PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Tuesday, 23 February 2016

(Extract from book 3)

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

By authority of the Victorian Government Printer

HANSARD150

1866–2016

Following a select committee investigation, Victorian Hansard was conceived when the following amended motion was passed by the Legislative Assembly on 23 June 1865:

> That in the opinion of this house, provision should be made to secure a more accurate report of the debates in Parliament, in the form of *Hansard.*

The sessional volume for the first sitting period of the Fifth Parliament, from 12 February to 10 April 1866, contains the following preface dated 11 April:

> As a preface to the first volume of "Parliamentary Debates" (new series), it is not inappropriate to state that prior to the Fifth Parliament of Victoria the newspapers of the day virtually supplied the only records of the debates of the Legislature.
>
> With the commencement of the Fifth Parliament, however, an independent report was furnished by a special staff of reporters, and issued in weekly parts.
>
> This volume contains the complete reports of the proceedings of both Houses during the past session.

In 2016 the Hansard Unit of the Department of Parliamentary Services continues the work begun 150 years ago of providing an accurate and complete report of the proceedings of both houses of the Victorian Parliament.

The Governor

The Honourable LINDA DESSAU, AM

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

The ministry

Premier	The Hon. D. M. Andrews, MP
Deputy Premier and Minister for Education	The Hon. J. A. Merlino, MP
Treasurer	The Hon. T. H. Pallas, MP
Minister for Public Transport and Minister for Employment	The Hon. J. Allan, MP
Minister for Small Business, Innovation and Trade	The Hon. P. Dalidakis, MLC
Minister for Industry, and Minister for Energy and Resources	The Hon. L. D'Ambrosio, MP
Minister for Roads and Road Safety, and Minister for Ports	The Hon. L. A. Donnellan, MP
Minister for Tourism and Major Events, Minister for Sport and Minister for Veterans	The Hon. J. H. Eren, MP
Minister for Housing, Disability and Ageing, Minister for Mental Health, Minister for Equality and Minister for Creative Industries	The Hon. M. P. Foley, MP
Minister for Emergency Services, and Minister for Consumer Affairs, Gaming and Liquor Regulation	The Hon. J. F. Garrett, MP
Minister for Health and Minister for Ambulance Services	The Hon. J. Hennessy, MP
Minister for Training and Skills	The Hon. S. R. Herbert, MLC
Minister for Local Government, Minister for Aboriginal Affairs and Minister for Industrial Relations	The Hon. N. M. Hutchins, MP
Special Minister of State	The Hon. G. Jennings, MLC
Minister for Families and Children, and Minister for Youth Affairs	The Hon. J. Mikakos, MLC
Minister for Environment, Climate Change and Water	The Hon. L. M. Neville, MP
Minister for Police and Minister for Corrections	The Hon. W. M. Noonan, MP
Attorney-General and Minister for Racing	The Hon. M. P. Pakula, MP
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 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 — #Ms Dunn, Mr Eideh, Mr Elasmar, Mr Finn, Ms Hartland, Mr Morris, Mr Ondarchie and Ms Tierney.

Standing Committee on the Environment and Planning — Ms Bath, #Mr Bourman, Mr Dalla-Riva, Mr Davis, Ms Dunn, #Ms Hartland, Mr Leane, #Mr Purcell, #Mr Ramsay, Ms Shing, Mr Somyurek and Mr Young.

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

participating members

Legislative Council select committees

Port of Melbourne Select Committee — Mr Barber, Mr Drum, Mr Mulino, Mr Ondarchie, Mr Purcell, Mr Rich-Phillips, Ms Shing and Ms Tierney.

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 Bourman, Mr Elasmar and Mr Melhem. (*Assembly*): Mr Crisp, Mrs Fyffe, Mr Nardella and Ms Ryall.

Electoral Matters Committee — (*Council*): Ms Patten and Mr Somyurek. (*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*): Ms Bath and Mr Dalla-Riva. (*Assembly*): Ms Blandthorn, Mr J. Bull, Mr Dimopoulos, 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 — 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

TUESDAY, 23 FEBRUARY 2016

Tuesday, 23 February 2016

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 2.03 p.m. and read the prayer.

ACKNOWLEDGEMENT OF COUNTRY

The PRESIDENT — Order! On behalf of the Victorian state Parliament I acknowledge the Aboriginal peoples, the traditional custodians of this land which has served as a significant meeting place of the first people of Victoria. I acknowledge and pay respect to the elders of the Aboriginal nations in Victoria, past and present, and welcome any elders and members of the Aboriginal communities who may visit or participate in the events or proceedings of the Parliament this week.

ROYAL ASSENT

Message read advising royal assent on 16 February to:

Bail Amendment Act 2016
Drugs, Poisons and Controlled Substances Amendment Act 2016
Justice Legislation Further Amendment Act 2016
Relationships Amendment Act 2016
Road Legislation Amendment Act 2016.

OMBUDSMAN JURISDICTION

The PRESIDENT — Order! Before I proceed to questions without notice I want to make a short statement. Members will recall that I indicated in the last sitting week that I would keep them up to date with progress in respect of the instructions to me to join the Ombudsman's application to the Supreme Court for a ruling on her jurisdiction. Therefore I make the following statement to bring members up to date.

In regard to the application to the Supreme Court in relation to the Ombudsman jurisdiction matter I advise members that on Wednesday, 10 February this year, the house resolved that I be directed to make application to the Supreme Court to be joined as a party to the proceedings initiated by the Ombudsman. The resolution directs me to do this on behalf of the Legislative Council in order to contend certain views contained in the resolution. The resolution also empowered me to seek legal advice, engage counsel and make submissions as required.

On Thursday, 11 February, I advised the house that because I am acting at the direction of the house I will provide information to members as matters proceed. I therefore wish to advise the house that I have sought legal advice and counsel in order to carry out the first requirement of the resolution: that I make application to the court to be joined to the proceedings. The summons for this purpose was filed with the court on 16 February. The necessary effect of the filing of this summons is to seek an order that I be added as a defendant in the proceeding.

My legal advisers are now preparing a submission in support of the summons. I have engaged Lander & Rogers to act as my lawyers in this matter. In turn they have briefed Peter Hanks, QC, and Melanie Szydzik as his junior counsel to appear at the hearing of this summons on 8 March 2016 and any subsequent hearings. I will provide the house with further information as matters proceed.

QUESTIONS WITHOUT NOTICE

Ombudsman jurisdiction

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is to the Minister for Training and Skills representing the Attorney-General. Why did the government seek leave to be represented in the Supreme Court matter relating to the Ombudsman's jurisdiction over the Labor staffing rorts?

Mr HERBERT (Minister for Training and Skills) — I do not have that information at my disposal, but I am happy to get back to the member when I do. I will make inquiries of the Attorney-General.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister for his response, and I ask: is it the case therefore that that matter was not subject to cabinet discussion or amongst ministers, including him?

Mr HERBERT (Minister for Training and Skills) — I think there are long-held traditions and procedures of cabinet confidentiality, and I simply am not in a position to answer that question, which I am sure Mr Rich-Phillips knows.

Ombudsman jurisdiction

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is to the Leader of the Government. Why has the government sought to join the Ombudsman's jurisdiction matter before the Supreme Court when he previously informed the house that the government would not do so?

Mr JENNINGS (Special Minister of State) — I thank Mr Rich-Phillips for his question, even though he may be hoping to join the dots down the front bench in relation to ministers who may have an interest in or a direct relationship with this matter. I can actually make it very clear to the chamber that it had always been the intention for the Ombudsman's consideration of these matters to be assessed on its merits and determined in the Supreme Court without necessarily interference by parties who may or may not be able to provide the appropriate legal advice to the Supreme Court in relation to these matters.

I said when the first motion was here before the chamber and I said the last time the motion was considered by the chamber that in fact we were constructing a path of intervention in joining the Supreme Court proceedings in circumstances where there was not a consolidated legal opinion that had been formed by the Legislative Council in relation to these matters. And certainly I do not want to give a discourtesy to the President, who has just informed the house that he has sought legal advice and that legal advice is being furnished.

Honourable members interjecting.

Mr JENNINGS — I am giving the total context of the issues. At no point in time, either through the submissions that had been provided to the Supreme Court or indeed through the joining of those proceedings by the President, based upon legal advice that the Council is at this point in time unaware of — again, that is not a discourtesy to the President; the President is acting in accordance with the resolution, but I, as one member of this chamber, do not know what that legal advice contained, and I certainly would suggest, on the basis of the arguments that Mr Barber put, that he was not necessarily well grounded or relying on legal advice in relation to his joining of the matter — —

Mr Ondarchie — What are you saying?

Mr JENNINGS — What I am very, very clearly saying, without interruption, is that the government did not ultimately have the confidence that in fact the relevant material was going to be drawn to the attention of the court unless the full range of advice that was available to the court was provided, because this — —

Mr Finn interjected.

Mr JENNINGS — Okay, Mr Finn, this is the simple version of the story. The government's preference was to allow the Supreme Court to proceed unsullied by the informed or ill-informed views of other parties to actually sway its judgement in relation to these matters. The government has decided that, in its obligation of making sure the Victorian statute is protected, as well as the jurisdictional cover of the Ombudsman, it is a wise course of action to make sure that the full range of advice is aired before the Supreme Court. And that is the reason why that decision has been made to ask the Supreme Court whether it would prefer the government to join the proceedings or to intervene in these matters, depending on, as the court sees fit, the appropriate role of that advice to be heard and considered by the Supreme Court.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister for his answer. It was evident from the answer of the Minister for Training and Skills that he, notwithstanding that he represents the Attorney-General, has no knowledge of the government's decision to seek to join this matter. The announcement was made not by the minister but by the Attorney-General. Given it apparently did not go to cabinet and the announcement was made by the Attorney-General, whose decision was it to seek to join this matter?

Mr JENNINGS (Special Minister of State) — The response of Minister Herbert to the first question did not confirm or deny any assertion that Mr Rich-Phillips has made. It did not do that at all. Mr Herbert actually conveyed to the chamber that in fact on matters that relate to cabinet consideration it is not a free-will gesture of ministers to go and abuse cabinet confidentiality by sharing matters that occur within cabinet processes with the chamber or the general public. That is not what conventions of cabinet behaviour actually would lead you to conclude.

In relation to these matters, they have been tested before. In relation to informing the Ombudsman of the government's view, I did that, and I take responsibility for it, and the Attorney-General takes responsibility for furnishing that advice to the Supreme Court.

Ombudsman jurisdiction

Mr FINN (Western Metropolitan) — My question is to the Leader of the Government. I am sure he will agree that the only beneficiaries of nobbling the Ombudsman's investigation of Labor staffing rorts are those Labor MPs who are implicated. I ask him: how is using taxpayers funds to shield Labor MPs from investigation an appropriate use of that taxpayer money?

Mr JENNINGS (Special Minister of State) — I thank Mr Finn for the very nice try that he has made to fit a whole range of assumptions and loaded arguments into a proposition that I cannot possibly agree to. The government has an interest in this matter to ensure that the statute is complied with and the Ombudsman's jurisdiction is delineated in a way that all of the Victorian community can have confidence in in the future. Those are the circumstances by which any resources will be used in relation to this matter.

Supplementary question

Mr FINN (Western Metropolitan) — I thank the Leader of the Government for his answer. What is the estimated cost to the taxpayer of the government's legal challenge to protect those Labor MPs?

The PRESIDENT — Order! I have some concerns about the question in that I do not believe that the government's position in joining the action was actually to protect anybody, other than to pursue legal advice in respect of the jurisdiction of the Ombudsman. However, given the original question and given some of the matters that the Ombudsman was requested by the house to investigate and to examine, I will allow the question to stand, but I am not very comfortable with what was almost a verballing of that position.

Mr JENNINGS (Special Minister of State) — I thank you, President, for your guidance to the chamber, which includes me, in relation to how these matters should be dealt with. The advice that the government has relied on has been provided by the solicitor-general. The solicitor-general is in the full-time employ of the state to represent the state's interest in relation to protecting Victorian law, and that is the way in which the advice has been obtained. The advice has been transmitted, and that advice will actually be fully acquitted within the responsibility of the legal officer that actually applies — —

Mr Finn interjected.

Mr JENNINGS — Perhaps Mr Finn could go and have a look at the qualifications of the Victorian solicitor-general, who is in the full-time employ of the state of Victoria to undertake this work as required.

Vocational education and training

Ms BATH (Eastern Victoria) — My question is for the Minister for Training and Skills. I refer to the minister's comments in the media in November last year where he said companies would be deemed ineligible for government contracts if an owner or senior manager had ever worked for another vocational education and training (VET) provider that had lost state funding. Does this requirement also apply to companies which have lost federal funding due to compliance issues?

Mr HERBERT (Minister for Training and Skills) — That is a very good question, actually. When we — —

Honourable members interjecting.

Mr HERBERT — No, no. As members know, the government has had major concerns about the poor contracting done previously by the previous government, by the rampant rorting of taxpayer funding and by the proliferation of very low-quality providers in the Victorian government-funded training system. That is why we had $9 million in additional funding for a blitz and we have committed an extra $30 million — $10 million a year over the next three years — to ramp up compliance activity, on top of the $4.5 million that has been the traditional spend. On top of that we changed the contract requirements to be much tougher so that there are mandatory performance requirements and a track record of quality training is there, and we tried to stop the rogues from going from one provider when they were closed down to another.

I am not sure whether that checking from the compliance unit of the department includes those training providers who were registered under the Australian Skills Quality Authority (ASQA) — presumably it might be about VET FEE-HELP that you are asking — and were not receiving state government funding but were receiving funding under VET FEE-HELP through the VET FEE-HELP administrator. I am not sure of that. I will check that.

Supplementary question

Ms BATH (Eastern Victoria) — Given Bruce Mackenzie was a director of the ASX-listed Australian Careers Network (ACN) — the parent company of Phoenix Institute and the Australian Management Academy, both of which have lost their funding contracts — can the minister confirm that under his guidelines Mr Mackenzie is now ineligible to run a government-funded training organisation?

Mr HERBERT (Minister for Training and Skills) — Let us be clear. This is the second time the opposition has sought to besmirch Mr Mackenzie. It is pretty grubby, but let us be clear: Mr Mackenzie resigned from the ACN board only a month after it commenced trading on the ASX. Let us be clear: it was a long time ago. At the time there were no issues with

ACN. They had just listed, and in fact they were going reasonably well.

Since then and over recent times, the member is quite right, a number of companies that are in the ACN stable, because ACN is not just a training provider, have lost their funding. ASQA has cancelled the registration of Phoenix Institute, and that could affect some 20 000 students nationally who have been brought into the VET FEE-HELP system. Heron Assess, another company — its contract has recently been terminated by the department. Cove Training — no offer of a 2016 funding contract was made. Consider This Training, another one — the contract was terminated in June this year — —

The PRESIDENT — Order! Thank you, Minister.

HIV/AIDS

Ms WOOLDRIDGE (Eastern Metropolitan) — My question is to the Minister for Families and Children representing the Minister for Health. The Victorian *HIV/AIDS Monthly Surveillance Report* includes important information about new diagnoses and modes of transmission as well as demographic and geographic profiles. These monthly reports provide invaluable data and analysis to Turning Point, community health networks and LGBTI groups so they can properly target support programs and financial resources. Despite the government receiving the reports within two months of month end, the last monthly surveillance report the government has released is dated May 2015. This undermines the capacity to quickly respond to changes in diagnosis trends, and I ask: what is the reason these monthly surveillance reports have not been made public to the Victorian community for the last nine months?

Ms MIKAKOS (Minister for Families and Children) — I thank the Leader of the Opposition for her question. The issue of HIV/AIDS is a very important issue that our government takes very seriously. We are of course absolutely committed to promoting the best health outcomes for the community and improving health and wellbeing outcomes for the community very broadly.

In terms of the specifics of the question that the member has asked in regard to surveillance reports, that is information that I do not have at hand, but I am happy to refer the specifics of that to the Minister for Health. I do make the point that our government is one that is committed to openness and transparency. The Minister for Health has been absolutely committed to making far more information available about the progress of our health system than was ever the case when Mr Davis was the health minister and the coalition was in office, and that relates to ambulance data and that relates to health performance data. I remember very well — —

The PRESIDENT — Order! The minister is verging on debate. I think the question was quite specific, and it did not go to those other areas that she is canvassing. I think the minister has made her point, but I certainly would not want to see her continue to debate the answer. The minister, to continue.

Ms MIKAKOS — Thank you, President. I thank you for your guidance in this matter. I do recall, when the shoe was on the other foot, a very different approach to these matters, but I am very happy to refer the specifics around the surveillance report that the member refers to to the Minister for Health for assistance.

Supplementary question

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister for that referral to the Minister for Health, and I also thank her for her commitment and re-articulation of a commitment to openness and transparency in terms of data, so I ask as a supplementary: when will the Andrews government make public all outstanding HIV/AIDS in Victoria monthly surveillance reports so that community health networks throughout Victoria and organisations that work with the LGBTI community can be fully informed and effectively working to reduce transmission of HIV?

Ms MIKAKOS (Minister for Families and Children) — Again I thank the Leader of the Opposition for her question. I will refer the specifics of that to the Minister for Health for response.

Elevated rail proposal

Mr DAVIS (Southern Metropolitan) — My question is for the Leader of the Government. What is the government's policy on the acquisition of properties along the sky rail route between Caulfield and Dandenong, the amenity of which will be severely impacted by the government's hideous plans?

