorian law does not necessarily mean we are removing discrimination. Discrimination that has been perpetuated by this provision within the law may continue beyond the removal of this injustice from the law.

I want to make sure that this injustice is removed from our legal framework and that we are committed to working collaboratively as a community to make sure that discrimination is removed and that shame, guilt and despair are acknowledged and responded to with compassion, regard and respect. That continues to be our overriding responsibility to the Victorian community.

I sincerely thank all of those who have worked so hard to make Victoria a more just, civilised and respectful society by being consistent and passionate advocates for the removal of this injustice. I reiterate that we in government will work very closely with all those committed citizens in Victoria to make our community more respectful and mindful of providing appropriate support to members of our community who have suffered at the hands of this injustice and discrimination. I look forward to our success in making Victoria a more humane and respectful society.

Mr MORRIS (Western Victoria) — My contribution to the debate on the Crimes Amendment (Repeal of Section 19A) Bill 2015 will be short, but I am always pleased to rise and speak when I agree with the sentiments being expressed by members on all sides of the chamber. I acknowledge that the repeal of section 19A removes outdated discrimination from the Crimes Act 1958. This provision was introduced in 1993 but is no longer relevant. We have equivalent offences, such as intentionally causing serious injury, that appropriately cover this behaviour without discriminating against members of our community.

I congratulate the former Minister for Health, David Davis, who at the 20th International AIDS Conference held in Melbourne last year announced that the coalition intended to repeal section 19A, and I am pleased the government has seen fit to continue that great work and remove this section from the Crimes Act. When this provision was introduced AIDS was seen by the community as a death sentence, but with the advent of advanced antiretroviral drugs and the like it is great that members of our community who are HIV-positive and suffering from AIDS have the opportunity to live long and fulsome lives. That is welcome and should be recognised.

Thank you, President, for the opportunity to make a contribution to the debate, and I join with other members of the house in supporting the bill.

Ms SYMES (Northern Victoria) — It is an honour to follow previous speakers in the debate on the Crimes Amendment (Repeal of Section 19A) Bill 2015. I am proud there is unity against discrimination and for the promotion of equality. As we have heard, this bill repeals a discriminatory and outdated section of legislation that has no place in a community such as ours as we strive towards inclusiveness and acceptance. The bill finally addresses the reactionary political response to an episode of public hysteria two decades or so ago when the Grim Reaper became the poster boy for the impending doom of mass HIV infection and bowling alleys became the setting for sweat-inducing nightmares. I am pleased that with the passage of time we have evolved to a point where we see and accept just how wrongly, unfairly and unjustly targeted the sufferers of HIV were.

Section 19A applies a maximum penalty of 25 years imprisonment for the transmission of HIV, which is a harsher sentence than for the crime of manslaughter. Whilst the offence was introduced following a number

of armed robberies during which victims were threatened with syringes containing blood, there was no evidence those committing the crimes had HIV or were wielding weapons containing the virus. Yet such was the lack of understanding of this illness at the time that the government of the day saw fit to establish a crime that further alienated and stigmatised those suffering with HIV, the implication being that they would be inclined to use their illness as a weapon to threaten and wreak harm on the general population, and as such the most serious of consequences was applied to them. Twenty-two years on, the number of so-called episodes of syringe-wielding bandits infecting unsuspecting members of the public with HIV is exactly zero.

The medical treatment available to those with HIV has progressed with such pace that a diagnosis of HIV is no longer a death sentence, and a long, fulfilling life is a viable prospect for those infected. Whilst the removal of discrimination, alienation and stigma has not kept pace with the advances in health care, it gives me great pleasure that a Labor government is bringing this forward and addressing this wrong, long overdue though it may be.

Having reflected on and reviewed the introduction of this section of the Crimes Act all those years ago, I am proud Labor opposed it then and honoured to be part of the Labor government that is repealing it now. I am proud that through our actions we continue to demonstrate our genuine commitment to and passion for ending discrimination and engendering a more tolerant, just and fair community in which equality of rights and opportunity exists regardless of gender, sexuality or health status.

The repeal of this section does not in any way endanger or place at risk any member of the community. Appropriate laws and powers already exist in our state to ensure that anyone deemed a risk to public health can be detained. These protections are far reaching and effective, not limiting, narrow and specific to one particular illness, as is the case with section 19A. By repealing this section we honour and respect the Equal Opportunity Act 2010 and the Charter of Human Rights and Responsibilities Act 2006, which enshrine that there should be equal treatment and protection of the law for people living with HIV. By repealing section 19A we reduce the stigma and discrimination faced by people living with HIV and promote the equal protection of all Victorians under the law and their rights to equal opportunity. By repealing section 19A we remove outdated negative stereotypes associated with HIV infection. I commend the bill to the house.

Ms FITZHERBERT (Southern Metropolitan) — I am pleased to add my voice in support of this amendment to the Crimes Act 1958. As previous speakers have mentioned, section 19A is a hangover from earlier times and a climate of fear. The community has moved on over the intervening years, and it is appropriate that our legislation reflects that. The Crimes Amendment (Repeal of Section 19A) Bill 2015 removes a section that prescribes a penalty of up to 25 years imprisonment for the deliberate transmission of HIV.

This amendment to the Crimes Act is supported by Living Positive Victoria and the Victorian AIDS Council, which have put forward good reasons this law should be changed, which I believe are broadly supported within this chamber.

The points have been made that a criminal law is an ineffective way to prevent HIV infection. HIV should be a public health issue and not a legal one. The legislation as it stands reinforces stigma around HIV, and it has been argued that it discourages HIV testing. I note that the clause in question has never been used in the circumstance for which it was originally enacted, which was the deliberate transmission of HIV through a blood-filled syringe. I also put on the record that I think there is no good reason to single out one disease or infection from others that could have similarly devastating effects if deliberately used against another individual.

There are many good reasons to change this legislation. The offence was created in 1993 because of the belief that the previous law was defective. It was thought that you could have a situation in which an HIV infection was deliberately transmitted. Despite the possibility that the victim could eventually die from it, the offender could not be prosecuted until many years later. The passage of time has provided a bit more clarity to the circumstances that were so alarming at the time.

I place on the record Mr Davis's role in this change we are discussing today. As the former Minister for Health he announced the amendment of section 19A on the first day of the 20th International AIDS Conference, which was held in Melbourne last year. I commend him for his leadership, and I acknowledge the support from both sides of the house for this important change. I commend the amendment to the house.

Mr ELASMAR (Northern Metropolitan) — I rise to make a brief contribution to the debate on the Crimes Amendment (Repeal of Section 19A) Bill 2015. Like many others in the chamber, I remember the Grim Reaper advertising campaign of the late 1980s. It was

extremely effective in raising awareness for the issue of HIV, commonly known as AIDS. Thankfully medical research has advanced in leaps and bounds to where we are today — on the cusp of a cure for sufferers. There was widespread panic and enormous ignorance within the community in the 1990s, when it was commonplace to see stories on the nightly news about traders being held-up and threatened with syringes possibly loaded with HIV-contaminated blood. Fear was rife, so the government in 1993 took legislative action in an effort to protect the wider community. Section 19A was introduced to ensure that harsh penalties were put in place to deter such terrifying behaviour.

Treatment for AIDS sufferers is now far more advanced, and we no longer need to have this legislation in place. I understand that to date only one person has been convicted of the offence. That person was convicted of three counts of attempting to commit the offence of the transmission of HIV. This indicates that the offence has not been committed widely and that this bill does not serve the purpose of capturing the criminal conduct it was intended to address.

In Australia there are more than 25 000 people who are living with AIDS or who are HIV-positive. It is safe to say that the vast majority of those people are not criminals. The Grim Reaper campaign was remarkably successful in curbing the spread of HIV in Australia. It was considered necessary at the time, as was the introduction of section 19A of the Crimes Act 1958. However, I am pleased that its repeal has the support of all members, which shows our compassion and understanding of the terrible disease that shocked the whole world.

HIV sufferers comprise all sectors of the community. HIV is no longer the dreaded bogeyman of medical diseases, and there is a clearer and more compassionate view of how to deal with it. We believe that the many should not be punished for the actions of the few. In 2007 New South Wales repealed its offence of ‘causing a grievous bodily disease’. Victoria is the only state to still have criminal sanctions levied against offenders who are diagnosed with this now treatable illness. It is with pleasure that I commend the bill to the house.

Ms PATTEN (Northern Metropolitan) — I am pleased to speak on the Crimes Amendment (Repeal of Section 19A) Bill 2015. As I mentioned in my inaugural speech, I have been involved in the HIV and AIDS sector for well over 20 years, so I am extremely pleased to see what I consider a very outdated piece of legislation removed from our books. In fact one of our party’s election policies was to fight for this repeal, so I am extremely happy about this.

I am showing my age by saying so, but I remember when this amendment was inserted into the Crimes Act 1958. I was a board member of the Australian Federation of AIDS Organisations at the time, and we condemned its introduction. While I am pleased to see it go today, it has been 21 long years. I remember the response of the Attorney-General, Jan Wade. Not a lot of love was lost between the two of us over the years. On this matter she was replying to the tabloids, as many other speakers have mentioned, which ran stories about blood-filled syringes being wielded by robbers at petrol stations.

She responded to that fear, and there was fear in those days, because 21 years ago treatments for HIV were very different. There was an expectation that if someone was jabbed with one of those blood-filled syringes, it would be a death sentence and that effectively it was murder. The Attorney-General was responding to this fear, and I recognise that, but she was not listening to the experts. She was not listening to what the community was saying, and she did not recognise the effect that legislation had on the community.

We were just getting around to doing proper testing. We were encouraging people to be tested so they knew their status and we could get them onto some of the first antiretroviral drugs that were available at that time. The legislation deterred people from being tested and knowing their status for fear that knowing it would criminalise them. We were already facing enormous discrimination for people with HIV, and this legislation only added to that and to the fear in the HIV-positive community about disclosing their status. In many cases the fear led to their not being tested at all.

Victoria was the only state that introduced such legislation. No other state felt a need to do it. Far from improving the health of the community it went the opposite way. This was at a time when people were scared of sharing a teacup with someone who had HIV. Kids were being denied the ability to go to kindergarten because they had contracted HIV through blood transfusions or the like. It was a terrible time of discrimination, and section 19A made matters worse. The Attorney-General at the time spoke in absolute ignorance around HIV. I had friends who had been sacked from their jobs because they were HIV-positive. Their families had disowned them, and they had lost their children. That kind of discrimination had a terrible effect on their mental and physical health, and laws like section 19A only added to that. I saw people die very early then.

Other speakers have noted that the legislation was never used for what it was intended. Ms Wade intended it to be used for blood-syringe-wielding robbers. It was in fact used only once, and that was against a man who had sex recklessly while he was HIV-positive. It was never used in an HIV-infection scare. No-one has ever contracted HIV from a syringe robbery. I remember that at the time we accused the Attorney-General of fearmongering, and that is what it was.

In Victoria criminal law is not a public health tool. It should never be used as a public health tool because it does not work. In part that is the reason why we changed our prostitution laws in Victoria in the 1980s. We recognised that criminalising people was not a way to ensure their health and safety. It is also the reason why we did not outlaw syringes; in fact we made them available through syringe exchange programs. It is the reason why Australia was recognised as a leader in fighting HIV at the time. Section 19A was condemned by not just organisations like the Australian Federation of AIDS Organisations but also the United Nations and a whole range of people. The Global Commission on HIV and the Law, and the Joint United Nations Programme on HIV/AIDS, have argued that laws such as section 19A are actually counterproductive to HIV prevention. It does not lead to positive outcomes for the community, and it adversely affects people living with AIDS and HIV.

In the 21 years since the legislation was introduced we have seen enormous changes in the community's understanding of HIV and in the treatments available for it. HIV is far from a death sentence, as Ms Wade called it in those days — far from it. In fact not only are people not dying of HIV; they are dying with HIV. By that I mean that they are living long, productive and fruitful lives with HIV and dying of old age. Viral loadings of HIV are almost impossible to measure with the new treatments, and that is only improving.

In finishing, I look forward to us improving the treatments we provide. One aspect of this, and it is something I hope to see more of, is something like PEP, which is post-exposure prophylaxis. It is available in some parts of Victoria, but it should be far more available throughout the state and particularly in regional areas.

I commend former health minister David Davis for his commitment last year to removing section 19A. He made that announcement at the 2014 International AIDS Conference. He said it would be done within a year, and — well done — we have done it within the year. That is great. He was also one of the health ministers who signed the *AIDS 2014 Legacy Statement* to end HIV transmission by 2020. I hope that occurs, but more importantly I hope the repeal of section 19A and other work continues to reduce the stigma that people with HIV suffer to this day and the discrimination they still face in their day-to-day lives. I have pleasure in commending the bill to the house.

Mr DAVIS (Southern Metropolitan) — I am pleased to rise to make a contribution to the Crimes Amendment (Repeal of Section 19A) Bill 2015, and I rise with pride that the Victorian public, the Victorian Parliament and the Victorian community more broadly is taking this step. As a number of people have pointed out, I was particularly proud last year, in the precursor sessions to the AIDS 2014 conference in Melbourne, to make the announcement that the coalition government would move within a year to put a non-discriminatory arrangement in place in the law — a clear recognition that section 19A was discriminatory and needed to change.

I made that announcement at the preconference to AIDS 2014. Michael Kirby had spoken at that conference, and I pay tribute to the thoughtful contribution he made in the lead-up to that conference. I think his points were perhaps the neatest encapsulation of the arguments against having criminal sanctions of this type in place specifically to target a particular condition. As he pointed out, there is no question that there are occasions when people act inappropriately and there need to be genuine criminal arrangements in place to deal with that, but the specific targeting of one condition is clearly discriminatory and inappropriate. I was proud to be able to make that announcement with the support of the cabinet at the time, and I note that the new government has followed through with this set of steps. As I have said, I am very pleased this has been a bipartisan set of steps, and I thank the crossbenchers for their support, in particular Ms Patten.

The point here is that managing infectious diseases of this type requires a public health approach, not a criminal law-based approach, as the primary way forward. That means looking at how we can detect, and treat where possible, to prevent the spread of diseases and to take the steps in a way that works with communities, works with individuals and recognises the challenges that people face. The government at the time was very proud and pleased to take a number of first steps in Australia. The first PrEP, or pre-exposure prophylaxis, trial; funding PRONTO!, a community-based, peer-controlled rapid testing service that would see higher detection rates and higher availability of testing; and the announcement of section 19A's repeal ahead of the AIDS 2014 conference were part of that sweep of activity.

I think Victoria's enlightened approach across administrations of all political colours over several decades came to the fore as people could see that this state was a remarkable and generous host for the AIDS 2014 conference. I know that many were proud to be part of that. I think the learnings that came out of the conference will be valuable not just here in Australia but internationally.

In speaking to this bill I also want to put on the record my thanks to the Victorian AIDS Council and all of those groups — and Paul Kidd in the audience, particularly — which contributed to the work that was done behind the scenes to understand the legal matters and to put these issues on the public agenda in the lead-up to AIDS 2014. I pay tribute to the work done by a significant group of people to achieve those steps — community people, people of all political colours and backgrounds — who contributed in a non-partisan way to those steps. I put on the record my personal thanks, and thanks on behalf of the community, for their advocacy and for the work they have done.

The task going forward is also significant. The removal of section 19A — a section that was discriminatory, that clearly targeted one disease and clearly targeted one group of people rather than others — is a significant beacon in our region. We can make a statement that is important across our region and, more broadly, the world. It is not the case that governments in every country around the world are moving in the same direction in this area as Australian governments. However, our announcement actually helped trigger New South Wales to take the same steps we had in terms of expungement of previous homosexual convictions last year; again, a recognition of wrongs done in the past and of the need to right our steps into the future. Leadership from Victoria has been significant, and I look forward to seeing more of that under governments of all political colours as we go forward.

The task for putting in place better public health management of HIV and HIV/AIDS is a significant one. It will require resources. It will require a focus on more testing and early detection, and that was the importance of PRONTO!, but more work is required there, and I encourage the federal government to take further steps in that regard to make broader testing regimes available. I also think it is very important that there is in place sufficient financial support to make sure that the drug treatments that can be provided are available in a timely, effective way. There is more to be done. The Sex Party member made direct reference to this in terms of post-exposure prophylaxis. I agree that there is more to be done in terms of availability of treatments in country Victoria, and that applies elsewhere around Australia as well.

I pay tribute to the last federal health minister and to the health ministers council for the preparedness to put in place a series of national steps on infectious blood-borne viruses. That was important, and I think these national strategies that were put in place last year will see a significant series of steps taken over the next few years. We might always quibble about one detail or another, but it is also important to have a national plan of that type in place.

In making my comments today, I pay particular tribute to my ministerial colleagues through the last government, who were very supportive of a number of the steps we took. Those steps may not have always met with agreement in every corner of the community, but they were important. I am proud to have been involved in taking that series of steps. I wish the new government well in taking an ongoing set of steps in this area to liberalise legal arrangements and put in place a proper public health approach to the epidemic.

Ms Patten made useful mention of the *AIDS 2014 Legacy Statement*, which committed health ministers to work towards ending the epidemic by 2020. That is possible in Australia, but we need application and a close focus on what steps to take next. This is an important one of those steps, but there are many more.

Mr EIDEH (Western Metropolitan) — I am delighted to make a brief contribution to the debate on the Crimes Amendment (Repeal of Section 19A) Bill 2015. The bill represents the Andrews government's commitment to put a stop to discrimination in Victoria. I commend my parliamentary colleagues, in particular the Minister for Equality, who have made a significant contribution to this bill. I am proud to support the bill as the fundamentals of section 19A of the Crimes Act 1958 are based on discrimination against people in Victoria living with HIV. This repeal was a commitment made to the Victorian people prior to the election, and this is just another example of the government getting on with the job and delivering.

Section 19A of the Crimes Act 1958 created the offence of intentionally causing another person to be infected with a 'very serious disease', which is defined solely as the human immunodeficiency virus, or HIV. The penalty for the offence is a maximum of 25 years imprisonment. Section 19A was introduced in 1993 following a number of armed robberies where victims were threatened with syringes containing blood. It is the only offence of its kind in Australia. Only one person

has ever been convicted under section 19A. That person was convicted of three counts of attempting to transmit HIV through sexual intercourse. That highlights how unnecessary this section is. However, this bill by no means eliminates laws to prosecute people who intentionally infect a person with HIV in Victoria. People who do this will be captured by existing causing-injury offences within the Crimes Act 1958. However, these offences apply generally and do not single out any particular group of people.

Repealing this offence, which isolates those suffering from HIV, will reduce the stigma and the discrimination that is far too often faced by people living with HIV. The repeal ensures that all Victorians, regardless of their health status, will be treated equally under the law. It is something all of us in Parliament should be proud of. Currently section 19A unfairly characterises persons living with HIV as a danger to the community. As proved by the history of what has happened since the law was passed, they are not.

I am sure we can all remember the infamous AIDS commercial that depicted the Grim Reaper playing bowls with people's lives. It was shocking and scary, and it sent a pretty clear message that HIV infection was a death sentence. However, we now know this is not the case. The Andrews government believes every person within our society should be treated equally under the law. This belief is reinforced by the Equal Opportunity Act 2010, which prohibits discrimination on the basis of disability, which is defined to include the presence in the body of organisms that may cause disease. The Charter of Human Rights and Responsibilities also states that every person has the right to the equal protection of the law. Currently section 19A explicitly refers to HIV and does not refer to any other similar diseases.

Repeals like this highlight the government's priority to end discrimination in Victoria and decrease unfair stigmas towards any Victorian community member. I commend the bill to the house.

Ms TIERNEY (Western Victoria) — I am pleased to make a contribution to the debate on the Crimes Amendment (Repeal of Section 19A) Bill 2015. The bill is the result of an election commitment made by Labor prior to the International AIDS Conference last year. I am particularly pleased to speak about an election commitment being fulfilled. To be frank, it also pleases me that, as I understand it, the bill has bipartisan support, albeit over 20 years too late.

When HIV and AIDS burst upon the international consciousness in the early 1980s, Australia stood out for its sensible approach. Members should remember this was a time when it was still illegal to be gay in some Australian states. I believe Neal Blewett and Peter Baume are to be commended on the leadership roles they played at a national level to treat the crisis as a health issue and not as a so-called moral issue. Regrettably, this leadership did not filter into the entire body politic. Hysteria and knee-jerk reactions were still acceptable political reactions to a health issue in some quarters. In 1993 there were a series of robberies where victims were threatened with syringes containing blood. The Kennett government felt the need to be seen to be doing something and, ignoring public health experts, it introduced the law.

The law was solely targeted at HIV sufferers. It created the offence of intentionally causing another person to be infected with a 'very serious disease', which is defined solely as the human immunodeficiency virus — HIV. The penalty for the offence is a maximum of 25 years imprisonment. This law applies a harsher penalty for transmission of HIV than for any other diseases or for causing any other serious injury.

This law characterises people living with HIV as a danger to the community. In particular it discriminates against the lesbian, gay, bisexual, transgender and intersex communities. In short it reinforces uninformed prejudice in the community with an act of Parliament. At the time of its introduction Labor stood against its introduction. It was widely predicted to be a failure — and it was. As a matter of fact, the law in section 19A has only ever been used once, and that was not even for its original purpose. The one conviction has been for 'attempting' to commit the offence during sexual intercourse.

After more than two decades it is important that we fix this mistake and remove the discrimination against the sufferers of one disease. Section 19A goes against the Equal Opportunity Act 2010 in that it discriminates against people because of a disease. It goes against the Charter of Human Rights and Responsibilities 2006, which states that every person has the right to the equal protection of the law.

This bill sets about righting those wrongs. I am glad that public health experts have now been listened to and, importantly, that we are removing this appalling piece of public policy from Victoria's statute books.

I turn to what the bill does, but it is important to note what the bill does not do. It does not give people carte blanche to run around infecting other people with diseases. There are two points to note. The definition of 'injury' in the Crimes Act 1958 now specifically

includes reference to 'infection with a disease', and it is not limited to any specific disease. This offence carries a maximum penalty of 20 years imprisonment.

The government recognises that community safety is always paramount. The chief health officer has disease control powers under the Public Health and Wellbeing Act 2008. These powers allow the chief health officer to place restrictions on certain movements and behaviours. Further to this, in extreme circumstances a person can be detained or isolated. Despite all this, it must be remembered that living with HIV is a public health matter. There is absolutely no evidence that criminalising HIV transmission discourages unsafe sexual behaviour. Minimising community risk is best achieved by those living with HIV or at risk of contracting HIV to act in ways that protect themselves and others by adopting safer behaviours — not by their being criminalised.

The repeal of section 19A removes the aspect of criminality from what is a public health issue. It treats HIV exactly the way former federal health ministers Neal Blewett and Peter Baume envisaged over 30 years ago — as a public health matter. There is still a way to go until the stigma caused by people passing moral judgements on HIV sufferers passes from society. Stigma affects both mental and physical health. The Parliament of Victoria should never be party to stigmatising citizens.

Today in this place we can show leadership and take a step towards making Victoria a safer, healthier and fairer place to live. We can say we do not accept discrimination in any form. We have the opportunity to work together to overturn a two decade-old kneejerk reaction and recognise in law that all Victorians are indeed equal before the law.

This bill strikes the balance between protecting our community and public health, and it fulfils an election commitment aimed at righting a wrong and building a fairer Victoria. I commend the bill to the house.

Mr LEANE (Eastern Metropolitan) — It is a real honour to be able to contribute to the debate on this amending piece of legislation. It is a great honour to be a member of the Legislative Council. Some days we underestimate how fortunate we are, but today is a day when we can remind ourselves how fortunate we are to be here to pass this piece of legislation that has been such a long time coming.

It is amazing how we humans find special ways to discriminate against certain individuals. It amazes me to think that we had in our legislation a provision that stated that if an individual had a certain type of disease they would be treated differently under the law. It is bad enough for someone to contract a serious disease, but for a stigma to be added to one type of serious disease is just appalling. It is amazing when you think about it. As I said from the start, for me it really zones in on how human beings find particular ways to discriminate against other human beings.

I congratulate everyone who has been involved with this amendment. I congratulate the Attorney-General, Mr Pakula, and his staff on the work they have done; I congratulate the active support from all parties, including the current Acting President, Ms Patten, who has made endeavours for a long time. I also congratulate Mr Davis on his actions and what he has done in this area in recent times. Again I say I feel privileged to be here when this amendment is about to be passed.

Ms PULFORD (Minister for Agriculture) — I am proud to be a member of a government that has moved so swiftly to repeal section 19A of the Crimes Act 1958 and proud to be a member of a Parliament where this has such widespread support. I would like to commend my colleagues the Minister for Housing, Disability and Ageing, Martin Foley, and the Attorney-General, Martin Pakula, for the work they have done on this in the brief period we have been in government, and I would like to commend David Davis for the work he did on this issue prior to the election.

Ian Muchmore, the president of Living Positive Victoria, and Paul Kidd, who has been a strong and effective advocate for the Victorian Aids Council, both advocated for this reform. They are with us in the Parliament today and they and their organisations are to be thanked for their work on this issue. No legislation ever comes before the Parliament without a lot of blood, sweat and tears being put into it by the proponents of whatever matter it is we are considering, and a great deal of energy and focus has gone into fighting this discriminatory law that has existed on our statute books since 1993.

Section 19A was introduced into the Parliament at a different time and in a different context. It is a reflection of the fear that existed in the community at the time. As a child of the 1980s I can well remember the Grim Reaper ads that were so effective and so terrifying on our TV screens. But society has moved on and medicine has moved on. This law was discriminatory then, it is discriminatory now, and I think we are all very pleased to be removing it on this occasion.

This government is committed to equality for all Victorians, and we will work hard to ensure this. When we say we are committed to equality, it takes many forms. It is equality of access to services, equality of access to health care, safety in the workplace, safety in the home environment and protection against discrimination in our laws, and we will work hard on removing discrimination each and every day that we are in government in Victoria.

I note that this issue has had particular significance for members of the LGBTI community in Victoria. Whilst a great deal of work has been done by the state and federal Parliaments over many years now, our work in providing for equal rights of members of the LGBTI community is a work in progress for the Victorian government, for the federal Parliament and for service providers to ensure that all members of our community are afforded equal rights.

As previous members have indicated during the debate, this is a health issue. It never had any place in the Crimes Act, and today it is coming out of the Crimes Act.

It is incumbent upon all of us to provide support to those members of the community who are living with HIV. We need to do this in a number of ways. Removing this discriminatory legislative provision is an important step in that ongoing work and on that journey. To those who have worked hard to get us to this point today, congratulations. Your efforts have been realised on this occasion. This law will be removed. Well done and congratulations.

The ACTING PRESIDENT (**Ms Patten**) — Order! I thank Ms Pulford. I totally agree that this is a wonderful day. It is great to be in Parliament on this day, and to be sitting in this chair on this day is a huge surprise for me.

Motion agreed to.

Read second time.

Third reading

Ms PULFORD (Minister for Agriculture) — By leave, I move:

That the bill be now read a third time.

I thank all members for their contributions to this debate.

Motion agreed to.

Read third time.

SENTENCING AMENDMENT (CORRECTION OF SENTENCING ERROR) BILL 2015

Second reading

Debate resumed from 7 May; motion of Ms MIKAKOS (Minister for Families and Children).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise this morning to make a few remarks on Sentencing Amendment (Correction of Sentencing Error) Bill 2015. Sentencing is one of the very complex tasks that the judiciary is required to undertake in the criminal jurisdiction. It is an activity that requires the judiciary to weigh the circumstances of the offence, the gravity of the offence and the circumstances of the offender as well as an extremely complex set of rules and precedents surrounding the offence, and in the case of multiple offences the way those interact, so the sentencing task is a very complex one.

What we currently have in statute law is where an error of law is made in sentencing — that is, where the judiciary incorrectly applies the law in respect of sentencing — the mechanism to correct it is very limited. There has been the recent case of *DPP v. Edwards*, where the offence related to recklessly causing serious injury. In that case the sentencing judge imposed a suspended sentence. At the time that matter was before the court the capacity for a suspended sentence to be imposed for the offence of recklessly causing serious injury had been abolished, so in that particular case the sentencing judge had imposed a sentence which was no longer available because the law had changed. That reflects the ongoing complexity of the law surrounding sentencing.

As a consequence of that judge having incorrectly imposed that sentence, consideration was been given to how that could be corrected. The matter was considered by the Court of Appeal, which found that the sentencing judge, having imposed a sentence which had been recognised as incorrect at law, did not have any capacity to correct that sentence because the sentencing judge had disposed of the matter. There was no capacity for the sentencing judge to then go back and recognise that a mistake had been made and impose a sentence that was correct at law.

As a consequence of that decision by the Court of Appeal and in recognition of this problem, we have before the house the Sentencing Amendment (Correction of Sentencing Error) Bill, which does two

substantial things. The first is with respect to section 104A of the Sentencing Act 1991, which enables the correction of minor clerical errors, miscalculations and omissions in sentencing. This provision allows errors of that nature to be corrected. However, such a correction must be made within 14 days of the original sentence, and the reality is that, with the complexity of sentencing, identification of errors of that nature is not something that is necessarily going to be achieved within 14 days. The bill seeks to remove that 14-day time limit so that section 104A, which allows for minor corrections, can be used at any time when those minor errors are recognised.

The second provision in the bill, which is the more substantive part of the bill, introduces a new correction power to the Sentencing Act 1991 to allow the sentencing judge who has sat on a particular matter, or indeed any other judge of that same court, to reopen proceedings where a penalty has been imposed that is contrary to law or where the penalty that was required to have been imposed by law has not been imposed. This addresses the matter that occurred in *DPP v. Edwards*, where the Court of Appeal held that the same judge in the same court could not reopen a matter.

The scope of this amendment is quite narrow; it relates only to matters where the penalty is contrary to law or the penalty required to have been imposed by law has not been imposed. It does not extend to reconsidering the facts of the case or the circumstances of the case; the avenue open there will continue to be the current appeals process. This provision does not in any way supersede or replace the current appeals process, and it is not in itself an appeals process. It does not open up the opportunity for the convicted party to use this mechanism to appeal a decision or judgement; it is purely where an error at law in sentencing has been identified, and the opportunity will now be there for that same judge or the same court to correct an error at law.

This provision is based on a provision in the Crimes (Sentencing Procedure) Act 1999 of the New South Wales Parliament, which has already been subject to High Court determination that such a mechanism to correct an error at law in a sentence is valid. Basing this provision on the New South Wales provision gives a measure of comfort that this will not be subject to successful challenge in the High Court.

The coalition believes that these are sensible amendments. We recognise that the rules, precedents and legislation around sentencing are complex. Judges sitting on complex matters or sitting on matters of multiple offences run the risk of making errors at law with sentences. It is appropriate that there be a simple mechanism to correct those. Currently if an error at law is identified, the matter needs to be prosecuted in a higher court, and that is a complex, drawn-out, expensive process. This bill will alleviate the need for matters to be taken to a higher court. It is a sensible provision for all parties to a proceeding that where a mistake is made that is just an error at law and does not hang on the facts of the case, it can be corrected simply in the same court and in the same jurisdiction that the original sentence was handed down. That is a sensible move, and accordingly the coalition will not oppose this legislation.

Ms SYMES (Northern Victoria) — I rise to make a brief contribution to the debate on the Sentencing Amendment (Correction of Sentencing Error) Bill 2015. This bill is reasonably straightforward. It actually reflects the title quite well: it will provide for corrections of sentencing errors.

The bill expands the current powers relating to corrections. Specifically it will remove the current 14-day time limit for correcting clerical errors or omissions, and it will introduce new powers that enable a sentencing court to reopen proceedings to correct a sentence that is contrary to law or to impose a sentence required by law to be imposed.

Errors made in sentencing can be broadly divided into three groups: minor clerical errors, for example, miscounting the number of days the offender has already served pursuant to the sentence; errors in how the sentencing discretion is exercised, such as imposing a sentence that is manifestly excessive or inadequate; and jurisdictional errors, such as imposing a sentence for which there was no power to impose, as Mr Rich-Phillips described with the imposing of a suspended sentence after the abolition of those sentences.

These amendments do not deal with sentences that are manifestly excessive or inadequate. They will continue to be dealt with by appeal courts. Experience has shown that errors are often not discovered until outside the current 14-day time limit period. Section 104A of the Sentencing Act 1991 provides that this time limit only applies to errors arising from accidental slips, clerical mistakes, omissions or miscalculations. It is often the case that these errors are not detected at the time. They can often be discovered by counsel reviewing the court decision and assessing whether there are any grounds for appeal.

Occasionally errors in sentencing are not discovered until the matter has reached appeal status and the appeal

is going through the courts. It is convenient for the Court of Appeal to be able to fix the error, even if it refuses leave to appeal or dismisses the appeal. Otherwise the matter would have to go back to the sentencing court to be corrected. Currently, however, because of the provisions of section 104A, corrections can only be exercised by a judge of the court that imposed the sentence. As section 104A currently allows the correction of relatively minor errors, it is not expected that removing this power will cause any difficulties or affect the finality of court proceedings.

The other substantive change is that the bill introduces a new provision to enable the correction of penalties that are contrary to law by providing the sentencing court with a reopening power, which will be available in proceedings for which the court has imposed a penalty that is contrary to law or failed to impose a penalty required to be imposed by law. If the court decides to reopen the proceedings, it may impose a penalty that is in accordance with the law and if necessary, amend any conviction or order. This will ensure that if a court makes an error, it can be corrected at the level of the sentencing court without the need for either party to appeal or bring judicial review proceedings.