Mr JENNINGS (Special Minister of State) — I thank in part Mr Davis for his question, which relates to the legitimate concerns of residents who live along the Cranbourne-Pakenham rail alignment and may have some degree of concern about the important initiative announced recently by the government in terms of improving the quality of service along that rail corridor,

which will see the creation of new tracks and new stations and the removal of level crossings, that overwhelmingly the government is confident will receive outstanding community support on the basis of the improvement to the public transport system and in relation to traffic movement.

Mr Ondarchie — Not so far.

Mr JENNINGS — In fact Mr Ondarchie has invited me to comment on that 'Not so far'. As we have discussed and as we debated in the Parliament last time we were here, there is a need, recognised by the government, to ensure that communities are engaged, consulted and respected in relation to the way in which this project will be handled. We are confronted by some degree of real community anxiety — I acknowledge that — and some generated by hysterical campaigns that may be supported by some of those opposite. I would encourage those opposite not to use words that encourage a degree of hysteria or anxiety beyond the real world and beyond the real expectations that the government has been setting in terms of the way in which these matters will be dealt with.

My colleague the Minister for Public Transport and the team that work for her through the Level Crossing Removal Authority will be embarking upon extensive conversations with landholders in the corridor to discuss the best ways to remedy their concerns, either by the design and implementation of the proposal or by ways in which the proposal may be able to be modified to address their concerns, and in some instances there may be circumstances where accommodation may be found along the lines that are embedded in Mr Davis's question. But these are a long way through the process of community engagement, and the minister and the Level Crossing Removal Authority are embarking on those conversations. They are having to do it in a respectful, dispassionate way as much as possible. In circumstances where we know there is some degree of community concern, we will be respectful of it and engage with it, and those relationships will be formed on a bilateral basis between the landholders affected and the Level Crossing Removal Authority.

Supplementary question

Mr DAVIS (Southern Metropolitan) — I thank the minister for his response and ask him therefore: is it a fact that government officers have discussed acquisition with severely impacted residents when asked to do so, and if so, why is the government not being more open and transparent with affected residents about the avenues that are open to them going forward?

Mr JENNINGS (Special Minister of State) — I think in my substantive answer I just outlined the process by which this engagement will be undertaken. I thought it was actually fairly fulsome in its response in terms of outlining how that process will be managed, and that is exactly how it will be managed.

Portland aluminium smelter

Mr PURCELL (Western Victoria) — My question is to the Minister for Agriculture in her capacity as the representative of the Minister for Energy and Resources. On 10 November last year I raised the issue facing Alcoa's aluminium smelter at Portland, including the company's review of its global operations and the imminent negotiation of Alcoa Portland's power contract. I received a response on 9 February this year, but in that time it has become absolutely dire for Alcoa in Portland. Recent reports have indicated the smelter is in the red and the outlook is bleak, with it facing a drastic increase in costs of at least $50 million forecast under a new power contract. My question is: when does the minister expect to solve this problem and finalise power price negotiations with Alcoa in Portland?

Ms PULFORD (Minister for Agriculture) — I thank Mr Purcell for his question, through me to Minister D'Ambrosio. The smelter at Portland has been operating since 1984 and is of course a very significant employer for Portland, with 540 people directly employed and a contractual workforce of around 180. The government is of course aware of the media speculation around the future of the smelter given expected increases in power costs and recent pressure on commodity prices. We understand the financial viability of the smelter depends on a number of things, including the cost of production, world aluminium prices and the Australian-US dollar exchange rate. Aluminium production, as I am sure Mr Purcell knows, uses large quantities of electricity and represents a significant cost input for the Portland smelter. In establishing the smelter the Victorian government entered into a series of power purchase agreements for the supply of electricity to the Portland smelter, and the government is certainly conscious that the current agreement will cease on 31 October 2016.

I understand that Alcoa is focused on improving the international competitiveness of its operation, and it is worth noting that, compared to other smelters, the Portland smelter is cost of production is lower than the world average. There is also some expectation by industry experts that there may indeed be a recovery in world aluminium prices in the near future, but I can assure Mr Purcell that the government is in regular

dialogue with the company about its Portland operations.

Supplementary question

Mr PURCELL (Western Victoria) — I thank the minister for her reply. The issue is that the town actually is the smelter. The entire community will be devastated and the region will be devastated if the smelter closes, and it will cause irreversible problems for this area. My question is: considering the importance of Alcoa in Portland and the jobs involved, will the minister commence to specifically support the Portland region by transitioning to a new industry in Portland that will encompass renewable energies?

The PRESIDENT — Order! I will allow the minister to answer, but that is a much broader question. Leveraging off that substantive question, the member has certainly pushed the envelope a fair way.

Ms PULFORD (Minister for Agriculture) — I thank Mr Purcell for his supplementary question. The government will always work hard to support the diversification of the economy and particularly so where there is such a significant regional employer as this smelter is to Portland. The south-west I think has a great future, a really exciting future, in which a growing and robust renewable energies industry can and will play a really important part. I am probably not in a position to commit on behalf of Minister D'Ambrosio, so I will seek, I suppose, a formal response to the supplementary question. But I think the minister would be quite relaxed with me suggesting on her behalf that in her responsibilities as Minister for Energy and Resources and Minister for Industry and in my responsibilities in the regional development portfolio these are the kinds of things that we work together closely on always.

Drug harm reduction

Ms PATTEN (Northern Metropolitan) — My question is for Minister Herbert, representing the Minister for Police. Last Monday, 15 February, *Four Corners* aired *Dying to Dance*, an in-depth look at Australia's dance party drug scene, and in particular Victoria's. A number of eminent experts took part in the program, including a former Director of Public Prosecutions in New South Wales, a former Australian Federal Police Commissioner, police officers, medical professionals and toxicologists. Each expert noted not only that punitive investigative measures are expensive and ineffective but that they actively contribute to drug-related harm, as opposed to harm reduction measures such as pill testing. My question is: given that we now have over 100 years of research into punitive approaches to illicit substances that establishes the inefficacy of criminalising personal drug users, how much does the Victorian government spend on harm reduction schemes?

Mr HERBERT (Minister for Training and Skills) — I thank Ms Patten for her question. I did not see the *Four Corners* show unfortunately — it sounds like an interesting show — but obviously we take harm reduction schemes seriously across a range of portfolios as well as of course, I guess, in education. However, we also have a viewpoint that there need to be punitive measures and strong measures within the law, particularly when we are seeing a range of dealing and other activities. On the question of how much we spend, I really do not know, to be honest, but I will ask the minister to give an answer as best the minister can, given that the question probably goes across quite a few different portfolios, if I got the question right.

Supplementary question

Ms PATTEN (Northern Metropolitan) — I thank the minister for his reply. According to Cate Quinn of the Victoria Police Forensic Centre, 'Law enforcement is not just about investigation, but about mitigating and reducing harm in the community'. She cited providing information as an example of reducing harm.

Experts in health and law enforcement noted that we should be doing everything possible to ensure that those who experiment when they are young can survive that experience. These experts highlighted harm reduction schemes such as pill testing as vital if we are to combat drug-related deaths and injuries. Given that pill testing is now research-based, evidence-informed best practice, could the minister explain why the Victorian government is still refusing to protect people with this harm reduction method?

Mr HERBERT (Minister for Training and Skills) — On the first part of the question we agree that of course the police have a difficult job to do, and part of their remit is to have some discretion. Many times when I am representing the Attorney-General and the Minister for Police on legislation, the answers that we get come down to, 'Well, police have to have some discretion in these matters; not everything is black and white'. It is a matter of trusting the police, in some cases, to work out how they enforce the law. Of course it is correct what the members said. I remember Banyule council a little while ago had what were called orange people. They would go out there to places where youth congregate, and they would talk to them about drug abuse and about a whole range of different

behaviours, either trying to get in early and stop the problems or, if young people had a problem, trying to get assistance.

On the actual issue of testing of pills or of other substances — I think Ms Patten asked a question of me a while ago on that matter and the Victorian government's position — that is not the government's position. There are a range of reasons, but I shall provide a detailed answer to that from the minister.

Ridesharing regulation

Ms DUNN (Eastern Metropolitan) — My question is for the Special Minister of State. We have seen the Greens-Labor government in the ACT regulate ride-sharing services quickly and efficiently. We have also seen Western Australia, Tasmania and New South Wales move quickly towards regulation. Can the minister update the house on the progress of the taxi and hire car industry ministerial forum and the regulation of ride-sharing services in Victoria?

Mr JENNINGS (Special Minister of State) — I thank Ms Dunn. I am bitterly disappointed. She has broken my colleague's heart. She feels neglected today, so I hope there will be some opportunity for Ms Dunn to remedy that during the course of the sitting week.

Again, I thank Ms Dunn for being one of the team that keeps reminding us of how the Greens may form parts of administrative leadership in other jurisdictions in this nation — something that they have actually tried to resist at every turn in this jurisdiction. Maybe one day they will exhibit some interest in that regard, but certainly there has not been any skerrick of it up until now. So let us just leave that issue aside.

There are a number of jurisdictions around the world, not only around Australia, that have actually tried to grapple with the appropriate regulatory environment that relates to the use of Uber services, and indeed in Victoria there is a distinction between those activities which are currently regulated under hire car provisions and those that are not — those that use an application that provides for pretty instant access, it seems, for certain customers to certain service providers. But one of the things that almost unites every jurisdiction that has tried to deal with this matter up until now has been that it is not an easy space to regulate, in terms of the confidence that the customer may have, customer safety and certainty and the reliability of that regulation, and then particularly overlaid by the cost structures of the existing taxi industry within that jurisdiction.

For instance, in Victoria we have had, up until this time, a very highly regulated taxi environment, which has also been underpinned by comparatively high licence fees and been subject to very complicated ownership and relationships between the owners of those licences and drivers — which from time to time has led to much anxiety, within both that sector and the community that uses that sector. So we have a very high-cost structure that underpins the taxi industry, and we actually have a very low-cost structure competitor, where the regulatory environment is very difficult. In certain situations — for instance, in New South Wales — this has been attempted recently. The New South Wales government has tried to embark on a scheme, and the Victorian government has been assessing whether that provides the appropriate regulatory balance between the existing taxi industry and the Uber application and network. We are not necessarily convinced that they have actually struck the right balance in relation to protecting the existing taxi industry, and that is a matter that we have taken advice on through the forum that the member has referred to.

Not only has my colleague the Minister for Public Transport received the advice from that forum but she has engaged, very thoroughly, in a departmental and a collegiate-based process within government to try to address these matters. We have met on a number of occasions to consider those recommendations that may come from the forum, and the government in the next few months will be clearly articulating a response, based upon best evidence and best practice, and perhaps remedying some of those things that other jurisdictions have not been able to do.

Supplementary question

Ms DUNN (Eastern Metropolitan) — I thank the minister for his answer. I am wondering: can the minister elaborate on how often the taxi and hire car industry ministerial forum has met, and although he alluded to a 'few months', can he give more certainty as to when consumers and drivers of ride-sharing services can expect a draft proposal?

Mr JENNINGS (Special Minister of State) — I think most members in the chamber were demonstrating that I was giving a very elaborate answer to the substantive question, because probably from about three-quarters of the way in they thought that I had actually acquitted my responsibility — from their body language — and they were waiting for me to conclude. Nonetheless, I have indicated to the member that the government certainly has been considering this matter very closely. In relation to the time frame that the government will respond in, I think it would be

most appropriate for my colleague the Minister for Public Transport to answer rather than any other minister on her behalf.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) — I have written answers to following questions on notice: 29, 30, 1227–1232, 2019–2021, 4693, 4699, 4700, 4701, 4768, 4769, 4792, 4793, 4814 and 4815.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Order! I was looking at the minister like that because I was wondering whether he was suggesting that he would seek further information from the Minister for Public Transport in respect of that supplementary question. I was trying to establish whether that was an offer.

Mr JENNINGS (Special Minister of State) — Can I say on my feet now, in my place, that it will be an offer, but whether the minister takes that opportunity through that written response will be up to the minister to determine.

The PRESIDENT — Order! In respect of today's questions, with Mr Rich-Phillips's first question to Mr Herbert in his capacity representing the Attorney-General, Mr Herbert actually offered to obtain an answer from the Attorney-General for that question, so I would ask for a written answer within two days. I have not sought to seek further answers in respect of the supplementary question or indeed Mr Jennings's questions, which went along similar lines but which I felt he actually did respond to.

In respect of Mr Finn's question, as I indicated, I had some concerns about the way the supplementary question was phrased in terms of suggesting the intentions of the government in joining those proceedings, which may well be right but nonetheless I do not think they should have been asserted in that way in this question. But Mr Finn's question actually went to what is the estimated cost that is likely to be associated with the government's legal challenge in that respect, and I think that it is appropriate to see if there is a response to the question of costs without accepting the intention aspect of that supplementary question. So I would ask for a written response to that, and that would be tomorrow I think.

In respect of Ms Bath's question, Mr Herbert was pleased to receive the question in respect of the matter of whether or not federal arrangements were being taken into account in terms of the state's acceptance of these organisations continuing to provide services and he undertook that, for his own benefit in fact, he would be seeking further information on that. I would invite him to share that with the house tomorrow in regard to the substantive question.

In regard to the supplementary question in respect of Mr Mackenzie's capacity to continue in certain roles within the sector as a result of an association with a company that did not meet the criteria that the government has set, I would invite the minister to perhaps consider a written answer to that also, albeit that I believe that the minister did indicate that Mr Mackenzie had left a position with a company that was the subject of that question and I would take it that implicit in that response was the fact that the minister believed that Mr Mackenzie actually did not offend the criteria in terms of being able to hold office or participate in this sector going forward. So I accept an implicit response by the minister today in question time, but I would invite him perhaps just to confirm that.

In respect of Ms Wooldridge's question to Ms Mikakos, Ms Mikakos has undertaken to obtain from the Minister for Health information on the surveillance reports and when they are likely to be published. With the supplementary question going to the regularity of those reports in respect of monthly reports, I dare say that the Minister for Health might also have some comment on that. I would ask for a written response to both the substantive and supplementary questions. That is two days.

Mr Purcell's supplementary question was in regard to renewable energy. Ms Pulford undertook to bring that question to the notice of Minister D'Ambrosio in another place. We would seek a written response within two days.

I would seek a written response in regard to Ms Patten's substantive question from the Minister for Police — is that the lead minister there? — with just an indication of how much is spent on harm reduction. That completes today's questions.

Ms Patten — President, Minister Herbert also committed to providing a detailed response on the issue of pill testing and the government's refusal to adopt it, in the supplementary.

The PRESIDENT — Okay, that slipped by me, but the minister is nodding and saying yes, he is agreeable to that too, so Ms Patten and the minister are on the same page. Therefore I might have that page from the minister in two days time.

CONSTITUENCY QUESTIONS

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My question is for the Minister for Public Transport, and it is regarding the provision of late-night rail services for Shepparton. I have recently been contacted by disgruntled constituents insulted that they have been subjected to what they are labelling false advertising. The Andrews Labor government's Night Network ad campaign is running in the Shepparton viewing region. The advertisement provided hope to locals that Shepparton would be included in this service and was particularly welcomed as we approach the football season. However, my constituents were disappointed when Public Transport Victoria's website confirmed that late-night services only exist for Ballarat, Bendigo, Geelong and Traralgon. Running the ad which states 'Open up your night in Melbourne. Get home with late-night services to regional Victoria on weekends' is an insult to the Shepparton community when the latest service returning to Shepparton on weekends leaves Melbourne at 6.32 p.m. My question to the minister is: given the government is advertising the Night Network in Shepparton, when will late-night services from Melbourne to Shepparton be provided?

Western Metropolitan Region

Mr MELHEM (Western Metropolitan) — My constituency question is addressed to the Minister for Education, the Honourable James Merlino. I note that applications have closed for the Andrews Labor government's Inclusive Schools Fund, a $10 million fund over four years designed to help make Victoria the education state. Can the Minister for Education outline to me how schools in my electorate, the Western Metropolitan Region, will benefit from the government's Inclusive Schools Fund?

Eastern Metropolitan Region

Ms DUNN (Eastern Metropolitan) — My constituency question is for the Minister for Environment, Climate Change and Water. I have been contacted by members of my community in relation to unsafe levels of E. coli present in the Yarra River over the past two months. The most recent information from the Environment Protection Authority (EPA), the government authority which monitors water quality in the Yarra River, was that as at 10 February E. coli levels at Warrandyte were five times the safe level for swimming in the river. Similarly, on 22 December 2015 E. coli levels at Warrandyte were four times the safe limit for humans. On this occasion the EPA posted a poor–fair forecast on swimming in the Yarra River on its Twitter account.

Does the minister believe that a Twitter post alerting the general public to unsafe levels of E. coli in the river is a fair warning? Is it not feasible to place a sign at the most popular swimming spots on the Yarra River to properly inform the public in Eastern Metropolitan Region of the risks associated with swimming in the river? What measures, procedures or increased funding to the EPA are required to ensure that E. coli levels in the river are safe for the general public, especially in the summer months?

Southern Metropolitan Region

Mr DAVIS (Southern Metropolitan) — Today my constituency question is for the Minister for Public Transport. I noticed the release of the Melbourne Metro documents and business case today. The minister has made a lot and the Premier has made a lot of many points, but the fact remains that this is largely unfunded. Now they are seeking money from other sources, including those uplift factors and potential taxes on properties. So what I seek from the minister is a guarantee that there will be no new taxes applied to those areas in my electorate which are near the metro, and specifically I seek a guarantee that there will be no new levies, taxes or charges applied to the area around the proposed Domain station and St Kilda Road.

Eastern Victoria Region

Mr MULINO (Eastern Victoria) — My constituency question is for the Minister for Youth Affairs, and it relates to the youth policy framework. The youth policy framework is a way of bringing together a range of policies that affect youth throughout the state, but in particular in regional Victoria. My question for the minister is: following extensive consultation with youth throughout Victoria, including in my area of eastern Victoria, I would like the minister to spell out ways in which the views of the youth were consulted, but also the way that their needs in particular circumstances are going to be reflected in the policies that are included within that framework.

I want to just outline very briefly that in eastern Victoria as part of the consultation framework 134 respondents provided their views; 9 per cent of

those young people were Aboriginal and Torres Strait Islanders, 17 per cent live with a disability and 78 per cent were female. I think it is critically important that their views are reflected, and I ask for the feedback from the minister on that front.

Western Metropolitan Region

Ms HARTLAND (Western Metropolitan) — My constituency question is for the Minister for Environment, Climate Change and Water. I wish to raise issues around Cleanaway and its landfill operations in Deer Park. A number of residents have been to see me about health concerns associated with a foul odour that is still unknown, and they are very concerned about what the effects are going to be. Having been out to the site with them last week I can understand just what they mean, because the smell was disgusting. They repeatedly report these incidents to the Environment Protection Authority (EPA) and feel that they are not being taken seriously. Marion Martin tells me that in the last two weeks she has four times rung the EPA and has not had a response. I ask the minister to speak to the EPA and to deal with this very serious issue at Deer Park in relation to the odours coming from the Cleanaway tip.

Western Victoria Region

Mr MORRIS (Western Victoria) — My constituency question is directed to the Minister for Housing, Disability and Ageing. I have been contacted by a number of constituents with myriad concerns with regard to neighbours living in public housing. I do not propose to raise the specific concerns; however, I do wish to raise an issue about the process for dealing with complaints about neighbours in public housing. Constituents have raised issues with the appropriate Department of Health and Human Services office as directed on the department's website. However, these complaints appear to have not been acted upon, and there has been no follow-up with the neighbours raising these issues. My question is: will the minister review the process of complaints handing to ensure that concerns raised regarding public housing are addressed transparently, appropriately and promptly?

Eastern Victoria Region

Ms SHING (Eastern Victoria) — I wish to raise a matter for the attention of the Minister for Education, Minister Merlino, in relation to the development of the tech school for Morwell, which will provide alternative pathways to education and to curriculum offerings for students, for their communities and for industry. In this regard I note that there have been a series of comprehensive meetings that have involved a working group, which I have participated in. The working party has in fact developed a series of priorities around the curriculum and course offerings that might be developed, and to that end the study focus areas, the location of the school and operational funding are all key issues that require further assistance and guidance from the minister. On that front I ask the minister to provide positive consideration of the issue of operational funding as well as supporting construction jobs as part of the building of the tech school in Gippsland and the way in which Gippsland jobs can be generated in supporting this really important program and piece of infrastructure for our regions as part of the pilot.

Western Victoria Region

Mr RAMSAY (Western Victoria) — My constituency question is to the Minister for Agriculture. Farmers across Victoria and my constituency in western Victoria are facing the worst drought conditions on record, worse than the 1982–83 drought. Drought assistance is available to those areas declared to be in drought or exceptional circumstances, but many farmers not in declared areas — and even those that are — are paying huge costs for water for stock and domestic use. I found no direct financial assistance for farmers for water supply in the package. Whilst there is funding for stock containment, various public standpipes and public bores, there is no provision under the drought assistance package for new private bores, tanks, pipes or water cartage costs. I understand the government was considering using the desalination plant to reticulate water across the state. Given the perilous state of our reservoirs and the desal plant facing cabling problems which could put it out of action for 18 months, water security is paramount. Farmers need access to water supplies, so my question is: will the minister provide immediate financial assistance and relief to those farmers facing significant high costs and increasing debt to provide water to their livestock in this current drought?

Eastern Metropolitan Region

Mr LEANE (Eastern Metropolitan) — My question is directed to the Minister for Public Transport, Jacinta Allan. In regard to the level crossing removal at Blackburn Road, Blackburn, there has been some agitating from opposition MPs and associated councils in the area that there should be a new station as part of this project, even though the level crossing removal does not actually affect the existing station. The question I would ask the minister is if she could tell me

if she is aware of the previous government's plans around this particular project and whether the previous government was planning to build a new station.

PETITIONS

Following petitions presented to house:

Elevated rail proposal

To the Legislative Council of Victoria:

We, the undersigned citizens of Victoria, call on the Legislative Council of Victoria to note:

the Victorian government has announced plans to construct concrete pylon sky rails on long sections of the Dandenong–Pakenham lines as a cheaper alternative to traditional methods of delivering its level crossing removal election commitments;

that affected local communities were not properly consulted in the development of these plans, with reports that those residents most affected by the imposition of sky rail were purposefully excluded from what limited consultation actually occurred; and

that affected residents are completely opposed to the construction of sky rails along the Dandenong–Pakenham lines, with their inherent greatly increased visual impact and noise pollution and greatly reduced residential amenity and privacy.

We therefore demand the Andrews Labor government abandon its cheap and nasty sky rail plans and instead proceed with a rail-under-road solution to level crossing removals as has been so successfully implemented at Burke Road, Glen Iris.

By Mr DAVIS (Southern Metropolitan) (149 signatures).

Laid on table.

Punt Road planning overlay

To the Legislative Council of Victoria:

We, the undersigned citizens of Victoria:

call on the Legislative Council of Victoria to note correspondence from the Attorney-General that documents relating to traffic flows, projections and plans concerning Punt Road would not be forthcoming by 20 January 2016 as directed by the Legislative Council on 9 December 2015 and remain unforthcoming;

call on the Legislative Council to note that Punt Road Public Acquisition Overlay Advisory Committee will begin public hearings on 8 February and that the government's failure to comply with the resolution of the Legislative Council to release documents relevant to the work of the committee is contemptuous of the committee, the community and the Legislative Council; and

call on the Andrews government to immediately act to provide the relevant documents so that the community, and the work of the public acquisition overlay advisory committee, are appropriately and fully informed.

By Mr DAVIS (Southern Metropolitan) (47 signatures).

Laid on table.

Ordered to be considered next day on motion of Mr DAVIS (Southern Metropolitan).

CORRECTIONS AMENDMENT (NO BODY, NO PAROLE) BILL 2016

Introduction and first reading

Mr O'DONOHUE (Eastern Victoria) introduced a bill for an act to amend the Corrections Act 1986 in relation to the granting of parole to prisoners serving a prison sentence for an offence of murder or conspiracy to commit murder who fail to assist authorities to locate the remains of victims and for other purposes.

Read first time.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 2

Mr DALLA-RIVA (Eastern Metropolitan) presented *Alert Digest* No. 2 of 2016, including appendices.

Laid on table.

Ordered to be published.

PAPERS

Laid on table by Clerk:

Greater Sunraysia Pest Free Area Industry Development Committee — Minister's report of receipt of 2014–15 report and Minister's report of failure to submit 2014–15 report to the Minister within the prescribed period and the reason therefor.

Lake Mount Alpine Resort Management Board — Report for the year ended 31 October 2015.

Mount Baw Baw Alpine Resort Management Board — Report for the year ended 31 October 2015.

Mount Buller and Mount Stirling Alpine Resort Management Board — Report for the year ended 31 October 2015.

Mount Hotham Alpine Report Management Board — Report for the year ended 31 October 2015.

Parliamentary Committees Act 2003 — Government response to the Environment, Natural Resources and Regional Development Committee's Interim Report on the CFA Training College at Fiskville *(in lieu of that tabled 9 February 2016)*.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes —

Buloke Planning Scheme — Amendment C25.

Cardinia Planning Scheme — Amendment C204.

Casey Planning Scheme — Amendments C182 and C210.

Frankston Planning Scheme — Amendment C110 (Part 2).

Gannawarra Planning Scheme — Amendment C40.

Glenelg Planning Scheme — Amendment C84.

Greater Bendigo Planning Scheme — Amendments C200 and C219.

Greater Geelong Planning Scheme — Amendment C340.

Greater Shepparton Planning Scheme — Amendments C179, C182 and C186.

Hume Planning Scheme — Amendment C210.

Knox Planning Scheme — Amendment C140.

Mansfield Planning Scheme — Amendment C15.

Melbourne Planning Scheme — Amendment C209.

Mitchell Planning Scheme — Amendment C91 (Part 2).

Monash Planning Scheme — Amendments C121 and C122 (Part 1).

Murrindindi Planning Scheme — Amendments C53 and C54.

South Gippsland Planning Scheme — Amendment C99.

Wangaratta Planning Scheme — Amendment C56.

Wellington Planning Scheme — Amendment C93.

Whittlesea Planning Scheme — Amendment C183.

Wyndham Planning Scheme — Amendment C170.

Statutory Rules under the following Acts of Parliament —

Children's Services Act 1996 — No. 2.

Public Health and Wellbeing Act 2008 — No. 3.

Subordinate Legislation Act 1994 — No. 4

Wrongs Act 1958 — No. 1.

Subordinate Legislation Act 1994 —

Documents under section 15 in respect of Statutory Rules Nos. 1 to 4.

Legislative Instrument and related documents under section 16B in respect of Cemeteries and Crematoria Act 2003 — Southern Metropolitan Cemeteries Trust's Scale of Fees and Charges effective as of 4 February 2016.

Surveillance Devices Act 1999 — Report No. 1, pursuant to section 30Q by the Victorian Inspectorate for 2015–16.

BUSINESS OF THE HOUSE

General business

Ms WOOLDRIDGE (Eastern Metropolitan) — By leave, I move:

That precedence be given to the following general business on Wednesday, 24 February 2016:

(1) order of the day made this day, second reading of the Corrections Amendment (No body, no parole) Bill 2016;

(2) order of the day 8, second reading of the Upholding Australian Values (Protecting Our Flags) Bill 2015;

(3) notice of motion given this day by Mr Davis in relation to the production of documents for sky rail;

(4) notice of motion 214 standing in the name of Ms Hartland relating to a committee reference on the retirement housing sector;

(5) notice of motion given this day by Mr Davis relating to community consultation for sky rail;

(6) notice of motion given this day by Mrs Peulich relating to Labor Party donations received from the Construction, Forestry, Mining and Energy Union; and

(7) notice of motion 217 standing in the name of Mr Morris calling on the Honourable Martin Pakula, MP, to appear before the economy and infrastructure committee.

Motion agreed to.

MINISTERS STATEMENTS

Commission for Children and Young People

Ms MIKAKOS (Minister for Families and Children) — I am delighted to inform the house that the Andrews Labor government is getting on with ensuring it is doing all it can to keep all our children safe from abuse and neglect wherever they are. I am proud to share with the house the appointment of Liana Buchanan as the new principal commissioner for children and young people.

Liana Buchanan has a long and impressive history of public service. Her interest and passion in advocating on behalf of the disadvantaged and for women and children impacted by family violence is well known. Her organisation assisted Rosie Batty last year during the coronial inquest into the death of Luke Batty. She is currently the executive officer for the Federation of Community Legal Centres and is a commissioner with the Victorian Law Reform Commission. She has worked in senior roles within the Department of Justice and Regulation, including in a regulatory role as the director for corrections oversight body the Office of Correctional Services Review.

Ms Buchanan will be a fierce and thoroughly independent watchdog and advocate on behalf of children. Ms Buchanan follows in the footsteps of the first principal commissioner, Mr Bernie Geary, and I would like to put on the record my thanks to Mr Geary for the career-long commitment he made to advocating on behalf of vulnerable children and young people.

I would also like to thank Mr Frank Vincent, QC, for his work as acting principal commissioner; his intellect and his breadth of experience have been greatly valued.

I would also like to inform the house today that the Commission for Children and Young People will have responsibility for a new reportable conduct scheme in Victoria to improve child safety. The scheme will require the centralised reporting of allegations of child abuse by workers or volunteers in organisations with a high level of responsibility for children. The government will commence consultations on the design of the scheme before enshrining it in legislation. This follows recommendations from the Betrayal of Trust inquiry. We have already moved to implement many recommendations from that inquiry, including new child safe standards legislation that commenced this year. We also have legislation before the Parliament to enshrine in legislation critical incident reports going to the commission.

This government respects the independent role of the Commission for Children and Young People, and it is taking steps to further strengthen its role.

MEMBERS STATEMENTS

Ballarat rail services

Mr MORRIS (Western Victoria) — With my members statement today I would like to again raise the ongoing saga of the Ballarat V/Line service. What we have seen over the last few weeks is the systemic replacement of train services by coaches, which may be hailed by some of those opposite as a win for commuters, but I can assure all those members that Ballarat commuters are feeling abandoned by this government, which has overseen one of the greatest crises in regional public transport in living memory. And to add insult to injury, we see today that the few train services that are running have been cancelled due to the expected warm weather, forcing more travellers onto slow and cramped coaches. I remind the Minister for Public Transport that Ballarat commuters deserve better than the shemozzle of a service the government is attempting to manage presently.

Chinese New Year

Mr EIDEH (Western Metropolitan) — On Saturday, 13 February, I had the honour of representing the Minister for Multicultural Affairs, the Honourable Robin Scott, at a celebration — the Australian Chinese Events Committee's 20th anniversary Chinese New Year charity gala ball. I was joined by federal members of Parliament and my parliamentary colleagues the Leader of the Opposition, the Honourable Matthew Guy; the President of the Legislative Council, the Honourable Bruce Atkinson; and the member for Forest Hill, Neil Angus.

Chinese New Year is one of the most significant dates in the Chinese calendar, and it is an opportunity to gather with friends and family and reflect upon the past year. It is also a time to ring in a happy and prosperous new year. It is a special time in which we realise the power of the cultural diversity present in our state. The Chinese community is a very important part of Victoria. Its cultures and traditions are generously shared and enjoyed by many across our state, and we are indeed proud to be home to a long-established Chinese community, which contributes and works hard to promote cultural understanding with the wider community by organising events such as this.

During this event we shared in the brilliant cultural celebration expressed through a lion dance performance, a best costume competition and a changing faces performance. This charitable event united the leading Chinese groups in Victoria, and the funds raised were donated to the Walter and Eliza Hall Institute of Medical Research, which is the oldest research institute in Australia. These much-needed funds will be put towards improving health outcomes through research, discovery and education. I commend the Australian Chinese Events Committee and all who worked hard — —

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

Australia-Japan Young Political Leaders Exchange Program

Ms SPRINGLE (South Eastern Metropolitan) — Last week I was privileged to visit Japan with the 24th delegation of the Australia-Japan Young Political Leaders Exchange Program. This program offers leaders of all political persuasions the opportunity to immerse themselves in a different culture and political system, to strengthen trade and strategic ties and to provide developmental opportunities. This year, 2016, marks the 40th anniversary of the Basic Treaty of Friendship and Co-operation between Australia and Japan, and this was commemorated at the Australian ambassador's residence by the Australian Minister for Foreign Affairs. To show its importance, the relationship between Australia and Japan has been marked with special status.

My sincerest thanks go to the Australian Political Exchange Council and the Japanese Ministry of Foreign Affairs for organising such a valuable schedule, including meetings with the state Minister for Foreign Affairs, the state Minister of Defence and Prime Minister Abe's director of global communications. I would also like to acknowledge the professionalism and commitment of my fellow delegates, senators Dean Smith and Bridget McKenzie and a former member of the Queensland Parliament, Murray Watt, during our stay. A report on my experience will be available in the parliamentary library imminently.

Ovarian cancer

Ms BATH (Eastern Victoria) — Ovarian cancer is an insidious disease that takes far too many of our precious mothers, sisters, daughters and friends. Statistics tell us that only 43 per cent of the almost 1500 women diagnosed with ovarian cancer each year will survive. With no early detection test, it is so important that women are aware of their family history and also know the signs and symptoms of this disease. Information can be found on the website of the not-for-profit, self-funded organisation Ovarian Cancer Australia. It is imperative that as women we take care of our health and seek regular check-ups with trusted doctors.

This month Ovarian Cancer Australia is encouraging people to host fundraising events to raise awareness of ovarian cancer and to recognise women, their families and their friends affected by this terrible disease. I encourage everyone to help increase awareness and raise funds for ovarian cancer by wearing a teal ribbon and attending or hosting an event. Sadly, cancer affects too many Australian households, and just last month my own beautiful cousin lost her battle with ovarian cancer. Sandra, a well-known identity from Trafalgar, could disarm and charm almost everyone she met. This Saturday, as I attend an Afternoon Teal at the home of Leongatha resident Belinda Brennan it will be in honour of Sandra Willis and her irrepressible spirit, irreverent sense of humour and kind nature. I encourage all others to participate in this worthy cause.

Doncaster Maronite church

Mr ELASMAR (Northern Metropolitan) — On Sunday, 14 February, I, along with my parliamentary colleague from the other place Ms Marlene Kairouz, attended an inaugural Maronite mass conducted by His Excellency Bishop Tarabay. The church building previously belonged to another Christian denomination, so this was the first mass to be held in the now Maronite church in Doncaster. There was standing room only for this historic occasion. The spirituality of the gathering and the peaceful serenity of the congregation was wonderful. I felt renewed and reinvigorated. My own parish church of Our Lady of Lebanon in Thornbury has undergone massive renovations due to the generosity of its parishioners. We look forward to our Doncaster congregation being able to worship closer to home, and I am sure the beautification of our new Doncaster church will begin soon.

Punt Road planning overlay

Mr DAVIS (Southern Metropolitan) — My matter today concerns the public acquisition overlay on Punt Road. The community will be aware that there have been a series of days devoted to a formal panel hearing, with VicRoads and interested parties presenting. I record as a matter of great disappointment that the government saw fit not to provide documents in time for the community to provide its best possible case at the review. This chamber sought those documents in December. They were due for delivery by 20 January, and in what I regard as an arrogant move, the government has still failed to provide those documents.