Just to be clear, penalties that are contrary to law are penalties that the court lacked the power to impose. A penalty is not contrary to law merely because the decision to impose it was reached by a process of erroneous reasoning or factual error. The new provision will enable the court to correct such errors as the imposition of a suspended sentence, as discussed earlier, the imposition of a penalty in excess of the maximum penalty for the offence or the imposition of a penalty where a legislative prerequisite for imposing the penalty does not exist.

Very occasionally judges make mistakes by imposing penalties they have no power to impose. At the moment the only option to correct that error is for the parties to appeal, so the new approach will be more effective and efficient and will save time and money for our court system. The reason the same court cannot currently correct its own decision is because of the legal doctrine of functus officio. That means that after imposing a sentence, the judge's role in the matter is finished and they have no further role, even if it is discovered that an invalid sentence has been imposed. Not only does this cause significant delays and costs for the court, creating an appeal or further judicial review creates significant cost burdens and inconvenience for the Office of Public Prosecutions and Victoria Legal Aid. As we know, these bodies are stretched to the limit as it is, so this law is welcomed by them.

The contrary to law provision is similar to a provision that currently exists in New South Wales, which is contained in section 43 of the Crimes (Sentencing Procedure) Act 1999. The High Court considered this provision last year in the case of *Achurch v. The Queen* [2014] HCA 10. That judgement has given us comfort that there will be no High Court challenge to the introduction of this provision in Victoria, because it held that the question posed by the section was whether the penalty itself was contrary to law. It added that the provision did not concern penalties that are within the power of the sentencing court but rather those that are reached by an erroneous reasoning process. The High Court's interpretation is clear, and it provides comfort for this amendment that we are discussing today.

They are two good common-sense amendments introduced by this bill. As I said, the amendments will provide effectiveness and efficiency for the courts. There has been extensive consultation with the courts and Victoria Police was also invited to put forward its view, as were the Office of Public Prosecutions and Victoria Legal Aid. No concern has been raised by those key stakeholders, and I commend the bill to the house.

Mr MORRIS (Western Victoria) — I rise to make a contribution to the debate on the Sentencing Amendment (Correction of Sentencing Error) Bill 2015. My contribution will be brief, as previous speakers have covered the main intent of this bill. I acknowledge that the changes made with this bill are in line with the intentions of the previous government. The sentencing of offenders is a difficult and complex area of law, and it is appropriate that it is done correctly. From time to time errors may be made in sentences imposed upon offenders.

This bill has two parts. The first, which removes the time limit for appeals set out in section 104A of the Sentencing Act 1991, will allow errors to be corrected, which was previously not possible. The second part of the bill covers a correction to the powers of courts, also prescribed by the Sentencing Act 1991, which will allow proceedings to be reopened in the court that imposed the original sentence. Ms Symes stated in her contribution to the debate on this bill that up until now that had not been able to occur. This bill corrects those anomalies within the act. I am pleased to see the good work of the coalition government continuing.

Ms PENNICUIK (Southern Metropolitan) — The Greens will be supporting the Sentencing Amendment (Correction of Sentencing Error) Bill 2015. The bill addresses the problem of judges imposing penalties outside their jurisdiction. It allows the same sentencing

court to reopen proceedings to correct an error in a penalty — that is, a penalty contrary to law — or to impose a sentence required to be imposed by law rather than the case having to proceed to appeal, with all the costs and delays involved in correcting the sentence, all the way to the Court of Appeal. The bill effectively expands the power of a sentencing court to correct errors in a sentence it has imposed.

The bill also removes the current 14-day time limit on the application of section 104A(2) of the Sentencing Act 1991, which allows for the correction of clerical errors or omissions in sentences. It is modelled on a similar New South Wales provision, section 43 of the Crimes (Sentencing Procedure) Act 1999.

In his second-reading speech the Attorney-General states, and we agree:

> Sentencing is a complex and difficult exercise …
>
> From time to time judges and magistrates make mistakes by imposing a penalty that is contrary to law and at other times a judge may fail to impose a penalty which the law requires to be imposed. Some such errors can be corrected on appeal, and some are corrected following judicial review proceedings. Either way, this has the potential to cause delay in finalising criminal matters and add significantly to the costs borne by the offender and the prosecution.

In the second-reading speech the Attorney-General also referred to the case of *DPP v. Edwards* [2012] VSCA 293 to highlight these issues, saying:

> There, the sentencing judge had imposed a suspended sentence on a charge of recklessly causing serious injury. However, the power to suspend a sentence of imprisonment for that offence had previously been abolished.

That brings me to the context of this bill. The Greens opposed the abolition of suspended sentences and home detention when they were brought forward by the previous government. The abolition of those sentencing options has left courts with less discretion to apply in the cases before them.

Another option that has been added to sentencing options is that of mandatory detention. It has always been the Greens position that sentencing laws should provide for judicial discretion to ensure that courts can address all the circumstances of the cases that come before them, including the gravity of the offence, the circumstances of the offender and victims, deterrence and rehabilitation. This is all outlined in the principles of the Sentencing Act 1991.

The introduction of a mandatory sentence for certain offences and the removal of suspended sentences and home detention by the previous government have reduced judicial discretion and have resulted in persons receiving sentences which are probably not the appropriate sentence in all the circumstances of the case. Reducing sentencing options for courts and restricting judicial discretion is not in the public interest. Sentencing is often a complex process, and in order for the courts to ensure that justice is done, a comprehensive range of sentencing options is needed, from fines, bonds, community correction orders, suspended sentences, home detention as well as imprisonment where warranted.

Changes which were made to the parole system and aimed at serious violent offenders now apply to all offenders who may be released on parole. Those changes are impacting upon all parolees and leading to a growing number of parolees being incarcerated for minor breaches of parole. In fact in the last year of the previous government I asked a question on notice of the Minister for Corrections about what proportion of the increase in the prison population were prisoners who had been imprisoned as a result of breaches of parole, and the number was 47 per cent. Some 47 per cent of the increase in the number of male and female prisoners in the 12 months prior to my question being asked was due to breaches of parole — committed not by serious violent offenders but by non-violent offenders on parole.

This has led to an artificial demand for more prison beds and a worrying increase in the number of prisoners being held in police custody in circumstances that are not appropriate. Research shows that one in three prisoners who go to jail will reoffend. There is not only the financial cost of imprisonment to consider, as well as the issue of recidivism, but also the social cost, including homelessness, the cycle of poverty, the separation of families, chronic unemployment, the damage of institutionalisation, drug abuse and the exacerbation of mental illness.

While the Greens are very supportive of this bill and the fact that having sentencing corrections dealt with by the same sentencing judge or a judge of the same court will alleviate the delays and costs of taking corrections of sentences to the appeal court — obviously that is a very practical measure and we welcome it — we need to also raise the issue of the cumulative changes to the sentencing regime by the previous government. I raise that issue with the members of this government because they really need to turn their attention to the impact that is having on the prison and the court systems in terms of inappropriate sentences being imposed and other problems that are being caused in the courts with regard to pleas et cetera. The government needs to look at what these impacts have been and turn its mind to repealing some of the unnecessary provisions and

changes to the sentencing regime that were made by the previous government in its law and order agenda, because they are not making the community any safer.

During the week before last several of us, including the President, the Acting Clerk, Ms Patten, who is in the chair, Ms Shing, Mr Bourman and me — and members of the Legislative Assembly — attended the Supreme Court at the invitation of the Chief Justice of Victoria. The chief justice extends this invitation to members of Parliament at the opening of every new Parliament, and I have taken up every one of those invitations. Other judges of the Supreme Court, the Magistrates Court and the Court of Appeal also attend. Ms Shing, who is in the chamber, and the Acting President were present and found the whole exercise very interesting. In fact it would be good if it went on for a bit longer, as it was quite a short visit.

One of the issues that was raised by some of the judges in our discussions was the issue of the complexity of sentencing. There was quite a wideranging discussion about the complexity of sentencing and the sentencing regime. We were also presented with a CD which drew our attention to five cases for us to look at and read to give us an idea about the complexities of sentencing. I had a look at a couple of them, which I will talk about briefly. One was *DPP v. Russell* [2014] VSC 292 and another was a related case, *DPP v. Closter* [2014] VSC 484, which occurred later that year. Those cases were in regard to affray, as it was described by Justice Hollingworth, who sat on both cases. They were cases about young men involved in a fight between two groups of young men in which, unfortunately, one of those young men was killed as a result of being hit, and several others were injured. The judgement by Justice Hollingworth outlines how she came to her sentencing decisions in the cases of Mr Russell and Mr Closter and the complexities and the difficult decisions that face judges of the Supreme Court and judges in the Court of Appeal and Magistrates Court every day in dealing with these situations in the cases they have before them.

I urge people to read these cases and to become familiar with them if they are not sure about or not familiar with sentencing processes in the court. The cases point out how difficult and complex it can be to weigh up all the principles that need to be weighed up in sentencing. As I mentioned, the Sentencing Act 1991 outlines very clearly what the aims of sentencing are.

I conclude with those remarks, and I put them into the context that I have presented here with regard to the law, sentencing options available to the courts and how these options were severely reduced by the actions of the previous government, including the introduction of mandatory sentencing, which does not allow courts to take into account the types of things that were taken into account by Justice Hollingworth and other judges in the sorts of cases that come before them. People can read those cases for themselves. I think the government needs to turn its attention to the impact that this is having on the courts.

Debate interrupted.

DISTINGUISHED VISITORS

The ACTING PRESIDENT (**Ms Patten**) — Order! I would like to acknowledge Mr Paul Jenkins, a former member for Ballarat West in the Assembly. I hear he was the friendliest member we have ever had. I was not here during that time, but I am very pleased to acknowledge him.

SENTENCING AMENDMENT (CORRECTION OF SENTENCING ERROR) BILL 2015

Second reading

Debate resumed.

Mr ELASMAR (Northern Metropolitan) — I am pleased to contribute to the debate on the Sentencing Amendment (Correction of Sentencing Error) Bill 2015. While this bill is mainly housekeeping, it is nevertheless an important bill for the efficient administration of our justice system in Victoria. As we know, the legal system, which includes the courts, legal aid and community legal centres, is under enormous stress and financial pressure due no doubt to the severe and heavy case loads being experienced by our judiciary. This bill seeks to make our justice system more efficient and thereby more effective for our community. This bill deals with the court's power to correct legal and factual errors in sentencing. It amends the Sentencing Act 1991 to expand and clarify the powers of sentencing courts to correct errors in sentencing orders.

The bill deletes the 14-day time limit rule in section 104A of the act, which currently is the time limit within which judges can correct clerical errors, omissions and other things of that nature. Fourteen days is a very onerous and impractical time limit. It does not allow for the pressure of extreme workloads that face our judges, and in all cases once a time limit has expired the jurisdiction expires also. Another appeal mechanism is brought into play, further lengthening the complex matter of correction. It must be said that the bill in no way limits a person's right to a bona fide

appeal. The justice system is predicated on a person's right to a fair trial, together with a transparent process.

The second thing the bill does is to introduce a new power to enable the trial court to reopen proceedings to correct a sentence that is considered contrary to law or to impose a sentence required to be imposed by the law. For instance, where a suspended sentence has been applied to a case that prohibits the use of suspended sentences, this may be corrected. This is a good bill. Its main aim is to institute common sense and practicality. It strikes the balance between efficiency in correcting sentencing errors and finality in the criminal justice system. This bill deals primarily with the court's power to correct legal and factual errors in sentencing. It amends the Sentencing Act 1991 to expand and clarify the powers of sentencing courts to correct errors in sentencing orders.

We are all capable of making mistakes in the workplace, but when a law court makes a mistake, it may lead to costly and time-consuming appeal mechanisms being utilised to amend what are in some cases small clerical errors. The provisions contained in the bill are a valid attempt to complement and make more effective the day-to-day running and application of the Victorian criminal justice system by ensuring a fairer and more responsive legal system for all Victorians. I commend the bill to the house.

Ms FITZHERBERT (Southern Metropolitan) — I rise to speak in support of the Sentencing Amendment (Correction of Sentencing Error) Bill 2015. Sentencing by our courts is one of the most contentious issues in our community. It is an enormously serious issue for those who are the subject of sentences and for the community as a whole. There is enormous community interest and comment on sentencing, and rightly so.

From time to time, however, errors occur. This is regrettable, but they need to be dealt with. They fall into a couple of categories. On occasion judges and magistrates make errors by imposing penalties that are contrary to law. At other times a judge may fail to impose a penalty that the law requires to be imposed. Either way these kinds of errors can be corrected on appeal, and some are corrected following judicial review proceedings. This is time consuming, however, and it costs money. It is a needless delay. This bill gives us a capacity to address these sorts of errors in a practical and more timely way.

The bill clarifies and expands a sentencing court's power to correct errors in sentences that it has imposed. It does this in two ways. As previous speakers have mentioned, it removes the current 14-day time limit on the application of section 104A of the Sentencing Act 1991, which enables the correction of minor clerical errors, omissions, miscalculations et cetera. The limit has proved quite unworkable in some cases because errors have been discovered well outside this period of time.

Secondly, the bill gives a new correction power to the Sentencing Act 1991 which allows a sentencing judge or another member of the same court to reopen proceedings in which a penalty that is contrary to law has been imposed or in which a penalty that should have been imposed has not been. The new correction power is modelled on section 43 of the New South Wales Crimes (Sentencing Procedure) Act 1999, which has been the subject of the High Court's consideration. I note that this bill preserves the proper role of appeal in criminal justice cases; it does not attempt to go outside that. I support the bill, and I wish it a speedy passage.

Ms TIERNEY (Western Victoria) — I rise to speak on the Sentencing Amendment (Correction of Sentencing Error) Bill 2015. This bill is aimed at simplifying and speeding up our criminal justice system in cases of sentencing errors made by judges and magistrates. Fortunately errors are not common, but when they do occur they need to be rectified quickly.

Sentencing is complex and difficult and has significant consequences for the community and those subject to sentencing. Errors in sentencing can be divided into three broad categories: minor clerical errors, such as miscounting the number of days an offender has already served pursuant to the sentence; errors in how sentencing discretion is exercised, such as imposing a sentence that is manifestly excessive or inadequate; and jurisdictional errors, such as imposing a sentence where there was no power to do so, for example, imposing a suspended sentence after the abolition of such sentences. This bill deals with the first and third of these categories. Arguments about sentencing being manifestly excessive or inadequate will quite rightly remain the province of the appeal court.

The bill extends a judge's power to correct sentencing errors in two parts. Firstly, in clause 6 it removes the 14-day time limit on the exercise of section 104A of the Sentencing Act 1991, which enables corrections of minor slips and omissions — clerical errors, if you will. This amendment is required because errors are sometimes not discovered until the 14-day limit has expired. This discovery usually happens in one of two ways: counsel reviews a sentence to determine if there are reasonable prospects of appeal or the error is not discovered until the matter is considered on appeal. In the first instance the sentencing court can correct the

sentence. In the second instance the removal of the section 104A time limit allows the Court of Appeal to fix the error even if it refuses leave to appeal.

The removal of the time limit from section 104A has the added benefit of recognising the 'slip-up rule', which is the inherent power of the courts to correct clerical errors that are not subject to an express time limit, and it brings the court's powers into line with section 412 of the Criminal Procedures Act 2009. To sum up, clause 6 removes an impediment to the efficient operation of the courts in the form of an arbitrary time limit and saves on costly appeals to correct what are essentially clerical errors.

This brings me to the second amendment, which is made by clause 7. Clause 7 introduces a new power to enable the sentencing court to undertake the correction of penalties that are considered to be contrary to law or to reopen a proceeding where a penalty required to be imposed by law has not been imposed. In granting any new power it is important that we understand why this power is required and what the limits are. On the rare occasion that judges make mistakes in imposing penalties, they have no power to correct the sentence. The only option of correction is via appeal or bringing judicial review proceedings. This is because of the legal doctrine of functus officio, which in essence means that after imposing a sentence, the judge's role is a matter that is finished and finalised.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Minister for Small Business, Innovation and Trade

Mr DALLA-RIVA (Eastern Metropolitan) — My question without notice is to the Leader of the Government. Can the Leader of the Government advise the house if Minister Somyurek is absent from the Parliament because he is ill?

Mr JENNINGS (Special Minister of State) — I can understand why the member might ask me that question. Under normal circumstances I would be reporting on the nature of ministerial representation in the chamber and would, under normal circumstances, be able to answer that question. At the moment, with the minister being stood down, Minister Somyurek in this situation, for all intents and purposes in relation to parliamentary sittings, is here or not here on the basis of his own obligations to the Parliament, and on that basis I am not certain why Mr Somyurek is not in the chamber. That is the full answer. I am not running around the issue; I am directly answering the question. I do not know why Mr Somyurek is not here today. That is a matter between him and the Parliament.

Supplementary question

Mr DALLA-RIVA (Eastern Metropolitan) — In the absence of the Leader of the Government's direct understanding, I ask: was Minister Somyurek instructed to stay away from Parliament this week, which is in clear breach of his responsibilities to attend the Parliament?

Mr JENNINGS (Special Minister of State) — I can definitely say from my knowledge that the answer to that question is no.

Mr Dalla-Riva — On a point of order, President, which follows a point of order I raised earlier this week in respect of standing orders 3.01 and in particular 3.02, 'Leave of absence'. It has now been three days; we have been in this chamber now for three days. It is a responsibility under the standing orders to attend the Parliament, and I ask that you give due consideration to standing order 3.02(3), which says:

> Members without leave of absence who, when ordered, do not attend sittings of the Council may be dealt with as the Council sees fit.

President, I ask that you determine — not now — what the Council may see and determine as being fit for the minister to comply with his obligations as a member of this chamber.

The PRESIDENT — Order! I indicate that the terminology at the end of that point of order was wrong in that the minister is not regarded as a minister at the moment. He has been stood down as a minister. Mind you, I am not sure that there has been any advice to the Governor that changes his status in that sense. I accept the point of order. It is a matter that Mr Dalla-Riva pursued earlier this week, and he brings it to the house again today. I do not have a particular power to issue instructions or requirements to a member with regard to their attendance. As I have indicated, this house often extends support to members who are ill and has done so without enacting this particular provision to which Mr Dalla-Riva refers. With decency it is recognised that if members are ill or have issues of bereavement or suchlike, the house ought to support those members, and it does.

In Mr Somyurek's case, I am not aware of the circumstances as to why he is not attending Parliament. I have had no contact with Mr Somyurek. I do not know why he is not here. When I was listening to the

Legislative Assembly question time today I noted mention was made that he is not ill but on leave. I note that from the other house. I indicate though that I have no ability, as I said, to require a member to attend. Standing order 3.02(3), in respect of leave of absence, says:

> Members without leave of absence who, when ordered, do not attend sittings of the Council may be dealt with as the Council sees fit.

I am not sure, as I said, that I have a power to order the member to come, but the house has an opportunity to deal with a member who is not in attendance as it sees fit. I believe it is the appropriate course of action that the house can assume that responsibility in circumstances under that standing order.

Mr Jennings — On a point of order, President, I want to clarify one issue you raised in the course of your comments to the chamber. There should be no doubt that when I informed the Parliament on Tuesday that the Premier was the acting Minister for Small Business, Innovation and Trade, that was because the appropriate notification had been provided to the Governor to allow for that change to ministerial arrangements.

The PRESIDENT — Order! That is the position as I understand it.

Mr Ondarchie — On a point of order, President, regarding the lack of a fulsome answer by the Leader of the Government vis-a-vis the question asked by Mr Dalla-Riva, I remind the Leader of the Government that Mr Somyurek is still a minister of the Crown with a commission from the Governor and that the Leader of the Government was asked a direct question as to why Mr Somyurek is absent. I put to you that he has not provided a fulsome answer and ask you to direct him to reply to us either now or in writing on the next business day.

Mr Leane — On the point of order, President, I know firsthand, especially as a result of the role I fulfilled in the last Parliament, that members of this chamber have been absent for prolonged periods on many occasions. It is not at all unique for members of this chamber to be absent for various reasons, which I was approached about last year, and they were not necessarily always about illness.

Mr Drum — On the point of order, President, the difference with this case is that it is our belief, whether that belief be right or wrong, that the member actually wants to be here. Our belief is that he has been told by his party not to turn up to Parliament.

The PRESIDENT — Order! Mr Drum, that is unhelpful as a point of order, frankly, because you are not in a position to know that and assert that as a fact. That is speculation, and therefore it is not helpful to these proceedings.

In terms of the point of order raised by Mr Ondarchie, the minister has provided an answer. I cannot direct the minister as to how he should answer a question. From my point of view he has at least given an answer that is apposite to the questions asked by Mr Dalla-Riva, and I cannot know whether or not Mr Jennings has had any contact with Mr Somyurek or in fact knows anything about why Mr Somyurek is absent from the Parliament. I am not in a position to say that the minister's answer was not a fulsome answer on this occasion.

Minister for Small Business, Innovation and Trade

Ms WOOLDRIDGE (Eastern Metropolitan) — My question is to the Leader of the Government. On the evening of 20 May 2015, a Wednesday, did Minister Somyurek inform one of his ministerial advisers that his services were no longer required, effectively sacking the staff member?

Mr JENNINGS (Special Minister of State) — Regardless of what the member believes may be a fact and may present to the chamber as a fact, not for the first time a number of presentations about facts bandied about in the course of the last few days have been, in the fullness of time, shown not to be facts. I was asked a question about whether there had been somebody sacked from the minister's office and whether they had left the employ of the government. I answered that that was an incorrect assumption, and I can confirm that it is an incorrect assumption.

Supplementary question

Ms WOOLDRIDGE (Eastern Metropolitan) — I seek further clarification from the minister, and I ask: is it actually not a fact that last Thursday afternoon Minister Somyurek's chief of staff detailed to the Premier's chief of staff and the human resources manager the unfair dismissal by Minister Somyurek of one of his ministerial advisers and that that was the first time the Premier's office was made aware of the sacking?

Mr JENNINGS (Special Minister of State) — Again, in relation to the answer I have given, there has been no termination of an employee of the ministerial offices that has occurred in the circumstances the member has described.

Minister for Small Business, Innovation and Trade

Mr DAVIS (Southern Metropolitan) — My question is to the Leader of the Government. Were any of Minister Somyurek's staff notified that they should not attend work on Friday, 22 May 2015?

Mr JENNINGS (Special Minister of State) — Not to my knowledge. I would be surprised if that was the case, but not to my knowledge.

Supplementary question

Mr DAVIS (Southern Metropolitan) — Is it not a fact that the Premier's office notified staff on Thursday evening not to attend Minister Somyurek's ministerial office on Friday, 22 May?

Mr JENNINGS (Special Minister of State) — I have already answered, President. Not to my knowledge, and I do not believe that would necessarily be a direction that was given by anybody in those circumstances, but certainly not to my knowledge.

Minister for Small Business, Innovation and Trade

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is also to the Leader of the Government. Did the minister attend the Saturday morning meeting between the Premier and Minister Somyurek, and if so, who else was present?

Mr JENNINGS (Special Minister of State) — I think I have already volunteered this information. I volunteered that in fact I was at that meeting. Yes, in fact I was at that meeting. The Premier, the chief of staff and Minister Somyurek were at that meeting. I have confirmed that already.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Given the minister has now confirmed to the house that he was present at that meeting — —

Mr Jennings — I already had. Go back and read *Hansard*.

Mr RICH-PHILLIPS — I assure the minister we have read *Hansard* many times. Can the minister advise the house whether prior to the meeting with Mr Somyurek on Saturday morning he and the Premier met and discussed the outcome they wanted from that meeting?

Mr JENNINGS (Special Minister of State) — The answer to the member's question is that the Premier and I — and his chief of staff, for that matter — shared the view that we had two overriding interests. One interest was to make sure that there was a safe workplace established and maintained within the minister's office as a first order issue. The second issue — —

Ms Wooldridge — That is why you told them not to turn up on Friday.

Mr JENNINGS — Don't trot off on a frolic. What I am indicating is that we had two issues of substance that were discussed. One was to make sure that a safe workplace was provided for, and the second was to ensure that there was a proper examination of any matters that had been raised. That is in fact exactly what was driving our intention on Saturday morning and continues to be the intention of the government by instigating an appropriate investigation into these matters.

Early childhood educators enterprise bargaining

Ms CROZIER (Southern Metropolitan) — My question is to the Minister for Families and Children. Can the minister provide to the house the status of the enterprise bargaining agreements for early childhood educators?

Ms MIKAKOS (Minister for Families and Children) — I welcome the member's question; in fact it is the first question from the coalition to me since the budget was handed down.

Honourable members interjecting.

Ms MIKAKOS — I welcome the question, because we are very fortunate in this state to have a quality and committed early childhood workforce. It is an integral part of delivering quality outcomes for children. The existing 2009 enterprise bargaining agreement for early childhood teachers working in community and local government operated services has nominally expired, with existing terms set to apply until they are replaced by a new agreement. The enterprise bargaining for new agreements for early childhood teachers and educators in community-based kindergartens commenced in early 2013 and is still unresolved. That is a dispute that occurred under the previous government, and it was not able to be resolved for some time.

Honourable members interjecting.

Ms MIKAKOS — It is disappointing to me that negotiations have dragged on for so long. While the

Victorian government is not an employer of kindergarten teachers, it has an interest in a satisfactory and timely resolution of the negotiations. In contrast to the approach of the previous government — —

Ms Lovell — What have you done? You have not done anything.

Ms MIKAKOS — If Ms Lovell settles down, she might learn something. In contrast to the previous minister's approach and the approach of the previous government, I have requested the Department of Education and Training to assist the parties to resolve this dispute as quickly as possible.

Supplementary question

Ms CROZIER (Southern Metropolitan) — I take note of the minister's answer, which did not answer the question, so my supplementary is: in the presence of my colleague Wendy Lovell at the Early Learning Association Australia annual general meeting last year, the minister said that the government would sit at the negotiation table to resolve this issue. Why has the minister not been able to resolve this issue in this term of government? And the minister should not blame the previous government; she is part of this government.

Ms MIKAKOS (Minister for Families and Children) — Clearly the member was not listening to my substantive answer. I made it clear that in terms of the status the dispute is ongoing and the matter is unresolved. I made it clear that we are not a party to this dispute because the Victorian government is not an employer of early childhood educators. I made it clear that we have in fact delivered on what I said, and that is that we are assisting the parties through the department with advice — —

Honourable members interjecting.

Mrs Peulich — On a point of order, President, I wonder whether you might ask Ms Mikakos to speak at a lower volume; I am struggling to hear the most important person in this room — Ms Shing.

Mr Ondarchie interjected.

The PRESIDENT — Order! I think Mr Ondarchie is correct. That was very dangerous. It was a vexatious point of order, and I do not tolerate them.

Mrs Peulich — Do I have an opportunity to rephrase it, President?

The PRESIDENT — Order! I think Mrs Peulich would be best to reflect on it.

Ms MIKAKOS — This is an important issue, and I think members should take an interest in it. We are disappointed that the dispute is continuing. We are not a party to the dispute. As I indicated in my substantive answer, I have directed the department to assist the parties in reaching a resolution to this dispute by providing advice to the parties in this matter. We are, however, not a party to the dispute, because we are not the employer.

Ordered that answer be considered next day on motion of Ms CROZIER (Southern Metropolitan).

Foster carers

Ms SPRINGLE (South Eastern Metropolitan) — My question is to the Minister for Families and Children, Ms Mikakos. The Australian Institute of Health and Welfare's *Child Protection Australia 2013–14* report was released on 8 May. In the 2013–14 financial year 400 foster carers were accredited and 610 resigned or retired — a net loss of 210 carers in one year. That is the worst performance by far of any state or territory. My question to the minister is: how many additional carers does she project will enter the system in the first year of her recently announced $1.5 million commitment?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Springle for her question and for her continued interest in the issue of foster carers. I have indicated to the house now on a number of occasions that we are very supportive of our foster carers. I regard them as unsung heroes in the community, and I hope over time we will raise the profile of foster carers and the important work they do in supporting vulnerable children in our community.

This is why in the first 100 days of the Andrews Labor government I announced a $1.5 million foster care recruitment and retention strategy, and as part of that I have also moved to establish a ministerial advisory committee for children in out-of-home care. I have tasked that ministerial advisory committee with the priority task of advising me on how we can go about recruiting and retaining more foster carers, because Ms Springle is right; we have had a very large number of foster carers, particularly in recent years and under the previous government, leave the system rather than come into the system, and this is an issue I am very concerned about. We are still in the development stage of this recruitment and retention strategy. It is one that I

am very keen to develop in close consultation with community sector leaders who sit on my ministerial advisory committee and also in close consultation with foster carers themselves.

In the budget the member would be aware that I announced $31.3 million over four years for carer payments, and this represents the first significant increase in a decade for foster care allowances. As part of that I have also asked my department to look at streamlining and simplifying the overly complex allowance system to make it more child centred and more readily understood by carers, as well as agencies and even departmental staff. As part of this we are going to consult with carers and with the community sector about how we can simplify the carer allowance system with a view to having those increases in allowances flow from 1 January 2016.

There is still a lot of work that needs to happen in the coming months. I will be holding a number of round tables with foster carers in the coming months so I can hear directly from the carers about their experiences and what their needs and issues are. I have heard in opposition and now as minister other concerns raised that do not directly relate just to the allowance system but relate to whether foster carers feel valued by the department and by the system — if I can refer to it as a system. I have also tasked the department with giving me advice around those issues.

There is considerable work that needs to happen before we are able to make definite projections around increased numbers, but I am certainly hopeful with our recruitment and retention strategy, with our increases in the allowance and with making changes to the system to value our foster carers more that we will have more foster carers coming into the system and staying with us for the long term.

Supplementary question

Ms SPRINGLE (South Eastern Metropolitan) — I thank the minister for her response. In the absence of a projected number, does the minister have a figure for how many new carers will be needed to meet demand, and has the figure guided the recruitment strategy?

Ms MIKAKOS (Minister for Families and Children) — Again, I thank the member for her question. We absolutely need more foster carers coming into the out-of-home care system. We have a situation where unfortunately children have been placed in residential care because that has been the only placement option that has been available. In my view residential care should be the placement of last resort, not the placement when there is no other alternative. This means that we need to have more options available in terms of home-based care — that is, recruiting more foster carers and also supporting our kinship carers and our permanent carers so that we can provide alternatives to residential care. Our policies are predicated on the basis of increasing our number of foster carers over time.

Springboard

Ms SPRINGLE (South Eastern Metropolitan) — My question is again to the Minister for Families and Children. The Springboard program assists young people aged between 16 and 21 to transition from out-of-home care to independent living. Without the Springboard program too many of our young people who have endured the trials of out-of-home care would just fall through the cracks. People do not get to the age of 16 or 18 and suddenly acquire a whole new set of independent living skills without ongoing support. Nor do those skills suddenly appear at the age of 21. The Victorian Council of Social Service has been calling for some time for the Springboard program to be extended, where required, to people up to the age of 25. Supporting young people is expensive and resource intensive, but it is nowhere near as expensive as not supporting them at all. Can the minister explain why the opportunity to extend the Springboard program to people up to the age of 25 was not taken up by the Andrews government during its first budget?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. She is in fact incorrect in that assertion. There is funding in the budget for the Springboard program. I am happy to provide the member with a detailed briefing on the budget outcomes. We have provided funding for every part of the service continuum in the families and children portfolio, whether it is early intervention, recruiting more child protection workers or funding for our out-of-home care system and also for young people leaving care. We have in fact continued funding for the Springboard program because we recognise that it is important that we provide funding to young people leaving care.

The Springboard program is a valuable program that links young people leaving care to education and training pathways, because we recognise that that is the best way to assist them to transition to independent living when they leave the out-of-home care system and go into — —

Ms Springle — On a point of order, President, I realise the funding has continued. I am asking

specifically why it has not been extended from 21 to 25 for young people.

Ms MIKAKOS — That's not what the question was.

Ms Springle — That was absolutely the question.

The PRESIDENT — Order! The minister still has quite some time to go in her answer, so I am sure she will respond to the question as put.

Ms MIKAKOS — I thank the member for that clarification. We have extended funding for the Springboard program on the same basis that has existed in the past. It is an important program that supports young people leaving care. I am very pleased with the fact that the funding was there in the Andrews Labor government's first budget to continue to provide support for young people leaving care.

Supplementary question

Ms SPRINGLE (South Eastern Metropolitan) — I thank the minister for her response. How does the minister's commitment to real prevention and early intervention with respect to supporting young people who have been in out-of-home care align with the Andrews government's decision to stop supporting young people when they reach the age of 21?

Ms MIKAKOS (Minister for Families and Children) — The budget has funding for the Springboard program. It is $21 million over four years, if my recollection serves me correctly. That is a responsibility that we take very seriously in terms of meeting our responsibilities to young people leaving care. In fact I am aware of some advocacy around this issue that came very late in the budget process — it may have been even the week before the budget was handed down — and I am always mindful of sector views around these issues and always happy to have further discussions with the sector around these issues. But we have continued the Springboard program, which is an important program that supports young people leaving care, as well as providing other supports in the budget for vulnerable young people, both through the youth affairs portfolio and through the investment that the Minister for Training and Skills, Mr Herbert, provides in terms of our higher education system for young people entering our TAFE system. There is a range of investment in this area.