I want to also make the point that the City of Stonnington did take a position towards the end of the process, and I welcome that step and the support and the legal support the City of Stonnington put in place. I also pay tribute to local community activists, and I was very pleased to hear their views very clearly in the first week of February, before the hearings began, at a public meeting that I called to establish many of these community positions.

The government needs to step forward on this. We went to the election, as did the government, with proposals. Ours was for a 24-hour clearway, and it is time that that happened. It is also time that the overlay was resolved in the positive for the people in the community.

Melbourne Regional Landfill

Ms HARTLAND (Western Metropolitan) — Last week I attended the Cleanaway tip in Deer Park. This is part of what the company was calling community consultation but what I would actually call outrage mitigation. I was not invited by the company, but the Stop the Tip group did make sure that I was aware of the event. The company claims that this was community consultation, yet the tour was happening during work hours, which made it very difficult for the bulk of the community to actually be able to attend.

When I asked for the maps of what was going to be happening on the site, I was refused, so in my usual style I took photos of them instead. The company has claimed that it has improved the odour at the site. If that is an improvement of the odour, I hate to think what it was like at its worst. Having been attending these kinds of community consultations for over 30 years, I wonder when it will be that companies like Cleanaway, the Environment Protection Authority Victoria and government will actually understand that they should consult people. They do not tell them what is going on. They should not patronise people but treat them with some respect, and then they may actually be able to work with them.

Kirner Kosky Scholarship Fund

Mr MELHEM (Western Metropolitan) — Last week I had the opportunity to be at the public launch of the Kirner Kosky Scholarship Fund here at Parliament House, which was jointly hosted by the Presiding Officers, the Honourable Telmo Languiller, Speaker of the Legislative Assembly, and the Honourable Bruce Atkinson. The Kirner Kosky legacy will live on through this new scholarship fund at Victoria University.

The scholarship fund carries the names of the Honourable Joan Kirner and the Honourable Lynne Kosky, who shared a commitment to education and public service throughout their highly respected careers. They were inspirational women who not only represented Melbourne's west but championed the region in everything they did. Both were active and influential in the community, and they each had a strong commitment to education, playing key roles in shaping the Victorian education landscape and the history of Victoria University.

In addition to offering scholarships for students from the west, one Kirner scholarship and one Kosky scholarship will be awarded each year to young women from Melbourne's west studying at Victoria University, and they will include mentoring from a female community leader. Dr Susan Alberti, chair of the Victoria University Foundation, officially launched the scholarship fund, watched by family and friends of Ms Kirner and Ms Kosky, along with a number of current and former parliamentarians, as well as various community members. This is a proud moment indeed for our state, for the west and for the families of both the Honourable Joan Kirner and the Honourable Lynne Kosky.

Ministers office accommodation

Mr FINN (Western Metropolitan) — Out my way $373 000 can buy a house — nothing fancy, but quite a serviceable first home for couples seeking to break into the housing market. Can the house therefore imagine the excitement of my constituents to learn that the same amount — $373 000 — had been spent by the Leader of the Government on his new office? My constituents must be wondering about Mr Jennings's taste in furnishings. Maybe he has gold lamé curtains — maybe solid gold; perhaps he has a fine Italian granite desk. They must be wondering if he has installed a marble wading pool where he can recline and be fed grapes by Labor staffers still on the payroll after the last election. My constituents would be aware that the Leader of the Government has an artistic bent, so perhaps an original statue of *David* may now be gracing his office. Or perhaps he has leant on his best mate, the Premier — Dodgy Dan — to purchase *Blue Poles* for Mr Jennings's wall. One could go on to speculate — —

The ACTING PRESIDENT (**Mr Eideh**) — Order! Mr Finn! The member has called the Premier a different name. I ask him to withdraw.

Mr FINN — I certainly withdraw, but if we asked everybody to withdraw, we would be here for a very long time though.

The ACTING PRESIDENT (**Mr Eideh**) — Order! The member may continue.

Mr FINN — One could go on to speculate on the glorious mirror on the ceiling of the minister's office, but then it is probably best that that is left alone. The people of Victoria are entitled to know how the Leader of the Government splurged $373 000 of their money

on his new office. In the absence of such an explanation, we can only assume this is just another case of outrageous Labor waste from a very, very wasteful government.

Baillieu Lagoon State Game Reserve

Mr YOUNG (Northern Victoria) — My statement today is to congratulate Field and Game Australia on its efforts on Saturday, 6 February, where 26 members from six branches participated in a clean-up at Baillieu Lagoon State Game Reserve. It was a beautiful morning to be out by this wetland working away at improving the reserve as an extension of World Wetlands Day. Unfortunately the need for this type of clean-up was highlighted by the 15 cubic metres of rubbish that was collected and disposed of. Everything from cans and bottles to tents, tyres, tarps and even a rear differential assembly were found and have been removed for the benefit of the environment in this area.

This is a perfect example of the partnership between hunting and conservation. People who actively enjoy these places are most dedicated to them. They ensure that these important wetlands are healthy and protected and that they remain so for future generations to practise hunting traditions. Hunters have historically been invested in the protection of wetlands — all the way back to the purchase of the very first state game reserve with the revenue raised from the equivalent of today's game permit.

I would like to thank all those who attended to help out on the day and the Bendigo, Echuca-Moama, Seymour, Geelong, Kyabram and Wodonga-Albury Field and Game branches for their efforts and hard work. I commend the work of Field and Game Australia, and I look forward to going for a hunt at this lagoon sometime during the 2016 duck season.

Casey study tour awards

Mr MULINO (Eastern Victoria) — I rise to acknowledge the Casey Australia Day Study Tour Awards recipients for 2016. These award recipients are from year 11 or the equivalent age — roughly 16 years of age — in the City of Casey. The awards are given every year to students who take a particular interest in how Victoria and our country are governed and who wish to undertake a career in law or areas of politics. All of these students have demonstrated exceptional leadership to have been chosen for these awards. Selection for the study tour is based on nominations from local schools and an interview with the selection panel, which includes the City of Casey mayor. As a previous councillor in the City of Casey, I have known from direct experience that these awards are very difficult for students to win. Only 10 are chosen every year. This is something that I think is going to be of great use to these students in later life.

The study tour comprises a number of stages, including a half-day and an evening session at local government and a full-day visit to the state government, which the students are currently on. They have met with a number of members of Parliament throughout the course of the day, and I am sure they have seen question time — a very edifying experience, no doubt. I met with the students earlier this morning and gave them my interpretation of state Parliament. No doubt they have had different interpretations from other members of Parliament. I congratulate them on having received these awards and look forward to their later use of them.

Cowes police station

Mr O'DONOHUE (Eastern Victoria) — I wish to raise a matter today about the Cowes police station — the Phillip Island police station. It opened, I am advised, in March 1991. It is no longer fit for purpose, and since that time the population of Phillip Island has grown significantly. But perhaps more importantly the number of major events that bring tens of thousands of people to Phillip Island for major events — the grand prix, summer holidays, the Easter holidays and a range of other things that take place on Phillip Island — means that the population of Phillip Island can expand enormously. The police station at Phillip Island has limited additional capacity to house extra police. As a station designed and opened in the early 1990s, it does not reflect the modern security issues that Victoria Police now confronts on a daily basis.

Together with my good friend the member for Bass in the other place, Brian Paynter, I had the pleasure of meeting the police who do such a great job looking after the people of Phillip Island when we had a look through the station last year. It is clear to both Mr Paynter and me that the station is in need of a full rebuild, and I would call on the Acting Minister for Police, who is also the Minister for Finance, to make sure in the upcoming May budget that the Phillip Island police station at Cowes is provided the funding for a full rebuild.

Elevated rail proposal

Ms CROZIER (Southern Metropolitan) — In recent weeks communities across the south-east of Melbourne have experienced the true style of the Andrews government. It is very typical of this

government, which is very quick to totally distort the truth and very quick to dismiss community concerns. The proposed sky rail that became apparent over the past few weeks has raised real concerns for communities in my electorate of Southern Metropolitan Region. I would like to acknowledge my colleagues David Davis and Margaret Fitzherbert for their work in listening to those communities' concerns. People in Murrumbeena and Carnegie are rightly alarmed at how the Andrews government has managed the issue.

Sky rail — who had heard of it prior to Christmas? There was no such mandate for sky rail to occur prior to the last election. It is a decision, it is reported, that did not even go before a full cabinet meeting. I acknowledge what is in today's *Australian* where it says this is:

> … the latest in a string of decisions made unilaterally by the Premier and his clique …

It goes on to say:

> MPs who attended the annual caucus retreat just two days before the sky rail plan was announced were not told it was coming, leaving even those most affected blindsided.

So with sky rail being thrust upon the communities of Carnegie and Murrumbeena, what of other communities in the south-east? Is the government going to thrust sky rail on them too? Residents and businesses in Carnegie and Murrumbeena are rightly outraged that consultation occurred at literally the 11th hour. I am still receiving emails, as many of us are. Constituents have been extremely measured and reasonable in their requests to understand the proposal, which is in direct contrast to the government's handling of this issue. This whole debacle demonstrates a highly dysfunctional and chaotic government, and that is not good for Victoria.

ASSISTED REPRODUCTIVE TREATMENT AMENDMENT BILL 2015

Second reading

Debate resumed from 10 December 2015; motion of Mr HERBERT (Minister for Training and Skills).

Ms WOOLDRIDGE (Eastern Metropolitan) — I am very proud to speak today on the Assisted Reproductive Treatment Amendment Bill 2015 to contribute to this long and ongoing debate in relation to the use of assisted reproductive technology (ART) and access to information for people who are born as a result of it. One thing that is very clear is that innovation in Victoria around this issue has been exceptional. Victoria has been a leader for decades in relation to the use of IVF and the use of assisted reproductive treatment. What it has done is bring the capacity to have children to infertile women and couples across the state, across the country and across the world. It is exceptional what has been able to be achieved through innovation both here and overseas.

What is very clear is that with innovation have also come challenges and issues. That is really where we are today, as part of a long journey during which we have sought to grapple with the challenges faced with these innovative medical technologies that have been able to bring joy and happiness to so many. I am very pleased to say that the coalition has a free vote on this issue, acknowledging the wide range of views in relation to the use of ART and in particular the substance of the bill that we are dealing with today.

The purpose of the bill is to allow donor-conceived children born as a result of the use of gametes donated before 1 January 1998 to access identifying information about their donor without the donor's consent. It also allows donors and donor-conceived people to register contact preferences and introduces associated penalties for breach of these preferences. The bill moves the assisted reproductive treatment records and contact preferences from the Victorian births, deaths and marriages registry to the Victorian Assisted Reproductive Treatment Authority (VARTA).

I think it is useful at the commencement to lay out some of the history in relation to donor conception in Victoria. What is very clear is that pre-1988, while there was a lot of development of reproductive technology such as IVF, donor conception was unregulated. Donors and recipient parents were required to sign anonymity contracts, agreeing not to seek information about each other. This worked in both directions. Recipient parents were actually advised not to disclose the nature of their child's conception to anyone. Obviously times have moved on, but that was the environment pre-1988.

In 1988 Victoria introduced the Infertility (Medical Procedures) Bill 1984, which was enacted four years later. What it set out through the bill and regulations were the requirements in relation to counselling, a central register, artificial insemination and donor expenses. It was actually the first legislation worldwide to regulate IVF and associated human embryo research. So once again not only were we at the forefront in terms of our medical technologies but we were also at the forefront in terms of trying to create some legislative sense and structure around what was happening in this area.

The Infertility Treatment Act, which was actually enacted in 1995, came into effect three years later, in 1998. That established the Infertility Treatment Authority. The act sought to bring the law up to date with developments in the medical technology that had occurred. The regulations outlined requirements in relation to counselling, information and donor registration. It allowed post-1998 donor-conceived people to obtain identifying information about their donor without consent. So effectively what we have as a result of these laws is that the consideration and treatment pre-1998 are different from those post-1998 following the Infertility Treatment Act.

In 2010 the Assisted Reproductive Treatment Act 2008 was enacted. That established VARTA in place of the previously named Infertility Treatment Authority. It altered the eligibility for assisted reproductive treatment and the types of services that could be provided by clinics. It established the central and voluntary registers and provided that they be held by the births, deaths and marriages registry. It also promoted research in related areas.

All through this time and through the debate back in 2008 what was very clear was that the issue about releasing information for donor-conceived people conceived prior to 1998 was of concern and worthy of debate and engagement. It was at about that time, in 2010, that the former government commenced a committee review into access by donor-conceived people to information about their donors. That committee had a very short time frame. I think Ms Pennicuik was engaged in the work of that committee. One of the key recommendations that came out of its work was that the next Parliament should actually look into this issue in more detail.

So one of the things that the previous coalition government did was ask the then Law Reform Committee to undertake that detailed investigation. I think that the committee did an exceptional piece of work in a very challenging and thought-provoking environment. I want to particularly commend Clem Newton-Brown, the former member for Prahran and chair of the committee, who led that process. There were many committee members across the Parliament who engaged very thoughtfully and seriously in the process of investigating their recommendations back to the Parliament.

In 2013 there was the Assisted Reproductive Treatment Further Amendment Bill. That dealt with the issue that gametes were being stored for longer than Victoria's permitted statutory storage period. The bill was introduced to ensure that gametes and embryos did not remain in storage against the wishes of their providers and to prevent the build-up of unwanted stores of gametes and embryos.

As a result of the 2012 Law Reform Committee report there was detailed consideration by the government. I was very much involved in those conversations, and I know that there was a long-thought-through response to the committee report in terms of the legislation that was passed in 2014, the Assisted Reproductive Treatment Further Amendment Act. That act brought access to donor information for donor-conceived people conceived prior to 1988 in line with access to information for donor-conceived people conceived prior to 1998. So essentially what that provided was that such people were allowed access to that information with the consent of the donor.

This was not the recommendation of the committee. The recommendation of the committee was that donor-conceived people should have access to the information regardless of the views of the donor, but after considering the challenge of balancing the rights of donors, who in some cases had contracts of confidentiality, and the rights of people who are donor conceived to get information about the donor and their genetic history, the coalition government introduced the previous legislation.

In each case the legislation has expanded information and expanded access, acknowledging and recognising that for people who are donor conceived understanding their genetic history is fundamental to their identity and fundamental to their sense of themselves and their understanding of where they have come from.

We come to the legislation that is before the house today. I do want to just give some context to the numbers of people on the registers who have sought to access information or are happy for information to be received. If you have a look at the 2015 VARTA annual report, you see it notes that on the central register there is a total notification of 6715 births; of those, 2048 are now older than 18 years and so are eligible to apply for information about the donors, and there were 426 notifications that came onto the register in the last 12 months. In terms of registered donors there are a total of 2633, of which 298 have registered in the last 12 months. In terms of the voluntary register, there are 221 donors, 110 donor-conceived births and 194 recipient parents.

We have a current situation where people can through the central register and the voluntary register make it known that they either are prepared to share information as a donor or are interested in seeking

information as someone who is donor conceived. In terms of the amendments that were brought in in 2015, I think the view was clearly that the registers, with the identifying information and the consent, with the use of organisations like VARTA and Births, Deaths and Marriages Victoria at that time, were a fundamental vehicle to provide a mechanism for matching counselling and engagement through the process.

The legislation we have before us today has a number of key provisions that I just want to highlight in the process. New section 59 allows access to identifying information of pre-1998 donors without consent. New sections 62(1) and 63 provide that VARTA must attempt to advise a donor if an application has been made for their identifying information before providing it, so that donors have a chance to understand that the information is to be provided within a period of time and, if they wish to do so, put in place contact preferences. If after four months VARTA has been unable to make contact with the donor, then the identifying information is released regardless.

New section 63C(1) provides that upon being notified that an application has been made for donor information, the donor can lodge their contact preferences, and the bill provides that upon being notified of an application, a donor-conceived person can also lodge contact preferences. Section 51 has been amended to reflect that the central and voluntary registers will now be held by VARTA instead of Births, Deaths and Marriages, and new section 56N(1) and (2) ensure that VARTA must satisfy criteria to ensure that links between the donor and donor-conceived children are accurate, so that in the matching process there are checks to make sure that this is being done appropriately.

One of the challenges of course is that the records, particularly pre-1988 and in some cases pre-1998, are not necessarily of a very high quality, so that information and the work to verify that information are vital.

There are penalties of 50 penalty units — that is, about $7500 — in place if the contact preferences are breached, and the bill is to come into effect on 1 March 2017.

As the lead speaker for the coalition and in the context of a free vote I think it is useful to put forward the arguments on both sides in relation to consideration of the bill. What is clear is that this bill seeks to bring into effect the recommendations of the former parliamentary Law Reform Committee. It very closely mirrors those recommendations. There are some areas where it does not, but largely it is giving effect to the work of the cross-parliamentary joint committee through legislation. It also seeks to make sure that someone who is donor conceived has equal rights to access information about their donor regardless of their date of birth. The deadlines for the legislative changes, which currently make a distinction in relation to how people who are donor conceived are treated in relation to accessing identifying information, will be gone. Currently those different laws apply, and because of their date of birth people are treated differently.

As I have mentioned, regarding knowledge of parentage and heritage, we hear again and again from people who are donor conceived that it is very important to their sense of identity, and also from a medical perspective it is very important in understanding some of the things they may be experiencing on a medical front.