Recreational fishing special coordinator

Mr DRUM (Northern Victoria) — My question is to the Minister for Agriculture. I refer to her announcement last week that former Independent member for Gippsland East in the Assembly, Craig Ingram, has been appointed by the Andrews government as a special coordinator for recreational fishing and her announcement that one of Mr Ingram's most immediate tasks will be to work with Fisheries Victoria to deliver on the Labor government's commitment to halt commercial netting in Port Phillip and Corio bays. I ask: has there been any conflict of interest raised during his appointment, such as his share in a commercial abalone licence?

Ms PULFORD (Minister for Agriculture) — I thank the member for his question. The Labor government is getting on with its significant commitments to grow recreational fishing in Victoria. We have many components to our Target One Million policy, including the very significant challenge of ending commercial netting in Port Phillip and Corio bays. There are currently 43 licence-holders affected by this reform, and I am determined that our government will deal with this industry transition and with the significant impact on these 43 businesses in a respectful and absolutely transparent manner. That is why we have appointed Craig Ingram as a special coordinator to work on the delivery of a number of the Target One Million commitments but with a particular focus on supporting the industry transition as we halt commercial netting in Port Phillip Bay.

Craig Ingram, as members may well be aware, is a former member of this Parliament. He also has extensive experience working in both the commercial and recreational fishing sectors, so he brings considerable expertise to this role. His appointment is entirely appropriate. It will, I think, assist us greatly in the acquitting of our election promises.

Mr Drum — On a point of order, President, the question was very specific: was any conflict of interest raised during his appointment? It was totally unanswered.

The PRESIDENT — Order! I invite Mr Drum to ask a supplementary question at this stage.

Supplementary question

Mr DRUM (Northern Victoria) — Certainly, thank you, President. As minister, were you aware of the views of your new special coordinator for recreational fishing — that trout in Victorian streams should be poisoned — when you made this appointment?

Ms PULFORD (Minister for Agriculture) — Mr Drum asked a question about a conflict of interest in

his point of order. Is his supplementary question the same or different, because the answer — —

Honourable members interjecting.

Ms PULFORD — He has asked three questions, so I am just wondering which two he would like answered?

The PRESIDENT — Order! The conflict of interest was the first question. The minister may wish to address that in her supplementary answer, but that was a point of order and not the supplementary question. The supplementary question is: 'As minister, are you aware of the views of your new special coordinator for recreational fishing — that trout should be poisoned?' I ask the clerks to reset the clock.

Ms PULFORD — That is a bit of a leap from the substantive question to the supplementary question, but I have not had a discussion with Craig Ingram about his views on trout poisoning, no.

Twelve Apostles Marine National Park

Mr PURCELL (Western Victoria) — My question is to the Leader of the Government in his capacity representing the Minister for Tourism and Major Events. The iconic Twelve Apostles on the Great Ocean Road are a prime tourism attraction. They are recognised around the world and visited by millions of domestic and international visitors each year. Currently there is no admission charge to this prime tourism icon. In south-western Victoria our roads are in a state of disrepair, and according to VicRoads own estimates, about $220 million is needed to upgrade them. Will the government consider implementing a $10 admission charge for the Twelve Apostles, which would generate many millions of dollars to invest in funding for western Victorian roads?

Mr JENNINGS (Special Minister of State) — I thank Mr Purcell for his question. I am not in a position to be able to accept or reject his specific proposal. It is unlikely in the first instance that that would be the option adopted by the government, but I will allow my colleagues to work their way through this issue. What is totally accepted by the government is that there is a need to provide some support to economic activity in the south-west and the opportunities that may be available to us in the future to support a high traffic trade of tourists who come to the Twelve Apostles, recognising consistently that there is not a significant yield to the local economy from the sheer weight of numbers of people who visit the Twelve Apostles. In fact recently I had a conversation with somebody who is well versed in the tourism industry who reminded me that the economic yield to local businesses from the hundreds of thousands of tourists who come to the south-west to see the Twelve Apostles is extremely low. They spend the best part of 3 hours on a bus to get there; they spend on average about half an hour there; and they turn around and come back, spending virtually nothing for the local economy. That is an outcome that is totally unsustainable in terms of the economic viability of the region and the ability to reinvest in roads or other infrastructure or community life.

This government recognises that there are some things that it must do to support economic activity and the tourism industry of the south-west. I am certain that even if my colleagues do not agree with the specific proposal Mr Purcell has put to the house today, they certainly agree that there is a need to try to ensure a greater return to the local community and economy through taking a concerted approach to drive a greater yield by making sure that tourists stay and spend in the precinct and that there is a benefit to the local economy. That is something I am confident the government will work on from a number of different vantage points. I imagine that my colleagues responsible for regional development, tourism and economic activity, and very importantly my colleague who is responsible for the environment, will be very interested in finding a plan to give those outcomes.

Supplementary question

Mr PURCELL (Western Victoria) — I thank the minister for his reply. Considering the reply, I ask the minister: will the government consider that model for looking at other tourism attractions so long as the money is left in the regions where it is taken?

Mr JENNINGS (Special Minister of State) — I accepted in my answer to the substantive question that there is a need to do this. I think that is a reasonable approach. We are interested in having a diversified and viable economic structure across the regions in Victoria. The south-west is extremely important, but it is not the only region that is important. The same logic should apply to our infrastructure and support programs for tourism and economic activity right across the state.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) — I have answers to the following questions on notice: 554–6.

QUESTIONS WITHOUT NOTICE

Recreational fishing special coordinator

The PRESIDENT — Order! With respect to today's questions, I note Mr Drum's question about conflict of interest, and I think that that was quite a specific question. I ask that the minister provide a written response to that.

Ms Pulford — I can answer that now.

The PRESIDENT — Order! Okay, With the house's indulgence, I will accept that in terms of getting the matter resolved quickly. The question was: has there been any conflict of interest raised during Mr Ingram's appointment, such as his share in a commercial abalone licence he has held?

Ms PULFORD (Minister for Agriculture) — The appointment process for Craig Ingram was a cabinet process. As is the case for this type of appointment, the normal declarations are made, and there was no conflict of interest declared. I might also add that the process for the appointment of Mr Ingram was precisely the same as the process of appointment that my predecessor in this portfolio used to appoint Graeme Samuel to a water review last year.

Mr Drum — On a point of order, President, the minister wants to create a parallel between Graeme Samuel and Craig Ingram. I do not think Graeme Samuel ever held an abalone licence, and he has not been appointed to a role that will see him effectively bring about the downturn of 43 fishing licences.

The PRESIDENT — Order! Does Mr Drum have a copy of the standing orders? If not, I will furnish them to him. He is debating. That is not a point of order. I concur with the minister that the supplementary question posed by Mr Drum was a long way distant from the substantive question.

MINISTER FOR SMALL BUSINESS, INNOVATION AND TRADE

Mr DAVIS (Southern Metropolitan) — I desire to move, by leave:

> That this house provides an opportunity for Mr Somyurek, at 1 hour's notice, to address the Legislative Council and explain to the house the matters and circumstances surrounding his non-attendance at Parliament this week and the Premier's decision to suspend his activities as a minister.

Leave refused.

MOTIONS TO TAKE NOTE OF ANSWERS

Recreational fishing special coordinator

Mr DRUM (Northern Victoria) — President, I did not get the opportunity earlier to move:

> That the Council take note of the Minister for Agriculture's answer on the next day of meeting.

Honourable members interjecting.

Mr DRUM — I was not given the opportunity earlier, prior to the President getting to his feet. I am moving it now because it is the first chance I have had since the President resumed his seat.

The PRESIDENT — Order! Given that I allowed some latitude to the minister to dispense with the matter today rather than by subsequent response in writing, I will allow the member to put that motion. The question is that the house take note of the minister's answer.

Honourable members interjecting.

The PRESIDENT — Order! I heard a government member say the word 'forthwith'. Does the government wish to change or amend that take-note motion and bring on a debate forthwith?

Ms Pulford — If Mr Drum would like to debate it now, that is okay with me. It would be my pleasure.

The PRESIDENT — Order! At the moment the motion is to take note of the answer on the next day of meeting; does Mr Drum wish it to be taken note of now?

Mr DRUM — Absolutely. By leave, I move:

> That the Council take note of the Minister for Agriculture's answer forthwith.

The words of the minister were that there was no point of conflict of interest raised when Mr Ingram put forward his application. Effectively, using the words of

the minister, this has gone before the cabinet, but nobody has even mentioned the fact or raised the issue that Mr Ingram was previously — or still is; we do not know — the owner of an abalone licence covering Victorian waters. It is amazing that the fact that Mr Ingram has for a long time been a commercial fisher, had a commercial abalone licence and been a strong advocate for commercial fishing in these waters was not mentioned in any of the cabinet discussions — by the 20-odd ministers who were sitting around the table — and that the Minister for Agriculture was not even aware of this man's views in relation to a whole range of issues in relation to recreational fishing. It beggars belief that this particular appointment could have been made without one skerrick of concern — not one of the 20-odd ministers actually raised a point — that Mr Ingram may have a conflict of interest in relation to fulfilling his duties within his role as a special coordinator for recreational fishing in this state.

The main reason this causes some concern is that it will be Mr Ingram's role to oversee the exit of some 43 other professional fishers from Victorian waters. His role is to oversee these people exiting the industry so we can get the preferred outcome — which is an outcome we are searching for, by the way — which is, to increase the recreational fishing pool, the fish available for recreational fishers in this state.

This is something that goes to the heart of the cabinet's ability to make a considered judgement. It goes to the heart of how the cabinet operates. An appointment at cabinet is something that goes to the Premier's office and is normally thought through by not only the chief of staff but the entire staff. They would normally do some checks and balances on any potential conflict of interest. In this case, given this person is a former member of Parliament and considering the role he will have to perform when he commences his appointment — —

Honourable members interjecting.

Mr DRUM — Can you shut up.

The PRESIDENT — Order! I agree with Mr Dalidakis that it is unnecessary commentary in this matter. I would hope we might discharge of this fairly soon because members want to proceed to constituency questions, which they regard as being important in terms of their representation of electorates. Mr Drum, without assistance.

Mr DRUM — Thank you, President. It seems as though there is at least an issue of conflict of interest. We do not know whether it has been discharged and put forward on the table. It would be a fine outcome if it had been clearly stated that the licence has since been sold and that he has no holdings in a commercial abalone licence as of today. Everyone could then just move on and let the man do what he has been given a role to do. But the fact that it was not even put before the Council just seems too hard to believe. The fact that we have a man with the view that trout should be poisoned is irrelevant to the conflict of interest.

However, what has been shown here is that we have an incredibly important policy that is going to affect 43 families directly and a whole range of businesses indirectly. The appointment of the person who is going to oversee this process has effectively just been swept through the cabinet without anyone having the wherewithal to put their hand up and say, 'This man used to run a commercial fishing licence here in Victoria. Surely someone has done a background check on any conflict of interest'. It seems as though that has not happened. It beggars belief. I would like to hear the minister's response as to the cabinet process that led to this approval and how the issue of conflict of interest was not even raised.

Ms PULFORD (Minister for Agriculture) — Thank you for the opportunity. Apologies are probably due to the house for indulging this argument that Mr Drum and I are going to have about the appropriateness of Craig Ingram to perform this very important task for the government.

Craig Ingram has extensive experience working in both the commercial and recreational fishing sectors. He has been in the Northern Territory in recent times as executive officer of the Amateur Fishermen's Association of the Northern Territory. He has a great breadth of experience. He has worked with industries in transition and communities dealing with challenging issues in his work as a member of Parliament, and he is eminently qualified to perform this role.

There is no conflict of interest that I am aware of. If Mr Drum believes an opinion about trout fishing expressed in 2005 constitutes a contemporary conflict of interest, then I think Mr Drum should acquaint himself with the notion of what a conflict of interest is. Craig Ingram's appointment occurred in precisely the same manner as Peter Walsh's appointment of Graham Samuel to conduct the water review. It is a cabinet appointment.

We are very excited that Craig Ingram is available to perform this important work. I note Mr Drum in his interjections seemed to be stepping away from the coalition's commitment, what we believed to be a

bipartisan commitment, to remove commercial netting from the bay when he said this appointment is about helping to put 43 families out of business, or words to that effect. I would hope the Liberals and The Nationals continue to support the cessation of netting in Port Phillip Bay.

This is an important issue for our recreational fishing community. We are delivering on our commitment. Our commitment is better than the opposition's commitment in a whole bunch of different ways. We have a sliding cap on the netting, and there are many other components of our plan for recreational fishing.

I welcome the opportunity to debate this issue with Mr Drum. I thank the President for making the observation about the extraordinary leap from Mr Drum's substantive question to his supplementary question, when he talked about finding an interview from 10 years ago in which Mr Ingram expressed some concerns about trout in a particular location, one that was obviously not Port Phillip Bay.

I am very pleased on any occasion to answer questions in this place about the important work that Mr Ingram will be doing to support the government's delivery of Target One Million. There is $20 million in the budget to deliver on this commitment. We are working hard on all the aspects of Target One Million, restoring water levels to Lake Toolondo and increasing fish stocking from 3 million to 5 million. It is an extensive list. We are working hard on delivering on each and every one of those election commitments.

Craig Ingram has a very important role to play in supporting the industry transition — a difficult transition — and we would welcome the support of the Liberals and The Nationals in removing commercial netting from the bays and in so doing growing the number of recreational fishers in Victoria to 1 million.

Mr BARBER (Northern Metropolitan) — It is unfortunate that the allegation of a conflict of interest against a private citizen — someone who is a former member but is currently, as far as I am aware, a private citizen — is being debated in such a precipitous fashion. In this instance we have both the government and the opposition to blame for baiting each other into the debate in which we now find ourselves. With the information we have been given so far, I think the matter deserves better scrutiny so that it is not left hanging in the air. If I understand correctly, Mr Drum suggests that Mr Ingram holds an abalone licence and therefore has a conflict of interest in being involved in the buyout of other commercial operators elsewhere in Victoria.

Ms Pulford — and of course her department would know — did not really address that issue. She did not say whether Mr Ingram does or does not currently hold an abalone licence. As I said, Ms Pulford's department not only has that data at its fingertips, but one might expect that in a conflict of interest declaration, which Ms Pulford confirms has been lodged and considered by her and the cabinet, that that information might have been made available to the house.

If we could have some more light rather than heat shed on this issue, we could move on to the next question. Assuming Mr Ingram does have an abalone licence, we could all debate whether we think that is a conflict of interest. Is there some kind of substitutability between purchasers of abalone and purchasers of King George whiting, flathead or snapper from the bay? They are all marine products. There is no doubt that this program that both the Labor and Liberal parties are endorsing to remove — —

Mr Drum — And The Nationals.

Mr BARBER — And The Nationals; do not forget the other one. This program the parties are endorsing will make fish from the bay more expensive and difficult to obtain for ordinary consumers. It could be that as a result of this program — which is to phase out all commercial netting in the bay — when I go down to my local fish market or seafood restaurant, I will now be getting fish that could have been flown in from another part of the world.

The commercial netting fishery in the bays is said to be a sustainable fishery. Ms Pulford's own department says it is sustainable. Even Greenpeace says it is sustainable and a preferred choice compared to other species of fish from other countries that may not even be labelled correctly.

Since both speakers raise the broader policy question of the merits and political support or otherwise of the buyout program, I say we need more scientific evidence before this process proceeds. I hope Mr Ingram is going to examine all the relevant scientific evidence. Some of that evidence is still forthcoming. In fact I believe Ms Pulford's own department's is funding or delivering some of the scientific research. It could be that Mr Ingram, with a completely open mind and free of any conflict of interest, is willing to look at some of that research and give some advice back to the minister that perhaps the buyout of all the licences is not necessary and will not necessarily deliver the kinds of benefits that Labor, Liberal and The Nationals all think it will, which is — in short — more fish.

If the fishery is sustainable now and if evidence shows that the catch-per-unit effort for recreational fishermen and fisherwomen is not in decline, then it may be that the measures proposed would not necessarily achieve the desired effect. While there may be one or two licensees who may be eager to be bought out, it could be that with some more scientific evidence coming down the line and with some more time available this program could be reconsidered.

As it is, we have heard a lot about it lately. We ask a minister for the detail of or rationale for their particular policy, and what we get is, 'It's an election promise, therefore we're doing it'. First of all, it is the job of the Parliament to still scrutinise those promises, and secondly, citizens deserve better explanations from their governments than simply, 'We're doing it because we promised to do it'.

If we see Mr Ingram around the place here, we might stop him in the corridor and ask him for his opinion. He always has strong opinions on these matters. Of course The Nationals have an in-built and tribal animus against him; basically there is not a single thing Mr Ingram could do that would get the support of The Nationals. Unfortunately, the nub of the issue that was raised here today has not been satisfactorily dealt with. In my opinion it would have been better if Mr Drum had bowled up another question where he sought the facts I am seeking, which are: does Mr Ingram hold an abalone licence? Was it disclosed in his conflict of interest declaration, and if so, has the minister formed the view that that is not a conflict of interest? In that case, we could debate those matters with a few facts.

The PRESIDENT — Order! I thank Mr Barber for his contribution in the sense that I remind the house that the question before the house is still to take note of the minister's answer. It is not to explore further the conflict of interest issue; it is to take note of the minister's answer. If indeed, as Mr Barber rightly says, there were any other matters to be considered, there would need to be a subsequent motion, because this is simply to take note of the minister's answer on an immediate debate.

Mrs PEULICH (South Eastern Metropolitan) — Thank you, President, for those words of guidance. I join in making a few remarks on this motion to take note of the minister's answer because it goes to the heart of process. If the processes are right and if people actually observe those processes, then many of the issues and conflicts that are flushed out through the dynamics of politics, through the dynamics of factions and through the dynamics of opposition and government interplay in these types of environments are mitigated.

I understand that the current appointment process was put into place by Steve Bracks in 2002. That was done as a result of a growing awareness in the public sector and in government that these matters of interest, including conflicts of interest, need to be managed and that we need to have an open and transparent system. That is what concerns me about Ms Pulford's response. There does not appear to be an open and transparent system of appointment to statutory authorities, to public office, to advisory committees and so forth, which is really what is under scrutiny here.

Ms Pulford's response that there were no declarations of a conflict of interest is perturbing to me. As a former Cabinet Secretary, I am fully aware of the different stages of scrutiny of applicants to positions. One stage would obviously be in the department first of all and then in the minister's office — scrutinising that before it is escalated to the next level. When it goes to the Cabinet Secretary for listing on the agenda at cabinet, there are other processes that take place. As a former Cabinet Secretary I can say that most appointments were then scrutinised further to make sure that there was not something that was overlooked in terms of the documentation. Sometimes there was further investigation. Sometimes in discussions with the Premier of the day the head of the department and often also the deputy secretaries will add further information to the discussion of cabinet agenda items. A range of steps take place before an item actually appears before cabinet. If eventually all is right, it goes on to the cabinet agenda and is discussed.

I cannot believe that through that process the issue of conflict of interest that is under discussion here was not raised. It is just not possible for those issues of conflict or even Mr Ingram's commercial licence to not be raised. That does not mean that the appointment does not proceed, but the additional information should be taken into consideration before a decision is made. It is really important for members to understand what that very long process is. There are so many hurdles, and it is just implausible that conflicts of interest would remain unearthed or unknown by the minister. It is absolutely critical because people's lives can be destroyed through not observing proper processes.

We are currently looking at, for example, what is at play with the Premier and the Minister for Small Business, Innovation and Trade and his staff. We know, for example — —

The PRESIDENT — Order! This is a very narrow debate. The minister made no reference to those matters in her answer, and they are totally out of context for this debate. Do not proceed with that line of argument.

Mrs PEULICH — I was not going to dwell on it in detail, President.

The PRESIDENT — Order! I do not want it mentioned at all.

Mrs PEULICH — I was going to make a number of observations, which are that there have been a string of people who have been appointed to positions where there is a lack of clarity, a lack of openness and a lack of accountability for those appointments. That goes to the heart of open and accountable government. Perhaps in addition to this take-note motion members could be invited to think about what further motions could be brought to this chamber for us to have the opportunity of scrutinising areas where there are significant concerns in relation to those appointments. For Labor, being in government is an opportunity to appoint mates, be they union mates, factional mates, personal mates or otherwise.

There are public service standards that the Premier himself has invoked in the referral of the recent investigation to the Secretary of the Department of Premier and Cabinet. He has said that he expects those public service standards to be observed. We should expect nothing less, and therefore I think the minister's lack of awareness of the appointments process and the different levels of scrutiny is a critical issue. This malaise and lack of awareness appears to be symptomatic of the way this government is operating. I take pleasure in speaking briefly on this take-note motion, but I also shine a light on what appears to be a significant vulnerability of this government in terms of appointing Labor mates, factional mates and friends to various government appointments.

Mr JENNINGS (Special Minister of State) — President, even though you gave a direction to the chamber that this debate is not an opportunity to extend the information that the minister had provided but rather to comment on it, I think it would be useful for the sake of the house, in terms of reaching a conclusion, to say that there was a due process in terms of the theory of process that Mrs Peulich has just outlined — that is, in terms of identifying the interests of a person who is the subject of a cabinet appointment.

It was identified that Mr Ingram has an interest in an abalone licence as part of a family trust but only in the context of a family trust and not as an individual licence-holder.

Mr Drum — This is totally different to what we have just been told.

Mr JENNINGS — I am clarifying the issue for you.

Mr Drum — This is exactly opposite to what the minister has just said.

Mr JENNINGS — Let me conclude my comments, and I will come back to what the minister said. Following that the analysis went further and an assessment was made about whether there was a conflict of interest in relation to the scope of responsibilities that would be undertaken by Mr Ingram in this instance. Given that the focus of this work is primarily in relation to activities within Port Phillip Bay and abalone licences are not affected within the domain of the Port Phillip Bay fishery, there is no conflict of interest. The minister's response was that in her view, on the basis of the information that was available to her, she was not aware of a conflict of interest, and that loop has now been closed. That was part of the consideration of the appointment process. As you are setting a standard for the appointment process, that was satisfied.

Mr Drum — We are in uncharted waters here. I am clearly in your hands with this, President, but what we have just heard is a totally opposite remembrance of what happened at cabinet to that recalled by the minister. From the minister we heard one thing — —

Mr JENNINGS — Just for clarification — if members do not understand this — what happens at cabinet is subject to confidentiality. What I have just described to the house is the material that is prepared and presented to cabinet for its consideration. Opposition members do not have any evidence relating to their ongoing speculation about what happened or did not happen in cabinet. What I am saying to members is that I am confirming that the minister and her department have acquitted — —

An honourable member interjected.

Mr JENNINGS — Regardless of what the member would like, this is what I have been reporting to the house on the basis of my information, which is confirmed by the minister — that is, that material was prepared, was considered and was not subject to additional concerns at cabinet.

Mr Drum — On a point of order, President, I understand exactly what the Leader of the Government

is saying. It does not change the fact that that it is totally 180 degrees from what the Minister for Agriculture just said when answering the question, 'Was the issue of conflict of interest raised at cabinet?'. The answer was, 'No' — very clearly no. A reading of *Hansard* will show exactly what she said. The Special Minister of State has just come in and said exactly the opposite.

The PRESIDENT — Order! The minister did not say no. I did not hear her say that at all. I heard her talk about processes of cabinet. I am not going to judge, but my view is that what I heard was consistent with what Mr Jennings has said. He has simply elaborated and gone further. At any rate, at this point, Mr Drum has a right of reply.

Mr DRUM (Northern Victoria) — President, I think we have heard enough on this matter. We will be checking *Hansard* to find out whether your recall of the minister's answer is correct, and if it is not, we will be taking the issue further.

Motion agreed to.

Mr Davis — On a point of order, President, relating to interjections during question time in particular. The section of the government benches over there sends an incessant and barrage-like set of interjections. I hasten to add that I, for one, in this chamber am not opposed to interjections; they can be helpful to the process, and robust debate is important. But if they become incessant or inane or a barrage, that becomes problematic. At 12.37 p.m. Ms Shing said, 'Abalone are people too'. We have headed to new ground here. The constant nature of the interjections that comes from that section is concerning, and we need to deal with it.

Ms Shing — On the point of order, President, the interjections go from one side of the chamber to the other irrespective of which direction you are facing. Yesterday the interjections that were directed toward me included from Mrs Peulich that I had diarrhoea and today that I require counselling. On that basis, if we are going to apply a standard around minimum levels of intellect or contribution when interjecting across the chamber, I would welcome an opportunity for that to apply uniformly and not just in one direction.

Mrs Peulich — On the point of order, President, I think the house would know that I am not a shrinking violet and that I am quite well versed in interjections. However, the level of interjection from our newly elected members of Parliament, Ms Shing and Mr Dalidakis, goes beyond all acceptable levels. It is haranguing and highly personal, and it is not difficult to understand that sometimes people may respond in a way that they should not to some of the provocation that is incessant, ongoing and beyond comparison to anything that we have experienced before in this chamber. I ask you, President, to address the problem of the level of interjection, harassment and haranguing that occurs in this chamber as a routine every day.

The PRESIDENT — Order! I say at the outset that interjections are unparliamentary, and I would prefer that there were none. I acknowledge that for the most part the Greens do not make interjections, nor do members on the crossbench. It seems that they are able to fulfil their responsibilities in this place without needing to challenge and comment on every matter that comes before the house, and I welcome that approach to their performance in the house.

To me, to single out any member in this house is totally inappropriate, because those members who might have been singled out today in this matter could quite legitimately stand up and name four people on the opposition side who I would have to concur are equally vigorous in their interjections. I try to maintain a pretty fair house. There was an occasion today when Ms Mikakos started out with a fairly provocative point at the start of her answer in respect of the previous government, and that drew some interjection. I did not intervene because I thought she was provocative, and I take that attitude from time to time. If a member is provocative, then they have to cop what comes their way, but still within reason.

As I said, to single out any member is inappropriate. I do my best, and I believe the acting chairs all do their best to maintain order in this place. Whilst Mrs Peulich's knowledge of this place might go back a number of years, mine goes back 23 years, and I can assure members that this house is far more constructive and has far fewer interjections today than at many times in the 23 years of my service in this place. Mr Davis raises a point of order that we might all reflect on, but is not one that I will rule on.

Sitting suspended 1.21 p.m. until 2.27 p.m.

CONSTITUENCY QUESTIONS

Eastern Victoria Region

Ms BATH (Eastern Victoria) — My question is for the Minister for Regional Development, and it is in regard to the redevelopment of the Traralgon swimming pool. Traralgon has a population of approximately 28 000 residents but it does not have its own public indoor heated pool complex. The 50-metre outdoor pool Traralgon has currently, which opened in

1959, is outdated and under-utilised. The former government made a $9 million pre-election commitment to assist in the construction of a Gippsland regional aquatic centre in Traralgon. The centre would be the only competition-standard 50-metre indoor facility in eastern Victoria, and it would provide many benefits for the people of Gippsland. My question is: will the minister provide any financial assistance to the Gippsland regional aquatic centre project, and if so, when?

Western Metropolitan Region

Ms HARTLAND (Western Metropolitan) — My constituency question today is for the Minister for Roads and Road Safety. A few weeks ago the government announced its proposal for a $5.5 billion western distributor. The government is also planning for, budgeting for and continuing to make announcements about moving ahead on the $600 million West Gate distributor. This is quite confusing in my community. We do not know the details of these projects, and we do not know which project will go ahead or whether both will. My question for the minister is: when will the government release a business case for the western distributor proposal in order to make transparent what the government's plans are, and when will the government indicate the value for money this project is estimated to provide and the wider impact it will have as compared to the West Gate distributor project?

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

South Eastern Metropolitan Region

Mrs PEULICH (South Eastern Metropolitan) — Thank you, Acting President. If I were Mr Dalidakis, I would correct you on the pronunciation of my name, but I am not, so I am more than happy to move on.

My constituency question is directed to the Minister for Multicultural Affairs. It relates to a matter that is of great interest to my region. Given the agenda for the Indian Cultural Precinct Advisory Panel meeting held on 1 May 2015, chaired by friend of Labor George Lekakis, lists discussions alternate sites for the Indian cultural precinct, I ask: does this mean the government is not committed to building the Indian cultural precinct, or Indian cultural hub, in Dandenong, where it could leverage off the existing infrastructure in the Indian community in the area, which includes the Little India precinct, Museum India and the offices of the Federation of Indian Associations of Victoria?

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My question is for the Minister for Public Transport, Jacinta Allan. It is in regard to the need for improved rail services on the Shepparton line. In question time in the lower house today the minister was asked a question about Shepparton rail services, and in her response she referred to a visit she made to Shepparton in August 2013 with the then Leader of the Opposition, Daniel Andrews. During that visit the now Premier indicated that Labor would support a Sprinter rail service between Shepparton and Seymour. He said he was happy to concede that there needs to be more done around the Shepparton rail issue. He further stated that there was a good argument for a faster, more frequent Sprinter service between Shepparton and Seymour. I ask: when will work on a Sprinter service between Shepparton and Seymour commence, as promised by Labor when it was in opposition?

Western Victoria Region

Mr RAMSAY (Western Victoria) — My constituency question is directed to the Minister for Tourism and Major Events, John Eren. It was recently announced that the Brae restaurant at Birregurra had made the world's best restaurant list. It placed 87th in the world. I congratulate the chef, Dan Hunter, for this accolade. As far as I am aware, Brae is the only regional restaurant in Victoria to achieve this. What a coup for Birregurra, and an acknowledgement of the staff at Brae and the work George Biron and Dianne Garrett did in building the business of the iconic Sunnybrae, located on 12 hectares just outside Birregurra, which is on the way to another iconic beachside resort, Lorne, in the beautiful Otway Ranges. I ask the minister: how might the Victorian government acknowledge such an honour, and how might the state capitalise on the tourism attributes, now world acknowledged, that the beautiful township of Birregurra offers to international visitors?

Western Metropolitan Region

Mr FINN (Western Metropolitan) — My constituency question is for the Minister for Education. As I am sure the minister is aware, schools in Melbourne's western suburbs cater for children from the most economically disadvantaged families in the state. These schools struggle for extra funds that come from parents, money which schools in most other parts of the state take for granted. The reintroduction of a carbon tax would be a significant impost on western suburbs schools. It would make life very difficult. I ask the minister: will the Victorian government guarantee

compensation for these schools in the event of the reimposition of a carbon tax?

Western Victoria Region

Mr MORRIS (Western Victoria) — My constituency question is directed to the Minister for Police. The latest crime figures from the Crime Statistics Agency Victoria show that Ballarat has recorded the highest number of reported offences in regional Victoria, with 31 626 offences having been reported in the Ballarat postcode of 3350. Again, that is the highest number of reported offences in regional Victoria. Of late there has been a spate of thefts in Ballarat, particularly targeting tradesmen's vehicles and the like. These crimes affect hardworking men and women who are just trying to make a living. Mr O'Donohue and Ms Crozier recently came to Ballarat to meet with Superintendent Andrew Allen and his fellow officers to discuss the issue of crime in Ballarat. I commend the work that Ballarat police do in serving the community. My question to the minister is: what will he do to keep the good people of Ballarat safe?

Eastern Victoria Region

Mr O'DONOHUE (Eastern Victoria) — I raise a constituency question for the Minister for Education, and it relates to the question of whether the government is going to honour its promise to the people of Wonthaggi and Koo Wee Rup. This question was put to Mr Jennings yesterday during question time and to Mr Merlino during the budget estimates hearings of the Public Accounts and Estimates Committee. In answering this question, both ministers referred opposition members to *Labor's Financial Statement 2014*. This document indicates a capital amount that will be allocated for new schools and upgraded schools, but it does not list a single school. The question I have for the Deputy Premier, Mr Merlino, is: will the government honour its commitment to the people of Wonthaggi and Koo Wee Rup, and how can the community have any confidence about the government honouring its promises in relation to schools when, by its own definition, not a single school is listed in *Labor's Financial Statement*?

SENTENCING AMENDMENT (CORRECTION OF SENTENCING ERROR) BILL 2015

Second reading

Debate resumed.

Ms TIERNEY (Western Victoria) — When I spoke on this bill just prior to question time I was dealing with the legal doctrine of functus officio, which in essence means after imposing a sentence the judge's role in the matter is finished. Judicial reviews and appeals are expensive, time consuming and costly. The Office of Public Prosecutions and Victoria Legal Aid are just two bodies which can end up bearing the expense of these proceedings.

This was demonstrated in the Court of Appeal case *DPP v. Edwards* [2012] VSCA 293, where a County Court judge was found to have imposed a suspended sentence after these were abolished for the offence. The judge in this case tried to re-sentence the offender under section 412 of the Criminal Procedure Act 2009, of which I spoke earlier. The Court of Appeal found that regardless of the invalidity of the original sentence, the judge's role in the matter was finished at common law, and there was no statute to give him power to recall and correct the invalid sentence.

Now that we have seen there is a need for this amendment, the next question is: what are the limits of this power? This new Victorian power is based closely on section 43 of the Crimes (Sentencing Procedure) Act 1999 of New South Wales, which also uses the phrase 'contrary to law'. This section was recently tested in the High Court in the case of *Achurch v. The Queen* [2014] 306 ALR 566. The court interpreted the provision narrowly on the basis that it was not intended to displace the role of appeal as the primary means of correcting mistakes in sentencing errors. It found that 'a penalty is not contrary to law' only because it is reached by a process of erroneous reasoning or factual error. This bill expressly adopts the same language — at new section 104B(6) inserted by clause 7 — to assist Victorian courts in interpreting the provision in a narrow manner and to ensure that appeal remains the primary means of correcting error.

The final two points I would like to note are the bill's requirement that when recalling an offender, compliance with the original 'contrary to law' penalty is to be noted when the 'contrary to law' penalty is replaced by a penalty that is in accordance with the law. This is to avoid offenders receiving a double punishment for the same offence. Just the same, the bill

takes into account finality in the criminal justice system. Victims of crime deserve certainty. In new section 104B(3), inserted in the principal act by clause 7 of the bill, a judge in deciding whether to reopen a proceeding must have regard to the time elapsed for the imposition or non-imposition of the original penalty. In this way errors can be corrected after a significant period of time but due regard is paid to the importance of finality.

In conclusion, this bill removes obstacles to the efficient dispensation of justice in Victoria. It allows for clerical errors to be rectified in a practicable manner, reducing the burden on our judiciary and users of the legal system. It brings our laws into line with nearly all other states and territories in Australia and our statutes into line with legal doctrine. In short, this bill is an enhancement to the Victorian legal system, and I commend it to the house.

Mr HERBERT (Minister for Training and Skills) — In summing up, we have had some good debate on the bill. As members know, basically the bill has two parts. In the first part, section 104A of the Sentencing Act 1991 is amended so that a judge's power to correct minor slips or omissions is not subject to a time limit. The section provides that a judge may amend a sentence where there are issues of a clerical mistake or an error arising from an accidental slip or omission. Currently they can do that within 14 days of the sentence. Often errors are picked up after 14 days, and they cannot be changed, so this amendment will fix that up by removing the 14-day time frame.

The second thing this bill does is introduce a new provision to allow a sentencing judge to correct penalties that are 'contrary to law' or to reopen proceedings to impose a mandatory penalty which was not imposed at the first instance. As has been noted, the reform is partly in response to a recent Court of Appeal decision, *DPP v. Edwards* [2012] VSCA 293, where the sentencing judge had purported to impose a suspended sentence for an offence committed after the abolition of those sentences for the offence. The court ruled that once a judge has imposed a sentence and that sentence has been entered into the court's records, the judge is functus officio. This means the judge has no further role even if an invalid sentence has been imposed, and they cannot amend the sentence. Currently the only options are to institute an appeal or seek a judicial review, and this is the case even if it is accepted by all parties that the sentencing judge has imposed an invalid sentence. Most people would recognise that is not an appropriate thing to do.

We live in a world that is rapidly changing. Sometimes we bring in laws fairly quickly to respond to areas of grave concern in our community.

Those laws are often brought through, as I said, fairly quickly. We live in the days of terrorism and different community expectations. Of course in that context sometimes judges, like everyone else, will make a mistake, and that mistake should be rectified quickly. The bill makes sense, it is an improvement on the existing arrangements and it is fairer. I commend the bill to the house.

Motion agreed to.

Read second time; by leave, proceeded to third reading.

Third reading

Motion agreed to.

Read third time.

JUSTICE LEGISLATION AMENDMENT BILL 2015

Second reading

Debate resumed from 7 May; motion of Ms MIKAKOS (Minister for Families and Children).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise this afternoon to make some comments on the Justice Legislation Amendment Bill 2015. At the outset I advise that the coalition is not opposing this bill. This bill is similar to other justice bills the house has dealt with this year in the sense that it is largely an omnibus bill tidying up a number of separate matters in the Victorian statute. I will refer to the main provisions in the bill.

The first is with respect to the Confiscation Act 1997, improving the operation of the asset seizure and confiscation regime here in Victoria. The amendment provides for a court to order certain prescribed persons within the Department of Justice and Regulation to take control of property that is the subject of an unexplained wealth restraining order.

In relation to the amendments to the Confiscation Act, the bill makes it easier for the Director of Public Prosecutions to register interstate forfeiture or seizure restraining orders to allow for or to limit the capacity for people who are the subject of forfeiture orders to conceal property in other state jurisdictions. The bill

assists in facilitating the Director of Public Prosecutions to ensure that forfeiture orders which are made here in Victoria can also be enforced in other jurisdictions, which is appropriate. The regime is not in place to allow assets to be shifted between state jurisdictions to avoid the effect of the Confiscation Act. That is a sensible amendment to the Confiscation Act, which the coalition will not oppose.

The second set of amendments relate to the Control of Weapons Act 1990, and there are two key amendments that will apply to the act. The first relates to, quite ironically, the sale to children of disposable knives designed for the purposes of eating. This is a welcome change to the Control of Weapons Act. A provision was inserted in the act in 2010 which made it an offence to sell a plastic cutlery knife to a child — a person aged under 18. At the time it was introduced concerns were expressed as to the unworkable nature, the onerous nature, of such a provision that would require retailers of plastic knives and forks to ban the sale of those plastic knives to people under the age of 18.

This is a sensible provision in that it lifts the restriction on the sale to people under the age of 18 of plastic knives that are designed for eating. In large part it is a red tape reduction measure to remove that constraint on retailers, which required them to keep plastic knives separate so that the knives could not be accessed by children. The bill recognises that plastic knives for the purposes of eating are not intended as a weapon and were never intended as a weapon, and it restores them to a more appropriate footing such as existed prior to the introduction of that ban in 2010.

The second amendment with respect to the Control of Weapons Act relates to the powers of the Chief Commissioner of Police to designate an area for random weapon searches. This is a relatively recent provision in the Control of Weapons Act and was in response to community concerns, particularly around the carriage of knives in precincts such as railway stations and other weapons in the precincts around railway stations. When the provision was inserted it required the chief commissioner to publish in the *Government Gazette* and in a daily newspaper the boundaries of the area that the chief commissioner proposed to designate as an area subject to random weapon searches.

The purpose of the amendment in the bill is to relieve some of that burden on the chief commissioner with respect to the need to publish in newspapers the boundaries of the areas to be designated for random weapon searches. As the requirement will still have to be published in the *Government Gazette*, we believe that is an appropriate balance in terms of reducing the cost to Victoria Police of publishing notices in daily newspapers, obviously with a map which is a picture and therefore more expensive, while still retaining that information in the public domain via publication in the *Government Gazette*.

The next set of amendments relates to the Sex Offenders Registration Act 2004. The intent in the bill is to allow the chief commissioner to arrange for CrimTrac to host the Victorian sex offender registry within the scope of the national child offender system. That will shift the current database into the CrimTrac system so that it will provide greater data security, greater stability and greater functionality in that database and hopefully result in reduced maintenance costs of that database for Victoria Police. It does not seek to alter the way in which that database is maintained in terms of the way it is used and what it contains. It is purely to reduce the operating cost and the maintenance cost of that database for Victoria Police, and that is something to which the coalition does not object.

The next set of amendments relates to the Victorian Civil and Administrative Tribunal — VCAT. The bill expands the powers of the principal registrar to reduce or waive fees imposed under the Victorian Civil and Administrative Tribunal Act 1998. These fees are imposed for any number of activities — matters being brought before VCAT, hearings et cetera. The expansion of those powers provides the registrar with greater scope to take into account individual or exceptional circumstances in matters that come before VCAT. That is something coalition members believe is sensible. In saying that, we take on trust the government's assurance that the existing provisions with respect to fee waiver are limited, that these expanded powers are necessary and that they will of course be used for the purposes of reducing the burden on people seeking access to VCAT and will not be used to impose higher fees on large cohorts of people who will be at VCAT, noting that the capacity will be there to set different fees for different classes of people appearing before VCAT.

The next set of amendments relates to the Working with Children Act 2005. They insert two offences into the category B offences, which are those that automatically exclude a person from having a working with children check, subject to review by the Secretary of the Department of Justice and Regulation. The two new offences are 'failure to protect child from sexual offence' and 'failure to disclose sexual offence committed against child'. These two new offences have

been included in the Victorian statute book within the past 12 months.

The working with children check is obviously designed to protect children against those types of offences and to exclude existing known offenders from working with children. It is appropriate that those new offences will be incorporated within the scope of category B offences that would lead to the rejection of a working with children check subject to review by the Secretary of the Department of Justice and Regulation.

That is in large part the substance of the amendments made by the Justice Legislation Amendment Bill. They cover a broad range of areas. They are, however, largely technical and seek to improve the operation of the justice regime within the state, either through reducing costs or streamlining processes and practices. As such, the coalition believes they are appropriate and will not be opposing the bill.

Ms HARTLAND (Western Metropolitan) — This bill amends some 13 acts. It has a range of minor and technical details, all of which the Greens do not oppose, but there are a few key areas that I would like to highlight.

The Greens support the changes to the Confiscation Act 1997 in respect of recognising interstate restraining and forfeiture orders. However, I take this opportunity to reiterate the Greens strong concerns about changes made last year to the Confiscation Act. Because of those changes, the law now allows assets or cash to be confiscated from people who are suspected of being involved in serious criminal activity but who have not actually been convicted of it. The changes lower the threshold of serious criminal activity so that the law is no longer able to be applied only to activities of criminal organisations. Now the law allows for restraint of property where the applicant for the order only holds a suspicion based on reasonable grounds that the property sought to be restrained was not lawfully acquired.

Furthermore and dangerously, a reverse onus was also put in place for a person who has not even been convicted of anything to have to establish the case to have their property back by proving it was lawfully acquired. We believe this is dangerous because not everyone keeps receipts or documents from purchases, and it can be difficult to prove a gift from many years ago or that processing a substantial amount of cash is not for drugs or illegal purposes but for legitimate purposes. The law is no longer about targeting organised crime, as members of the Labor government and previous coalition governments would like to suggest. The law actually risks impacting negatively on innocent everyday people and also affecting other people who have had an interest in the property who may also be restrained. The law in respect of seizure is now guilty until proven innocent.

While the Greens do not support organised criminal activity in any way and do support the confiscation of assets where it is proved that they are related to criminal activity for which someone has been convicted, it is dangerous to go down the road we are travelling along where people need to be only suspected of criminal activity and are not involved in organised crime. We uphold the principle of innocent until proven guilty. This principle is essential in a civilised society. We would like to see the Labor government introduce amendments to provide important safeguards to the unexplained wealth scheme and civil forfeiture scheme generally, with a return to higher thresholds and standards of proof and the removal of the reverse onus. These schemes can still be effective with those safeguards in place. With better governance, the schemes can target the upper echelons of organised crime.

The Greens support the changes being made to the Sex Offenders Registration Act 2004 but urge the government to take up many of the recommendations of the Victorian Law Reform Commission (VLRC) report, including sharpening the focus of the sex offender registration scheme. To ensure the effectiveness of the scheme, we need to be more selective about who is placed on the register and to replace automatic inclusion with a process that allows for an individual assessment of the offender. Registration should be more closely aligned with the risk of harm to children and it should be more targeted. Not differentiating between the crimes committed by the large numbers of offenders and their risk to the community means that it is difficult to work out who should be focused on in protecting the community.

There should be a proper merits review by the judicial officer of the offender being placed on the register, and there should be several other reforms in light of the VLRC report. Having an effective sex offenders registration scheme is too important for many of the VLRC recommendations to be left not enacted.

The Greens fully support the continuation of the assessment and referral court list in the Magistrates Court, as it provides a problem-oriented approach to justice for appropriate consideration of mental health issues in criminal proceedings. It also looks at addressing the causes of offending, which the Greens strongly support. It reduces the need for custodial

sentences, which are not only costly but may have an adverse impact on the rehabilitation of the person, particularly if they have a mental illness or a cognitive impairment.

The bill amends the Victorian Civil and Administrative Tribunal Act 1998 to expand the principal registrar's power to reduce, waive, postpone, remit or refund a fee and to enable the making of regulations to prescribe fees with greater flexibility, including to provide for different fees for different classes of party. This is an important reform. The Greens believe the fee and waiver changes in recent years have reduced access to justice and thus undermined the purpose of the Victorian Civil and Administrative Tribunal (VCAT), which is supposed to be accessible to everyone. On 1 July 2014 fees for consumer disputes with a value over $500 jumped from $38.80 to $158.90 — that is, the fees are now four times higher than they were before the change. There is a lower fee of $55.60 for disputes under $500. Our concern is that increased fees will reduce access to justice for low-income Victorians but also create poor outcomes in the market generally. When consumers cannot access dispute resolution, traders who do not comply with the law are not brought to account so they maintain a competitive advantage over honest traders.

The review of the VCAT fee structure is very much needed. Whilst the Attorney-General has advised us that there is currently a substantial review taking place to inform the design of future tribunal fees, the Greens are of the opinion that there should be a regular independent review of the VCAT fee system. These regular reviews would include how waivers and postponements work to ensure that they promote access to justice. With access in mind, the Greens will be proposing an amendment to clause 18(2)(1), which relates to section 132 of the VCAT act.

Homeless Law routinely provides pro bono legal assistance to tenants in prison who are respondents to possession order applications at VCAT. These inmates have no income or access to any funds. They cannot participate in the hearing unless they can apply for a fee waiver in relation to a video link application. However, Homeless Law has informed us that it has been advised by the principal registrar that charges for the use of the video link are not levied under the act or under the regulations and are not covered.

Our amendment aims to expand the government's amendment so that the principal registrar can not only reduce, waive, postpone, remit or refund any fees payable under the act or regulations but can also do this for fees that are routinely charged by VCAT but are not specifically named under the act or regulations. This includes video link applications and any other unforeseen costs that are not specific in the act or the regulations.

In conclusion, the Greens support many aspects of this bill but would like to see the government take some further steps in some areas. I commend the bill to the house.

Ms SYMES (Northern Victoria) — This is a great opportunity to get up and speak on the Justice Legislation Amendment Bill 2015. It covers a lot of acts I am quite interested in, and I have had some history with some of them in the past. It is one of those regular omnibus bills that come up pretty much annually and sometimes more often. It amends several acts within a single bill. Generally speaking, the amendments are contained in one bill as they are a collection of minor or consequential amendments that keep our laws updated and modern and respond to community needs and concerns. It is also another opportunity to pick up drafting errors identified by the Office of the Chief Parliamentary Counsel.

This justice omnibus bill amends acts that fall under the portfolios of the Attorney-General, Minister for Police, Minister for Corrections, Minister for Roads and Road Safety and Minister for Emergency Services. I intend to cover most of the acts that the bill seeks to amend, and I will go through them in no particular order.

In relation to the assessment and referral court list (ARC list) amendment, I was really proud to be part of a team under the former Labor government that introduced the assessment and referral list pilot. I was always convinced that it would be a success, so I am really pleased that this bill is cementing its future as part of our legal system. The bill repeals the Magistrates' Court Amendment (Assessment and Referral Court List) Act 2010 — ARC list act — to avoid the operation of the August 2015 sunset clause. The bill repeals the ARC list act to ensure that the legislative basis for the ARC list in the Magistrates Court remains in place. This is important as there are many people who need this system. Both individuals and communities rely on it for community safety and fairer outcomes for people exposed to the justice system.

As its name reflects, the list's role is to assess the individual needs of defendants who appear before it and refer them to appropriate health, welfare and disability services tailored to their particular needs. The list hears cases involving defendants who have a mental illness, intellectual disability, acquired brain injury, autism

spectrum disorder or neurological impairment, including dementia. Eligibility for the list is restricted to cases that do not involve serious violence or serious sexual offences.

The program recognises the particular circumstances of these mentally impaired defendants and seeks to appropriately address the issues associated with their offending behaviour. The majority of defendants with mental health issues have coexisting problems, such as homelessness, substance abuse, poor social or interpersonal skills and unemployment. Without appropriate treatment and support, mental illness can be exacerbated and lead to a life of cycling in and out of the justice system with diminishing prospects for reintegration into the community. I am sure we are all aware of the over-representation of people with mental illness in our prison system.

The assessment and referral list is one tool the courts are using to get better outcomes in these complex cases by diverting defendants to services that can address the matters that contributed to their offending behaviour. By reaching this group of defendants at an earlier stage of the offending cycle, we are helping to reduce the likelihood of reoffending and ultimately reducing the high cost of imprisonment. The ARC list plays an important role in community safety and reducing further disadvantage, and I am pleased that it is going to remain a feature of our justice system for many years.

The amendments that were made last year through the Family Violence Protection Amendment Act 2014 will allow courts to include finalisation conditions in interim family violence intervention orders. Where a finalisation condition is included, the interim order will automatically become a final order, unless contested by the respondent. These amendments would have commenced on 18 September 2015, or earlier by proclamation. The intention of today's bill is to put all of that on hold. In light of the Royal Commission into Family Violence, the default commencement date for these provisions will be extended until 1 July next year or after the royal commission reports.

The Department of Justice and Regulation has consulted with the Magistrates Court, Victoria Police, Victoria Legal Aid and the Federation of Community Legal Centres about options for commencing the interim order reform. They are all supportive of the deferral pending the royal commission's findings.

The bill also makes amendments to the Control of Weapons Act 1990. The first is to remove the ban on the sale to children of disposable knives designed for eating. In 2010, in response to community concern about knife crime, the then Labor government introduced a series of measures that included tougher search powers for police and banning children under the age of 18 from buying weapons.

The knife targeting laws were designed to make our vibrant, livable state even safer. Under the laws it is illegal for a person under the age of 18 to buy any type of knife, including a kitchen knife, or any other controlled weapon. It is also illegal for a retailer to knowingly sell any type of knife to a person aged under 18. At the time the government worked with industry associations to help retailers become aware of their new responsibilities and to play a part in helping change community attitudes, especially of young people, about the carriage of weapons such as knives.

This bill is exempting plastic knives designed for eating, as well as other disposable knives like wooden ones and bamboo ones, from the Control of Weapons Act. Therefore the ban on the sale and purchase of these types of knives to people aged under 18 will be lifted. It has been inconvenient and a bit of a bother to consumers and retailers. There are anomalies when you consider the practicalities of enforcement of laws relating to plastic cutlery. A lot of the time if you are getting takeaway food, the plastic knife is free and in reach of children at the time of the collection of the food.

This legislation has served a purpose in that I think retailers are very comfortable and know their responsibilities in relation to the prohibition on selling knives to people under 18 years of age. We are responding to the inconvenience caused by a ban on something that is actually not causing any harm to the community. In fact the Productivity Commission undertook a Costs of Doing Business — Retail Trade Industry inquiry, and Woolworths made a submission to that inquiry. It specified that the burden of complying with the law was causing substantial time delays at checkouts and self-service kiosks because the company was required to check people's ID cards if they were buying packets of picnic cutlery. In addition, Victoria Police has advised that there is no evidence that these knives have been used to commit or threaten acts of violence. I think we are all supportive of this refinement. It is common sense and will be welcomed by retailers and consumers alike.

The other amendment to the Control of Weapons Act is to change the notice requirements for planned designated area searches. Currently the act requires that when such a designation is made notice must be published both in the *Government Gazette* and in a daily newspaper and that notice has to contain a map

detailing the designated area. The bill before the house proposes to provide flexibility in relation to the publication in a newspaper by allowing the advertisement to refer to the address of a government website at which the map will be made available. It will significantly reduce the cost of advertising, and it is perhaps more user friendly for the majority of citizens considering the popularity of smart phones and devices. A lot of people access the media and newspapers online, and they will just be able to link into a map to see where that search has been designated rather than looking it up in print form.

The notice will still be required to contain a written description of the area sufficient to alert people to the designation of the area. From my memory of the ones I have seen, when a designated area is declared it can take the form of a description such as 'such and such train station' or a boundary of streets so that people, particularly locals, are aware that that is where the designated area will be. I wish to note that this amendment is not going to preclude police from publishing a map and providing a web link if it is deemed appropriate in the circumstances.

The bill amends the Working with Children Act 2005 to ensure that two recently created offences — failure to protect a child from sexual offence and failure to disclose sexual offence committed against child — are included in the working with children legislation. They are going to be classified as category B offences under the act.

The Working with Children Act was introduced 10 years ago now, and its purpose is to assist in protecting children from sexual or physical harm by ensuring that people who work or volunteer with them have their suitability to do so checked by a government body. A range of categories of different offences are considered by the department in relation to whether an applicant is permitted to undertake work associated with children.

In this case the two new offences are category B offences. Under the act anyone who has committed one of these category B offences is presumed to pose an unjustifiable risk to the safety of children and will be refused a working with children check unless the Secretary to the Department of Justice and Regulation is satisfied that the applicant or cardholder does not pose such a risk. I think we would all agree that those offences are quite appropriate to be placed in that category.

The bill further amends the Corrections Act 1986 to correct an unintended error that arose from the Mental Health Act 2014, which commenced its operation on 1 July 2014. The Mental Health Act unintentionally limits the current contract that Victoria Police has with G4S Custodial Services to transport mentally ill patients from Thomas Embling Hospital, to and from a court or a police jail. The act inadvertently only allows transportation of patients from a mental health facility to court or to a police jail, but it does not allow for them to come back. This amendment fixes that anomaly.

There are also amendments to the Sex Offenders Registration Act 2004 to allow the chief commissioner to arrange for CrimTrac to host the Victorian sex offender registry database within the national child offender system.

I am running out of time, so I will move to what I wanted to end with. The government is amending the Crimes Act 1958, and I am quite interested in the change being made. Currently there is no law applicable to joy-riding on a jet ski. If a person takes a car and joy-rides in it but does not damage it, the person is charged with theft, but that currently does not apply to jet skis and marine vessels. Therefore we are fixing that loophole. I found it quite interesting that for quite some time a person has been able to get away scot-free with a joy ride on a jet ski, so I am glad that that is being amended. I commend the bill to the house.

Mr MORRIS (Western Victoria) — I also rise to speak on the Justice Legislation Amendment Bill 2015, which seeks to make 13 amendments to relevant justice acts. The first amendment to which I refer is to the Control of Weapons Act 1990, and it concerns the sale of plastic knives to persons who are under age. I found this amendment interesting because I frequent many fast-food restaurants, such as KFC and the like, and plastic knives are freely available to members of the public, irrespective of age. Therefore it is a wise move to ensure that, irrespective of whether a person is under or over the age of 18, they have the capacity to purchase plastic knives. This amendment also covers bamboo knives, which might be seen to be environmentally friendly.

Another amendment to the Control of Weapons Act 1990 relates to random weapon searches and the need for maps to be advertised in daily newspapers. This existing provision is a cause of considerable expense to Victoria Police. It is pleasing to see that, with the passage of the bill, these maps can be printed online rather than needing to be printed in major newspapers, which would be of significant cost to Victoria Police.

The bill also involves an amendment to the Sex Offenders Registration Act 2004. This change allows

for CrimTrac to host the Victorian sex offender registry, which will reduce costs. We should all be looking for opportunities to reduce costs in the work we are doing, and that removal is very welcome.

Another amendment is to the Victorian Civil and Administrative Tribunal Act 1998, and it relates specifically to a reduction in fees and the like that will be charged to those bringing cases before the Victorian Civil and Administrative Tribunal (VCAT). The tribunal plays a very important role in Victoria in ensuring that members of the community are able to bring matters before VCAT to be decided. Many planning matters are brought before VCAT, and it is important that members of the community have the opportunity to be heard in places such as VCAT. However, it is also important to balance the needs of the community with the need to recoup costs, because running a tribunal such as VCAT comes at significant cost, so I certainly hope the amendment will strike an appropriate balance between recouping costs and at the same time ensuring that VCAT continues to serve the community through the important decisions it makes.

The amendments to the Confiscation Act 1997 ensure that forfeiture orders can be made to assets that are held outside the state of Victoria, which is pleasing to see. We live in a federation and, as that is the case, there needs to be the capacity to ensure that sensible decisions are able to be made about the forfeiture of particular assets when it is deemed appropriate.

Amendments are also made to the Working with Children Act 2005. Two recently created offences — those of failure to protect a child from a sexual offence and failure to disclose sexual offences committed against a child — category B offences, will be added to the working with children check assessments. I expect that this would be welcomed. It is important that we always have the safety of the children in our community as paramount, and by having this amendment added, children will be further protected by the important work that the working with children check achieves.

In terms of joy-riding on jet skis and other marine vessels — so not necessarily just jet skis — it is important that there be recourse for those who joy-ride so that the appropriate action can be taken against them. There is also an amendment to the Road Legislation Amendment Act 2013, which ensures that, as one system is rolled over to the other, there is a seamless transition in terms of the demerit point system.

A number of other amendments are being proposed through the bill, including amendments to the Emergency Management Act 2013, as well as other statute law revision amendments. The timing of these measures will also be considered as part of the Justice Legislation Amendment Bill. I thank the house for the opportunity to speak on this bill, and I look forward with interest to further contributions by members.

Mr YOUNG (Northern Victoria) — I rise to speak on this bill to acknowledge a couple of elements I have noticed within it. When the bill is broken down, my personal views are reflected several times within it, particularly when it comes to having a tough stance on crime and the need to ensure there is little impact on those innocent victims or those who are just going about their business. In my opinion the amendment of the Sex Offenders Registration Act 2004 will allow law enforcement easier access to critical information and in the process be an important tool to combat a lot of crimes.

The amendment to the Control of Weapons Act 1990 is simply just common sense. It relates to the sale of disposable plastic knives that are for the purpose of parties and barbecues. These are not dangerous weapons and should not be treated as such. Businesses are wasting valuable resources and time. A person does not purchase a plastic eating knife with malicious intent, and restricting their sale to adults over the age of 18 is simply unnecessary. I am often still asked for ID when purchasing alcohol, so imagine the silliness when I am asked to show proof of age when I want to buy a plastic knife.

I commend the bill to the house. I hope more similar common-sense changes are put in place in the near future to further allow people under the age of 18 to participate in certain activities.

Ms FITZHERBERT (Southern Metropolitan) — I am pleased to speak on the Justice Legislation Amendment Bill 2015. As others have said, it contains a raft of amendments to various pieces of justice legislation. The opposition will not be opposing these amendments, some of which are relatively minor. Mr Rich-Phillips highlighted, as have other speakers, the amendment to the Control of Weapons Act 1990 that enables disposable knives designed for eating with to be purchased by children. These sorts of changes make sense.

I refer in particular to the amendments to the Family Violence Protection Amendment Act 2014. My understanding is that this change was originally proposed by the previous government. The point I want to focus on is the commencement date. As I understand it, the change allows courts to include finalisation

conditions in interim family violence intervention orders. Where that is included, the interim order will automatically become a final order unless it is contested by the respondent. This seems to be a sensible change, which is responding to the kind of delay, trauma and difficulty that many people find themselves in when they are trying to navigate the court system to deal with a domestic or family violence issue. That being the case, I place on the record my concerns with regard to the commencement date.

I understand the government wants to manage its response to the Royal Commission on Family Violence and has suggested that this amendment not start to be used or take force until after the royal commission. I looked at the comments made in the other place by the Minister for Women, who is also the Minister for the Prevention of Family Violence. She is reported as saying:

> The royal commission is a very important and significant step in our bid to tackle family violence in Victoria. Within that context it makes every bit of logical sense to defer the amendments that have been brought before the house as part of this bill until after the royal commission has had a chance to complete its work and release its report and all of its recommendations. I feel sure that the amendments before us will be covered by the royal commission's considerations. That will then be an opportunity for this Parliament to make a range of legislative changes. I feel confident that we will have bipartisan support around those legislative changes, but that will come from a thorough examination of the issues.

It seems to me from the debate on this bill in both houses that the issues have been thoroughly raised and there is a large degree of support for them. This is a very simple change to make the process of intervention orders and their use easier for the people who need them most. It is clear that it will pass. Even if we do reassess this aspect of intervention orders as part of the work of the royal commission, people should be able to have the benefit of this in the intervening months. Further, does it mean that the government will not have any legislative or regulatory change regarding family violence until after the royal commission? However simple, useful or practical and however much that might help particular women and children here and now, must they wait another year?

We have talked a lot about the suffering of those who experience family violence, and what they experience when going through the court system. If we are able to alleviate this, we should. With those comments, I will conclude my contribution to the debate.

Mr HERBERT (Minister for Training and Skills) — It is a pleasure to sum up on this bill, which is an important piece of legislation. I thank all those who have made some excellent contributions to what is basically a large omnibus bill containing a whole heap of small amendments to various acts in the justice and roads portfolios. They include amendments to the Confiscation Act 1997 to improve recognition of forfeiture orders made under corresponding legislation in other jurisdictions; amendments to the Control of Weapons Act 1990 to allow the sale of disposable cutlery to children, which was banned some time ago as an unintended consequence of a ban on the sale of plastic knives; the Emergency Management Act 2013 is amended to extend regulation-making powers in that act to enable regulations to be made to underpin the new critical infrastructure resilience scheme which is due to commence on 1 July 2015; and the Sex Offenders Registration Act 2004 is amended to allow the Victoria Police sex offender register to be hosted on CrimTrac.

The bill repeals the Magistrates' Court Amendment (Assessment and Referral Court List) Act 2010 to preserve the operations of the assessment and referral act list. It also amends the Victorian Civil and Administrative Tribunal Act 1998 to further provide for regulation-making powers and powers of the principal registrar in relation to fees. The Crimes Act 1958 is amended to ensure that persons who take marine vessels for joy-riding can be adequately prosecuted for theft. Obviously that refers in particular to jet skis and sometimes their use. Currently someone can take a jet ski up onto a beach like Parkdale beach, which is close to my city residence. They bring their boats in.

I must say it annoys me. Being a passive beach dweller, I like to laze around the bay a little bit and perhaps do a bit of swimming. Often people bring in their jet skis and then go off and leave them on the beach. Currently if someone grabs a jet ski, takes it for a bit of a joy ride and dumps it somewhere else, it is not counted as theft, as it would be for other vehicles. The bill brings this behaviour into the domain of theft, as it should. These are valuable pieces of machinery. You are either taking it or you are not, and that is all there is to it.

This omnibus bill also makes changes to the Working with Children Act 2005 to include two new offences under that act, and it makes changes to the Family Violence Amendment Act 2014 to extend the default commencement date of reforms to the interim order process until after the Royal Commission into Family Violence issues its report.

The Royal Commission into Family Violence is a major initiative of the government. Clearly family violence is an important issue and one that is of course high on the national agenda. I do not want to

presuppose the outcome of the royal commission, but it is a major process and will result in major reforms. At a very high level the royal commission will look at the broad range of issues relating to family violence. Perhaps these issues have not been looked at in detail before, but they need to be looked at now. You only have to look in the media lately to see the number of women who have been killed by their partners in horrendous circumstances. There was one in court just the other day. It highlights the fact that a lot of these violent crimes are occurring at home. It is simply unacceptable for our society. These reforms need to be taken into consideration as part of that stronger look at the issue of family violence.

The bill also amends the Corrections Act 1996 to clarify arrangements for transporting mentally ill patients. It makes changes to the Road Legislation Act 2013 to clarify that demerit points incurred prior to 1 July 2015 may be taken into account for the purpose of the new demerit point scheme, which will commence on 1 July 2015. There are also other minor amendments to correct errors in recently passed legislation or to address issues raised by stakeholders.

The government has developed house amendments to this bill, and I ask that those amendments now be circulated.

Government amendments circulated by Mr HERBERT (Minister for Training and Skills) pursuant to standing orders.

Mr HERBERT — These amendments have come about after detailed discussions with the members of the Shooters and Fishers Party on the issues that they see as being relevant and that should be included in the legislation. The circulated amendments basically go to the issue of reducing the minimum age for participation in paintball competitions from 18 to 16. They also go to the issue of making it less costly for some of the casual referees of these competitions, who are often students, to participate by excluding them from the requirement to have fingerprinting done. Sometimes it is necessary to travel to Melbourne and make an appointment to have fingerprints taken, and it is very costly for people, often students, who want to do part-time refereeing but find it hard to come up with the money.

The house amendments have now been circulated. I will of course speak to those in more detail during the committee stage of the bill. I commend the legislation to the chamber.

Motion agreed to.

Read second time.

Instruction to committee

The PRESIDENT — Order! As the minister has indicated, amendments to the Justice Legislation Amendment Bill 2015 are proposed and have now been circulated. It has been important for me to consider in this circumstance whether the amendments are within the scope of the bill and whether an instruction motion ought to be permitted to allow those amendments to be considered by the house. I am aware that there is, as I said, a proposal to move amendments to the Justice Legislation Amendment Bill 2015 which would have the effect of including amendments to the Firearms Act 1996, as outlined by the minister. The Firearms Act is not currently included in the amending bill. I have seen the draft amendments, and while the act is not currently included in the bill, I note that the bill is an omnibus bill, amending many acts which fall broadly under the justice banner.

The long title of the bill concludes 'and to make miscellaneous amendments to various acts and for other purposes'. As such, the scope and purpose of the bill is wider and less specific than most bills, being amendments to many acts and of a miscellaneous nature. There are two tests that I felt it necessary to consider in respect of the proposed amendments the committee has to deal with: firstly, whether the proposed amendments are within the scope of the bill; and if not, then secondly, whether the proposed amendments are at least relevant enough to permit Mr Bourman to move his notice of motion 120, which is an instruction motion that was previously circulated to the house. If passed by the house, the motion will allow the committee of the whole to consider amendments to the Firearms Act.

In my view the amendments are not within the scope of the bill, but an instruction motion may be permitted on the basis that the subject matter of the amendments is relevant enough, as they would be further miscellaneous amendments within the area of justice.

Mr BOURMAN (Eastern Victoria) — I move:

> That it be an instruction to the committee that they have power to consider amendments and new clauses to amend the Firearms Act 1996 to lower the minimum age for participation in paintball activities from 18 to 16 and make other amendments to the requirements imposed on operators of paintball ranges.

Motion agreed to.

The PRESIDENT — Order! The committee is now able to consider the amendments that have been circulated by the Minister for Training and Skills and any further amendments in the committee process.

Committed.