Allowing access to information relieves an issue that arises as technology evolves. Through things like Facebook and various social media it is becoming easier and easier to try to search for a donor, or someone who is donor conceived, for that matter, through social media and for those contacts to happen in the context of an unregulated environment. However, in a structured environment under this legislation, it is very clear that there is counselling, there is support, there are time frames and there is information from trained professionals about how that process can best be managed.

A very important part of the bill is the transfer of the management of the register from the Victorian Registry of Births, Deaths and Marriages to VARTA. There is no doubt that VARTA has great expertise in managing an important process like this in terms of engaging everyone who is involved, in terms of counselling and in terms of support, and this legislation obviously achieves a very good outcome in relation to the transition to allow VARTA to take the lead. There is a slight bit of irony in that it was actually the former Labor government that moved the management of the register from VARTA to the registry of births, deaths and marriages and now the government is moving it back, but it is good that changes can be made as to where this responsibility most appropriately sits.

On the other hand, in terms of consideration of the bill, the strongest message again and again, particularly I have got to say from the medical profession but also from a number of donors, is that this breaks a contract that was in place with pre-1988 donors who were assured that they would remain anonymous and with donors from 1988 to 1998 who were told the

information would only be provided with their consent. What is very clear is that there are many donors who are completely comfortable with their information being provided, and the registers have been a testament to that. I have to say that I think many of the donors who submitted to the Law Reform Committee's inquiry and whom we have heard from subsequently are those who have been comfortable with their information being provided. It has been a less vocal group and a less visible group of those who are not comfortable, although there are some of them, so this bill does break a contract that from the donors' perspective was in place.

It has also been said to me that this bill seeks to fix a process that is not broken — that is, the management of the process of application for identifying information happens successfully where both have agreed to have that information provided — and the vast majority of donors have consented to the release of identifying information in relation to an application by a donor-conceived person. What I think is clear is that this service that has been provided has been one that has been limited to people who are proactively seeking the support or who have registered, and that matching service, if you call it that, could be significantly expanded in relation to the work that it does and the proactivity with which it approaches people to engage and make connections.

The government also makes it very clear that one of the drivers of the bill is that Victorians should have the right to know their genetic heritage. What we know is that many people are ignorant of their parental genetic heritage for a range of reasons, so this is capturing that issue for a very small number of people relative to those who do not know some aspect of their genetic heritage generally, either through omission — a name not being put on a birth certificate, for example — or some people actually believing that they may know a parent who is not actually the parent at all.

Another issue that has been raised with me is that this bill is about the rights of people who are donor conceived. I must say it has been raised with me a couple of times and I do have significant concerns about increased rights for donors to contact their donor-conceived children. This is not specific just to this bill, but it furthers it, and it is something that I think the door was first opened to through the 2014 bill. What research has said is that probably about one-third of people who are donor conceived know about the circumstances of their birth. In this case we are increasing the rights of donors who donated fully in the expectation that it would be anonymous and that there would be no contact with the people who were born as result of their donation in the future. Donors who are seeking to know about the results of their donation and to make contact with people who are donor conceived are being given significant rights in this bill.

I have got to say I have very significant concerns in relation to that aspect of the bill because of the fact that a donor can basically trigger information being given to someone who is donor conceived despite their parents having decided not to pass on that information for whatever reason. The donor can actually trigger that knowledge being given and result in someone finding out that they are donor conceived in the first place.

Another area of concern and something I will explore a little bit in the committee stage is that while a donor is able to lodge a contact preference, including for children under 18, their spouse or adult children are unable to similarly do so, and I would like to understand the basis for all that.

I consulted extensively in relation to people's views, and we all had many emails as well from people, and I have to say I have been really impressed with the quality and the thoughtfulness with which people have engaged with me on their views on this issue, understanding that people feel very strongly about it. I did just want to touch on a range of the different views that I have received in relation to the bill.

Firstly, the Australian Medical Association Victoria has said very clearly that it does not support allowing access to information that would identify a donor without the express consent of the donor. It goes on to say:

> Donors who donated between July 1 1988 and 1998 were given explicit and implicit assurances that their donations were entirely anonymous and that no contact would be made in the future.
>
> The nature of the agreements reached at the time of the donation must be respected. If a donor does not consent to the release of information it should remain confidential.
>
> …
>
> Consent should be the guiding principle for the disclosure of donor information.

Professor Gab Kovacs of Monash IVF also had some concerns that he raised, saying that:

> Donors were given assurance that donations would be confidential — a promise is a promise!
>
> …
>
> There is already in place an excellent mechanism of contact to be made between donors and offspring by mutual consent, the voluntary register (VR). I do not believe that government nor

> VARTA have used sufficient resources to publicise the VR. Most donors have not heard about it.

Continuing this theme, just to group them together, I also have spoken to and had input from John McBain from Melbourne IVF, who highlighted the issue and said:

> What has been missed, I believe, is the prospect that the quiet contentment of many families will be disrupted due to the legislated ability of the donor to initiate contact with the now-adult offspring.

It is fair to say he has concerns about the bill as a whole but is particularly concerned about the empowerment of donors in this legislation. He went on to say that:

> Not all the counselling in the world will heal the great harm to the families who have chosen, for their own reasons, and against our consistent counselling advice from the earliest days, to withhold the donor-conceived circumstances of their birth from their now-adult children —

acknowledging that, while information might have been provided, ultimately it was parents who made the decisions for those earlier donor-conceived conceptions and it was parents who were making the decisions about whether that information was provided to the resulting children.

John Donor has written extensively and provided me with a suggested mark-up of the legislation with potential amendments; I have to say he has done a lot of work. He said:

> My preferred personal position as an anonymous donor is that the legislation should be thrown out completely until such time as the results of the June 2015 amendment can be properly analysed.

He goes on to say:

> Donor and DCs —

donor-conceived people —

> anonymity can still be maintained if that is their wish and the DCs get the heritage information they say they crave.

He very much argues that if what we are seeking to do is provide genetic heritage information, there are ways to do that without releasing identifying information.

I also had many representations in support of the legislation, and I want to touch on a few of them. Firstly, Caroline Lorbach, the national coordinator of the Donor Conception Support Group of Australia, said:

> It is indeed true that many fertility clinics did require donors to sign anonymity agreements, but our group has been contacted by donors who have stated that signing these documents was not an option; they signed them or they would not be considered suitable to donate.

So there is a bit of a conflicting view in relation to the medical professionals and from someone who donated. Caroline Lorbach has made a number of comments, and I will do a few more quotes on a range of different issues. In terms of the registers she said:

> Unfortunately since the move of the registers to BDM —

births, deaths and marriages —

> under the Assisted Reproductive Treatment Act 2008 nothing is being done to facilitate approaches to donors.
>
> … The move back to an authority which has many years of working in the area of donor conception can only be a positive move —

so further supporting the role of VARTA in terms of going forward. They are very thoughtful comments on a whole range of issues.

Sonia Allan also made contact. Sonia is an associate professor of health law at Macquarie University. She has written extensively on the issue and done quite a bit of research, and she said about a paper that she wrote:

> … I concluded it was possible to pass such legislation —

this is in relation to retrospective legislation —

> however suggested that a contact veto would be a way to balance interests, allowing donor-conceived people to access information they needed, while protecting the privacy of donors who did not wish to have contact.

So she clearly concluded from her research that this issue of breaking the contract and introducing legislation that was retrospective was appropriate but that appropriate protection, such as the contact veto which we see in this bill, should be put in place.

I have also had representations from Coleen Clare at the Victorian Adoption Network for Information and Self Help, who deals with many of these issues not only in donor conceptions but also in a range of other areas, including forced adoption. She said:

> These young people who were donor conceived were the unconsenting party to a contract to not know of their donor father's identity, heritage and other key facts. The basic birthright of full knowledge of one's own identity was stripped from them. Our lawmakers have come to accept that this was wrong and anonymous donor conception is now illegal. All donor-conceived people deserve their birth identity, regardless of their year of conception, and this bill will make that knowledge available — where records exist.

She went on to say:

> This bill can be implemented respectfully and safely and will result in thousands of young people no longer living with the fractured identity that results from past practices.

I also had a very thorough and thoughtful input from Louise Johnson, the chief executive officer of VARTA. I do want to quote a number of different things in relation to her input. She said:

> In our experience, supported by international research, evidence does not show that donor-conceived people wish to be intrusive in respect of donors and their families. It is a brave decision to apply for information about a donor, and fears of rejection can be experienced. However, at the heart of an application by a donor-conceived person for information about their donor is a universal need to know where they come from to complete their sense of identity.

She went on to say:

> Since implementation of the 2014 amendments to the Assisted Reproductive Treatment Act 2008 on 29 June 2015, the vast majority of donors have consented to the release of identifying information in response to an application by a donor-conceived person to the central register and linkages between parties have been positive.

She also said:

> The proposed changes to provide support services through VARTA are an important part of the bill.

I am not surprised that she is pleased for her organisation, but certainly that is held up by the views of so many across the board in relation to the good work that it is doing. She also said:

> The proposed legislative amendments would enable VARTA to sensitively manage the release of information and the linkages between parties by integrating service provision with public education. The ability to provide a one-door-in service addresses significant issues associated with people needing to navigate service provision across two agencies as presently occurs (through VARTA and BDM).

So as you can see, there is quite an extensive range of views. In all cases they are very thoughtful responses in relation to the challenges, the competing interests and the proposals put forward through this legislation and how we should go forward from here. I did hear from many others, but I think that is a good snapshot of the representations that have been received.

In terms of my personal view, I have to say that this has been an exceptionally difficult bill for me, possibly my most difficult bill in my nine years in Parliament in relation to where I come out. There is no doubt that these free votes are very personally challenging, because you really do have to do the work yourself and make a decision yourself in relation to where you come out on the bill. I want to thank the minister and the minister's office and the department, who provided extensive briefings and further follow-up. That was greatly appreciated.

For me, on balance I have found that I am not able to support the bill. I am exceptionally cognisant of the needs of people who are donor conceived and the wish to know their identity. My view is that I believe that, with appropriate funding and with appropriate support and capacity to do the work, the registers are a mechanism by which those connections can be made, and not just in a reactive sense but actually in a proactive sense — that an agency like VARTA could be seeking to make the connections. While Louise was certainly arguing the case for the legislation, I think what she has also said is that it is very clear with the legislation that was passed in 2014 that many of those matches now have been made and there is a lot of further work that could be done to ensure those matches.

I think what it comes down to for me is the very clear commitment, belief and understanding that people who were donors had that this was an anonymous process. I have talked to a number of people who considered it very seriously at the time — some of whom made donations, some of whom did not — but what is consistently said is that the message was very clear that this was anonymous. I think what is very good is that so many donors, when contacted, are happy to release that information. That is why I believe if some serious work were done with donors to release the information and make those matches and those connections, that would satisfy — there is no way that it would satisfy all of them — very many situations.

The other concerns I have — and I will ask some questions of the minister in committee — are in relation to the expansion of the role of donors in terms of the information that they can gather and the issue about adult children and spouses being unable to lodge a contact preference. What I have tried to present is that there is a range of views on this issue. There are strongly held views on both sides, and I have to say I have a huge amount of sympathy and respect for the arguments put on both sides. From a personal perspective, though, I will not be supporting the bill, but I will be seeking to ask some more questions to get some further understanding as we go through the committee process. I want to thank everyone who has contributed to the thinking on and the understanding of the range of issues, and I look forward to participating in and contributing to the ongoing debate as this bill is considered this afternoon.

Ms PENNICUIK (Southern Metropolitan) — I am very pleased to speak today on the Assisted Reproductive Treatment Amendment Bill 2015. This bill will amend the Assisted Reproductive Treatment Act 2008. It will enable people born as a result of pre-1998 donor treatment procedures to obtain available identifying information about their donor regardless of whether the donor consents. It will enable people who donated gametes on or before 30 December 1997 and people born as a result of donor treatment procedures to lodge a contact preference. It will give the Victorian Assisted Reproductive Treatment Authority (VARTA) responsibility for donor conception registers. It will also give VARTA powers to search for and obtain information about pre-1998 donations where there is insufficient information available, and it will create an offence of tampering with donor conception records, which we know has happened in the past.

This bill will finally remove the current distinction in the act between those born from gametes donated prior to 1998 and those born from gametes donated after that time. Instead, subject to provisions relating to contact preferences — and I will speak about those further into my contribution — all donor-conceived people will now have the same legal rights to information identifying their donor and about their genetic heritage. The bill will give all donor-conceived people equal rights to access available identifying information about their donor, regardless of when the donation was made, and the Greens support that provision of equal access to information regardless of the date on which a person was conceived.

The bill introduces contact preferences which allow donors either to prevent contact from their donor-conceived offspring or to limit contact, and this will be associated with a penalty of 50 penalty units or around $7500. The Greens have concerns about the introduction of contact preferences into the act, and we had concerns with contact statements or contact vetoes when they were also introduced into the Adoption Act 1984. After many years of the Adoption Act functioning without them, they were introduced and have now been removed. We do have concerns about those. I will return to that in a moment.

Importantly the bill seeks to ensure that people are supported in the search for information and at the time when information about them is released by the establishment of VARTA as the one-door stop or one-door service to ensure simplicity for those seeking information and coordination of support services. This was a recommendation of the former Law Reform Committee. It will address the concerns that were raised by a number of submissions to the committee that the current system is disjointed and can be confusing, so VARTA will now be the single authority dealing with these issues.

It is worth referring to the guiding principles of the Assisted Reproductive Treatment Act 2008. Section 5 of the act says:

> It is Parliament's intention that the following principles be given effect in administering this Act, carrying out functions under this Act, and in the carrying out of activities regulated by this Act …

The pertinent ones are:

> (a) the welfare and interests of persons born or to be born as a result of treatment procedures are paramount —

and —

> (c) children born as the result of the use of donated gametes have a right to information about their genetic parents …

These are the two guiding principles I think we need to keep in mind when we are talking about this particular bill and the long road that we have taken to arrive here. Ms Wooldridge went into quite a lot of detail about the long road we have taken to get here.

In terms of my involvement in this issue, I have a very strong commitment to the issue of making sure that, or bringing about a situation where, all donor-conceived people are equal under the law. That is why I am very pleased that we have this bill before us today. Back in 2008 when the Assisted Reproductive Treatment Bill 2008, which came into effect as an act in 2010, was debated there was a free vote for the coalition. During the debate I was able to move an amendment which allowed for a notation to be put on a birth certificate, and that provision has now been in place for around seven years. It notifies a person that there is more information about their birth, and they are then informed that they are in fact a donor-conceived person. The number of people who are donor conceived and who are finding out this information when they apply for a birth certificate after they turn 18 years is increasing. As Ms Wooldridge said, the vast majority of those do now know that.

I became very interested in the issue and in the debate in 2008, which people might remember was a very long debate. The bill went to what was called at the time the Legislation Committee, so it was very thoroughly debated in the Parliament. A number of amendments were moved; not very many were successful, but that particular one was. I make mention of that because it

allows for information to be given to people when they apply for a birth certificate such that if they have not been informed by their parents, when they are adults and when they are able to apply for a birth certificate in their own right they are given that information.

During the debate I queried the then minister, Mr Jennings, who was responsible for the bill going through the Parliament, as to this issue. At the time when we were debating it we had the three tiers of legislation following the Medical Treatment Act 1988 and the Infertility Treatment Act 1995, which preceded the 2008 bill. We had a situation where those born before 1988 had no right to any information as a result of the promises, the agreements and sometimes the contracts around anonymity that were given by the clinics. Sometimes it was a requirement of a clinic. It needs to be understood that it was not just that it was given to the donor so the donor was assured there would be anonymity — as in the donor was asking for it; in some cases it was a requirement by a clinic of the donor, and it was not always the case that the donor required that. It needs to be understood that there were two ways that that worked. So at that time there was no right to any information for people born or conceived by gametes prior to 1988.

Information could be obtained by those conceived between 1988 and 1998 with the permission of the donor, and as we know, post-1998 it has not been possible to be an anonymous donor. Anybody who is a donor is aware that information about them will be available to donor-conceived people. So we had a three-tier system whereby people were discriminated against based on the time they were conceived and/or born.

It is worth noting also that those people born between 1980, when the first IVF person was born in Australia — and that person was Candice Reed, who was born on 23 June 1980, and I will return to make some comments about Candice Reed in a moment — and 1988 are now between 28 and 36 years old. It is interesting that people born since 1998 are about to turn 18 this year. We are talking about people covered by this bill, which will change their ability to obtain information with the consent of a donor to without the consent of a donor — hopefully with the consent of the donor, but not requiring that consent. The people in that cohort are now almost all adults. They will be adults by the end of this year and certainly by the time the act commences this year or early in 2017. The bill requires it to be commenced by 1 March 2017.

I asked the minister if he would do something about that particular issue of discrimination between the different rights that were attributed to people based on their year of birth or conception. At the time he said, ‘Well, I promise to do something within 12 months’. Nothing was done. So at the beginning of 2010 I started to talk with people from the donor-conceived community, particularly from the group Tangled Webs, that had been set up to pursue this issue. I undertook to refer the issue to the parliamentary Law Reform Committee. I also held a forum in the Parliament in the lead-up to the debate on that referral. Members of Tangled Webs came and presented their stories of how the inability to obtain information about their donors, about their genetic heritage, about their medical history and about just who they are had profoundly affected their lives. Many members of Parliament came to the forum and I think were very persuaded by those stories. Many people emailed MPs as well.