Committee

Clause 1

Mr HERBERT (Minister for Training and Skills) — Ms Symes will join me at the table.

The DEPUTY PRESIDENT — Order! Mr Herbert has circulated government amendments to clauses 1, 2 and 56, new clauses to follow clause 56 and an amendment to the long title of the bill. The amendments seek to amend the Firearms Act 1996 to lower the age for participation in paintball activities, to modify requirements imposed on operators of paintball ranges and to alter the operative date. I understand Ms Hartland has amendments to the bill. Does she wish to have them circulated at this point?

Ms Hartland — Yes.

The DEPUTY PRESIDENT — Order! Ms Hartland has amendments to clause 18 which relate to the fees or charges for certain services provided by the Victorian Civil and Administrative Tribunal.

Mr HERBERT (Minister for Training and Skills) — I move:

1. Clause 1, page 4, after line 24 insert —

"( ) to amend the Firearms Act 1996 to lower the minimum age for participation in paintball activities from 18 to 16 and make other amendments to the requirements imposed on operators of paintball ranges; and".

The amendment is designed to lower the minimum age for participation in paintball activities from 18 to 16 and make other amendments to the requirements imposed on operators of paintball ranges. The amendments obviously go together. I intend to comment on the entire range of amendments, with the Deputy President's agreement.

As I said in my contribution to the second-reading debate, these amendments have come about following discussions with the Shooters and Fishers Party. The government has agreed to move amendments to include in the bill minor amendments to the Firearms Act 1996 to clarify rules relating to the sport of paintball. As has been noted, this bill is an omnibus bill that contains numerous amendments to legislation within the portfolios of the Attorney-General, the Minister for Police and other ministers. It is therefore an appropriate vehicle for these amendments, as decided by the house.

The amendments amend the bill to include two small amendments to the Firearms Act relating to the sport of paintball, a very popular sport in many communities around Victoria. Paintball is played on a paintball range with what is known as a paintball marker, which propels paint pellets at some force, generally by gas propulsion. These paintball markers are strictly regulated under the Firearms Act. Operators of paintball ranges are required to hold dealers licences in accordance with part 3 of the Firearms Act. Section 75 of that act requires the details of all employees of a dealer to be provided to Victoria Police immediately upon their employment, together with identification documents and a full set of fingerprints.

Paintball operators, however, often employ a large number of paintball range employees, the majority of whom are university students or casual workers, as paintball ranges predominantly operate on weekends. The government believes the requirement to provide a full set of fingerprints, in particular the costs associated with that, is unnecessarily onerous in relation to some of these employees. To fulfil this requirement these employees are required to attend one of a limited number of police stations and pay what is a reasonably substantial fee if they are a university student or just doing it casually for a couple of hours on a weekend.

The first amendment will remove the requirement to include a full set of fingerprints with identification documents for those individuals employed for the specific reason of refereeing paintball games and who do not undertake any other activity within the paintball ranges, so they are basically just casual referees. The requirement to notify Victoria Police of a person's employment and provide the necessary identification documents for a criminal history check will remain. All full-time employees will still be required to provide a full set of fingerprints.

The second amendment to the Firearms Act will reduce the minimum age for participation in the sport of paintball from 18 to 16 years of age. The government considers that 16 is an appropriate age at which to participate in paintball; 16-year-olds are sufficiently physically developed to use a paintball firearm and follow instructions from paintball field operators, particularly in the proper use of paintball goggles and associated equipment that ensures their safety on the paintball field.

In short, we think a lot of people at age 16 might have birthday parties or a range of other activities at a paintball range and we believe it is appropriate for them to participate without their parents necessarily being there.

In regard to fingerprinting, when it comes to casual employees in what is basically a sport, we believe it serves no purpose for the referees to be spending a lot of money on the fingerprinting aspect of it as long as they have done their police checks and other security is in place. With that, in terms of clause 1 the government is moving this amendment.

Mr BOURMAN (Eastern Victoria) — I would like to acknowledge the previous government, as the amendment I asked for in relation to paintball activities was originally part of another omnibus bill that did not make it. I most certainly acknowledge the then government's support in incorporating it.

If this amendment is agreed to, this bill will amend the Firearms Act 1996 to allow those participating in paintball activities to be the age of 16 or over. The change in age has long been requested by both industry and young participants. It will bring fun, outdoor activities to young participants as well as bringing economic benefits to both paintball operators and local communities.

This change also abolishes the need for a full set of fingerprints to be taken when applying for employment at a paintball field. The majority of these employees, as has been noted, are transient or casual employees, and this requirement is considered to be unnecessarily onerous.

Other states have set up the following ages for participants: New South Wales, 16; South Australia, 12; Queensland, 15; Western Australia, 12; Northern Territory, 14; Tasmania, which has only recently legalised paintball, 18; Australian Capital Territory, 16. To put that in context, an L-plater gets an under-supervision licence at 16, and you can get a junior shooters permit at 12.

Paintball is a sport in which players compete in teams or individually and eliminate opponents by tagging them with capsules containing a water-soluble dye and featuring a gelatinous outer shell — called paintballs — propelled from a device called a paintball marker. Paintballs are generally composed of a non-toxic, biodegradable, water-soluble polymer. The game is regularly played at a sporting level, with organised competitions involving major tournaments and professional teams and players. Paintball technology allows games to be played on indoor or outdoor fields of varying sizes. A game field is scattered with natural or artificial terrain which players use for tactical cover. Game types can vary but include capture the flag, elimination, ammunition limits, defending or attacking a particular point or area or capturing an object of interest hidden in a playing area. Depending on the variant played, games can last from seconds to hours and, in scenario play, even days.

Ms HARTLAND (Western Metropolitan) — The Greens will not be supporting this amendment. We believe the legislation is adequate and does not need to be changed.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The coalition will be supporting this amendment. It is interesting that the amendments have come forward as government amendments. From what we saw with the motion moved by Mr Bourman earlier this afternoon to expand the scope of the committee stage, it is apparent that these amendments were developed by Mr Bourman and the Shooters and Fishers Party to give that relief on the age for paintball and with respect to the fingerprinting requirements. Mr Bourman said in his contribution that this was included in a coalition bill last year.

It was curious to hear the Minister for Training and Skills stand up and talk about the merits of these amendments when the government did not include them in its own bill, which it introduced into the Parliament two weeks ago. I am pleased, however, to see that government members have seen the light and seen the merits of the amendments proposed by Mr Bourman and the Shooters and Fishers Party to the extent that government members have taken them onboard as government amendments. I am very pleased to say that the coalition will support Mr Bourman's amendments which have been moved by the minister this afternoon.

Mr FINN (Western Metropolitan) — I too support the amendment moved by Mr Herbert. I congratulate the government on its rare show of common sense and logic, and I trust that Mr Herbert enjoyed his trip to Damascus, given that this is not something we normally expect to hear from members of the ALP. Some members of this house who have been around long enough would remember that I have been involved with the paintball issue for some decades. When a previous Premier of this state sought to destroy the paintball industry, I was very strongly opposed to that move and fought feverishly against it. It caused me considerably more pain than being hit by a paintball, I can assure you.

I support these amendments. In fact I go further: I do not believe paintball should be covered by a firearms act at all. I think it is nonsensical, to tell you the truth. I believe that paintball markers are pretty much in the same category as water pistols and considering them in

the same category as guns is just a nonsense. It is just ridiculous. I therefore urge the house to support the amendments, while hoping that at some stage further common sense will prevail and paintball will be removed from the Firearms Act 1996 altogether.

Committee divided on amendment:

Ayes, 32

Atkinson, Mr	Melhem, Mr
Bath, Ms	Morris, Mr
Bourman, Mr	Mulino, Mr
Carling-Jenkins, Dr	O'Donohue, Mr
Crozier, Ms	Ondarchie, Mr
Dalla-Riva, Mr	Patten, Ms
Davis, Mr	Peulich, Mrs
Drum, Mr	Pulford, Ms
Eideh, Mr	Purcell, Mr (*Teller*)
Elasmar, Mr	Ramsay, Mr
Finn, Mr	Rich-Phillips, Mr
Fitzherbert, Ms	Shing, Ms
Herbert, Mr (*Teller*)	Symes, Ms
Jennings, Mr	Tierney, Ms
Leane, Mr	Wooldridge, Ms
Lovell, Ms	Young, Mr

Noes, 5

Barber, Mr	Pennicuik, Ms
Dunn, Ms (*Teller*)	Springle, Ms
Hartland, Ms (*Teller*)	

Amendment agreed to.

A**mended clause agreed to.**

Clause 2

Mr HERBERT (Minister for Training and Skills) — I move:

2. Clause 2, line 34, omit "and Part 7" and insert ", Part 7 and Part 16".

3. Clause 2, page 5, line 2, omit "subsection (6), Part 7 comes" and insert "subsections (6) and (7), Part 7 and Part 16 come".

4. Clause 2, page 5, after line 6 insert —

"( ) If a provision of Part 16 does not come into operation before 1 July 2016, it comes into operation on that day".

These are principally consequential amendments which are part of the overarching change in terms of the major amendments. The most salient point is that part 16 of the bill does not come into operation before 1 July 2016; it comes into operation on that day.

Amendments agreed to; amended clause agreed to; clauses 3 to 17 agreed to.

Clause 18

The DEPUTY PRESIDENT — Order! I call on Ms Hartland to move her amendment 1, which is a test for her remaining amendments 2 and 3.

Ms HARTLAND (Western Metropolitan) — I move:

1. Clause 18, page 14, line 3 omit "regulations."." and insert "regulations.".

This is quite a straightforward amendment, as I discussed during my contribution on the bill. We were alerted to concerns expressed by Justice Connect, the homeless law service, about the video link fees that people have to pay if they are in prison. All other fees can be waived, but this fee and a few others cannot be because they are not covered in the regulations. It is a very simple process. This amendment will mean that those other fees can also be waived at the discretion of the registrar.

Mr HERBERT (Minister for Training and Skills) — The government will be supporting this amendment. It is basically in line with the principal intention of the bill, which is to provide relief to those who cannot afford fees by providing the capacity for fees to be waived. As Ms Hartland just said, in terms of the video link fees, homeless people and a range of others will not have the capacity to pay them. We believe they should have the capacity to participate even if they do not have the resources, so we will be supporting this amendment.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The coalition will not oppose Ms Hartland's amendment, which expands the scope of this clause by inserting new subsection (1A). It is not entirely apparent that this extra element is necessary given that it refers to things that are not statutory fees or whether it is necessary to put that power in the statute. However, it does not diminish the intent of the substantive clause in the bill, so the coalition will not oppose it.

Amendment agreed to.

Ms HARTLAND (Western Metropolitan) — I move:

2. Clause 18, page 14, after line 3 insert —

"(1A) If a fee or charge for services provided by the Tribunal of a kind not referred to in subsection (1) is payable, the principal registrar, on application, may reduce, waive, postpone, remit or refund the fee or charge if the principal registrar considers the payment of the fee or

charge would cause the person responsible for its payment financial hardship or on any other prescribed ground in the regulations.".

As I said in my contribution earlier, it is clear that this is something that can be simply fixed by this amendment.

The DEPUTY PRESIDENT — Order! And amendment 3?

Ms HARTLAND — I move:

3. Clause 18, page 14, after line 8 insert —

'(4) In section 132(2) of the **Victorian Civil and Administrative Tribunal Act 1998**, after "subsection (1)" **insert** "or subsection (1A)".'.

Mr HERBERT (Minister for Training and Skills) — Just briefly, these amendments give effect to what we have just voted on and, as I indicated earlier, the government will be supporting them.

Amendments agreed to; amended clause agreed to; clauses 19 to 56 agreed to.

New part heading

Mr HERBERT (Minister for Training and Skills) — I move:

5. Clause 56, after line 18 insert the following Part heading —

"**Part 16 — Amendments to the Firearms Act 1996"**

This is a consequential amendment from the principal amendments we are making, and it simply changes a heading.

Ms PENNICUIK (Southern Metropolitan) — Is clause 5 a test for any further amendments or is it a stand-alone amendment?

The DEPUTY PRESIDENT — Order! It is a stand-alone amendment.

Committee divided on amendment:

Ayes, 33

Atkinson, Mr
Bath, Ms
Bourman, Mr
Carling-Jenkins, Dr
Crozier, Ms
Dalidakis, Mr
Dalla-Riva, Mr
Davis, Mr
Drum, Mr
Eideh, Mr
Elasmar, Mr
Finn, Mr
Fitzherbert, Ms
Herbert, Mr
Jennings, Mr
Leane, Mr
Lovell, Ms
Melhem, Mr
Morris, Mr
Mulino, Mr
O'Donohue, Mr
Ondarchie, Mr
Patten, Ms
Peulich, Mrs
Pulford, Ms
Purcell, Mr
Ramsay, Mr
Rich-Phillips, Mr
Shing, Ms (*Teller*)
Symes, Ms
Tierney, Ms
Wooldridge, Ms (*Teller*)
Young, Mr

Noes, 5

Barber, Mr (*Teller*)
Dunn, Ms
Hartland, Ms
Pennicuik, Ms (*Teller*)
Springle, Ms

Amendment agreed to.

New part heading agreed to.

New clause AA

The DEPUTY PRESIDENT — Order! New clause AA deals with specific requirements for operators of paintball ranges.

Mr HERBERT (Minister for Training and Skills) — I move:

6. Insert the following New Clause to follow clause 56 —

"AA Requirement to notify Chief Commissioner of persons employed in business or change of nominated person

(1) For section 75(4)(b)(ii) of the **Firearms Act 1996** substitute —

"(ii) subject to subsection (5), a full set of the person's fingerprints.".

(2) After section 75(4) of the **Firearms Act 1996 insert** —

"(5) A notice under this section is not required to be accompanied by the person's fingerprints if the person is employed solely for the purpose of officiating at a paintball game.".".

I was speaking on this before the unkind comment from Mr Finn about how I had changed on the road to Damascus. Sometimes I think it would be kinder and nicer if we donned white overalls and goggles and fired a few paintball shots at each other, rather than throwing barbs across the chamber; it might be a bit more dignified.

This change basically relates to the fingerprint issue in relation to people working in the paintball industry, as part of the Firearms Act. We have very tight controls, and as I said earlier, the amendment seeks to eliminate the fairly onerous and costly requirement for people who work casually on weekends as referees at paintball games to have to undergo fingerprinting. The requirement to notify Victoria Police of a person's employment and provide necessary identification for a

criminal history check will still remain. It is the fingerprinting requirement for casual staff doing refereeing that will be eliminated. Full-time staff involved in a range of other areas will still have fingerprinting done.

Ms PENNICUIK (Southern Metropolitan) — I remind the committee that we divided on amendment 5 to clause 56, which inserted the heading for new part 16 into the bill. The Greens do not want to support any of the new parts inserted into the bill under part 16 — namely, the amendments to the Firearms Act 1996, new clauses AA and BB, to follow clause 56, and amendment 8, and I presume Mr Herbert will talk further about the long title. Rather than calling for a division on every single amendment, I make it clear to the committee that the Greens' opposition to amendment 5, which inserted the heading for new part 16, conveys our position regarding the following amendments.

The DEPUTY PRESIDENT — Order! I thank Ms Pennicuik for that clarification.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The coalition will support this amendment to relieve the requirement to notify the chief commissioner with respect to fingerprinting, as outlined by the minister. This amendment proposed by Mr Bourman and the Shooters and Fishers Party has been adopted by the government. It is an appropriate red tape reduction in the paintball industry, and we are pleased to support it.

New clause agreed to.

New clause BB

The DEPUTY PRESIDENT — Order! This clause deals with the minimum age for participation in paintball activities.

Mr HERBERT (Minister for Training and Skills) — I move:

7. Insert the following New Clause to follow clause 56 —

"BB Non-prohibited persons who are exempt from requirement to hold a licence under Part 2

In Column 1 of item 6A of Schedule 3 to the **Firearms Act 1996**, for "18 years" **substitute** "16 years".".

This amendment changes the minimum age from 18 to 16 years. As I have said in discussions with the Shooters and Fishers Party, the government believes 16 is a more appropriate age for participation in this activity. It is more in line with other states — in fact it is higher than many — and given this is a fairly heavily regulated activity in terms of the requirement for goggles, other safety gear and particular knowledge, we believe 16 is an appropriate age to participate in this activity. I commend this amendment to the committee.

New clause agreed to; clause 57 agreed to; schedule 1 agreed to.

Long title

The DEPUTY PRESIDENT — Order! Mr Herbert's amendment 8 seeks to amend the long title of the bill and has been tested by his previous amendments.

Mr HERBERT (Minister for Training and Skills) — I move:

8. Long title, omit "and the **Road Legislation Amendment Act 2013**" and insert ", the **Road Legislation Amendment Act 2013** and the **Firearms Act 1996**".

As you said, Deputy President, this amendment comes about because of the success of the other amendments to the bill. It is straightforward and simply amends the long title in regard to the Road Legislation Amendment Act 2013 and the Firearms Act 1996, in line with the amendments we have just passed.

Amendment agreed to; amended long title agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Motion agreed to.

Read third time.

BUDGET PAPERS 2015–16

Debate resumed from 7 May; motion of Ms MIKAKOS (Minister for Families and Children):

That the Council take note of the budget papers 2015–16.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise and make a contribution this afternoon on the take-note motion for the 2015–16 Victorian budget. The budget that was brought down by the Treasurer two weeks ago is a true Labor budget. I have heard members in the other place, and indeed members in this place, talk about the way in

which the first budget brought down by the Treasurer, Tim Pallas, is a true Labor budget, and I could not agree more, because this is a budget which, after six months of a Labor government, delivers a number of downgrades. It delivers a downgrade in the forecast for economic growth in Victoria over coming years, it delivers an increase in forecast unemployment in Victoria in coming years. It delivers a downgrade in the forecast budget surpluses over the four years of the forward estimates period, and it delivers a significant cut in the Victorian government's spending on key infrastructure. Of course we know how vital infrastructure investment is in this state. The budget also delivers, in true Labor fashion, a substantial blowout in recurrent expenditure.

In just six months in office we have seen this government put in place a budget where all the key economic and budget metrics have deteriorated since the change of government in November 2014. As those opposite have said, it is a true Labor budget, and I will be pleased to go through and expand on that in some detail in the next little while.

A budget should address the key challenges facing the state of Victoria, challenges such as driving economic growth, putting in place the levers and the tools which encourage private sector investment, the tools which encourage private sector employment and the tools which lead to greater prosperity in Victoria. A budget should address challenges like meeting population growth, which we have seen now for a sustained period of time, and the budget continues to forecast population growth in Victoria of about 1.8 per cent per annum. That is substantially higher than it was in the 1990s. That is a big challenge for the Victorian government, and it is a big challenge for the commonwealth government, but it is a challenge that governments need to meet on a year-by-year basis. It is something that needs to be addressed each and every year.

Two key ways that governments need to address population growth are through a more productive and efficient delivery of government services — that is to say, being able to deliver more for a given dollar invested in service delivery — and also through continued investment in public infrastructure. As every member of this chamber would know, and indeed as every one of our constituents would know, there is an insatiable demand in the Victorian community for further investment in public infrastructure. Our public infrastructure is not keeping pace with our population growth, and it is incumbent upon the Victorian government to continue to invest in that public infrastructure to at least try to keep up with the rapid population growth we have now been experiencing for a number of years.

One of the other challenges a budget should address is productivity growth in the Victorian economy. That is the real driver of the standard of living. Over the coming years and decades, if we look to improve the standard of living for the Victorian community and to improve the standard of living for the Australian community, we need to address the productivity challenge. We need to put in place the tools which allow productivity growth to improve.

If we go back to the 1990s, we saw a raft of micro-economic reform take place here in Victoria. There was the privatisation of certain assets such as electricity. There was widespread reform in the public sector. As a consequence of those reforms in the 1990s, the Victorian economy experienced very strong productivity growth. In fact productivity in Victoria was growing well above the national average through the second half of the 1990s. There was reform in the first half of the 1990s, and we saw the dividends of that through above national average productivity growth in the second half of the 1990s. That led to an improved standard of living for the Victorian people.

However, as we moved into the 2000s that productivity performance dropped off and productivity growth in the Victorian economy dropped back to around the national average. It bumped along at the national average for the first half of the first decade of this century. In the later years of the Brumby government we saw a sharp deterioration in productivity performance in the Victorian economy. In fact we had years when Victoria's productivity growth was either zero or it deteriorated and we went backwards.

That is simply not sustainable. We cannot have an economy where productivity growth is negative. We cannot expect to compete with the rest of Australia or in the Asia-Pacific region if we have negative productivity growth. There is a strong challenge for government to put in place the tools and to pull the levers which encourage productivity growth. These are things such as labour market reform, investment in public infrastructure and putting in place incentives for private sector investment in infrastructure and capital equipment to drive productivity. We have not seen that in this budget.

The other key thing a budget should do is deliver on the service expectations of the Victorian community. Again, with a rapidly growing population, the needs for service delivery — be it in health or education, including tertiary education — are growing. The

government needs to match that growth. It needs to meet that expectation in demand and to do it not simply by throwing additional money into existing structures but by looking at how those structures and that service delivery can be improved to get better results and better delivery for Victorian taxpayers for the money that is invested.

Those are the types of things you look to see in a state budget. The budget should set out the government's vision for what it expects to achieve in the short to medium term, and it should set out the plan for how that is actually going to be achieved. What we have not seen in this budget is any vision or any plan. At best this budget is a grab bag of election commitments that are incoherent in how they hang together to deliver a vision for the state. It seems that many of the commitments were made by people looking at nothing more than an electoral map, with the then opposition deciding where its electoral prospects were and throwing the commitments together as an incoherent budget that this Parliament is now being asked to consider. We do not have the vision and we do not have the plan to deliver on the long-term needs of the state: to grow our economy, to drive productivity growth, and to deliver the infrastructure that is required and the service delivery needs of the state.

I would like to reflect on what this budget says about the Victorian economy. The benchmark against which this budget should be measured is the pre-election budget update, which is not a political document. It is not a document produced by the current government or the previous government. It is a document which under the Financial Management Act 1994 the Secretary of the Department of Treasury and Finance is required to produce and release after the writs for an election have been issued, so it is a document produced independently of government. It sets out in a factual way the state of the budget at a point in time, being the first or second week of an election campaign after the issue of the writs. It sets out changes from the previous state budget. It sets out clearly any commitments that have been approved by cabinet and are on the books at that point in time. It also provides Treasury's best estimate of the future direction of the state economy. It reports on things like all the standard metrics you would expect in a budget: economic growth, population growth, unemployment, employment growth et cetera.

That independent document produced by Treasury during the course of the election campaign is the baseline against which this government's budget and its economic forecasts are to be measured. As I said at the outset, it is very telling that so many of the key indicators in this budget show a deterioration as compared to what is in the pre-election budget update.

The first indicator to reflect on is growth in the Victorian economy. After six months of the Andrews Labor government and after this house has passed the government's so-called jobs plan legislation, we have actually seen a downgrade in forecast economic growth in Victoria. After six months of Labor, Treasury now believes the economy will grow more slowly than it believed it would back in November last year. In fact the pre-election budget update for the current financial year forecast economic growth of 2.3 per cent in the state economy. That has now been cut by 25 basis points to 2.25 per cent. For the next financial year, the one with which this budget is concerned, previously the forecast economic growth was 2.75 per cent. That has now been cut to 2.5 per cent.

While the numbers in percentage terms do not sound significant, when you are talking about an economy worth more than $360 billion, the impact is very significant. As a consequence of the downgrade in economic growth, for each of the next budget years the Victorian economy will be $6 billion smaller than was previously forecast by Treasury. So after six months of Labor government, Treasury, having updated those economic forecasts, now believes the Victorian economy will be $6 billion smaller this year and more than $6 billion smaller next year.

What does that say about the economic credentials of this government, that after six months Treasury is downgrading its forecast for the economy? This is after the passage of what we were told was an incredibly important jobs plan — that hollow piece of legislation this Parliament dealt with in its first weeks after resumption this year. We were told that it was going to be the panacea for any economic challenges in Victoria. What does it say that that is now in place and yet the economy is expected to be $6 billion smaller than was otherwise forecast to be the case before this government was elected and this package was put in place?

Likewise with unemployment. We heard a lot from Labor members in opposition and in government about employment and indeed unemployment. Again, over the past six months we have seen a deterioration in Treasury's estimates of unemployment in Victoria. Not only is Treasury now estimating that unemployment will be higher but it is also estimating that unemployment will be higher for longer. Again contrasting that with the pre-election budget update, in 2016–17 unemployment was forecast to be 6 per cent. That has been increased to 6.25 per cent. For the year

beyond, the expectation was that it would fall from 6 per cent to 5.5 per cent. That forecast decline is now gone and unemployment is forecast to be 6 per cent.

So after four years of the proposed economic policies of this government we see in the out years of the budget that unemployment will be substantially higher. This is from a government whose members came in with their jobs package, passed their legislation and said everything was going to be fine, 'We're going to create all these jobs'. The reality is Treasury does not believe that. In fact Treasury is forecasting higher unemployment as a consequence of the policies of this government.

I want to take this opportunity to remind the government of its commitment around jobs. In the past six months the language from the government has shifted. When it was in opposition and indeed when it was first elected its members talked about their promise to create 100 000 new full-time jobs. In the past couple of months the rhetoric has changed. The key word 'full-time' has been dropped. If you look at the budget papers and the budget speech, full-time jobs do not appear in the government's target. Reference is made only to jobs. The original commitment made by government members and the target against which it should and will be measured is the creation of full-time jobs. The commitment was 100 000 full-time jobs created over the four years of this government.

That means the government needs to be creating 2100 new full-time jobs each and every month. The latest Australian Bureau of Statistics data available, which is to April this year, shows that new full-time job creation has been barely 1000 jobs a month. In the first four months of this government job performance has been half of what the government said it would be. It needs 2100 a month to meet its target; it has barely reached 1000 a month. In the last month of data, full-time employment in Victoria fell by 12 000. It is very hard for Victorians to have confidence that this government will meet its target of 100 000 new jobs over the next four years and that the policies put in place by the package of legislation that was passed earlier this year will deliver the jobs promised by the government just six months ago.

I would like to turn now to the strategy that underpins this year's budget. The coalition government, through its four budgets, had a very clear strategy around what we wanted to achieve and what our targets were. That encompassed both long-term and medium-term objectives. I will run through these in a bit of detail because they are very relevant to the direction in which this government is now heading and what this government regards as its priorities.

In the last coalition budget, for 2014–15, budget paper 2 set out in detail what the budget strategy was. It set out the long-term financial management objectives of the government. There were five of those. The first was 'Managing responsibly'. It says:

> Victoria's state finances will be managed responsibly to enhance the wellbeing of Victorians.

It is pretty crucial that the focus was on managing finances for the wellbeing of Victorians. The second long-term strategy we had in place was 'Looking after the future'. It reads:

> The endowment of public sector wealth bequeathed by the current generation of Victorians to the next will be no less than the current generation inherited from the previous generation.

This is a really critical one. This objective talks about the intergenerational transfer of wealth, and absolutely central to that is the issue of intergenerational transfer of debt. It is very telling that this budget has dropped the long-term objective to look after the future and ensure that what we pass on to future generations in terms of wealth is at least equal to what we have. The Labor government is not committed to that intergenerational transfer of wealth, and that is because this government knows that over its four-year period in office we are going to see state debt rise substantially. We will have an intergenerational transfer of debt rather than an intergenerational transfer of at least equal wealth.

One of the other objectives we had was 'Managing the unexpected'. It states:

> The state's financial position will be robust enough to absorb and recover from unanticipated events, and to absorb the volatility inherent in revenues and expenses.

That is also a critical objective for a government, because budgets experience unexpected shocks. Over the last four years we saw a number of shocks to the budget. They came along quickly and needed to be addressed quickly. The shocks were on both sides of the account. On the revenue side we repeatedly saw GST receipts being written down by the commonwealth. The GST pool shrank or the Commonwealth Grants Commission came in and reallocated the state's share of GST and we saw the amount of GST flowing to the state cut. We periodically saw stamp duty revenues cut. As the property market softened, prices and volumes came down. The level of revenue we were getting from stamp duty dropped away.

On the expenditure side of the account we had shocks such as the need to address floods, which occurred repeatedly early in our government's term. In the summer periods of our first two years of government we had substantial floods through northern and western Victoria, which required substantial recovery funding. That sort of funding often runs into hundreds of millions of dollars, and the budget needs to be robust enough to absorb those types of expenditure shocks. So it is with considerable surprise that I see this government no longer regards managing the unexpected as one of its key budget strategy objectives. That has been deleted from this year's budget papers.

Our next objective was 'Improving services'. It reads:

> Victoria's public services will improve over time through enhanced efficiency and through a growing capacity of the Victorian economy to fund those services.

That has been substantially downgraded in the current budget strategy. It now simply states, 'Public services will improve over time'. There is no mention of efficiency or of growing capacity. You have to ask yourself why a government would remove a commitment to efficiency and to growing capacity in the economy for service delivery. What are this government's objectives when it deletes efficiency and growing capacity?

The fifth long-term objective set out by the coalition was 'Maximising community benefit'. It reads:

> Public sector resources will be allocated to those activities which generate maximum community benefit.

Again you would think it was self-evident that you commit government resources to the areas where they will do the most good and deliver the greatest benefit to the public. But in this year's budget the Labor government has simply deleted any reference to maximising community benefit. It is no longer a priority of this government, and we have seen enough in the first six months — for instance, what this government has done with the Construction, Forestry, Mining and Energy Union and other unions — to understand where its priorities lie in terms of the expenditure of public moneys. It is certainly not committed to maximising community benefit in the way the coalition government was.

Likewise, along with our long-term objectives, we had in our budget four short-term objectives. Those objectives drove some key budget decisions on a year-by-year basis, a very direct basis, as the government was preparing budgets.

The first of our medium-term objectives that we laid down in the budget was infrastructure investment. We had a commitment to infrastructure investment of 1.3 per cent of gross state product, calculated over a five-year rolling average basis. This was in recognition of the fact that, as I said earlier, we have population growth of 1.8 per cent in Victoria — that is, sustained growth at 1.8 per cent — and that population growth is leading to an insatiable demand for public infrastructure. The Victorian government needs to meet the need for that infrastructure, and that is why we had a target of at least 1.3 per cent expenditure of gross state product on infrastructure on a five-year rolling basis. But — surprise, surprise! — this government has completely deleted any target, any commitment, to public infrastructure as one of the key budget measures.

I refer to net debt. We had a commitment that general government net debt would be reduced as a share of gross state product over the decade to 2022. Of course debt is one of the big challenges for a Labor government, and I will come to that in a bit more detail shortly. But what is worth noting is that the current government has no commitment to the reduction of net debt. It removed the target to reduce it by 2022, and it has removed the intent to reduce it in this year's budget.

I refer to superannuation liabilities. We had a commitment to paying down the unfunded defined benefit superannuation liabilities; that stands with the current government. But the fourth medium-term objective that we had — and again it is critical to the strategy and direction of this year's budget — related to the operating surplus. We had a commitment to a net operating surplus of at least $100 million at a level consistent with infrastructure and debt parameters that we had laid down. This government no longer has a minimum surplus target, and I expect as we go on and we see things unfold over the next four years, we will see those surpluses year by year become smaller and smaller, just as they did through the period of the Bracks and Brumby governments in the last decade and into the start of this decade.

We have seen a dramatic shift in budget objectives and budget strategy by this government. No longer are targets such as spending on infrastructure, maintaining budget surpluses and paying down debt, ensuring that future generations are not burdened with the debt of current generations, important to this government. Efficiency and growing capacity is not important to this government. That should be of great concern to Victorians, because we are seeing a watered-down set of objectives that could lead this state down the path of the worst of what we saw in the 1980s in Victoria under the Cain and Kirner governments.

I will reflect briefly on the budgetary challenges the coalition government inherited in 2010, because they are a marker of where we are now headed under this latest Labor government. When the coalition came to office at the end of 2010, it inherited a budget where, over the 11-year life of the previous government, revenue had been growing at an average of about 7.3 per cent and spending had been growing at 8 per cent per annum. There was a mismatch between revenue coming in the door and government spending. That meant we saw our budget surpluses reduced year on year.

The windfall gains we had through that decade of the Bracks and Brumby years, which was the first decade after the GST was introduced, were not invested in infrastructure. In some years this was hundreds of millions into billions of dollars of windfall revenue, as the economy was growing strongly. That was not preserved for the future benefit of Victorians and was allowed to go into recurrent expenditure. Year-on-year spending, day-to-day spending, soaked up all that extra capacity that we had as a one-off through the strongly growing economy of that period.

As a consequence of that, we saw when we came to office that the budget was at a tipping point. In late 2010 Victoria was at risk of going into deficit, because spending had been growing so much faster than revenue. Revenue growth by that stage had dropped off, and if we as a coalition government had not intervened, we would have seen a deficit budget in 2011–12 and growing deficits years beyond that. That is where Labor had taken us, so it is interesting to reflect on where we have got to in this, the 2015–16 budget. At the time of the election last year the coalition bequeathed a budget to Labor that was in a very healthy position. We had spending growth under control, revenue growth was modest and surpluses were growing. We now see in this first budget that the key metrics are already getting out of control.

This year's budget forecasts that the state will collect an extra $2.6 billion from Victorian taxpayers over the next four years, and again I compare this to the pre-election budget update released by the Treasury last November. In just six months Labor has increased its tax take, increased its fee take and increased grant revenue, to the extent that that has shifted from the commonwealth, by $2.6 billion. This is equivalent to just under $1300 for each and every Victorian household. Under Labor's budget, over the next four years every Victorian household will be paying an extra $1300 in taxes or fees and charges et cetera which will flow into the state account.

However, this is only sustainable if the forecasts that have been made in this budget are realised. In putting the budget together the government is betting on strong growth in land tax, stamp duty and dividends, and on taking a record level of dividends from our public authorities. Entities like the Victorian Managed Insurance Authority, which has never before paid a dividend to the state, and arguably has limited capacity to do so, is being hit with more than $370 million of dividends in this year's budget. It is being raided and stripped of dividends to prop up the budget bottom line. The Transport Accident Commission (TAC), which every Victorian motorist contributes to through their TAC charge as part of their registration renewal, is being hit for an extra $500 million over four years. That is an extra $125 million a year ripped out of the TAC. It is money that will not go into TAC campaigns and will not pay for injured motorists, and it is all to prop up the bottom line of this year's budget.

We are seeing an extra $2.6 billion collected from Victorians over the first four years just through these measures, and this is just in the first budget. Wait until we get to the 2016, 2017 and 2018 budgets to see what will really be taken out of Victorians' pockets by the government. It is worth remembering that the government and the Treasurer promised no new taxes in the budget — no increased fees, taxes or charges under a Labor government, yet the budget delivers not one but two increased or new taxes. This is yet again a Labor lie.

The government said it was committed to no new taxes, yet we have a new absentee landowner land tax of an extra 0.5 per cent for so-called absentee landowners and a foreign buyer stamp duty of 3 per cent. The justification that has been given for this by the Treasurer is absolutely bizarre. On the day the budget was released the Treasurer put out a statement announcing his foreign buyer stamp duty and non-resident absentee landowner tax, and he said:

> We think it's inherently unfair on Victorians for foreign purchasers to take the gains of owning property in Victoria through the services and infrastructure that Victorians pay over an extended period of time without contributing their fair share.

That statement, as bizarre as it is, does not stand up to scrutiny. If the Treasurer is to be believed — and if he believes his own words — he would impose a similar surcharge on people moving from New South Wales or Tasmania. It is absolute nonsense that that is the best argument the government can advance for why it has introduced a new absentee landowner land tax and the new foreign buyer stamp duty.

In future weeks Parliament will consider legislation which introduces these measures. The government has had to backflip on that legislation because it was poorly conceived and poorly drafted in the first instance and would have substantially hit domestic buyers, particularly first home buyers, because of the way it would have applied to land developers who happen to have an element of foreign ownership. So it was a completely botched measure and absolutely breaks the commitment made by Labor not to introduce any new fees, taxes or charges.

I turn now to the real area of Labor budgets: the spending side. This year's budget, as I said at the outset, is a true Labor budget because in six months Labor has managed to boost state spending over the next four years by more than $6.8 billion. In the first budget in six months of cabinet decisions around the budget, we see that over the next four years this government will spend $6.8 billion more than the previous government had forecast. In the financial year 2014–15, which is about to end, we are seeing an extra $730 million spent relative to the pre-election budget update. In six months we have more than $700 million extra in spending.

Next year the government will spend an extra $2.1 billion more than had been forecast, the year after that, an extra $1.8 billion, and then a further $2.1 billion the year after that. These are the decisions of just the first six months. Wait until we get the next year's worth of decisions and compound the year after that and the year after that. If the government has added $6.8 billion in expenditure through just six months of decisions, imagine what the budget for the final year of its term will look like. Particularly noteworthy are the public sector costs, because in this year's budget we are seeing public sector wage and salary costs of more than $19.9 billion in the 2015–16 year. This is at a time when there is growth of more than 7.7 per cent. At a time when inflation is low, when nominal wages growth in the Victorian economy and Australia is generally very low — in fact in many sectors under 1 per cent — we are seeing growth in public sector costs of more than 7.5 per cent. The question has to be asked: where is that growth occurring?

We have seen some commitments from this government with respect to public sector wages which are very telling. Firstly, in relation to this growth of 7.5 per cent next year to $19.9 billion, page 84 of budget paper 2, which is headed 'Strategy and outlook', talks about sensitivity to enterprise agreements, and it states:

> All government enterprise agreements are assumed to be unchanged over the projection period. An across-the-board increase in wages arising from an enterprise agreement, which exceeds the wages policy guideline rate, increases the general government sector's employee entitlement expenses.

What that is saying is that these numbers in the budget — the figure of 7.5 per cent growth to $19.9 billion — do not include any enterprise bargaining agreement (EBA) negotiations above the 2.5 per cent baseline which was built in by the previous government. When giving evidence at the budget estimates hearings the Treasurer was asked about the government's wages policy, and he said, ' It is 2.5 per cent, like the previous government's, but we are not going to be hardball on productivity'. So the Treasurer has sent a signal that the government will accept wage increases above 2.5 per cent without meaningful productivity gains.

Mr Ondarchie — Where's the ROI?

Mr RICH-PHILLIPS — Mr Ondarchie asks about the return on investment. One of the key factors of a genuine productivity gain is that you actually do get a return on additional expenditure. The Treasurer has sent a message that this government does not need that, does not want that and will not hold the public sector unions to account on it. So we have a budget which is forecasting 7.5 per cent growth in public sector wages, and as it states quite clearly, that is before any EBA costs are considered. So if 2.5 per cent of that is growth in wages, you have to ask: what is the rest of the cost? To what extent is this government proposing to grow the public sector in the next 12 months, even before it has to deal with any subsequent EBA negotiations?

This is a pattern we see each and every time there is a Labor government, but the fact that we are seeing such a massive increase in the first year after just six months of decision-making should be of great concern to Victorians. As Mr Ondarchie suggests, it is a case of kids in charge of the lolly shop, which is a good segue into the next point I wish to make.

I would like to turn to the issue of surpluses. We talk a lot about budget surpluses in this place, and what we need to keep in mind is that the budget surplus — or, as it is technically called, the net result from transactions — is simply what is left over after you take your revenue and subtract your expenses. It is the balancing item. But why does it matter? Why do we talk about budget surpluses? Why do we care about budget surpluses? The reason we worry about them is that they are there to absorb and provide capacity for shocks, such as I spoke about before with GST writedowns, expenditure on flood and fire relief and other unexpected events. Budget surpluses are also used

to fund our infrastructure program without running up state debt.

If you build up surpluses, you can fund infrastructure without having to increase debt, so surpluses are important. Those opposite used to think so too, because on 19 November, just 10 days before the state election, Daniel Andrews, the now Premier, said in the *Herald Sun*:

> We have got no intention of changing the surplus profile outlined in the pre-election budget update.

It was pretty clear the pre-election budget update (PEBU) had set down a profile of surpluses over the next four years, and the now Premier committed to maintaining them.

The now Treasurer, Tim Pallas, two days before the election, said on 774 ABC *Drive*:

> … our commitments will have no impact on the projected budget surplus throughout the four years of the forward estimates …

Both the now Premier and Treasurer committed that they would deliver the PEBU profile of budget surpluses.

Mr Ondarchie — It was never going to happen.

Mr RICH-PHILLIPS — My friend Mr Ondarchie is a cynic, because he said, 'It was never going to happen', but he has been proven right. We see in this year's budget, again after just six months of decision-making, that the budget surpluses forecast in PEBU have been reduced. To put that in context, the budget surpluses that were forecast in PEBU amounted to some $9.1 billion over four years. As a coalition government we had worked hard to build up our budget capacity, worked hard to build up surpluses and be in a position to use those surpluses to contribute to infrastructure expenditure. We had $9.1 billion in surpluses on the books over the next four years.

Already those have been cut back by $4.2 billion. The surpluses over the next four years have contracted by $4.2 billion, and only a Labor government could lose $4 billion in six months. Only a Labor government, a socialist Labor government such as this one with Mr Andrews, could lose $4 billion in six months; but of course that is what we have seen: the $9.1 billion in forecast surpluses is now back to $4.9 billion over the forward estimates period — that is a loss of $4.2 billion in just six months. That will have significant consequences not only for the state's capacity to absorb shocks but also for the state's capacity to fund infrastructure over the coming years.

I will now turn to the issue of debt, because debt is one of the great bugbears of the Labor Party. Whether it is Labor in Canberra, Labor here in Victoria, this government, the previous Labor government or the one before that, debt is a challenge for Labor. You only need to look perhaps at the worst example we have seen, which is the current federal opposition, or what were the Rudd-Gillard-Rudd governments.

On coming to office in 2007 the federal Labor government inherited no government debt. It inherited a commonwealth budgetary position that was in the black to the tune of $45 billion. There was a net $45 billion in the bank when the Rudd government was elected in 2007. By the time Labor left office in 2013 not only had it spent the $45 billion that had been in the bank but it had accumulated a further $147 billion in debt. There was a more than $200 billion turnaround in the net position of the commonwealth government from $45 billion of net assets in the bank to debt of $147 billion.

Here in Victoria, over the life of the Cain and Kirner governments we saw debt increase more than threefold in 11 years. Under the Bracks and Brumby governments we saw debt hit a low of $1.1 billion in 2002 before increasing fourteenfold to a forecast of $15 billion in its last forward estimates period. Federal Labor and state Labor have horrendous track records when it comes to debt, but now we are being told by this government, 'Trust us on debt'.

It was the coalition government that stabilised the state's position with respect to debt and put the state back on a sustainable path with respect to our debt profile. It had that objective of paying down debt by 2022. We had a debt profile that was consistent with maintaining a AAA credit rating and were committed to paying down both in nominal terms and as a proportion of gross state product. What we see now is a significant change. We see Labor saying it is committed to maintaining debt sustainably, but of course, as I outlined earlier, we no longer have a policy position articulated in the budget to pay down debt. This government is happy to say it will keep the debt profile ticking over without any plan to reduce debt.

It is interesting, and I will say this up-front, that we have not seen a dramatic increase in state debt in this budget, but we need to dig a little deeper to find out why. Because true to form Labor governments increase debt. This one has not yet, and we need to ask why. The catch is budgeting is a zero-sum game. On the budget side of things, the operating side of things, as I said before, your revenue minus your expenses is your budget surplus. On the capital account, though, your

capacity to invest in infrastructure basically comes down to the accumulated surpluses you have plus whatever new debt you take on. You can fund your infrastructure through spending less than you earn and growing a surplus, and you can fund your infrastructure through new borrowing.

What we have seen, as I outlined before, is the surpluses in this year's budget have been cut. They have been cut by more than $4 billion. That has a consequence. If you are cutting $4 billion out of your surpluses and you are not increasing debt, your capacity to invest in infrastructure is dramatically reduced. It is worth pointing out that the coalition government had a major commitment to state infrastructure here in Victoria.

We had a platform of more than $27 billion worth of infrastructure projects over the forward estimates period and beyond. We had projects like the eastern stage of the east–west link and the western stage of the east–west link. We had funding for the Melbourne Metro rail link project, the Cranbourne-Pakenham rail corridor upgrade, the CityLink-Tullamarine Freeway widening project, the Monash Children's hospital project, the Box Hill Hospital redevelopment, the Royal Victorian Eye and Ear Hospital redevelopment, the new Bendigo Hospital project, the Victorian Comprehensive Cancer Centre project, the Murray Basin rail project, the regional rail link project and the Latrobe Regional Hospital redevelopment.

It was a comprehensive portfolio of infrastructure projects across health, across rail and road, and across education. There were 13 new schools funded in last year's budget. We were building the infrastructure the state needed with $27 billion worth of infrastructure projects set out in last year's budget.

Of course if you do not take on new debt but cut the surpluses dramatically, your capacity to spend on infrastructure is going to be reduced. That is exactly what we see in this year's budget. This government would have to be one of the first to come to office with a commitment to cut infrastructure spending. In its first budget it has delivered a reduction in infrastructure spending of more than $6 billion over the forward estimates period. This government has only been in office in the final six months of the 2014–15 financial year, and in just six months it has cut infrastructure spending by more than $1.6 billion. In the 2015–16 financial year infrastructure spending will be reduced by $2.1 billion, the year after by $0.5 billion and the year after that by $2.2 billion. Over the next four years this government will spend nearly $6.5 billion less on infrastructure than the previous government spent.

As I said earlier, this is at a time when the population of Victoria is growing at a rate of 1.8 per cent a year and when there is an insatiable need for new infrastructure, be it rail, be it road or be it public hospital infrastructure. The state needs this infrastructure, and it is beyond belief that any government in its first budget would cut the infrastructure budget of the state of Victoria by almost $6.5 billion.

In my final minutes I will touch on the issue of reform. As I said at the outset, economic reform is one of the great objectives that any government should have. Government should seek — year on year and increment by increment — to deliver a reform agenda. It should be focused on driving productivity in the state economy. It should be focused on driving capital investment, and in relation to growing productivity, it should be focused on regulatory reform. The coalition government had a strong target of regulatory reform. That was to reduce the regulatory burden in the state of Victoria by 25 per cent over the four-year term of office. The public record shows what was achieved against those targets and the way in which those targets were met. There are numerous reports from the Department of Treasury and Finance, through the Victorian Competition and Efficiency Commission, which reflect the previous government's achievements in regulatory reform.

In this year's budget we see a very different commitment to regulatory reform. It bears noting that on page 41 of the strategy and outlook section of the budget, under the heading 'Regulatory reform' the government only has one thing to say about regulatory reform. It states:

> Victoria relies on a strong and competitive business sector to sustain a high level of employment and economic growth.

In relation to the government's commitment, it states:

> The government will strengthen the business environment by keeping taxes and other charges as low as possible and by minimising the burden of regulation.

Economic and regulatory reform in this state is worth one sentence in this budget — that the government will minimise the regulatory burden. That is nothing; that is no commitment at all to driving further reform in this budget. It is no commitment at all to the further development and growth of this state's economy.

As I said at the outset, this is a typical Labor budget. It is a budget that sees the downgrading of key economic metrics — lower economic growth, higher unemployment, higher spending, higher taxes, smaller surpluses and less spending on infrastructure. It is a dishonest budget in that it breaks the promises that were

made by the Premier and the Treasurer leading into the election and this term of government. It fails to set out the vision of where this government sees the Victorian economy heading over the next four years and over the next decade, and it fails to set an agenda for economic growth.

Despite the rhetoric on the so-called jobs bill we heard a couple of months ago, this budget does not set out an economic agenda. It is dishonest. It fails on key economic metrics. As I said, it is a typical, true Labor budget.

Debate adjourned on motion of Mr BARBER (Northern Metropolitan).

Debate adjourned until next day.

APPROPRIATION (2015–2016) BILL 2015

Introduction and first reading

Received from Assembly.

Read first time for Mr JENNINGS (Special Minister of State) on motion of Mr Herbert; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Mr JENNINGS (Special Minister of State), Mr Herbert tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Appropriation (2015–2016) Bill 2015.

In my opinion, the Appropriation (2015–2016) Bill 2015, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The Appropriation (2015–2016) Bill 2015 will provide appropriation 'authority' for payments from the Consolidated Fund for the ordinary annual services of government for the 2015–2016 financial year.

The amounts contained in schedule 1 to the Appropriation (2015–2016) Bill 2015 provide for the ongoing operations of departments, including new output and asset investment funded through annual appropriation.

Schedules 2 and 3 of the bill contain details concerning payments from advances pursuant to section 35 of the Financial Management Act 1994 and payments from the Advance to Treasurer in 2013–2014 respectively.

Human rights issues

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

The bill does not raise any human rights issues.

2. Consideration of reasonable limitations — section 7(2)

As the bill does not raise any human rights issues, it does not limit any human rights and therefore it is not necessary to consider section 7(2) of the charter act.

Conclusion

I consider that the bill is compatible with the charter act because it does not raise any human rights issues.

Gavin Jennings, MLC
Special Minister of State

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr HERBERT (Minister for Training and Skills).

Mr HERBERT (Minister for Training and Skills) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Every family is different, but every family wants the same thing.

They want their kids to have the best start in life.

They want jobs that will exist next year, in industries that will exist next decade.

They want a home they can be proud of.

A street they can feel safe in.

And a government they can rely on.

And if someone they love gets sick, they want the care and precision and peace of mind that only a modern hospital can provide.

These are the things that matter.

None of it is too much for families to ask.

But all of it was too much for the previous government to bear.

In their minds, the basic building blocks of our society were a reward, not a right.

That's the definition of unfair — and it's time we made things right.

The budget I hand down today has fairness at its heart and families in its reach.

It gets us back to basics:

Jobs, schools, hospitals and transport.

The things that families need to live a good and healthy life.

It delivers our election commitments.

And it's pro-business.

Because we're pro-jobs.

It delivers a $1.2 billion surplus.

It preserves our AAA credit rating.

It reduces our state's net debt to 4.4 per cent of GSP.

It forecasts $5.8 billion in surpluses over four years.

And it sends this very powerful message: Victoria is open for business.

The state's economy is growing, from 2.25 per cent growth to 2.5.

The unemployment rate is falling, from 6.5 per cent to 6.25.

But families still need more services.

Workers need more skills.

And Victoria needs more investment.

Population is growing at 1.8 per cent a year.

Inflation is averaging 2.6 per cent a year.

The previous government knew this, but they still wanted to restrict expenditure growth to just 2.5 per cent.

That would have sent a wrecking ball through our schools and hospitals — a decision no responsible government could afford to make.

So we'll maintain expenditure growth at a modest 3 per cent — comfortably below revenue growth of 3.4 per cent — allowing us to maintain strong surpluses over the budget and forward estimates period.

A responsible level of expenditure will go towards schools and hospitals in our growing suburbs and regions — making our population more productive and our students more skilled.

Because we're getting on with the projects people actually need.

We're making a record investment in public transport.

And we're handing down the biggest education budget in Victoria's history.

New hospitals, more jobs — and a stronger, fairer state.

All the while, we're keeping our finances secure.

We're keeping our promises.

We're consolidating our surplus.

And we're consolidating our place in the world.

We have our challenges, it's true.

Just ask the thousands of men and women who dedicated their professional lives to putting Australian cars on Australian roads.

We have our challenges, but this budget sends us out to meet them.

It's about finding opportunity.

Investing in the industries where we can lead the world.

The mining sector isn't driving this country anymore.

There's more demand for services, technology and expertise.

So all eyes are turning to Victoria, the state which — more than any other — relies on skilled people and ideas that grow our economy.

The state which — more than any other — rests on a diverse industrial base.

These are our fundamental strengths.

And our economy is fundamentally strong.

Two-thirds of our gross state product centres on the home: housing investment and household consumption.

Both are growing.

Household budgets are expanding, because asset prices are up, fuel prices are down, and interest rates are low.

And we're buying and building more houses, because more people are moving here and more people can afford the interest.

As the US is recovering, our economy is rebalancing — and our dollar is depreciating.

Right now, it's about 20 per cent below its peak in 2013.

It's making exporters more competitive, local products more affordable and businesses more willing to invest.

That's what's growing our state.

And it will only get stronger as we get back to work.

Victoria's unemployment rate will fall from 6.5 per cent to 6.25 this year.

Two years from now, it's projected to fall even further.

That's where we stand, as a state.

It's almost never been this cheap for businesses to borrow and invest in the next chapter of our economic future.

A future that's far more certain under an Andrews Labor government.

Because we're doing things differently.

When businesses invest in the state, they now have a willing partner in the government.

They can have confidence.

They can have clarity.

And they can have certainty.

Because in this government, they will find a shared ambition for a stronger state.

And a door that's always open to new ideas.

Our budget meets the challenges of today, but not at tomorrow's expense.

And it helps insulate our economy from the shocks and surprises of an uncertain world.

The global market is drifting.

Yet our neighbours in Asia are booming.

As a result, our economy is changing.

But we are not captive to that change.

We're not hostage to it.

In fact, we're going to make the change work for us.

We have a duty to help industries grow — and we embrace it.

That's what's different about this government.

We also have a duty to make our economy more productive.

That's why we're matching the diversity of our industries and our people — with a diversity of infrastructure projects.

We're no longer putting all our eggs in one basket.

We're no longer stacking the decks in favour of the projects that don't stack up.

Projects like the east–west link, which the Victorian people rejected fair and square.

That's why we cleaned up the mess, so we can get on with the projects our state needs.

Ones that will actually move workers and goods cheaply and reliably over time.

We're committing up to $22 billion in new infrastructure projects and we aren't wasting a minute.

Over the last four years, the major projects pipeline became the major projects pipedream.

Victoria no longer has the luxury of such aggressive indecision.

It's time to get on with it.

But a strong economy is not just about infrastructure.

Ultimately, it's about people.

Their health and wellbeing is the true source of our productivity — and when one person misses out, we all miss out.

We're a government that's prepared to invest in people and the things they need to thrive.

We're a government that's prepared to partner with the companies that can take our state forward.

We're a government that's prepared to seize the promise of change — and make it work for us.

And the 2015–16 Victorian budget is the first big step.

It outlines a plan that will help create 100 000 jobs for 100 000 Victorians.

And it starts with the private sector.

Our best business minds, our senior economic leaders — the men and women who create Victorian jobs.

We're going to give them a real say at the heart of our government, with a real figure attached: half a billion dollars.

Our budget invests $508 million to establish the Premier's Jobs and Investment Panel.

It will bring together our economic leaders to provide direct advice on how to invest the fund at its heart.

They will cut through the bureaucracy to get things done.

And they'll be armed with a very simple brief: create more high-skill, high-wage jobs.

Our budget also invests $200 million to seize the change at the heart of our economy.

To turbocharge the emerging industries that will give our state a new face and a new life.

It's the Future Industries Fund, and it will offer grants of up to $1 million to firms working in six different sectors:

Medical technology and pharmaceuticals, new energy technology, transport defence and construction technology, food and fibre, international education and professional services.

Each of these sectors are primed for extraordinary growth.

And the Future Industries Fund will help them lead the world.

We hear this word so often: transition.

It's too often spoken by governments who have no idea where we're transitioning to.

Well, the Future Industries Fund is our compass.

And the map extends to the regions.

The jobs crisis hit regional communities the hardest.

Businesses closed up. TAFEs shut down.

Young people packed their bags and left their families in search of work or study.

That's why the budget invests $500 million in a fund dedicated to regional jobs and regional growth.

Initiatives like Food Source Victoria will promote local produce.

Projects like the Ballarat station redevelopment are a green light for new industries.

Attractions like the Grampians peaks trail will draw in visitors from across the state.

And the half-billion dollar regional jobs and investment fund will support them all.

We're providing another $70 million for agriculture, to keep farming families fit and productive and get young people back on the land.

And we're supporting the wind industry, with $20 million for new energy jobs.

We'll also fund new ideas.

A $60 million initiative for start-ups will take our most promising concepts from mind to market.

And $12 million for a program of inbound trade missions will bring overseas investors to our soil.

Small business gets its fair share, too.

We'll give employers the advice they need to cut through red tape.

Businesses can earn stamp duty relief if they invest in new equipment.

And they can also earn payroll tax relief if they hire retrenched workers, unemployed young people or the long-term jobless.

That's how we'll get Victoria back to work and help create 100 000 new jobs.

100 000 second chances.

100 000 Victorians beaming with pride, holding their pay slip and helping our state recover.

That's what fairness looks like.

But without education, the picture is incomplete.

Without skills, our state won't work.

That's why we're saving our TAFE system.

Over the last four years, campuses across our state were dragged to the brink of collapse.

Their gates slammed shut on our next generation.

And our budget invests $300 million to get them back in the black and back on their feet.

Our $320 million TAFE Rescue Fund will help institutes reopen and recover.

And our $50 million TAFE Back to Work Fund will help them renew, with training courses developed in partnership with local companies.

We're also investing $32 million to save the jobs and skills centres that give a second chance to the people who are dropping out of school and dropping out of our economy.

But that's still not enough.

We need to get started earlier.

We need to give our next generation a head start on a hands-on vocation.

That's why we're building 10 tech schools.

They'll go in the suburbs and cities that need them, including Gippsland, Ballarat, Bendigo and Geelong.

They'll give our kids the skills they need, alongside a comprehensive education.

And our budget provides $12 million to help get them off the ground.

All jobs start with skills.

All skills start at school.

That's why we've delivered the biggest education budget in Victoria's history.

We're investing $3.3 billion in our system — from start to finish.

Education funding will grow 70 per cent faster over the next three years than it did over the past three.

And we're focusing on the schools that need the most support.

Through the budget, the government reconfirms our commitment to the Gonski agreement.

For the first time ever in Victoria, we've met our obligations under Gonski — with full allocations for the 2016 and 2017 school years to make up the $805 million shortfall in allocated funding to the department that was left behind by the previous government.

But as we know, the commonwealth has walked away from the final two years of this agreement.

They're short-changing Victorian students in the order of $1 billion.

Victoria will fight for this funding for the 2018 and 2019 school years.

And we will commission the Honourable Steve Bracks, AC, to review how Victoria should allocate funding in the future.

It will be the foundation for school funding beyond 2017, giving principals and schools clarity and certainty.

We care about the future of our kids.

We also care about their safety and comfort at school.

Far too many children are learning in conditions we'd never accept in our own workplace.

Our talented pool of teachers make things so much better, but kids still can't get a first-rate education in a second-rate classroom.

Take Essendon Keilor College, reported to be one of Victoria's most run-down schools.

The bitumen has buckled from end to end.

The walls and ceilings are leaky and rotten.

And more than 1000 items require maintenance.

What about Frankston Primary: some of its facilities have barely seen a lick of paint since the Second World War, and the building still has a boiler room.

At Seaford Park Primary, every single classroom is a portable.

At Greensborough College, bags are known to go missing through holes in the floor.

And here's a quote from Georgie, a Cranbourne Secondary student: 'I love school, but these classrooms are absolutely disgusting'.

That's about as sad as you get.

While opening her eyes to the world, she's turning her gaze away.

That can't happen here — not in our state, not in our schools.

That's why our budget invests $688 million to make our schools bigger, cleaner, safer, better.

We'll rebuild and renovate 67 Victorian schools.

And build 10 new schools across the state.

And purchase $40 million worth of land in our growing outer suburbs, for more schools and more choices.

Schools that are bursting at the seams will receive 120 brand-new, safe, relocatable classrooms.

And classrooms with asbestos in the walls will finally get something done about it.

There's $50 million to upgrade kinders.

And there's $10 million to upgrade schools for students with disabilities.

Because the biggest education budget in history means more students, more families, getting the help they need.

That includes the struggling families who are working hard to get their kids through the most important years of their life.

Too many children learn about disadvantage the hard way — the wrong way — when they don't have the right uniform, or they can't see the whiteboard, or they don't get to go on school camp with their friends.

So we're going to help families cover the extra costs of a child's education.

We're investing $178 million to give students the things they need to fit in and thrive.

The Camps, Sports and Excursions Fund will help 200 000 disadvantaged students receive these expensive but essential pieces of their education.

Children in 250 primary schools will get free eye tests and glasses.

Breakfast clubs will serve up the most important meal of the day, free, to 25 000 students.

More free uniforms, shoes and books, too.

And music classes in more government schools, not just the ones that can afford it.

Every child deserves the best possible start, President — just as every family deserves the best standard of care.

Health care is not just a government's duty.

It's the test of a government's decency.

And the previous government flunked it.

Thousands of Victorians waited too long for an ambulance.

Thousands more waited too long in emergency.

And last year, a reported 16 people died every single week while waiting for surgery.

Health cuts cost lives.

It's a sad and simple fact.

And that's why we're increasing funding to our hospitals.

Everyone should get the care they need, not just the care they can afford.

Our budget invests $2.1 billion in Victoria's health system.

More surgeries will be performed, more patients will be treated, more beds will open up, and our nurses and our doctors will get more resources to save more lives.

Dr Doug Travis told us how to increase the number of beds in our health system.

We've provided $200 million to fulfil his recommendations, plus a $60 million elective surgery blitz to cut waiting lists.

Hospitals will be able to admit an extra 60 000 patients and treat an extra 40 000 emergency cases every single year.

These patients aren't just numbers.

They are parents, sons and daughters.

And we're rebuilding their hospitals, across our state.

Starting in the fastest growing areas in Australia.

Our budget invests $200 million to build the Western Women's and Children's Hospital.

Sunshine Hospital expects 7000 births a year by 2026, so 237 more beds and 39 special nursery cots — all under the gaze of world-leading neonatal care — is going to make a difference.

Six new theatres and 64 new beds are coming to Werribee Mercy Hospital, in an $85 million expansion.

And a massive $106 million upgrade to Casey Hospital will grow the size of the facility by a third, so it can treat 12 000 more patients, perform 8000 more surgeries and support 500 more births.

Soon families in the outer east will no longer have to drive to Box Hill in an emergency, because the budget provides $20 million for intensive care and short-stay units at the Angliss.

Ballarat Base Hospital will get a $10 million cardiac cath lab for urgent heart treatment and care.

Australia's first specialist heart facility will get funding.

The Monash Children's will get a helipad.

Moorabbin Hospital will get an upgrade.

And hospitals across the state will get more vital equipment.

More programs, too.

Hospitals and universities, coming together to find a cure for our most debilitating genetic diseases.

Late night pharmacies, looking after us late at night.

The whooping cough vaccine for parents of newborns is returning.

And the National Centre for Farmer Health is safe.

The budget invests $118 million to treat and support people with a mental illness — helping their families and giving them hope.

And with $99 million to upgrade ambulance branches and cut emergency response times, the ambulance crisis that swept our state will soon come to an end.

In the face of their greatest fear, families can start to have more confidence in the system. The war on our paramedics was over on day one of this government.

Now these dedicated professionals will finally get the resources they need to do their job and save more lives.

So will our police officers and our firefighters.

We're investing $78 million in emergency services.

Commencing the recruitment of 450 career firefighters.

And purchasing 70 new CFA trucks with the technology volunteers need.

We're rolling out a program that dispatches firefighters at the same time as paramedics.

And we're upgrading run-down and threadbare CFA stations across the state.

Last year, we saw what our dedicated firefighters are capable of, when they stood together as the last line of defence between a mine fire and a community on the brink of natural disaster.

No-one should ever go through what the Valley went through.

We're providing $30 million to implement the recommendations of the Hazelwood inquiry — including a long-term health study to give locals the answers they deserve.

We're putting more police on the streets — recruiting 400 custody officers to guard prisoners at 20 police stations across Victoria, 400 police officers can return to the front line where they belong.

There's $15 million in the budget for a new police station in Mernda.

Fifteen more police in Geelong and the Bellarine Peninsula.

And another $15 million to replace the state's obsolete fleet of drug and booze buses.

All up, we're investing $226 million to keep our streets safe.

But we cannot forget that Australia's no. 1 law and order issue lives not on our streets, but in our homes.

Family violence is our national tragedy.

This year, it's cost two Australian women their life — every week.

We're providing $81.3 million to support Australia's first Royal Commission into Family Violence and relieve the overwhelming pressure on the services women and children need.

And we're increasing funding for child protection, with $257 million to protect our most vulnerable and support families and carers.

It's an increase of one-seventh and we make absolutely no apology for it.

No effort will be spared with the safety and welfare of children in danger and need.

We're confronting the ice crisis that has gripped our suburbs and regional cities, with over $45 million to undertake our Ice Action Plan.

We're also providing $40 million to help Victorians stay in their homes, and $29 million to give Aboriginal Victorians a better standard of living and the freedom to live as they choose.

We're putting people first — giving so they can give back.

It's the right thing to do. It's the smart thing to do, and above all — it's fair.

This is a budget that restores fairness to our society.

And this is a responsible budget that restores balance to major projects.

No more road versus rail — we need roads and rail to get people home to their families safer and sooner.

The federal government cancelled funds for every new major public transport project in Australia.

That's why our budget makes the biggest investment in public transport in the history of our state.

It's an increase in funding of over one-third and it will stop Victoria from grinding to a halt.

We're committing $5 billion to $6 billion to remove 50 of our most dangerous and congested level crossings — because they hold up cars, slow down trains and put lives in danger.

We're improving safety at 52 dangerous level crossings in regional Victoria, because the road toll touches our entire state.

We're investing $1.5 billion to complete Melbourne Metro rail's planning and design and early works, and commence major construction by 2018.

So we can undertake the biggest overhaul to the train network since construction of the city loop.

So we can lay the foundation for a public transport system that moves millions of people in Australia's fastest growing state.

We're building 20 new E-class trams, 21 new V/Locity train carriages, and refurbishing Metro trains and trams at a cost of more than $600 million.

That's all part of Victoria's first long-term rolling stock strategy — more services, more seats, more jobs.

We're also ordering 37 more trains for our busiest rail corridor — the Cranbourne-Pakenham line — and removing every level crossing between Caulfield and Dandenong.

That boosts capacity on the line by 42 per cent.

And we're trialling all-night public transport, improving the bus network and bringing the Mernda rail link a step closer — giving people in the outer suburbs more ways to get to work and get back home.

They'll also benefit from a $50 million first instalment in a new infrastructure fund, helping interface councils get local projects off the ground and support growing communities.

We're investing more than $600 million to fix the congested roads and upgrade other roads that Victorians use every day.

Widening the Western Ring Road, section by section.

Widening CityLink and the Tulla, from the city to the airport.

Duplicating the Chandler Highway bridge.

Resurfacing unsafe roads across our state.

Saving families those crucial extra minutes every evening.

Saving businesses thousands of hours every month.

These are the road and public transport projects that will keep our state productive.

The projects that our state needs.

And to help pay for some of it, we're seeking a long-term lease of the port of Melbourne.

Because we're a modern Labor government — prepared to harness the power of capital to build a better society.