By the time I came to the date when I could move a motion, on 23 June 2010, I realised by coincidence that it was the 30th birthday of Candice Reed. When I realised it was her 30th birthday I got in touch with her. I mentioned to her that I was going to move this motion to refer the issue of the availability of information for donor-conceived persons to the parliamentary Law Reform Committee. I said, ‘Would it be okay if I mention you and that this is your 30th birthday?’. She very graciously agreed for me to mention that at the time. She has also been a long-term advocate for the interests of donor-conceived people, for education about reproductive issues in the education system and for more openness about this issue in the community. So by coincidence it was a very auspicious date to have moved that referral.

I was very pleased to be able to do it, because I said at the time, and I have said a number of times in Parliament, that in the early 1980s when IVF, as it was called, first came into being and children were being born I was very happy along with everybody else that people who previously had been unable to have a family were able to do so. But it was said at the time that donors were anonymous, and I did think to myself, ‘Who’s thinking about the children here?’. I do not think that at the time enough attention was paid to that. There was more attention being paid to the technology and to the understandable need of parents who had been unable to have children to be able to do that, and not enough attention was being paid to the future needs of the children born of those technologies. We know from the stories that we have all received via email, from the forum that I held in the Parliament and also from the extensive testimony and submissions made to the Law Reform Committee how this has profoundly affected people’s lives.

So that referral was successful and the committee reported in March 2012 — almost two years later and almost four years ago. In August 2014, two and a half years after the report was tabled and 18 months ago, we debated the Assisted Reproductive Treatment Further Amendment Bill 2013, which brought into line those born between 1980 and 1988 with those born between 1988 and 1998. We went from a three-tier system to a two-tier system, so that those born prior to 1998 could then obtain information with the consent of the donor. As we know, those born post-1998 have full rights to information about their donor.

That is a history of the last eight years. Many people have been waiting all that time to the point where the bill in front of us today will make all donor-conceived people equal under the law. As I said before, it will bring the actual provisions of the act to comply with the guiding principles of the act. But of course it all really began almost 36 years ago in June 1980, when our first donor-conceived person was born.

This is a difficult issue. I am aware that there are various views on this issue, as Ms Wooldridge said. As I have paid great attention to it over the last eight years, I can say that the vast majority of people who have ever contacted me about this issue have been supportive of more information being available to donor-conceived persons and supportive of the rights of donor-conceived persons. Certainly, as Ms Wooldridge said, given the changes to the act in 2014, most donors who have been contacted by VARTA have in fact agreed to have their information released. Many of them have also agreed to contact with their donor-conceived person. That has been made clear to us by the Victorian Adoption Network for Information and Self Help (VANISH), and Ms Wooldridge read out part of a letter from Coleen Clare of VANISH. All of us have had a lot to do with Coleen and VANISH, not only on this issue but also on the forced adoption issue.

Of course they are very supportive of this bill, as are most of the people who have contacted me by email. That includes Kim, Geraldine, Kerry, Damian, Simon, Bridget, Kimberley, Ross, Lucy, Chloe, Sharni and Adrienne, who have all sent emails telling us about how the lack of information — their denial of nformation — has affected their lives. Also, I am very struck by many of them — a couple of them were actually born after the time when they were at least able to get information with the consent of the donor — thinking about the persons who were born in the earlier time when that was not possible. Some of them have written about how they were not told until they were quite older, about how that had been upsetting for them and about the fact that not being able to find the information has really affected their lives.

I especially want to pay tribute to VANISH, Tangled Webs and the Donor Conception Support Group, which have lobbied and advocated for this issue for many, many years. In particular Lauren Burns and Myfanwy Cummerford, who have also contacted me and I think everybody else, have been very active on that issue. We should all remember Narelle Grech — and many people have called these laws Narelle's laws. Sadly Narelle died in March 2013 as a result of bowel cancer. Because she was born prior to 1988 and did not have any rights to information, she was able after the intervention of the Premier at the time, Mr Baillieu, to get some documents from the public records office and connect with her donor father, Ray Tonna. That is a very heartbreaking story, and there are some other stories in the emails that people would have read with regard to the issue of health records.

We must remember that, as I said, people in the group born post-1988 are now between the ages of 28 and 36, and in the other group, pre-1998, most of them are between 18 and 28. They are adults, they are coming into a situation where many of them have families or are thinking of having families and of course the issue about knowing your genetic heritage and your medical history is very important. It is not that it was not important before, but it becomes even more important when you are having your own family.

I have also received the emails that were referred to by Ms Wooldridge, one from a man called Ian and one from John Donor, who set out a very long, very detailed case against the bill, and I have also been contacted by other persons who are against the bill, but as I said before, they are mainly in the minority. Over the years most of the people who have contacted me have been supportive of the rights of donor-conceived people to have the information and supportive of the removal of discrimination from the act and making all people equal.

I know that there is the issue that Ms Wooldridge raised about anonymity. As I said, sometimes that was an assurance, and sometimes it was a condition imposed by the clinics. In fact it was imposed by the clinics, and it was not underpinned by any law at the time, so that is worth thinking about. It is not that I do not have any empathy with or understanding of some donors not wishing to be contacted or wanting to preserve their anonymity, which they understood was preserved at the time. But I would say that, just like with adoption where anonymity was promised — as we know, an apology was made by the Victorian Parliament to those

who were caught up in the forced adoption issue, but this is not the time or place to go into all that, and people can read all the speeches and everything that happened then — that act was changed in 1984, and we know that it has worked quite well in terms of the release of information and people contacting each other. There have been very few problems, and I believe the same can happen here.

We are talking now mainly about adults, and as we go forward in the years, more and more will be adults. I believe adults are able to manage this issue with good faith and with respect on all sides. I think it comes down to the fact that the donor-conceived people were not party to the assurances of anonymity, but those assurances and those promises have had a profound effect on their lives. Given that I believe it is their right to know their genetic identity, I think on balance that is more important than the right to anonymity. I would also say that if you take yourself back to 1980, it was a new technology; it was a new thing. Perhaps people thought there needed to be anonymity. I think, though, 36 years on, there are so many donor-conceived children in the community and it is such an accepted and normal part of life that I would hope it would not be too shattering for people to be contacted by their donor-conceived person.

Of course the donor already knows they were a donor, so it is not a shock to them to find out that a donor-conceived person may have been a result of their donation. They are not finding out information they did not know anything about. There is no requirement for them to necessarily tell everybody else immediately. There are provisions in place, and VARTA has very experienced staff who have a lot of experience in dealing with this issue, so I think, with all that is in the bill, these things can be managed, as we have seen they can be with adoption and the adoption issue over the last 30 years as well.

I just want to turn to some amendments, which I have circulated to all parties, and they go to the issue of contact statements. That was an issue which the Greens had concerns about with regard to the Adoption Act, which brought them in, I think in 2013. The Greens did not support the introduction of those statements because they had not been a part of the Victorian legislation since 1984 — so for 29 years — and for the same reasons, that we believe adults can manage their own contact. If people want to go against the wishes of someone else in terms of contacting them, we already have laws in place to deal with people who do that.

I have not proposed amendments to completely remove the contact statements from the act, but I have amendments that do two things: one is to remove the penalty of 50 penalty units because I believe even with a contact statement in place, which is part of the bill, that a donor can lodge a contact preference with the authority and that if the donor was to learn of that contact preference, I think donor-conceived people would not go against that contact preference.

Greens amendments circulated by Ms PENNICUIK (Southern Metropolitan) pursuant to standing orders.

Ms PENNICUIK — So the first of my amendments would simply remove the 50 penalty units that are associated with the breach of a contact statement. We do not believe that such a penalty of $7500 should apply, and we believe that people can regulate their contact without that penalty being there. I would also say that this cohort of people would be the only people that are covered by such a provision, as it now no longer exists in the Adoption Act.

The other amendments with regard to contact statements are to apply a sunset clause to them, such that after 30 June 2020 there would not be the ability to lodge a contact preference statement. That is some four-and-a-bit years from now. I chose that date because it is quite an auspicious one; 30 June 2020 will be 40 years and one week after the birth of the first IVF person in Australia, Candice Reed, as I mentioned before, and I think that is a long enough time for us to have these issues of contact between donors and donor-conceived people regulated by contact preference statements. I would hope that in the lead-up to that time the government would step up its awareness campaigns about what the new legislation contains, how that works, the role of VARTA, the rights of people et cetera. By that stage we will be four years on: the first cohort of donor-conceived people will be approaching 40, if not turning 40, and those who were born after 1998 will be in their early 20s, so all of the people we will be dealing with will be adults in that regard. I think that rather than the ability to lodge contact statements just staying in the act in perpetuity that sunset clause is more appropriate, and it would mean of course that up until that time a person could lodge a contact statement that would last five years, but there could not be any more lodged after 30 June 2020. I think it is expressed as 1 July 2020 in the amendment, but it really means 30 June would be the last day.

Those are the amendments that I put up for the consideration of all members, given of course that coalition members have a free vote. That would be more in the spirit of the first and major recommendation of the Law Reform Committee. I take

the opportunity to thank those members of the Law Reform Committee of the two previous parliaments, because it carried over from one to the next before the report was actually tabled. I thank them for their work, and I thank all the people who made submissions to that committee. That work has led to the various iterations of the act, in particular in 2014 and again now. Hopefully this will be a historic occasion, where all donor-conceived people will be equal under the law. With those words, I indicate that the Greens will be supporting the bill.

Mr MELHEM (Western Metropolitan) — I also rise to speak on the Assisted Reproductive Treatment Amendment Bill 2015. The guiding principles of the bill make it clear that in carrying out anything to do with this bill the welfare and interests of persons born or to be born as a result of the treatment procedures are paramount. That is the guiding principle as we debate this bill today. The importance of knowing one's genetic heritage and the role it plays in identity is an integral part of all of our lives, and to have two different classes of donor-conceived people, when it comes to the access they have to information about their genetic heritage et cetera, is really unacceptable.

Many submissions have been received during the consultation process in relation to this bill, and they have reiterated the importance of knowing one's identity. I think that is a very important point, as it is in other areas like the Adoption Act 1984 and like the previous bill, which recognised or gave rights to people who were conceived as a result of assisted reproductive treatment post-1998.

I want to go to two individual cases. One person said:

> Individuals who are donor conceived had no say in the manner of their conception yet now are adults who bear the burden of not being able to know. They are now thinking, feeling human beings with a half 'blank' family history, and that legacy is passed on to their own children. I know many donor-conceived people and none of them, nor myself, are looking for a 'father figure' or for a relationship that is not wanted by the donor. To know the truth, to understand our origins is all we are asking for.

Another person said:

> I was curious to see what he (my donor) looked like, if he had large big toes, any odd holes in his ears, a large bust, different quirks my mum lacked and so we attributed to him.

In 2012 the then parliamentary Law Reform Committee, as previous speakers have talked about, took on the task of inquiring into a reference about access by donor-conceived people to information about donors. It was a select committee under the former government, and the chair was the former member for Prahran. The report made 30 recommendations, and they were unanimously agreed to by the committee. The bill will give effect to these recommendations, and more importantly this bill will implement the key recommendation of the committee that all donor-conceived people should have the same rights to information about their donors.

There were some issues, as previous speakers have talked about, in relation to rights and responsibilities. This bill does not force donors who do not want contact with their donor-conceived offspring to have contact. The bill is very specific. It has a robust scheme to protect donors from unwanted contact. There are severe penalties attached to that as well.

If I go back to why the government is introducing this bill, as I said earlier, the government has committed to giving all donor-conceived Victorians the same right to access available identifying information about their donors. Currently donor-conceived Victorians, in cases post-1998, can access identifying information about their donors. However, donor-conceived Victorians conceived from donations made before 1998 can only access identifying information about their donors with the consent of the donor.

Basically we have a case of discrimination in treating some people as first-class people and others as second-class people. It is a very emotional issue because the argument is about the people who before 1998 donated in good faith on the basis that they did not want any contact with the conceived kids — children or adults. I get that, and I think that is a very important point, but that is why this bill also provides protection to those people. These donors do not want to have any contact; that right is actually respected. The whole thing is about removing the disparity that is based on arbitrary time frames, so now all donor-conceived Victorians can access available identifying information about their donors. That is what it is all about; it is basically treating everyone the same. I think we cannot have one set of regulations and laws for one group of people and a different one for other people.

The legislation I talked about, which was from the year 2014, was passed and introduced some of the committee's recommendations but not the key recommendation that all donor-conceived Victorians should have the same right to access available identifying information about their donors. An election promise was made by the Andrews Labor Party — the Andrews Labor government now. That is why the government has introduced a bill to rectify the situation

and implement the committee's key recommendation as part of that.

I am just going to tackle a number of issues. I think I covered that technically — some people will argue — it is retrospective, but in reality it is not. For people who donated prior to 1998 on the promise and understanding that they could choose to remain anonymous, to an extent in practice the bill may be seen to be having a retrospective effect. That is not the case. It will not treat these people as having committed any crime or having any issue. In that sense the bill can be read as retrospective, if you want to call it that, but it is really still giving that protection to the people who participated in that scheme pre-1998.

The bill also talks about what sort of DNA or genetic test there is if people want to go and find out who their biological father is. The bill talks about how, in trying to identify a donor, the Victorian Assisted Reproductive Treatment Authority can ask a range of questions. Asking donors or a donor-conceived person whether they are willing to undertake a genetic test is one of those questions. A genetic test is the most effective way to determine whether a genetic link exists between an applicant and another person. It also goes on to talk about whether that same thing could apply to the donor's family or blood relatives. That could apply in some circumstances. There is a very tight control in place to deal with that issue. The ability to seek a genetic test of donors' blood relatives can happen, and the blood relative of a donor may only be asked to undertake a genetic test if a donor is dead or missing, or in exceptional circumstances.

You will ask, 'Why would people want to go and find who their genetic father is?'. I think you will find that in 99 per cent of cases it is related to them wanting to know if there are genetic medical issues. They can go back through history and find out. I think one of the triggers, in my experience, is when that person becomes a parent. I will talk from a personal experience, where my wife was adopted under the adoption laws. One of the triggers for her to find her biological mother was when our son was born. We wanted to know the family history about diseases and various other things. He had a medical condition. Thankfully he has fully recovered from that, but that was the trigger. It was not about 'I want to find out who my parents are — who my biological mother is' or 'I want to go and see if they are rich and make a bit of money'. That was the reason: that she wanted to know the medical history. She went through that process, and, sure enough, we did find out. I think when they met she just found a second mother. That is what, in my view, will drive 99 per cent of people, so it is important to actually provide that opportunity to the people who were born as a result of that process.

In the meantime you give similar protection to donors pre-1998 because you need to give them some sort of protection. It is no different to adoptions, where if the parent — in the other case it was the mother, but in this case it is the father — does not want to have contact, that is respected as well. But I think in most cases, when we are talking about adults, they will be able to work that out. That is why the bill does give some protection to donors in regard to their right to privacy. It is about really giving both parties access to find out about their heritage and the issues I talked about earlier. That is why as part of this bill responsibility for the central register will be transferred from the registry of births, deaths and marriages to the Victorian Assisted Reproductive Treatment Authority.

Finally, I just want to go back to responsibility. I think some concern has been raised by donors who did what they did in good faith pre-1998. You do not want to be faced with the situation where a person knocks on the door and says, 'You have a legal or financial responsibility towards me as a person conceived as a result of the donation'. The bill goes a long way towards addressing that. Making a donation does not make a donor financially liable for their donor-conceived offspring; the changes under this bill do not result in any liability of donors for their donor-conceived offspring. It is very clear. Similarly, the bill does not make a donor financially liable for their donor-conceived offspring, and the changes under this bill do not result in liability for the conceived offspring.

So basically that does give protection to the pre-1998 donors but it also gives their donor-conceived offspring similar rights to the people who were conceived after 1998. I think it is a very balanced bill in addressing the issues that were raised by the committee, the work of which was done over a number of years. I want to commend the work of the committee and the minister for the work that has been done in relation to that and for going through the consultation process to make sure that the government has come up with a balanced approach to this issue. It is a very sensitive issue, and I think we have found the right balance. With these comments, I commend the bill to the house.

Dr CARLING-JENKINS (Western Metropolitan) — I rise today to speak to the Assisted Reproductive Treatment Amendment Bill 2015. This bill has caused me to think very deeply, to weigh up all the different sides of the argument and to feel conflicted — deeply, deeply conflicted. I believe very

strongly that every child has a right to know their biological history. I am a very strong advocate for correct birth certificates — that is, birth certificates which clearly state the biological mother and the biological father of a child. Genetic heritage is important to the fundamental and very human question of 'Who am I?'. This is why late last year I first read my Adoption Amendment (Identifying Biological Parents) Bill 2015. It is our right to know who we are. Every child has a right to understand their genetic make-up and to know the details of their conception when this is possible. And so I do not oppose the intent of this bill, but I do take issue with some of the elements of the bill which appear to be unfair and potentially harmful to donors and donor-conceived people alike.