A modern Labor government — devoted to the progress of our state.

Victoria.

The no. 1 state for new residents and new visitors.

The sporting capital of the world.

The birthplace of multiculturalism.

The education state.

Home to arts and culture, live music, major events, and the world's most livable city.

These are the things that set our state apart.

They're our edge.

And our budget will keep Victoria no. 1.

We're investing an extra $80 million to bring more major events to our state.

At the moment, they contribute billions to Victoria's economy.

We want that to grow.

And to build on our reputation as a centre for business and industry tourism, we're committing funding for stage 2 of the Melbourne Convention and Exhibition Centre.

We're boosting our creative industries and supporting thousands of jobs, with more than $200 million for Victorian arts, culture, film, television, music and design.

That includes a lifeline for the Palais Theatre — the spiritual home of Australian live music.

The sporting capital of the world has won major upgrades at three venues — Geelong's Simonds Stadium, Eureka Stadium and Junction Oval.

They'll be ready to host more events, hold more spectators, and join the MCG in the league of our greatest sporting arenas.

But not everyone gets to see their child take a mark on the hallowed turf at the 'G.

That's why community sport matters.

It's open to every family.

Local clubs are the heart and soul of our suburbs and towns.

They bring people together.

And we're investing $100 million to fix up their run-down grounds, stands and change rooms.

We're the most progressive state, too.

That's why we are investing $10 million to help LGBTI Victorians achieve the respect, inclusion and wellbeing to which all Victorians are entitled.

We're also providing $174 million to preserve our pristine natural environment, our greatest natural asset, and

$49 million to strengthen multiculturalism, our greatest human asset.

And we're doing all this while maintaining a strong surplus.

Preserving our AAA credit rating.

And reducing debt to below what we inherited from the previous government.

Over the next four years, our finances will stay strong.

Our projects will proceed prudently, properly, progressively.

Our plans will put vital services within the reach of families in our fastest growing suburbs and cities.

And so long as the federal government is working against Victorians, we'll keep standing up for our state.

Demanding our fair share.

We'll fight their $8.9 billion cut to our education system, because every child deserves every chance.

And we'll fight their $13.7 billion cut to our health system, because doctors shouldn't be forced to check our wallets before they check our pulse.

We're putting Victoria first.

And Victorians can be confident about their future.

We have our challenges.

But we're going to seize them.

And we'll be sharing the load — in partnership with the private sector.

That's what it means to be a modern Labor government.

Finding ways to work with business to improve the lives of working people.

To give them the care they need and give their kids the skills to succeed.

That's what this budget is all about.

The basic building blocks of our society — jobs, schools, hospitals, transport.

It's an investment we can afford, in the things we can't afford to lose.

We're putting people first.

We're getting on with it.

And we're bringing Victorians with us.

Taking our state into the future and leaving no-one behind.

This is a budget for families and I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 4 June.

APPROPRIATION (PARLIAMENT 2015–2016) BILL 2015

Introduction and first reading

Received from Assembly.

Read first time for Mr JENNINGS (Special Minister of State) on motion of Mr Herbert; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Mr JENNINGS (Special Minister of State), Mr Herbert tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Appropriation (Parliament 2015–2016) Bill 2015.

In my opinion, the Appropriation (Parliament 2015–2016) Bill 2015, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the Appropriation (Parliament 2015–2016) Bill 2015 is to provide appropriation authority for payments from the Consolidated Fund to the Parliament in respect of the 2015–2016 financial year.

Human rights issues

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

The bill does not raise any human rights issues.

2. Consideration of reasonable limitations — section 7(2)

As the bill does not raise any human rights issues, it does not limit any human rights, and therefore it is not necessary to consider section 7(2) of the charter act.

Conclusion

I consider that the bill is compatible with the charter act because it does not raise any human rights issues.

Gavin Jennings, MLC
Special Minister of State

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr HERBERT (Minister for Training and Skills).

Mr HERBERT (Minister for Training and Skills) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The bill provides appropriation authority for payments from the Consolidated Fund to the Parliament in respect of the 2015–2016 financial year including ongoing liabilities incurred by the Parliament such as employee entitlements that may be realised in the future.

Honourable members will be aware that other funds are appropriated for parliamentary purposes by way of special appropriations contained in other legislation. In addition, unapplied appropriations under the Appropriation (Parliament 2014–2015) Act 2014 have been estimated and included in the budget papers. Prior to 30 June actual unapplied appropriation will be finalised and the 2015–2016 appropriations adjusted by the approved carryover amounts pursuant to the provisions of section 32 of the Financial Management Act 1994.

In line with the wishes of the Presiding Officers, appropriations in the bill are made to the departments of the Parliament.

The total appropriation authority sought in this bill is $117 432 000 (clause 3 of the bill) for Parliament in respect of the 2015–2016 financial year.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 4 June.

STATE TAXATION ACTS AMENDMENT BILL 2015

Introduction and first reading

Received from Assembly.

Read first time for Mr JENNINGS (Special Minister of State) on motion of Mr Herbert; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Mr JENNINGS (Special Minister of State), Mr Herbert tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the 'charter'), I make this statement of compatibility with respect to the State Taxation Acts Amendment Bill 2015.

In my opinion, the State Taxation Acts Amendment Bill 2015, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill makes a number of technical amendments to Victoria's taxation laws. Relevantly, in addition, the bill gives effect to two budget measures designed to improve housing affordability, by making local house buyers more competitive against foreign purchasers of residential land. A land duty surcharge will be payable by a foreign purchaser on the transfer of residential property. A surcharge will also be payable on taxable land in Victoria by an 'absentee owner'.

The bill amends the Duties Act 2000 to apply a surcharge on the transfer of residential property in Victoria to foreign purchasers. For this purpose, a 'foreign purchaser' is defined to denote a foreign corporation, a foreign trust or a foreign natural person, being a person other than an Australian citizen or a permanent resident of Australia (which includes a New Zealand citizen). The foreign purchaser duty surcharge may also be imposed at any point in time after land is bought, where the intended use of that land changes to that designed and constructed for residential purposes or may lawfully be used as a place of residence.

To support the imposition of a surcharge where a relevant change of use occurs, the foreign purchaser will be obliged to notify the commissioner of such a change. Failure to pay the surcharge in accordance with these provisions will result in a tax default, for which penalty and interest may be imposed under part 5 of the Taxation Administration Act 1997.

The bill also amends the Land Tax Act 2005 to introduce a surcharge on the taxable land of an absentee owner. An absentee owner is defined to include a person other than an Australian citizen or a permanent resident of Australia (which includes a New Zealand citizen), who does not ordinarily reside in Australia and is either absent from Australia on 31 December immediately preceding the tax year or is absent from Australia for more than six months in the year prior to the year of assessment, for which land tax relates.

As the commissioner's ability to impose the surcharge depends on him being informed of the circumstances giving rise to this liability, an owner will be required to notify the commissioner if they become an 'absentee owner' as defined in this bill. Failure to do so will constitute a notification default, for which penalty tax can be imposed under the Taxation Administration Act 1997.

The bill also amends the provisions governing the offsets that can be made when a taxpayer receives a refund under the Taxation Administration Act 1997. The amendments increase the range of circumstances in which a refund can be used to offset another liability. Where a further tax liability is likely to arise within 60 days, the bill permits the commissioner, with the taxpayer's written consent, to apply some or all of the refund to that future liability. If, however, the liability does not become payable within 60 days, or the taxpayer withdraws consent, the offset is not authorised and the amount of the overpayment must be refunded to the taxpayer.

Human rights issues

Recognition and equality before the law

Section 8(3) of the charter provides that every person is equal before the law and is entitled to the equal protection of the

law without discrimination. Discrimination, under section 6 of the Equal Opportunity Act 2010, includes discrimination on the basis of race, which is defined to include differentiation based on a person's nationality or national origin.

The bill provides that foreign purchasers will be liable to a surcharge on the transfer of residential property in Victoria or on the acquisition of a relevant interest in certain landholders that hold residential property in Victoria. A foreign person may be a company, a trust or a natural person. A foreign natural person is defined as being a person other than an Australian citizen or a permanent resident of Australia (which includes a New Zealand citizen).

Similarly, the land tax surcharge introduced by the bill draws on the criteria relating to a person's nationality. An absentee owner is defined as a person other than an Australian citizen or a permanent resident of Australia (which includes a New Zealand citizen), who does not ordinarily reside in Australia and is either absent from Australia on 31 December immediately preceding the tax year or is absent from Australia for more than six months in the year prior to the year of assessment, for which land tax relates.

The right to recognition and equality before the law is engaged by provisions that define a foreign purchaser as liable for the duty surcharge and includes criteria relating to nationality in establishing liability for the land tax surcharge. To the extent that the bill differentiates between taxpayers' liability on the basis of a person's nationality, it limits a person's right to recognition and equality based on the person's race.

This differentiation is central to the purpose of the proposed measures. It reflects the purpose of the surcharges, which is to increase the entry cost of foreign purchasers in the Victorian residential housing market and to place an additional holding cost on speculative absentee landowners. These measures assist in balancing housing affordability to ensure that a larger number of local homebuyers are able to remain competitive in the market.

There is a direct relationship between the limitation and the public purpose of improving the affordability of housing in Victoria. The contributions to state revenue made through the surcharges will flow through to the Victorian economy.

The bill establishes the legislative framework for the imposition of surcharges. By providing a legislative framework under the bill, the limitation is consistent with section 75 of the Equal Opportunity Act 2010, which provides that a person may discriminate if the discrimination is necessary to comply with an act or enactment.

I am satisfied that there is no less restrictive means available and I consider the limitation on section 8 of the charter to be reasonable in the circumstances.

Freedom of movement

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

The bill places an obligation on landowners to notify the commissioner if they are an absentee owner (as defined in the legislation) to enable any applicable surcharge to be assessed. While this notification requirement does not directly limit a person's freedom of movement, the imposition of a tax surcharge on an absence could be regarded as having an effect on the full exercise of that freedom. To the extent that the obligation to notify the commissioner may affect a person's decision regarding an absence from Australia, this provision may limit a person's freedom of movement.

The imposition of a land tax surcharge on an absentee owner is a key element of the government's affordable housing strategy. I regard this obligation on an absentee owner to pay the surcharge to be a reasonable limitation on the taxpayer's ability to move freely, and the related notification requirement is necessary to ensure that correct information is received to allow for the efficient administration of taxes by the commissioner.

Freedom of expression

Section 15(2) of the charter protects the right to freedom of expression. This is the freedom to seek, receive and impart information and ideas of all kinds whether within or outside of Victoria, and in any form. Freedom of expression is also the freedom from being compelled to say certain things or provide certain information.

To the extent that the bill introduces notification requirements in respect of circumstances that trigger liability for a duty or land tax surcharge, it limits the right to freedom of expression. The purpose of requiring a person to provide information is to ensure that the correct amount of duty or land tax is assessed. The limitation is directly related to the purpose, which is to ensure that each person is correctly assessed for land tax, or duty, as applicable. Accordingly, the limitation plays an important role in maintaining the equity between taxpayers and protecting the public revenue. As the circumstances relevant to a taxpayer's liability for the surcharge are exclusively in the taxpayer's possession, there are no other means reasonably available to achieve this purpose.

I therefore consider the limitation on section 15 of the charter to be reasonable in the circumstances.

Right to privacy and reputation

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

To the extent that the bill establishes obligations on a foreign person or absentee owner to notify the State Revenue Office of circumstances that trigger their liability for a surcharge, these provisions engage the right to privacy. As noted above, the obligation to make a notification is necessary to ensure the commissioner is in a position to make timely and accurate assessments of duty and land tax. The obligation to provide the commissioner with the requisite details is therefore a necessary limitation on the right to privacy, imposed to protect the public revenue and provide an equitable basis for the calculation of tax liabilities.

The commissioner currently collects various amounts of information for the purpose of administering the taxation laws. In addition to the protection afforded to personal information by the Privacy and Data Protection Act 2014, the confidentiality of information obtained under and for the taxation laws is protected by the secrecy provisions in the Taxation Administration Act 1997. These prohibit the disclosure of information collected by the commissioner except for specified purposes or recipients. The additional

information required for the purpose of administering the new provisions of the bill will be governed by this existing framework.

I consider the limitation on section 8 of the charter to be reasonable in the circumstances.

Right to property

Under section 20 of the charter a person must not be deprived of his or her property other than in accordance with law.

Provision for the imposition of a surcharge payable by a foreign purchaser or an absent land owner engages the right to property. However, the administration of the surcharges will be conducted in accordance with the Victorian taxation laws. Where a duty surcharge liability arises after the acquisition has been assessed, the commissioner may make a fresh assessment on the purchaser under the Taxation Administration Act 1997. The Taxation Administration Act 1997 sets out the commissioner's powers and obligations, establishes taxpayers rights of review of tax decisions and provides a framework to protect the confidentiality of tax-related information.

While the surcharges engage a person's right to residential property, by imposing a tax consequence for the acquisition or ownership of that property in certain circumstances, I see this limitation as necessary to give effect to the public policy of improving the affordability of residential property in Victoria.

The bill also amends the Taxation Administration Act 1997 to enable the commissioner, with the consent of the taxpayer, to allocate amounts of money overpaid to a future liability of that taxpayer arising in the next 60 days. To the extent that this amendment provides the legislative authority to retain an amount payable to the taxpayer for a period of time, it may be regarded as engaging the taxpayer's property rights. However, as this arrangement is only permitted with the taxpayer's written consent, and can only be made within 60 days of the refund entitlement arising, I believe the provision for future offsets does not in fact limit the taxpayer's property rights.

Gavin Jennings, MLC
Special Minister of State

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr HERBERT (Minister for Training and Skills).

Mr HERBERT (Minister for Training and Skills) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This State Taxation Acts Amendment Bill 2015 makes amendments to the Duties Act 2000 (Duties Act), the Land Tax Act 2005 (Land Tax Act) and the Taxation Administration Act 1997 (TAA).

The Victorian government recognises that housing affordability is an increasing problem for homebuyers, including first home buyers. For some segments of the market, prices have moved out of reasonable reach. That is why the Victorian government is committed to improving housing affordability for Victorian families and through the measures contained in this bill, will place Victorians in a more competitive position in the housing market.

Recent data suggests that between 10 to 20 per cent of new properties are bought by foreign buyers, putting pressure on supply and keeping many Victorian families out of the market. At the same time, Victoria has experienced an increase in non-resident ownership of Victorian real estate, which equally results in distortions to the housing market.

Importantly, while local families have contributed significantly to the funding of government services and infrastructure through state and commonwealth taxes, foreign investors and absentee landowners do not contribute equivalently like those living and working here do. Foreign purchasers and absentee landowners are mostly investors who enjoy capital growth from their investments, adding to their own personal wealth. Yet it is the same services and infrastructure generally paid for by Victorian families over many years that supports capital growth for these investors.

Therefore, the Victorian government is introducing a 3 per cent stamp duty surcharge on the purchase or acquisition of residential property in Victoria (either directly or indirectly) by a foreign purchaser from 1 July 2015. This surcharge will tackle the distortions created by increasing foreign ownership of Victorian real estate. At the same time, the government is introducing a 0.5 per cent land tax surcharge on land owned by absentees, to apply from 1 January 2016. This surcharge will address the distortions created by increasing non-resident ownership of Victorian real estate. These surcharges will apply to foreign purchasers and landowners, which will include corporations and trusts, as well as natural persons. Existing duty and land tax exemptions will apply to foreign purchasers and landowners. In addition, appropriate exemptions will apply to ensure relevant Australian-based corporations and trusts are not unintentionally caught.

These taxation measures are appropriate to assist in adjusting the increasing inequity in the local housing market and in order to promote a fairer tax system. Combined, these represent equity measures designed to reduce the barriers to home ownership that many Victorian families face.

This government also recognises that small business in this state faces various pressures. Victoria's small businesses are a vital part of our economy. Over 500 000 small businesses provide employment for Victorians, often in high skilled, high wage jobs. Through this bill, the government will begin to support small businesses with measures to reduce the costs of running a small business, making it easier for small businesses to compete and provide greater access to the public sector market. From 1 July, all vehicles classified as mobile plant or plant-based special purpose vehicles will be exempt from motor vehicle duty on the registration or transfer of registration of those vehicles. The types of vehicles that this stamp duty exemption will apply to include backhoes, excavators, bulldozers, headers, scrapers and tractors. Providing this exemption from stamp duty for mobile plant and plant-based special purpose vehicles has the potential to decrease the excess burden for business inputs.

This bill also makes amendments to the landholder duty provisions in the Duties Act. The proposed amendments will ensure the technical operation of the Duties Act does not disqualify a person from accessing concessional landholder duty treatment that is intended to apply on a relevant acquisition in a listed entity and removes the potential for transactions to be structured to take advantage of a loophole in the definition of 'private company' to avoid the payment of landholder duty.

Under the landholder regime, an acquisition of an interest of 90 per cent or more in a listed company or listed trust is subject to landholder duty at a concessional rate of 10 per cent of the standard rate of duty. The definition of 'listed company' and 'listed trust' requires that all of the entities' shares or units to be quoted on a recognised stock exchange. Shares and units are currently defined to include 'a right' to shares or units. As a result, any person making a relevant acquisition in a listed entity that has also issued unquoted securities is not technically entitled to benefit from the higher acquisition threshold, or the reduced rate of duty, that applies to acquisitions in listed entities. This is despite that the main class of securities, which carry winding up entitlements are quoted on a relevant exchange. This is an unintended consequence of the current definition of 'shares' and 'units' in the Duties Act.

The State Revenue Office's (SRO) administrative practice is to treat an entity that has issued unlisted securities as a listed company or listed trust as long as the main class of securities, which carry winding-up entitlements, are listed on a relevant exchange. The proposed amendment will give effect to the current administrative practice and ensure the technical operation of the Duties Act does not disqualify a person from accessing concessional landholder duty treatment that is intended to apply on a relevant acquisition in a listed entity.

Also under the landholder duty regime an acquisition of 50 per cent or more in a private landholder company is subject to duty. In contrast to a 'listed company', a 'private company' is defined as a corporation that is not listed on a relevant exchange and whose shares are not quoted on a relevant exchange. A current anomaly exists in the Duties Act where a landholder company may not fall within either the definition of 'listed company' or 'private company' because the corporation's shares are listed on a relevant exchange, but are not quoted. This can result in an otherwise dutiable acquisition to be technically deemed not subject to landholder duty. Accordingly, the proposed amendment will extend the definition of 'private company' to expressly include these entities. This will remove the potential for transactions to be structured to take advantage of a loophole and provide greater certainty to practitioners and taxpayers in applying the Duties Act.

One of the functions of taxation bills is to correct minor technical defects in taxation laws, and keep the taxation laws up to date by removing references to obsolete or redundant legislation. This program of technical amendments benefits Victorians by making taxation laws easier to read and understand, and ensures that these laws continue to operate as intended. Accordingly, this bill provides for a number of technical amendments to be made to the Duties Act. Two of these will apply retrospectively and include an amendment to rectify an incorrect reference to a section of the Social Security Act 1991 (cth) in defining an eligible pensioner for the purposes of the pensioner exemption and concession from duty to include a person issued with a 'seniors health card' under that act. This provision is intended to be made retrospective to 1 July 2011, which was the date the incorrect legislative reference was inserted into the Duties Act.

Another amendment this bill makes is to rectify an incorrect reference to the National Insurance Act 1953 (cth) in defining medical benefits insurance (private health insurance) for the purposes of an exemption from insurance duty. The term is currently defined by reference to entities registered under the National Insurance Act 1953 (cth), however, this act has been replaced by the Private Health Insurance Act 2007 (cth). This provision is intended to be made retrospective to 1 July 2007, when the Private Health Insurance Act 2007 (cth) commenced.

In each case, the SRO has been applying the law in accordance with its intended operation to ensure that taxpayers were not disadvantaged by the technical defects in the legislation. The retrospective operation of these amendments will give legal effect to the duty exemptions and/or concessions provided under these provisions.

Minor technical amendments are also being made to the motor vehicle duty exemption for primary producer vehicles. Over time a number of definitions that relate to 'primary producer vehicles' in the Road Safety (Vehicles) Regulations 2009 have been updated. As a result, the definitions and references to certain primary production vehicles currently contained in the Duties Act are outdated. This amendment will align the relevant definitions to ensure that consistency of application across the Duties Act and the Road Safety (Vehicles) Regulations 2009 continues.

This bill also makes minor amendments to the TAA in order to streamline administration and reduce red tape for taxpayers, by extending the circumstances in which a refund of tax can be offset against another revenue liability. The TAA allows the SRO to offset a tax refund against an existing tax debt or first home owner grant liability. The offset function helps to protect the revenue by preventing payments to taxpayers that have existing debts. It also reduces administrative costs to the government and taxpayers by limiting unnecessary transactions.

The amendments in this bill propose to extend the circumstances in which the SRO can offset to allow an amount of tax which is payable to a taxpayer after a successful objection, review or appeal to be offset against an existing tax or first home owner grant debt, and a refund to be offset against a future tax liability, if the taxpayer consents in writing, within 60 days of the refund becoming payable. The proposed amendments are consistent with the existing policy for offsetting tax debts to streamline payments and protect the revenue, and are already in place in most other states and territories.

The measures enacted by this bill will improve the operation of Victoria's taxation laws. In line with government policy, these amendments will help to maintain the integrity and sustainability of the taxation system, and limit the burden of government regulation on taxpayers.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 4 June.

COURT SERVICES VICTORIA AND OTHER ACTS AMENDMENT BILL 2015

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr HERBERT (Minister for Training and Skills); by leave, ordered to be read second time forthwith.

Statement of compatibility

Mr HERBERT (Minister for Training and Skills) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the charter), I make this statement of compatibility with respect to the Court Services Victoria and Other Acts Amendment Bill 2015.

In my opinion, the Court Services Victoria and Other Acts Amendment Bill 2015, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Human rights issues

The bill engages the right to privacy and reputation as a consequence of the amendment to be made by clause 9 to the definition of relevant principal officer in the Independent Broad-based Anti-corruption Commission Act 2011 (IBAC act).

As a result of the amendment:

the Independent Broad-based Anti-corruption Commission (IBAC) will be empowered to disclose any information it has acquired by reason of, or in the course of, the performance of its duties and functions or the exercise of its powers under the IBAC act or any other act to the chief executive officer (CEO) of Court Services Victoria (CSV) if the IBAC considers that the information is relevant to the performance of the duties and functions or the exercise of powers of the CEO of CSV; and

the CEO of CSV will be permitted to notify the IBAC of any matter that the CEO believes on reasonable grounds constitutes corrupt conduct, despite any duty of secrecy or other restriction on disclosure.

A disclosure by the IBAC, or notification by the CEO, may involve the disclosure of personal information.

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

Privacy and reputation (section 13 of the charter)

Section 13(a) of the charter provides that individuals have a right not to have their privacy unlawfully or arbitrarily interfered with. The right to privacy concerns a person's 'private sphere', which should be free from government intervention or excessive unsolicited intervention by other individuals.

An interference with privacy will not be unlawful if it is permitted by law, is certain, and is appropriately circumscribed. An interference will not be arbitrary provided that the restrictions on privacy are reasonable in the particular circumstances and are in accordance with the provisions, aims and objectives of the charter.

Are the relevant charter rights limited by the bill?

I do not consider that clause 9 provides for the unlawful or arbitrary interference with privacy. Accordingly, clause 9 places no limitation on the right to privacy under section 13 of the charter.

The interference with privacy will not be unlawful in that it will be clearly and expressly permitted under the IBAC act and will be limited to situations where the information relates to either:

the performance of the duties and functions, or exercise of the powers of, the CEO of CSV; or

conduct reasonably believed to be corrupt conduct.

The interference with privacy will not be arbitrary in that it is necessary to facilitate the investigation and prevention of corrupt conduct. The aim of the charter is to protect and promote human rights by ensuring that public powers and functions are exercised in a principled way and that public power is not misused. Ensuring that corrupt conduct can be investigated and prevented is in accordance with this aim.

The Hon. Steve Herbert, MLC
Minister for Training and Skills

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr HERBERT (Minister for Training and Skills).

Mr HERBERT (Minister for Training and Skills) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Court Services Victoria and Other Acts Amendment Bill makes amendments designed to improve the legislation governing the operation of Court Services Victoria (CSV). The amendments respond to issues identified during CSV's first six months of operation. They are largely machinery amendments or clarifications to existing provisions.

The bill amends the Financial Management Act 1995 to provide CSV with the same budget flexibility and management mechanisms as generally apply to other Victorian public sector bodies that, like CSV, receive a direct parliamentary appropriation. These include mechanisms that will allow CSV to:

take advantage of opportunities that arise in a current financial year to acquire benefits that will accrue, or continue, in the following financial year;

better manage expenditure across financial years; and

better manage cash flow within financial years.

The amendments are consistent with the existing framework under the Court Services Victoria Act 2014 (CSV act) for the management of CSV's finances and with the provisions that apply to Victorian public sector agencies, generally.

The bill amends the Independent Broad-based Anti-corruption Commission Act (IBAC act), to codify the authority of the chief executive officer (CEO) of CSV in relation to complaints and investigations under the IBAC act concerning CSV and CSV staff.

The bill also amends the Judicial College of Victoria Act 2001 to codify the role of the board of the Judicial College of Victoria (JCV) in appointing, setting the terms and conditions for, and (if necessary) terminating the employment of, the CEO of JCV. The amendments will also formally record the duty of the CEO of JCV to act at the direction of the JCV board.

Finally, the bill will amend the CSV act to repeal a redundant definition of State Services Authority. The definition is not used elsewhere in the CSV act and, in any case, the State Services Authority has now been replaced by the Victorian Public Sector Commission.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 4 June.

WRONGS AMENDMENT (PRISONER RELATED COMPENSATION) BILL 2015

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr HERBERT (Minister for Training and Skills); by leave, ordered to be read second time forthwith.

Statement of compatibility

Mr HERBERT (Minister for Training and Skills) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the 'charter'), I make this statement of compatibility with respect to the Wrongs Amendment (Prisoner Related Compensation) Bill 2015.

In my opinion, the Wrongs Amendment (Prisoner Related Compensation) Bill 2015, as introduced into the Legislative Council, may be partially incompatible with the human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill will insert a new part VBAA into the Wrongs Act 1958, that will apply to awards of damages for non-economic loss for psychiatric injury in relation to the injury or death of a prisoner in custody.

The bill provides that in such a case the court or jury must consider whether the claimant has criminal convictions, and, if the claimant does have criminal convictions, must reduce the award of damages with regard to a range of factors, including: the number and severity of offences, the relationship between the claimant and the injured prisoner, and whether the offences of the prisoner and the claimant were related in some way. Where a claimant has been convicted of a 'profit motivated offence', the award of damages must be reduced by no less than 90 per cent.

The new part VBAA will only apply to convictions for offences that occurred when the claimant was an adult, and will operate retroactively, so that it will apply to proceedings that have commenced but not yet been determined at the time the bill commences.

Human rights issues

Right to equality

Section 8 of the charter contains three distinct rights:

section 8(1) provides for the right to equality before the law;

section 8(2) provides for the right to enjoy one's human rights (that is, the substantive rights protected by the charter) without discrimination;

section 8(3) provides for the right to equal protection of the law without discrimination.

Section 8(1) of the charter requires the recognition of the entitlement of every person to exercise his or her lawful rights to commence, defend and participate in legal proceedings. Bell J held in *Lifestyle Communities Ltd (No 3) (Anti-Discrimination)* that 'equality before the law is the principle of the general application of the law and equal treatment of all persons who come before the law … [i]t is directed to the application and administration of the law, not the content of the law'.

Accordingly, the bill does not engage the right to equality before the law, because the bill alters the content of the law regarding certain claims of damages for non-economic loss in respect of mental harm, but does not alter the administration and application of the law. The provisions inserted into the Wrongs Act by the bill will apply to all current and future claims, notwithstanding that they will only (potentially) affect those claims brought by persons with a criminal conviction.

In relation to the rights to freedom from discrimination, section 8(2) and (3), 'discrimination' is defined in section 3 of the charter as discrimination within the meaning of the Equal Opportunity Act 2010, on the basis of an attribute set out in section 6 of that act. In the case of the bill, it is sufficient to note that the attributes set out in section 6 do not include a person's criminal record, criminal history or prior criminal

activity. Accordingly, although it proposes to treat certain claimants unfavourably on the basis of having criminal convictions, this does not constitute discrimination under the charter.

Right to privacy

Section 13(a) of the charter provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with.

This is relevant to the fact that new part VBAA will only apply to claimants who have been convicted of a criminal offence, and to new section 28LAG which empowers a court to order the production of a claimant's criminal record for the purposes of the part to new section 28LAF(2), which sets out the factors to be considered by a court in reducing an award of damages in the relevant circumstances.

A claimant's criminal record, and the other factors to be considered under section 28LAF(2), concern personal information about the claimant for which he or she may have some reasonable expectation of privacy. However, any interference with a person's privacy under the bill will not be unlawful or arbitrary because:

> the disclosure of information as to the claimant's conviction or convictions is circumscribed and confined to the purpose of determining whether the claimant's entitlement to damages should be reduced;
>
> a person who brings a claim to which the bill applies does so on the understanding that all matters relevant to their statutory and common-law entitlements may be scrutinised and assessed;
>
> the court hearing the matter will possess the power to regulate the hearing, and may regulate the disclosure of information about the claimant's criminal history (for example, through the use of closed sessions and suppression orders).

Right to a fair hearing

Section 24(1) of the charter relevantly provides that 'a party to a civil proceeding has the right to have the … proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing'.

The fair hearing right mandates the judicial determination of what civil rights and liabilities exist as a matter of substantive law. It does not prevent the state from altering the content of those civil rights in the substantive law.

The bill affects the substance of certain claims brought under the Wrongs Act, but does not affect the determination of such a claim. Moreover, the exercise of the court or jury's discretion to reduce an award of damages occurs in accordance with the procedural guarantees of the court process. This includes (but is not limited to) the court's obligation, pursuant to section 6(2)(b) of the charter, to enforce and directly apply those charter rights that relate to court proceedings.

Therefore, the bill does not limit the right to a fair hearing under section 24(1) of the charter, even in circumstances where a court or jury exercises its discretion to make a 100 per cent reduction of the award of damages.

Property rights

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

'Property' is not defined in the charter; however, relevant jurisprudence suggests it would be interpreted to include a cause of action for a Wrongs Act claim which has already accrued. To the extent that the bill permits a substantial reduction in the award of damages of up to 100 per cent for pending claims brought by a claimant who has been convicted of an offence, and requires the reduction of damages of at least 90 per cent if the claimant has been convicted of a profit motivated offence, the bill permits (or requires) a deprivation of property.

The requirement under section 20 of the charter that any deprivation of a person's property be 'in accordance with the law' requires (but is not limited to) legal authorisation for the deprivation. Victorian judicial and academic commentary suggest that the law authorising the deprivation of property must be adequately accessible and formulated with sufficient precision to enable a person to regulate his or her conduct accordingly.

In the present case, any deprivation of property occasioned by the bill, including a 100 per cent reduction in damages, will be 'in accordance with law' for the following reasons:

> the provisions of the bill clearly identify the types of claims to which the bill applies, including those proceedings commenced prior to the enactment of the bill;
>
> the bill clearly specifies the factors which must be considered in determining a reduction in the award of damages, and obliges the court or jury to specify the percentage by which the amount of damages is reduced;
>
> the determination of the reduction in the award of damages under the bill occurs in accordance with the procedural guarantees of the court process. This includes the court's obligation to give effect to the right to a fair hearing (and rights relating to court proceedings) under section 6(2)(b) of the charter.

Double jeopardy and freedom from imposition of retrospective penalties

Section 26 of the charter provides that a person 'must not be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with the law'. Section 26 reflects the longstanding common-law principle of 'double jeopardy' in Australia, namely that a person who has already been acquitted or convicted cannot be prosecuted subsequently on an identical charge, or for a different charge where the essential elements of the offence charged are identical to the offence of which he or she has been acquitted.

Section 27(2) of the charter provides that '[a] penalty must not be imposed on any person for a criminal offence that is greater than the penalty that applied to the offence when it was committed'.

The application of sections 26 and 27(2) to the bill is uncertain; questions that are considered determinative are outlined below.

Does the bill impose a 'penalty' within the meaning of section 27(2) of the charter?

There is no relevant definition of 'penalty' under the charter or other Victorian legislation. The ordinary meaning of the term is a sanction or punishment imposed in consequence or as a result of wrongdoing. On one view, which is the view that I prefer, a reduction in an award of damages in accordance with the bill will not be a penalty imposed for an offence, but will be a further consequence of conviction for an offence, in a separate civil proceeding.

However, it could be argued that the bill imposes a 'penalty' for the offence for the purposes of section 27(2) of the charter:

> a measure may be said to be a 'penalty' if it 'follows' a criminal conviction, that is, it is applied in respect of the conviction. Though the provisions of the bill only operate in circumstances where a person brings a claim for damages to which the bill applies, they 'follow' a criminal conviction in the sense that the discretion to reduce damages is triggered by, and is based largely upon, the claimant's criminal conviction;
>
> the bill permits — and in the case of a claimant convicted of a profit motivated offence, requires — a significant reduction in the damages to which they would otherwise be entitled;
>
> it could be argued that a key purpose of the bill is punishment of an offender.

Does the bill impose a 'punishment' within the meaning of section 26 of the charter?