I have received a number of emails from both sides. The emails from donor-conceived people described their despair about not knowing their roots, and I have every empathy and sympathy with their plight. I cannot imagine what it must be like to not know the answers to fundamental questions such as what your grandparents died from. They are routine questions which doctors ask. There was one email that particularly struck me, from a woman who described the following, and I would like to quote from the email. She wrote:

> Because of the manner and the year in which I was conceived, I am sadly denied access to very important information about my identity, health and ancestry, which affects me in a number of significant ways. Without a complete medical history, I am not able to take appropriate steps to screen for health issues for which I may carry a genetic susceptibility, while in my relationships, I am concerned about unknowingly meeting one of my 13 half-siblings. Of most personal consequence for me over the course of my life has been the persistent stress and uncertainty surrounding many unanswered questions about my identity and where I come from. While I can assure you that I am very grateful to be alive, and I certainly would not be if not for the intervention of donor conception, this gratitude does not prevent my fundamental human desire to know and to understand who I am. It is very difficult — if not impossible — to know who one truly is without knowing where one came from. Knowing the identity of the man who assisted in giving me life — the man with whom I share DNA, personality traits, physical characteristics, genetic predispositions to medical conditions, habits and ancestry — does matter. It matters very much. And where this information is available via sperm donation records, I passionately and profoundly believe that it should be protected by law and freely provided to those currently denied access to vital knowledge about themselves.
>
> Due to the disjointed and inconsistent nature of current legislation, my brother, who is also donor conceived, has had the opportunity to meet his donor and learn about his origins and medical background. I have witnessed the beneficial impact this has had on his sense of identity, confidence and self-understanding. It is difficult not to feel discriminated against simply because of the year in which I was born.
>
> The bill currently under debate aims to provide donor-conceived people like me critical information about who we are. I respect the privacy of my donor and would never in any way make unwanted contact or seek to intrude in his life. I simply ask to be treated the same in law as other Victorians including younger donor-conceived people, adoptees and wards of the state — forgotten Australians.

I want to thank this woman for taking the time to describe her pain and her position to me so articulately. I have every empathy, as I said earlier, for her plight.

However, I also have a number of concerns about this bill that are not quite as simple as has been portrayed. These have been raised with me by a number of people. For example, I have an issue with retrospective laws. To promise one group of citizens anonymity and then decades later to go back on your word leads people to lose confidence in our parliamentary system. I think people have been disillusioned enough with the handling of a number of issues that we have seen come through this house even in the time I have been here without allowing this house to make the making of retrospective laws an accepted practice. Questions need to be answered on this point.

Donors were promised anonymity in most circumstances. To withdraw this now could have a devastating effect. While this law appears to give a donor the right to put in place a contact veto, details of the donor will have already been released at this point. Donors have raised concerns about the possibility of having their child — or worse, elements of the media — turn up unannounced, demanding answers. Now, consider this contact veto from the point of view of donor-conceived people. Consider what it would be like to be given the contact details of your biological father and then to be prevented from making contact with them. This is something that needs to be explored in the committee stage of debate on this bill. When donor-conceived people suddenly receive notification that their fathers, grandparents and relatives that they have believed are biologically linked to them are not, they could suffer some real psychological trauma. Again, I believe questions that need to be answered on this point are such as what resources will be available to donor-conceived people who suffer such trauma as a result of finding out the details of their conception.

The parents of donor-conceived people may also feel a level of anxiety and distress about the agency they trusted with assisting them to conceive going back on its promise of confidentiality. Let us not forget that infertility is a hard burden for many and assisted reproductive technology offered a confidential lifeline to many, years ago. Again I wish to stress that I do not believe that moving forward any promise of

confidentiality should be given, but it is an entirely different matter to consider this in retrospect.

In summary, this bill appears to break the legal contract that the Victorian government and IVF providers had with donors and the parents. I would like to explore this in the committee stage. For me, this bill does not quite hit the right balance. Donor-conceived people will get a name and not the biological information that they truly desire. Perhaps a better way forward would be to negotiate biological information and then, if donors agree, names.

I thank Ms Wooldridge particularly for her contribution to this debate earlier this afternoon. I thank her for raising issues such as the impact of modern social media, where it is now much easier to search for a donor or a donor-conceived person in what is essentially a very unregulated environment. In this vein I appreciate Ms Wooldridge's suggestion that with appropriate funding and support a lot of work can be done on the donor's end rather than on the end of the donor-conceived people, even if this does not satisfy every situation. I thought that was an excellent suggestion and one that should be considered much more closely moving forward.

Existing laws already allow for all donors to be contacted on behalf of their donor-conceived children. A few agree to contact, but many — for a variety of reasons, I am sure — do not. This perhaps tells us something about an appetite for confidentiality. I note also that the Australian Medical Association opposes this bill on the basis of donor rights.

The assumption that a donor-conceived person will, through this legislation, now suddenly be able to learn his or her medical history may not be entirely accurate. Some people have raised this issue with me, and they claim that in fact it may have the opposite effect. I quote from an email I received:

> A donor might be happy to anonymously forward his medical details through a third party … However, with his anonymity removed, he will be far less willing to share his medical history, especially as he has no assurance it would not be further passed on by the …

donor-conceived —

> person.
>
> If the bill aims to address this issue it needs to find a way to make the medical information available.

Two options proposed by this person were to compel donors to hand over their medical records, and to allow donors to retain anonymity on condition of handing over such records.

As I said at the beginning of my contribution, this bill leaves me deeply conflicted. It is fraught with potential problems, and I look forward to examining these further through the committee process in order to gain further insight into the implications of this bill. I reserve my decision as to which way to vote on this bill until the committee stage is complete. However, based on some of the contributions that have already been made today, I am more inclined to vote against the bill at this stage. I believe that we must learn from our mistakes, the mistakes of the past, and moving forward we must always focus on the best interests of the child so that members of a Parliament in the future do not have to sit and go over such legislation as this.

Mr FINN (Western Metropolitan) — I rise to speak on the Assisted Reproductive Treatment Amendment Bill 2015, which enables persons born as a result of the use of gametes donated before 1 January 1998 to obtain identifying information about donors without consent, provides for the lodging of contact preferences by persons who donated gametes before 1 January 1998, including on behalf of their children and by persons born as a result of donor treatment procedures, and further provides for the keeping of the central register and the voluntary register and for other purposes.

Dr Carling-Jenkins said she is very deeply conflicted, and I have to say I am very deeply conflicted. There are very clear cases here for a yes vote, and there are very, very clear cases here for a no vote. What we have to do is balance up what carries more weight — what is more important to whom. I have to say that I am very grateful to my party, the Liberal Party, and to the leader, Matthew Guy, for agreeing very readily to a free vote on this bill. This is something that we are probably getting used to in this Parliament and we will probably have to get used to a little bit further on other issues. I remember back in 2008 when the Labor Party was last in government and it put up a number of issues on which there were also free — or conscience, as they were then — votes, until we found out that perhaps there were not all that many across on the other side who had a conscience. That is beside the point. We now call them free votes, and I am very grateful to the Liberal Party and to the leader, Matthew Guy, for so readily agreeing to that free vote.

There is clearly, in debate on this bill, room for a discussion about the right to anonymity. I do not think there is any doubt about that. That is something that donors back prior to 1998 thought they had sewn up. They thought that was a promise — an ironclad promise. I have to say that I am not a big fan of retrospective legislation. I have never been a fan of retrospective legislation. Whatever the issue may be, it

is something that I do not have a great deal of enthusiasm about supporting.

There is a very, very strong claim by donors — who had been given a promise, a contract, by the IVF providers at the time that they would be able to keep their anonymity — that this bill should be defeated. Then there is another strong claim. Dr Carling-Jenkins hit this one on the head when she said that everybody has the right to know who they are. That is a huge one. It is particularly big for me because I have often spoken in this house and in other places about the need to make children's rights paramount once again in our society.

There was a problem — as was pointed out by Ms Pennicuik, I think Dr Carling-Jenkins and indeed Ms Wooldridge — when all this was happening back in 1998 and thereabouts. The enthusiasm for this brave new world that we had taken to with vigour was such that there was not a great deal of thought about what would happen down the track. There have been a number of bills that I have spoken on in this Parliament in recent years about which I have warned the same thing: that we have not thought about what will happen down the track.

Well, here we are, down the track on this particular one, and we are seeking to find a solution to a problem which was planted many years ago. I wish that those legislators and all those in the IVF industry back then had given some thought to what was going to become of the children they were creating — not just in terms of the children who were actually born but also in terms of the huge banks of human embryos that we have sitting in God knows how many places around Australia. It is something that has concerned me for a very long time. I have taken these conflicts into very deep consideration, and I have probably changed my mind at least a half a dozen times on this one, and I might yet again if somebody puts up a strong argument.

I have to say that this is a red-letter day for this Parliament, because at this point in time I am actually going to support a bill on a matter such as this put forward by this government. Normally I would regard it as a stinking, rotten, foul government on these sorts of issues, but on this particular occasion I am actually going to support the government. Not only am I supporting the government but I am supporting the Greens.

Mr Ondarchie interjected.

Mr FINN — Somebody should get Mr Ondarchie an ambulance. If anybody had any doubts about it being a red-letter day, that should settle it, because it is not very often that I agree with the Greens on much at all.

I think, as Dr Carling-Jenkins put before, everybody has a right to know who they are, everybody has a right to know, where possible, who their parents are and everybody has the right to know where they have come from. The year 1998 should not make any difference, and what happened prior to 1998 or in 1999 should not make any difference. If we are a society which now believes, as I am told, in equal opportunity and equal rights, then every person who has been conceived with the assistance of a donor has the right to know who they are and what their genetic make-up is. That is pretty basic to us all.

So whilst I accept the fact that the rights of donors are extremely important — I do not make this decision lightly, not at all — I have to say the bigger right, if I can use that term, is the right of every single person, where possible, to know who they are and where they came from, because it can very much shape who you are and where you are going, and of course you find out where you came from. I have often said if you do not know where you came from, it is very unlikely that you know where you are going. For that reason I will support this bill when it comes to a vote. I will reserve my views on the Greens' amendments at this point in time. We cannot expect too much today, but I will look at those amendments when we get into the committee stage and make a decision further down the track.

What I would like to do is, as Ms Wooldridge did earlier, pay tribute to Clem Newton-Brown, a former member for Prahran in the Legislative Assembly, who did a great deal of work in this area. He and I discussed this matter at length on a number of occasions, and I think, given the work that he and his committee put into this, he deserves to get the credit. I am a great believer that if credit is due, credit should be given, and Clem Newton-Brown most certainly should be given much of the credit for the fact that this bill is before the house today, and he might even be given some of the credit for the fact that I am supporting it, given the discussions that we had over a period of time.

We all know that where we came from is very important to us, and you just have to look at one of the biggest industries in the world today, ancestry, to see that people are burrowing back to where they came from. Some years ago even I went burrowing back to where I came from. I went back to an uncle who was a bishop in Ireland and who was in fact one of the founders of the Irish Republican Army, which is what we now know as the IRA, so I closed the book and I did not look at it again. I thought that was enough for

anybody. I will give that a wide berth. But it is nonetheless something that clearly is important to people and in this particular instance actually shapes their lives. It makes their lives different. It improves their lives if they can know what makes them do what they do, why they have blue eyes, why they have blonde hair, why they walk with a limp and all of these sorts of things that are handed down through the years. It answers so many questions to know the genetic make-up of an individual. It answers the same questions for people to know who their parents are, who their grandparents are and so forth.

I will support this bill because I believe that on balance the right to know who we are trumps, if I can use that word now, the right to a promise that may have been made 20 or 30 years ago. As I said, I support the bill. I will be listening very closely during the committee stage to figure out my position on the Greens' amendments, but I will in all likelihood on this occasion support this bill.

Ms PATTEN (Northern Metropolitan) — I would like to add a small contribution to the debate on the Assisted Reproductive Treatment Amendment Bill 2015. As others have said, this bill will enable donor-conceived persons born as a result of pre-1988 treatment procedures, or their descendants, to obtain information regarding their donors from the Victorian Assisted Reproductive Treatment Authority (VARTA), and that is whether the donor consents or does not. It allows for the making of protection orders by the Magistrates Court to ensure provision of information and establishes a scheme for contact preferences. It also creates a number of offences relating to breaches of those contact preferences.

From my reading on this, the bill effectively reflects a lot of the submissions that were made to the Law Reform Committee — some 80 submissions — during that committee's inquiry into access by donor-conceived people to information about donors. As many of the other speakers have said, this has been a very interesting debate for many of us who are weighing up the rights of those donor-conceived adults, as they now are, versus the rights of the donors who at that time felt that they were doing this anonymously and probably for all the right reasons. But in those days it was about being anonymous. In those days the doctors, the professionals, were saying, 'Don't tell the children that they are donor conceived. Keep that a secret'. We have moved on and we have changed remarkably since then. We saw with the adoption debate just last year how far we have come in understanding, as Mr Finn put it, the importance of where we have come from and how that helps us go forward.

As many members did, I received many really thoughtful personal emails and phone calls from people who were donor conceived during this time, and I want to read one. It states:

> I found out I was donor conceived this year in August after my mother tearfully confessed this to me because of the law change in June.
>
> …
>
> Not knowing and being lied to about who I am as a person has been hard but what has been even harder is that because of the current laws I may never know the whole truth. My experiences to date trying to find out my genetic and medical history have been frustrating and deeply hurtful. Yet I will keep searching, asking and begging for information because I need to know. I should not be denied information about who I am.

She did not have a choice to not know who that donor was at that time. The concern must be weighed against the current system where unexpected contact may happen these days without counselling. Certainly, as Ms Wooldridge mentioned and I believe Dr Carling-Jenkins mentioned, social media and new technologies are having an enormous effect on how we get information. So having a framework in place will at least allow for an initial contact and some counselling, and we have seen the evolvement of this issue through various changes to assisted reproductive treatment legislation over the years. Ms Pennicuik and Ms Wooldridge certainly highlighted those historical movements and the evolvement of this part.

I do believe the concerns around privacy and anonymity are important. But as we saw with the Castan Centre for Human Rights Law's submission — I know that it put in a submission earlier but it also put a submission into the Scrutiny of Acts and Regulations Committee — it noted very strongly the importance of placing the rights of the child as the primary consideration. I agree with this, and as a result I am reluctantly supporting this legislation. But for all of the positives, there are people who oppose this bill quite vehemently, and I think they are very justified. Again, in previous contributions we have heard about those concerns.

I just want to go back to one other woman who wrote to me. She was donor conceived prior to 1988 and she had had contact with her donor. She knew of a half-sister. That half-sister had a very rare form of a very aggressive breast cancer and she knew about this. She contacted the clinic where she had been donor conceived to pass on that information and to ask that

clinic whether it would pass that information on to her other half-siblings. The clinic did not consider that that information was important at the time and refused to pass it on, so I think this bill will go a long way to assisting in those areas.

Donors have expressed concern about being contacted or having their adult children contacted despite having those non-contact preferences placed there. I understand that concern and I understand that fear. The New South Wales Law Reform Commission produced the *Review of the Adoption Information Act 1990*, and it notes that compliance with contact vetoes was 'remarkably high'. As we have heard from other contributions, it would be highly unlikely for a donor-conceived person to want to breach that preference and vice versa — for a donor to want to breach the preference of the donor-conceived person. But these concerns are valid. Again, weighing this up between the rights of the child and the rights of the donor, I feel that the rights of the child do take precedence here.

We also understand that there is privacy and there is anonymity. This bill grants that those donors will lose that right to anonymity, but they do not lose the right to privacy, and I think we should separate the two. It is important that we understand that. Yes, I understand the retrospective nature, I understand the pain of certainly the people who wrote to me who feel that we are breaching that anonymity that they felt they had when they felt they were doing the right thing. But we are not breaching their privacy, and I think that is where I was able to balance my decisions in here.

I just want to raise one of the very thoughtful emails from one of the donors at that time, who said he was:

> … promised 100 per cent donor anonymity and we were assured that any offspring would not be told of their conception details by their parents —

because that was considered the right thing to do: 'Don't tell them. Don't tell them that they're donor conceived'. He continued:

> During a 1993–94 counselling session I was told that … future sperm donations anonymity was not 100 per cent assured, so I immediately withdrew from the program. At that point I was informed that I had assisted with the birth of five children.
>
> …
>
> Five years ago, I was contacted by one of my procedure's offspring who was curious about his heritage. Although I did not wish to be identified, I happily supplied him with more information than he wanted to satisfy his curiosity. This included explanations about my motivation to assist his parents, my scholastic, occupation and life achievements, my hobbies, the names and places of birth of ancestors. I also supplied photographs of myself, parents, aunt and uncle taken between the ages of 18–25 … so he could determine any similarities. I have also placed all of this information on the BDM —

births, deaths and marriages —

> and VARTA's voluntary register. I have had no further requests for contact in the last five years, so I assume this information was sufficient.

This was a very generous person and a very thoughtful person. He was happy to provide a great deal of information, but he did not want to provide his name and he wanted to maintain his anonymity.

So some donor-conceived individuals have been adamant that that retrospectivity is fair and reasonable. One wrote:

> I do not wish to invade the privacy of my donor and intrude on his life. Like other examples of retrospective legislation in Victoria, I do not see this as a big crisis which is going to ruin the lives of a group of people; in this case 'anonymous' donors. I merely want to be treated in the same manner as other Victorians my age … who enjoy the benefits of equitable legislation on the matter.

I am not sure what would happen if that donor-conceived person and that same donor were put into the same room and how they would argue that out about, as Mr Finn said, whose rights trump in that room. I think it would be a very interesting conversation, and it has given me much reason to think and reflect on this. But in thinking of all of that, I do think that these changes seek to provide some certainty, but that is because we lacked that certainty when this legislation was introduced, when we had this enormous new technology and, I guess, a brave new world back then in the 1980s. It is so interesting to think that that was nearly 40 years ago.

In concluding, I would like to thank all of the organisations that wrote to me and especially the individuals who wrote to me and to further emphasise, as I have heard from my colleagues here, that it has not been easy to decide about the question of those competing rights. I regret that unfairness, that those donors were promised the anonymity that I do not think was probably right to have been promised at that time. I am saddened about this, but I do think it is important for those children to have the same rights as other children in knowing where they came from.