'Punishment' is variously defined as a sanction or penalty assessed against a person who has violated the law. There is disagreement between courts and tribunals in different jurisdictions as to whether to adopt a broad or narrow interpretation of 'punishment'.

For example, Canadian courts have generally favoured a narrow interpretation of what constitutes 'punishment', and have restricted application of the double jeopardy right to 'criminal and penal matters'.

By contrast, the European Court has favoured a broad interpretation of the protection against double jeopardy, and has focused on three criteria in determining whether or not there is a criminal charge or criminal proceedings:

> the legal classification of the proceeding; the nature of the offence;
>
> the repressive or deterrent character of the penalty; and
>
> the nature and severity of the applicable penalty.

In light of this disagreement, it is uncertain whether the reduction of damages for a person who has been convicted of an offence would constitute a 'punishment' for the purposes of section 26 of the charter.

Applying the broader interpretation employed by the European Court, the severity of any potential reduction could be used to support the argument that it constitutes 'punishment'. However, a narrower, formalistic interpretation of 'punishment' would emphasise that the bill applies only to civil proceedings in which the person convicted is the claimant, and is thus distinct both from the criminal justice (and related civil) process for the claimant's offending. Moreover, the rationale for the double jeopardy protection is to ensure finality in the criminal justice system, and the reduction of an award of damages in a civil claim neither affects the claimant's criminal conviction or sentence, nor does it subject the claimant to further criminal punishment.

In my opinion this narrower interpretation is the one that should apply in Victoria. However, it would be open to a court to find that the bill imposes a 'punishment' for the purposes of section 26 of the charter.

If sections 26 and/or 27(2) of the charter are limited, is the limitation permissible under section 7(2) of the charter?

Section 7(2) of the charter allows any of the rights protected by the charter to be subject to justifiable limitations, taking into account a range of factors:

> the nature of the right (section 7(2)(a)): the protections against double jeopardy and imposition of retrospective penalties are fundamental rights recognised in Australia's common law, and are important aspects of the rule of law;
>
> the importance of the purpose of the limitation (section 7(2)(b)): the purpose of the bill is for the state (and through the state, Victorian taxpayers) to reduce its liability to compensate a claimant for non-economic loss in relation to a claim of pure mental harm arising from the death or injury of a prisoner in custody, in circumstances where the claimant has previously wronged the state, having been committed of an offence or offences. This is an important purpose which reflects the community's interest in not having to fully compensate claimants who have previously profited at the community's expense, in the relevant circumstances;
>
> the nature and extent of the limitation: a reduction in damages, to the extent that it limits the rights under sections 26 and 27(2), does so to a far lesser degree than the imposition of criminal law sanctions. Although the bill permits a reduction of up to 100 per cent, and in some circumstances mandates a minimum reduction of 90 per cent, the type of case envisaged by the bill is highly unusual and therefore the number of affected claimants is very small;
>
> the relationship between the limitation and its purpose, and any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve (section 7(2)(d)): the bill is carefully targeted to achieve its object, and applies only to a very narrow class of claimants and, within that class, to a very narrow class of claims. There is no discernible alternative to the provisions of the bill that would achieve the same object and that would not be equally or more restrictive. For example, one alternative would be to legislate to provide that there is no cause of action in respect of pure mental harm arising from the death or injury of a prisoner in custody, or to provide that no damages for non-economic loss are payable in such a case. However, these alternatives would detrimentally affect the rights of potential claimants who do not have a criminal record.

In light of the above analysis, and in particular the potential limitation of the rights under sections 26 and 27(2) of the charter, I consider that, while there are strong grounds for

concluding that the bill is compatible with the charter, the bill may be partially incompatible with the charter.

Nevertheless, I consider that the object of the bill justifies its enactment. In particular, I consider that it would be unjust and contrary to the public interest for the Victorian community, which has suffered as a result of a claimant's prior actions, to have to compensate such a claimant in the same way that it would compensate any other claimant. The government considers that this is an important public purpose and that the bill's provisions are sufficiently targeted to achieve that purpose.

The Hon. Steve Herbert, MLC
Minister for Training and Skills

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr HERBERT (Minister for Training and Skills).

Mr HERBERT (Minister for Training and Skills) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

In October of last year, the Premier made a commitment to the Victorian people that, if elected, the Labor government would review the Wrongs Act 1958 to see if it could be amended with respect to claims by the relatives of offenders who are injured in custody. The Wrongs Amendment (Prisoner Related Compensation) Bill 2015 (the bill) seeks to give effect to that pre-election commitment.

The bill will amend the Wrongs Act 1958 in a very targeted way so that a court, when awarding damages to a claimant for mental harm that arises in the context of the injury or death of a prisoner, must consider whether the claimant has criminal convictions. Where a claimant has criminal convictions, the court must reduce the award of damages. In making the reduction, the court must have regard to a range of factors including the number and severity of offences, the relationship between the claimant and the prisoner, and whether the offences of the prisoner and the claimant were related in some way. Similar considerations are used by the Victims of Crime Tribunal when awarding compensation to victims of crime, to ensure that persons who choose to engage in criminal behaviours are not then compensated by the state when they are injured.

Where a matter is being heard before a judge and jury, the jury must decide the amount of the reduction. A jury, which considers matters of fact, is well placed to consider the factors set out in the bill, which include the claimant's criminal record. Similarly, in personal injury matters where contributory negligence is in issue, it is the usual course for the jury to determine the amount by which the claimant's damages should be reduced.

The bill requires a greater reduction in damages for those claimants who have been convicted of a 'profit motivated offence'. Where a claimant has been convicted of a 'profit motivated offence', the damages must be reduced by at least 90 per cent. 'Profit motivated offences' are defined by reference to the list of automatic forfeiture and civil forfeiture offences in schedule 2 of the Confiscation Act 1997. All of the offences in schedule 2 relate to profit-driven criminal behaviour which is often associated with organised crime. The offences in schedule 2 include drug trafficking, extortion, deceptive recruiting for commercial sexual services, blackmail, armed robbery and handling stolen goods. The property offences in schedule 2 are subject to monetary thresholds of property worth $50 000 or more, so that minor convictions for theft or handling stolen goods are not within the scope of 'profit motivated offences'.

These are crimes committed by people who have made deliberate choices to break the law for material gain. While there might be some commentators who suggest that the bill's amendments are unfair, and seek to penalise those who have been convicted of crimes, the bill's amendments reflect community concern that people who have profited from criminal activity should not expect the state to compensate them to the same extent as others, especially where they have engaged in criminal activity with the prisoner in question.

It is important to note that the bill will not affect claims brought by minors or children. The bill only relates to criminal convictions of an adult, and a court will not consider whether a claimant has juvenile offences.

Where a conviction is for an offence that is not a profit motivated offence, a court has a wide discretion about how much weight should be given to the offence in reducing any damages.

The provisions only relate to mental harm arising from injuries or deaths of prisoners. The provisions do not apply to people who are being held on remand or in police cells.

In short, the bill will reflect community concerns about compensation that might otherwise be required to be paid by the state to claimants who are in this small category of offenders, but it will not otherwise diminish the responsibilities of the state.

This legislation will operate retroactively, so that any claims that were already on foot before the legislation commences will be subject to the bill's amendments, unless the claim has been finally determined prior to commencement of the legislation.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 4 June.

APPROPRIATION (2015–2016) BILL 2015 and BUDGET PAPERS 2015–16

Concurrent debate

Mr HERBERT (Minister for Training and Skills) — By leave, I move:

That this house authorises the President to permit the second-reading debate on the Appropriation (2015–2016) Bill 2015 to be taken concurrently with further debate on the motion to take note of the budget papers 2015–16.

Motion agreed to.

ADJOURNMENT

Mr JENNINGS (Special Minister of State) — I move:

That the house do now adjourn.

Western suburbs roads

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Roads and Road Safety. As I travel around the western suburbs, which I do on a very regular basis as members would understand, one thing jumps out at me — that is, a number of signs that are going up around the place that say, 'New speed limit'. We are seeing an increasing number of roads whose speed limit has been 100 kilometres per hour but is being lowered to 80 kilometres per hour or even lower. This is causing some annoyance, to say the very least, to my constituents and to those who travel through the western suburbs.

It is clear there is an urgent need to upgrade these roads. The population of the western suburbs has increased at an extraordinary rate over recent years, and the roads are just not up to the job that they are now being used for. Maybe — not maybe, definitely — instead of lowering speed limits it is time for VicRoads to upgrade the roads people are using. It does not seem to matter whether it is the Sunbury–Melbourne road or the roads down around Werribee — roads that over a long period of time we have become used to travelling on at 100 kilometres per hour — most of them, from what I can see, have had the speed limit reduced significantly, by up to 20 or 30 per cent. As I said, this is a cause of considerable annoyance to my constituents.

I can understand the minister's reluctance to get enthusiastic about road building. I know the Premier is not a fan of building roads. He is stuck in the good old days of the Labor Party when it was at war with motorists. I suppose that is the Labor way, and I have to accept that; however, I ask the minister to build up some courage and go into the cabinet room, sit at the cabinet table and demand the funding that is necessary to provide the sorts of roads that people in the western suburbs need and deserve. It is time the government came to the party on this. I know the previous government was in the process of upgrading a number of roads. Since the election that work seems to have ceased, and it is about time that the people in the west were given a fair go. I ask the minister to provide for the people of the western suburbs the roads they should have.

Western distributor

Ms HARTLAND (Western Metropolitan) — My adjournment matter is for the Minister for Roads and Road Safety. The Greens share a number of concerns with the community regarding the western distributor project and are seeking further information about the proposal from the government. We want to know how the Melbourne Metro rail tunnel will be funded if federal money keeps on being put into roads. We want to know how we can be convinced that the proposal represents value for money for taxpayers if it has not gone through a competitive process. We want to know when the business case and traffic modelling for this project will be released so the project can be properly scrutinised. We want to know whether the government intends banning container trucks from local suburban streets once the project is built, as we are concerned trucks will avoid the tolls and continue to use local streets.

We are concerned that this is yet another proposal for investment that provides better facilities to truck freight with no matched investment in our neglected rail freight network, which is a long-term solution to the ever-escalating number of freight trucks on our roads and to the rising rates of transport air pollution. We are concerned that there has been little consideration of public transport needs as part of this project proposal.

These roads should have priority for efficient commuter buses, and there is a longstanding proposal for a tram connection between Footscray and Docklands along Footscray Road that could be accommodated. We are also concerned about the impact the widening of the West Gate Freeway might have on the newly completed Federation Trail.

We want to know how the government proposes to ensure environmental and health safety in light of the contaminated soil that the tunnel construction will unearth and the location and environmental protections associated with the tunnel ventilation stacks. We are seeking a guarantee that Stoney Creek, Moonee Valley Creek and Yarraville Gardens will not be negatively impacted by the project if it goes ahead. We want to know how the ever-increasing truck volume will be managed to secure residents health and safety over the number of years it would take to build this project.

We want to know if this project is proposed to be in addition to or instead of the West Gate distributor. Importantly, we are seeking meaningful consultation with the community before a decision on this project is made. I ask the minister — we have written to him — whether he will attend a community forum in Footscray

at 6.30 on the evening of 16 June to hear the concerns of members of the community and answer their questions.

Royal Commission into Family Violence

Ms SHING (Eastern Victoria) — I wish to raise a matter for the attention of the Minister for the Prevention of Family Violence. I note that extensive consultations have been undertaken by the Royal Commission into Family Violence around the CBD and in regional Victoria. These have involved participation by a small number of people in groups to discuss the impact of family violence and the adequacy of current systemic responses to the causes and issues around family violence in terms of raising awareness and equipping the commission to best discharge its obligations under its terms of reference.

I note that the commission has published a number of very significant summaries of what has taken place over the course of the community consultations, and I note also that the commission will be accepting written submissions up to and including Friday, 29 May 2015. On that basis I seek an update from the minister on the way access to resources has been improved as a consequence of investment in the budget to allow greater access to resources that may be required now that the terms of reference have been announced and the commission has been appointed.

I urge everyone who feels affected by family violence, whether from a direct or an indirect perspective, to make a submission. My colleague Daniel Mulino and I, as members for Eastern Victoria Region, know that the issue cuts hard and cuts deep in areas where it is often very difficult to access services, programs, assistance and support, and where the tyranny of distance can prove to be exceptionally disadvantageous to people who require help and often require it very quickly under urgent circumstances.

A number of significant budget allocations were the subject of discussion by the minister in the course of the Public Accounts and Estimates Committee hearings. They have been outlined at length, and the commission is providing very good online and telephone resources and assistance to people, but an update from the minister in relation to how funding is being provided to assist those who are making complaints and require assistance between now and when the commission hands down its findings would be greatly appreciated.

Victorian Managed Insurance Authority

Mr DAVIS (Southern Metropolitan) — My adjournment matter tonight is for the attention of the Treasurer, although I know it will be of interest to the Minister for Planning as well. It concerns note 3(b), 'Dividends by entity', on page 28 of budget paper 5. That section of the budget points to the Victorian Managed Insurance Authority (VMIA) and indicates that $145 million in dividends will be taken by the government in 2015–16, $145 million in 2016–17, $87 million in 2017–18 and $43 million in 2018–19. A total of $420 million will be taken, for the very first time, from the Victorian Managed Insurance Authority. This is a hit on our state government insurer and all of those sectors in our state that it insures.

To give members some idea of the sectors that this will impact, the gross premium earnt — this is from the annual report of the VMIA for 2014, page 60, section 5, 'Income' — on domestic building insurance in 2014 was $35.751 million; on liability insurance, $36.25 million; on medical indemnity, $146.206 million; and there were other insurances as well. The VMIA does a broad range of work, but about 50 per cent — 49 per cent in a rough estimate — of its premium comes from medical indemnity insurance and about 12 per cent comes from building insurance.

On those pro rata amounts, what you would find is that of the $420 million that is to be ripped out of the VMIA by this government, about $50 million would come out of the building sector by either the payment of premiums escalating or a reduced capacity to reduce premiums in this state. There will be a hit on the public and a hit on public health services, and I make the point that VMIA insures public and not-for-profit health services across the state as well as aged-care services. All of these will be hit in this way.

This is a great big new tax, a hit on home builders and renovators. As I said, it will increase costs or reduce capacity to cut premiums that would exist otherwise. I am asking the Treasurer to release the working documents and the calculations — his estimates of the impact, his understanding and working documents — so that we can see the precise estimate for each sector that the VMIA works across. To give members an idea, in health this will be about $210 million, pro rata, over four years. It may be a hit of more than $50 million a year, and I reckon the government is going to come back for more, noting the spread of take. I seek the release of those working documents before the hit on building and on health occurs.

Family violence

Ms SPRINGLE (South Eastern Metropolitan) — My matter is for the Minister for the Prevention of Family Violence. Last year 21 women living in Melbourne's outer east who had been victims of family violence participated in a trial run by the Safe Futures Foundation. The trial saw these 21 women provided with so-called 'safety cards', which include duress alarms, GPS coordinates and live audiostreaming. Some of the women who participated in the trial also had CCTV cameras installed in their homes. The idea, as I understand it, is that when the safety cards become activated or damaged they begin recording evidence that can later be used in court. In November last year a report by Jane Lee in the *Age* indicated that the Safe Futures Foundation trial had significantly reduced the number of times perpetrators had breached intervention orders against these 21 women.

I am aware of some concern from parts of the sector regarding the safety cards. Mostly that concern is based on the broader concern to do with measures that appear to place the responsibility or burden for stopping family violence on the victim rather than the perpetrator. However, as I understand it, last year's Safe Futures Foundation trial was effective because it actually worked to prevent family violence.

Perpetrators knew that if the safety cards were activated or damaged, they would begin collating evidence that could later be used in court. By strengthening perpetrator accountability, the safety cards actually worked to prevent violence. In November then Attorney-General Robert Clark said the former government had committed $2 million for an additional two-year trial of the safety cards. In this year's budget, the Andrews government has committed $900 000 for a further one-year trial. Reports suggest that the number of women who will benefit from this trial will be about 45, and the trial will be limited to four specific sites across Melbourne.

Ideally safety cards like these would not be needed at all, and ideally we would be so effective at prevention and early intervention that no women or children — nobody — would ever be in a situation that caused them to rely on a safety card to protect them from a family violence perpetrator. Given that the government's latest budget allocates just $3 million to prevention and early intervention programs, can the minister explain why the second trial is so small, provide me with details of any existing evaluation of the first trial and commit to extending the trial site to include more women so as to prevent additional violence.

Shepparton Art Museum

Ms LOVELL (Northern Victoria) — My adjournment matter is for the Minister for Creative Industries, and it concerns the progression of a new stand-alone site for the Shepparton Art Museum. My request of the minister is that he and the Minister for Regional Development work cooperatively with the City of Greater Shepparton as it advances through the process of planning and developing this project. I also ask that the ministers look favourably on the council's grant application when it reaches that stage.

A stand-alone art museum has been the desire of many in the Shepparton community for some years now. The current museum lacks the space to adequately display the current collection, and it allows only limited space for visiting exhibitions. The desire for a stand-alone museum recently came closer to being enacted when the City of Greater Shepparton was presented with the opportunity to receive a major donation of Indigenous art from Carrillo Gantner.

The City of Greater Shepparton recognises the opportunity regional art galleries provide in attracting tourism and the further economic and cultural benefits that could be provided for the community by a new museum. The former coalition government assisted the City of Greater Shepparton by providing a $125 000 grant to develop a feasibility study and business case for a new museum. This work has now been completed and a motion was passed 6 to 1 at the last meeting of the City of Greater Shepparton to accept the findings of the feasibility study and the business case for the new museum. During the development of the report for the council, a community poll conducted across Shepparton generated over 1780 responses, with 76 per cent of respondents indicating full support for the business case for a new museum.

Shepparton would benefit greatly from a new museum, which would provide an opportunity to showcase local Indigenous art alongside national and international art collections, engage young people in art education and local culture, boost tourism and employment in the region, facilitate an indirect boost to business and consumer confidence in the region and provide a venue to host weddings, conferences and other functions that generate tourism and economic prosperity. Art galleries and museums are a fantastic way to promote tourism and lift cultural engagement in regional cities. The success of the galleries in Bendigo and Ballarat are testament to this.

A new stand-alone museum would allow the gallery to grow and attract philanthropic investment to purchase

further collections and bid for national and international exhibitions. This is an ambitious project and an important step forward in the effort to boost tourism, reverse the rising unemployment trend and lift economic prosperity in Shepparton.

My request of the minister is that he and the Minister for Regional Development work cooperatively with the City of Greater Shepparton as it advances through the process of planning and developing this project. I ask that the ministers look favourably on the council's grant application when it reaches that stage.

Local government rates

Mr LEANE (Eastern Metropolitan) — My adjournment matter is for the Minister for Local Government, Natalie Hutchins. It concerns the government's rate-capping policy and particularly the commencement date of that policy. I know about the policy, and I know the commencement date, but some people have been very confused about the date. I ask the minister to send that commencement date to me in writing so that I will have the capacity to help others.

Family violence

Mr O'DONOHUE (Eastern Victoria) — I raise a matter this evening for the Minister for Police. There are 12 separate projects that are part of a grant program to reduce violence against women and children that was initiated by former Minister for Crime Prevention, Andrew McIntosh. These 12 projects across Victoria are grassroots projects that intend to drive behavioural change to reduce violence against women and children.

Yesterday in the house I referred to one of those programs in particular, the Challenge Family Violence prevention project, a partnership between the City of Greater Dandenong, the City of Casey and the Shire of Cardinia. However, there are 11 other projects that cover a range of issues. There is the Baby Makes 3 program, which was undertaken in Warrnambool. A number of programs aim to develop respectful relationships in the workplace and in the community, and there are programs that aim to develop community champions who will stand up against violence and who will not be silent when inappropriate things are said or done.

These projects have been independently evaluated by the Australian Institute of Criminology as part of an interim evaluation process. Generally speaking, they have been deemed to be delivering effective outcomes and results. The budget is silent about these projects. The funding profile of the vast majority of these projects will expire before the Royal Commission into Family Violence hands down its findings. This will occur before the next budgetary cycle, when additional funds may be provided.

The people who are managing these projects are increasingly concerned about whether they will be able to build on and continue the work they have started. I make the point that these projects are the minister's responsibility, as they sit within the community crime prevention unit within the Department of Justice and Regulation. The action I seek of Minister Noonan is that he inform me of the status of these projects, whether there is any money in the budget to renew them and whether they will continue once the current funding stream expires.

Puppy farms

Mr BOURMAN (Eastern Victoria) — My matter is for the Minister for Agriculture, Jaala Pulford. After reading the latest annual report of the RSPCA, I noted that it is operating at a loss. I also noted that the government has allocated about $5 million over the next few years to help deal with the disgraceful issue of illegal and substandard puppy farms. I call on the government to implement any measures required to ensure that the funds are only used as intended on those farms.

South Morang railway station car parking

Mr ONDARCHIE (Northern Metropolitan) — My adjournment matter is for the Minister for Public Transport, Jacinta Allan, and is with regard to the South Morang railway station car park. The original car park at South Morang was designed by Labor, and it was always going to be undersized, given the requirements of commuters in this fast-growing area of northern Melbourne. That car park fills up by 6.40 every single morning, so commuters have had a problem there since it was built. The Napthine coalition government committed to putting more car parking into South Morang railway station, but funding was cut by the government in the current budget.

Every day about 600 cars are parked on the Westfield paddock opposite the railway station, and it is just a mud pit. Commuters who are trying to commute all the way to Melbourne are walking through mud every morning, including women in their beautiful shoes and clothing. The Andrews government has done nothing to address this matter in the state budget. It will not even say if it is going to help commuters who use the South Morang railway station. One government spokesperson said that any opportunities to expand car parking at

South Morang would be identified as part of a review process.

I can tell the government that the review process does not need to be done; commuters need car parking immediately. Given the government has only allocated $9 million for a $700 million railway project to Mernda, it is going to be years before people can use the railway station at Mernda — if it ever arrives — so they are compelled to use the South Morang railway station, which took Labor 13 years to build from its initial promise.

My call to the minister is to immediately commence construction of a new car park at South Morang railway station and save all that grief experienced by those 600 commuters who traipse through the mud every single morning as they make their way to the railway station. I am sure the government would agree with me that we do not want commuters going through that. I am sure even Mr Melhem would agree that this could be a clean event.

Regional and rural events

Mr PURCELL (Western Victoria) — My adjournment matter is for the Minister for Regional Development, and it relates to groups of small protestors and country values. Today I will speak about the increased attendance at the Warrnambool races, which are held in my electorate during the first week of May each year. The event injects many millions of dollars into the local economy. This year the carnival was held in wet and cold conditions, but the number of people attending the event increased by more than 20 per cent. This paints a very positive picture for Victoria's biggest and most impressive regional racing carnival, which has developed around a jumps program.

Horse racing, the opening of the duck season, spotlighting, rodeos et cetera are all honest and legal activities valued in the country and reflective of decades of country values. While there are some who vocally oppose these activities, it is important that we do not lose sight of their support for them and their entrenchment in our communities. At the TAB Warrnambool May Racing Carnival there were a handful of vocal protestors — no more than half a dozen — protesting against the sport, which had attracted over 25 000 people trackside to watch this great activity.

I note that an article in the *Weekly Times* of last week states:

> Duck hunting protestors have been blamed for a series of knife attacks on the cars of shooters near Geelong at the weekend.
>
> Seven tyres on four cars were slashed as the shooters were hunting at Reedy Lake on Sunday morning.
>
> Field and Game Australia chairman Bill Paterson said there had been five such attacks on hunter's vehicles this season.

While our democratic right to object should never be quashed, it is vital we are aware that vocal objectors are more often than not an extreme minority. I urge the government to never lose sight of the country activities that have existed for generations and to help keep honest and legal country values alive.

Autism services

Ms BATH (Eastern Victoria) — I raise a matter for the attention of the Minister for Education. This matter follows a recent meeting I attended with the autism spectrum carers in action group in South Gippsland. The group is made up of concerned parents of children with autism spectrum disorder who are currently feeling frustrated in relation to their children's educational opportunities. The children of many of these concerned parents do not qualify for entry into special schools as their IQ assessments come back as too high. Despite their high intelligence — as in above normal — these children often have challenging behavioural issues and can find it hard to cope in a mainstream school setting. Often these children do not qualify for teaching aides. As a former teacher myself, I understand how hard it is for teachers to cater for a broad range of students with different needs in the classroom.

I acknowledge that our teachers do an amazing job of dealing with a range of students. However, the government can do more to assist our teachers in meeting the needs of students who fall under the autism spectrum disorder. The government needs to support teachers in supporting our students, and I believe there are further opportunities available to enhance the skills of our teachers so they can meet the challenges of autistic children. Often a small change to an autistic child's environment or an alternative way of dealing with difficult behaviours can make a big difference to their learning. Teacher professional development and networking is essential in supporting autistic students.

I request that the minister provide government funding to train all teachers of autistic students. Currently I believe teachers can apply for grants to help with professional development focused on students who fall under the autism spectrum, but I feel we need to take this training much further. I acknowledge the frustrations of parents who have autistic children and

who only want the best for them, and I acknowledge the frustration of teachers who do not have the relevant resources and training to cater for our children. I know our teachers want to be equipped with the skills and understanding needed to ensure that all their students have the best educational opportunities.

Comprehensive government-funded training for teachers of children who fall under the wide umbrella of autism spectrum disorder would be highly beneficial for both teachers and students, and I ask the minister to address this important issue.

Responses

Mr JENNINGS (Special Minister of State) — I have written responses to adjournment debate matters raised by Mr Finn on 6 May and Mrs Peulich on 7 May.

In relation to the matters raised on the adjournment this evening, Mr Finn and Ms Hartland raised matters for the Minister for Roads and Road Safety. The days when a member raised only one adjournment matter have been replaced by members raising a proliferation of matters, in particular in the case of Ms Hartland. I was thinking of a biblical reference. The minister might need the patience of Job to deal with Ms Hartland's matters, but certainly he will need the courage of Daniel to respond to Mr Finn's challenge, and the wisdom of Solomon to exercise good judgement in the balance between reducing speed limits and the proliferation of new road developments in the western suburbs.

Ms Shing and Ms Springle raised matters for the attention of the Minister for the Prevention of Family Violence, both of them wanting to make sure that any request for funding support, whether it be through the services of the community of Gippsland or eastern Victoria, or through the prism of people who are currently the beneficiaries of the Safe Futures Foundation trial — in the case of Ms Springle — has received an evaluation of the effectiveness of the work, ongoing funding and support and greater access in the future to services in the lead-up to consideration by the Royal Commission into Family Violence.

Mr Davis raised a matter for the attention of the Treasurer. Not for the first time I remind Mr Davis and members of the opposition that the dividend that has been provided to the government from the Victorian Managed Insurance Authority is not going to have an effect on premiums. But Mr Davis is seeking the reassurance of the calculations that the Treasurer relied on to form that view. The government refutes the assertion that the dividend will have an adverse impact on premiums.

Mr Leane raised a matter for the Minister for Local Government to perhaps clarify again for Mr Davis's benefit — or perhaps for other members of the community who may be concerned — when the rate-capping policy may apply, because there is some confusion or lack of recognition of the facts about when the program may begin. Mr Leane called upon the minister to clarify that once and for all, and hopefully even within the cognitive recognition of members of this chamber so they will be relaxed on the subject.

Ms Lovell asked the Minister for Creative Industries to be supportive of the new Shepparton Art Museum. She clearly articulated her case; I could almost see a feature article underpinning the validity of her arguments. I would think there would be housing for many colourful cows in the Shepparton community through the new Shepparton Art Museum.

Mr O'Donohue raised a matter for the attention of the Minister for Police and requested that he clarify the status of 12 community strengthening programs that are designed to mitigate the proliferation of violence in communities. He wants to know whether those 12 existing projects will continue and what their status is.

Mr Bourman raised a matter for the attention of the Minister for Agriculture and implored her to ensure that the $5 million allocated by the current government for the removal of puppy farms is actually only used for that purpose.

Mr Ondarchie made a very impassioned plea to save the footwear of the residents of South Morang who are being subjected to mud every day, come rain, hail or sunshine, in a car park in South Morang. He urged the Minister for Public Transport to immediately develop the car park at South Morang.

Mr Purcell raised a matter for the attention of the Minister for Regional Development to ensure that the minister appreciates the value of the races at Warrnambool and to try to make sure that the rights of protesters do not diminish what is, in his view, an extraordinary contribution to the local economy and the culture of the south-west in terms of the Warrnambool races.

Ms Bath raised a matter for the attention of the Minister for Education. Can I say that of all the matters raised on the adjournment this evening, I thought, in my personal assessment of the significance of the issues that were raised, that was an outstanding call. Her request was for

a greater capacity within the education system to provide more professional development and support for the teachers who are supporting the children in our education system who have conditions on the autism spectrum disorder. That would enable those children to achieve their greatest potential and flourish within the education environment in this community, and it would also support families with children with autism to have a far happier and more fulsome engagement with the education system.

The ACTING PRESIDENT (**Mr Eideh**) — Order! The house now stands adjourned.

House adjourned 6.07 p.m. until Tuesday, 9 June.

WRITTEN RESPONSES TO QUESTIONS WITHOUT NOTICE

Responses have been incorporated in the form supplied to Hansard.

Firearms

Question asked by: **Mr Bourman**
Directed to: **Minister for Training and Skills**
Asked on: **15 April 2015**

RESPONSE:

The investigation of crimes consists of examining different strands of information and evidence, often involving assistance from a range of areas within Victoria Police. The number of crimes of violence for which the firearm registry has been used to solve cannot easily be quantified.

The firearm registry is responsible for administering the firearms licensing system and can assist in the investigation of crimes of violence, where necessary, by providing information to assist investigators in their work.

The input that is provided by the firearm registry in the course of investigating such crimes cannot easily be attributed to the actual crime being solved by the registry.

Abbotsford Convent

Question asked by: **Ms Patten**
Directed to: **Minister for Small Business, Innovation and Trade**
Asked on: **5 May 2015**

RESPONSE:

Revenue from the Congestion Levy in 2015-16 is estimated to be $120.2 million per the budget.

The Congestion Levy is used to price congestion and used to improve alternative transport options. As stated on the Abbottsford Convents website, these transport alternatives near the Convent include:

- The Victoria Park Train Station,
- The 200 and 207 Bus lines,
- The 12, 48 and 109 Tram routes, and
- The Capital City cycling and walking path that passes through the site.

The Abbotsford Convent website advocates using these alternative modes of transport too, stating:

> ‘avoid the ever-increasing traffic on the roads, it’s (bike and public transport) the most sustainable way to get around and, to be honest, street parking is limited and on busy days the car park fills quickly’

The Andrews Labor Government recognises the important place the Abbotsford Convent has in the community, and is proud to acknowledge that the previous Labor Government gifted the site to the public, in addition to the land to provide car parking. Further, $4 million was provided by the previous Labor Government for restoration works, in addition to revenue generated by the car park.

The Government is currently conducting a review of the Congestion Levy. Until this review is complete no further exemptions will be provided.

Shooting Sports Facilities program

Question asked by: **Mr Bourman**
Directed to: **Special Minister of State (for the Minister for Sport)**
Asked on: **26 May 2015**

RESPONSE:

When last in Government, we committed $12.5 million to the development of a consolidated State Shooting Centre. The Coalition Government did not proceed with this project, instead commencing a grants program. We are supportive of a program that increases the sustainability of our shooting community, and the benefits local club membership provides in supporting a vibrant, inclusive and connected communities. It is understood that there has been some misunderstanding about the future of the Shooting Sports facilities program. I can inform members that the program is still active.

Additionally, I can inform members that the Minister for Sport has recently re-established the Advisory Committee, chaired by long-serving regional community representative, and former Victorian Government Minister, Joe Helper, joined by Russell Bate, Russell Pearson, Clive Whelan and Marion Barnes. The committee will be meeting in June to review the existing applications, the guidelines for funding and provide advice to the Government of future grant rounds. The Minister has asked them as a matter of priority to provide him with advice as to when the grants for this important program will become available.

Broadmeadows railway station

Question asked by: **Ms Patten**
Directed to: **Minister for Agriculture**
Asked on: **26 May 2015**

RESPONSE:

I thank the member for her question.

As the member would be aware, the Andrews Labor Government took a number of strong and exciting public transport policies to the last election and I am pleased to inform her that we are getting on with it and getting on with delivering on what we promised.

The 2015-16 Victorian Budget contains the biggest investment in public transport in Victoria's history, with almost $20 billion worth of major transport infrastructure to get people home to their families safer and sooner.

The Andrews Labor Government's first Budget commits up to $2.4 billion to kickstart the removal of 50 of Victoria's most dangerous and congested level crossings. As of this week, the contract for the first four level crossings has been awarded and an expression of interest for a further nine has been released to the market.

We have committed $1.5 billion for planning, design and significant early works on the Melbourne Metro Rail Project.

We have committed $2 billion towards new trains, trams and jobs for Victoria and set out our plan for a long-term rolling stock strategy, with significant local content requirements.

It is true that former Labor governments had promised to upgrade Broadmeadows Station. It is also true that the former Coalition government scrapped those plans.

The Andrews Labor Government went to last year's state election with a number of commitments and our first budget, and immediate priority, is to meet those commitments.

Although there are no current plans to upgrade Broadmeadows Station, improvements may be considered in the future as part of the Andrews Labor Government's continued focus on improving public transport across Victoria.

The Andrews Labor Government has not broken its promise to the electorate. We are delivering on our election commitments.