My niece was donor conceived. She is seven. I was with my family on the weekend, and I was hearing the story. She is seven; she will be eight next month. She

had never really asked about it, and she asked my sister and my sister's partner did she have a dad, and they responded, 'Yes, of course you do', and she said, 'Well, who is it?', and they told her. They had been working up to this day for a number of years, waiting for the day that my niece would ask these questions. They said, 'So what else would you like to know?', and she said, 'Can I go and watch television?'. I think kids, given that opportunity at that young age, will take it in bit by bit. She will ask more questions in the future. She will have the opportunity to have contact with the donor. She may even have a relationship with the donor and with other siblings that she may come to know.

This bill highlights the importance of clarity and support throughout the law-making process. It was unfair back in 1988, and this does rectify that for those people who were donor conceived. I fully acknowledge the fear and the pain of some of the donors, who rightfully thought that their anonymity would be respected by law right to the very end. I am sorry that that is not so, but I do think, in weighing this up, the rights of those donor-conceived children outweigh that right to anonymity.

Mr EIDEH (Western Metropolitan) — I rise to make a brief contribution on the Assisted Reproductive Treatment Amendment Bill 2015 — a very important piece of legislation for many individuals and their families across Victoria.

Victoria has a proud history of being a world leader in assisted reproductive treatment, starting with pioneering the development of in-vitro fertilisation (IVF) and donor treatment procedures throughout the 1970s and 1980s, and as a result, Australia's first IVF baby was born in Victoria in 1980.

But with this history also comes responsibility — responsibility to those who have been born through assisted reproduction and their desire to know where they come from. That is why at the last election the Andrews Labor government made the commitment to change the law to ensure that all donor-conceived people have equal rights when it comes to obtaining identifying information about their donor, regardless of when the donation occurred and whether the donor consents.

I think we all in this house would agree that the rights of a child should always be paramount; children born as a result of assisted reproductive technology are no different.

We are very proud that this legislation puts the rights of a child born as a result of assisted reproductive technology first, as it allows these children to begin their genealogy journey if they wish. And this is in line with an existing guiding principle of the current legislation under the Assisted Reproductive Treatment Act 2008.

The former parliamentary Law Reform Committee conducted an inquiry into access by donor-conceived people to information about donors. It was a coalition-dominated committee, and the chair was a former member for Prahran, Clem Newton-Brown. The inquiry's report had 30 recommendations that were unanimously agreed to by the committee, and this bill gives effect to all of these recommendations. Despite the unanimous nature of the committee's recommendations, the former Liberal government's response and subsequent legislation chose to further entrench an unequal system of rights: those who were conceived with gametes donated after 1998 have full access to identifying information about their genetic heritage, and a second class, those conceived with gametes donated before 1998, can receive information only with donor consent.

This two-tiered system has created confusion and distress for some donor-conceived people. Labor opposed this two-tiered system. We committed that we would address and remedy this unequal system and allow every donor-conceived person the same right of access to information about their identity, which is something we on this side of the house feel is very important.

The bill recognises that donor-conceived people should be treated equally and be afforded equal rights to access information about their donors. This bill ensures that everything that can possibly be done will be done to protect donors and their rights. The government's contact preference system seeks to ensure that no donor will be forced into contact with their donor-conceived offspring. And, by implementing this bill, the Andrews Labor government is promoting equality for all donor-conceived people.

I would also like to acknowledge those who offered submissions to the inquiry and shared their stories. Their insights have played a monumental role in shaping this bill, and I am sure all in this house are thankful. I wish this bill a speedy passage.

Mr ONDARCHIE (Northern Metropolitan) — Thank you, Deputy President, for the opportunity to speak on the Assisted Reproductive Treatment Amendment Bill 2015. Can I start by indicating that the Greens amendments today only reached me at 12.23 p.m. today, apart from the ones tabled tonight, so

I have not had an opportunity to fully consider those amendments as yet. As such, I will not speak to the amendments in my contribution tonight.

Can I acknowledge the contributions of those before me; in particular, can I acknowledge the contributions of Ms Wooldridge, Mr Finn and Dr Carling-Jenkins. This is a complicated matter. This is not an easy thing to do, and as legislators we are often faced with these challenges of what to do when there are strong arguments on both sides of this debate.

As the chamber may know, I have five children — five beautiful children whom I love equally — three of them born to my wife and me, and two not, but I love those children equally. For the two that were not born to us, through various means we have been able to provide access to their parents, and that has been a fruitful and ongoing relationship. We are blessed with these five children, so I do understand very much the needs of children wanting to know their heritage, wanting to know their background and wanting to have connectivity with their natural parents.

There are a lot of reasons to support this bill, and among them is to provide, as others have said, equal rights and access to information for donor-conceived individuals regardless of their date of birth. To have knowledge of their parentage and their heritage is very important for a person's sense of identity, and parentage and heritage give them some medical history as well. Others, and particularly Ms Patten when she was speaking tonight, have mentioned the modern technology, including social media, that gives people the opportunity to identify each other in perhaps an unregulated manner. So I do understand why this bill should be well supported.

Equally I do understand why there are good reasons to oppose the bill. These things have been working themselves out quite well, I am told. I have had lots of submissions from various people on both sides of the debate, some who are vehemently opposed to supporting at all and some who are equally vehemently very active in making sure we do support this bill, and those who sit in the middle — some of whom have said to me things like, 'Actually, this is working itself out on its own, and it doesn't need government to intervene in my life'. That was one of the quotes. So it does present us with quite a challenge: the rights of the individual and the rights of the children contrasted with the rights of those who gave donations pre-1998.

Here is the challenge for me. As I have said, I have got two children and we have been able to provide access to their natural parents. That is a lovely thing. I understand why people want that. But for me there is a contract that exists here, and I preserve the integrity and the sanctity of a contract. Whether you think the contract is right or wrong is, for me, not germane to this. The fact is a contract does exist, and a contract existed between the donor and the state of Victoria pre-1998 which said that their information would remain anonymous. Those donors were told their information would only be provided with their consent. Whilst I understand both sides of this equation — and I do deeply, deeply, given my personal experiences, feel for the individuals involved here who want to connect with their natural parents — I conclude by saying that, whether we like it or not, a contract does exist, and I will uphold the right and integrity of a contract.

Ms SYMES (Northern Victoria) — I stand proudly today to speak on yet another bill that highlights that we as a government are following through and delivering on what we have promised we would do. We made a clear and decisive election commitment to change the law to ensure all donor-conceived people have equal rights when it comes to obtaining identifying information about their donor, regardless of when the donations occurred and whether the donor consents. Today, with the passage of this bill, we are hoping to deliver on that.

Russian psychologist Lev Vygotsky once said:

> Through others we become ourselves.

This encapsulates exactly what the bill before us today seeks to remedy for those people to whom the story of a significant other has until now been denied, resulting in their inability to enjoy a full understanding of themselves and their ancestral and historical make-up.

In my research on this bill I came across sadness, uncertainty, anxiety and the genuine grief that comes with not having full knowledge of your genetic history. From some donor-conceived adults came these expressions:

> I had cataracts removed when I was 48, and then it hit me that this came from the donor, because it was an inherited condition and none of my maternal family have had cataracts. What else is hidden there?

Also:

> As I went through the pregnancy I wondered, and of course worried, what would I unknowingly pass on to my child because of my lack of information.

For those of us who have full access to our genetic heritage it can be difficult to understand the depth of despair, uncertainty and pain that exists for those who do not. In 2012 the parliamentary Law Reform

Committee took on the task of inquiring into access of donor-conceived people to information about donors. The report has 30 recommendations that were unanimously agreed to by the cross-party committee members. This bill before us today gives effect to those.

Sadly, it has been the case that we have created two different classes of donor-conceived people, effectively the haves and the have-nots. On this side we believe unequivocally that that is unacceptable and that no arbitrary date should determine anyone's worthiness and right to understand and know their heritage and their history. The Infertility (Medical Procedures) Act 1984 was passed in 1984 but only commenced operation in 1988. Prior to this donor conception was entirely unregulated, yet prospective donors were typically promised complete anonymity and were required to give an undertaking that they would never attempt to discover information about their donor-conceived offspring, despite there being a legal framework governing this in place at that time.

This bill is playing catch-up with a technology that existed and was widely utilised long before it was adequately managed or indeed monitored. Today we are fixing both the injustice and the inequality. The bill before us implements the key recommendation of the parliamentary committee that all donor-conceived people should have the same rights to information about their donors. The bill establishes the Victorian Assisted Reproductive Treatment (VARTA) as the one organisation that manages the donor registers and provides support and information.

As a part of the bill's consultation process over 100 submissions were received from a broad cross-section of the community. As a result we have extended the period of time for a donor to consider their contact preference position following a request for information and we have strengthened the opportunities for donors to receive counselling. Submissions opposing the legislation raised very real concerns about what would happen once a person's information was released and what would be done to protect the privacy of those who did not want contact with their donor-conceived offspring.

That is why the bill has a strong contact preferences scheme, with a penalty for breaches. The contact preference system will empower donors who do not want contact with their donor-conceived offspring to manage that contact. If the gametes were donated prior to 1998 and VARTA identifies a donor, it must contact them, advise them their information is going to be released, offer them counselling and advise them of the process for making a contact preference. The donor then has four months in which to decide what contact preference they wish to lodge. For example, they may want only to be contacted via a letter through VARTA or they might decide they want no contact at all. A contact preference made will also extend to all legal children of the holder under the age of 18.

The donor-conceived person then has to undergo counselling on the nature of the contact preference that has been made. They must give an undertaking in writing to the Secretary of the Department of Health and Human Services that they are going to comply with the contact preference. If the donor-conceived person does not agree to give that undertaking, they will not have the information about their donor released to them. If the information is released and a contact preference is breached, there is a significant penalty of 50 penalty units, which I understand today represents a fine of around $7000.

If a donor cannot be found within a four-month period, then the donor-conceived person will be given counselling and will be required to give an undertaking that if they discover any information about their donor that would assist VARTA to contact them, they must give the information to VARTA so that it can inform the donor. If they fail to do this, that will also attract a penalty.

This bill will not force donors who do not want contact with their donor-conceived offspring to have contact, but what is fundamentally important is that we put the rights of those born as a result of assisted reproductive technology first, ensuring that these people finally have the right, the entitlement, to access available information critical to their sense of identity. I wish them all the best of luck and every success, and I commend the bill to the house.

Ms BATH (Eastern Victoria) — It has been a very interesting struggle in my heart and in my head today, because listening to the various contributions and conversations of people whose opinions I value, there has been some conflicting commentary around this. I too have been contacted by a number of people and I will include some of them in my contribution.

When I speak today on the Assisted Reproductive Treatment Amendment Bill 2015, and we have all been discussing it, I would like to say that when I say 'offspring' and 'donor-conceived people' it seems very removed. I do not mean it to sound removed, but they are no longer children; they are verging on adulthood or are adults.

There are some key dates, and we have been discussing them today in Parliament. Prior to 1988 for donors anonymity was a requirement of gamete donation. The legislation that passed in 1984 and came into effect in 1988 required that all non-identifying information be available to recipient parents and donor-conceived people. Also, donor-conceived people and their parents had the right to access identifying information about their donor, but only if the donor consented and vice versa. Donors had the right to access information about their offspring, but only with the consent of the donor offspring. Records show that 2712 children were conceived during the 10-year period between 1988 and 1998.

From 1998 onwards, and the Infertility Treatment Act 1995 came into effect at that time, there was allowance for more comprehensive requirements. This included that once a person born from a donation turned 18 years old they could find identifying information, including the name and address of their donor, by applying to a central register. The donor consented to this at the time of donation. Non-identifying information was kept at the Victorian Registry of Births, Deaths and Marriages. This could include physical attributes such as height, eye colour, blood group, ethnicity and some medical history. Parents, the donor-conceived person and the donor are all able to access non-identifying information about each other if they visit births, deaths and marriages or the clinic.

The donor has a right to request identifying information about their donor-conceived offspring with the consent of either the parent if the offspring is under 18 years of age or the donor-conceived person if they are over 18. Between 1998 and 2011 a little under 3000 births were recorded. Across Australia there are a range of ideas about exactly how many people were donor conceived during this time. It ranges between 20 000 and 60 000, but it is a considerable number in any case.

From 2008 onwards there was the establishment of the Victorian Assisted Reproductive Treatment Authority. This also enabled people in de facto relationships to receive treatment to receive donated sperm or ovum and meant that single-sex partnerships could access treatment.

We have heard today that in 2012 the then parliamentary Law Reform Committee had a major inquiry to which there were 80 submissions and 30 recommendations were made. I have received information from people saying that this was still a limited and narrow space not widely known about and to which the submissions were not broad. So there are people out there feeling that their submission was not considered. But the stakeholders included donors and donor-conceived people, parents, academics, religious groups, social justice groups, some medical organisations and IVF clinics.

I guess the main concept that everyone has been grappling with — the two sides of the coin that were raised in the submissions — were: the right of the donor-conceived persons to know their genetic heritage, know who both their parents are, have an understanding around maybe some medical issues and an understanding of where they have come from versus the right of the donors to privacy and anonymity. Retrospective legislation is on the table. For those people who do not want their privacy and their anonymity exposed it must be a very vulnerable position, and I respect and feel for them.

The major finding from the inquiry was that obtaining identifying information about biological parents and siblings is very important to the person's sense of self, sense of identity and wellbeing, and the major recommendation for the Victorian government was to legislate to allow all donor-conceived people to obtain identifying information about their donors. This is what we are looking at today. As a member of The Nationals I have a free vote and am proud that our party endorses free votes on these social issues, but again it is a very complex one.

If I just look briefly at the purpose of this bill, and though it has been considered by others, I would like to put on the record that the bill allows donor-conceived children born using gametes prior to 1998 access to identifying information about their donor without the consent of their donor, allows donors and donor-conceived people to register contact preferences and introduces associated penalties for breach of these preferences. I think this is quite a sensible part of the bill. Also it transfers the assisted reproductive treatment records from the Victorian Registry of Births, Deaths and Marriages over to the Victorian Assisted Reproductive Treatment Authority.

Various people have contacted me, and the case may be similar for other members. I do not think John Donor is his correct name, but his arguments were typical of a number of conversations that were held on the 'against' side of this bill: that the bill before us today takes away his right to anonymity and has an emotional consequence for him to have to deal with. John comments that it may have been wrong for previous governments to legislate to use anonymous donors and deceptive IVF practices, but his comment is that retrospective laws breaking the contracts of donors and recipients are also wrong. John states that this new

legislation will give him the right to access identifying information, so technically he can go and find his 20 offspring and contact them whether or not they wish to be contacted. John's argument is also that it is a huge expense to the taxpayer, and finally the concern that donor-conceived people might well be extremely shocked and traumatised if they get a phone call from a government official informing them that their legal father or paternal grandparents have no biological links to them. Those are some comments that 'John' made to me.

In respect of the 'for' side, the positives around this bill, this legislation is fundamentally based on looking after the best interests of the children. I guess, as a parent who gave birth to her beautiful children, it would be a terrible state to be in growing up not knowing who your parents are. Also medical history might be important into the future. On the positive side of the bill, Lauren has written to me saying, 'I'm one of thousands of donor-conceived people currently denied access in law to critical information about my health, ancestry and genetic identity'. Lauren goes on to say that this affects donor-conceived people in many practical ways, such as having an incomplete medical history at the doctor's. In regard to relationships Lauren is concerned about accidentally meeting a half sibling and the potential consequences of that. She added, 'It is also the cause of stress and uncertainty as to the identity of where I come from, which has impacted on my family relationships and my mental health'. This bill is about giving donor-conceived people information about where they come from. Lauren says that donor-conceived people are not searching for a replacement parent and that they are simply trying to discover critical information about themselves.

My decision in regard to the bill has not been an easy decision for me. However, that is of little consequence when dealing with people on both sides. Those people who donated many years ago — and generally I assume they would have donated for altruistic reasons, with the expectation that documents signed at that time would maintain their anonymity — will feel betrayed and that their rights have been compromised if the bill goes through. I do know that they can lodge a contact preference and they can request that there is no contact, but on the flip side, donor-conceived individuals should have the right to know their parentage and heritage, and that is important in terms of their wellbeing and sense of self.

While it is difficult to reconcile both of these outcomes, for me the sense that a child does need to know where he or she has come from is an overriding factor. I will be supporting the bill in principle today but holding my judgement on the amendments.

Mr DALLA-RIVA (Eastern Metropolitan) — I am also pleased to make a contribution to the debate on the Assisted Reproductive Treatment Amendment Bill 2015, but I might take a different tack in terms of the other contributions that have been made, based on the Charter of Human Rights and Responsibilities Act 2006. I do so on the basis of *Alert Digest* No. 16 of 2015. As the deputy chair and a former chair of the Scrutiny of Acts and Regulations Committee (SARC) I thought it important to put on the record some of the concerns raised in the report tabled last year. We have heard arguments, emotive arguments, and we have heard reasons, but I thought it would be important to refer to the report in terms of some of the legalistic debates and some of the concerns that have been raised by our human rights advisers.

During those submissions we received a submission from the Monash University's Castan Centre for Human Rights Law, which was also part of *Alert Digest* No. 16. At page 2 under the heading 'Charter report' and the subheading 'Privacy — Freedom of conscience — Magistrate may require person to produce records relating to a pre-1988 donor treatment procedure — Requirement overrides medical professional privilege, professional ethics, medical patient confidentiality and sexual offence victim confidentiality' it states:

> Summary: the effect of new sections 56H and 56I is that a person who is ordered to provide records relating to a pre-1988 donor treatment procedure may be required to breach medical professional privilege, professional rules and ethics or the confidentiality of patients or sexual offence victims.

In that sense, the committee wrote to the minister and concerns were raised. The *Alert Digest* states:

> The statement of compatibility remarks:
>
> > The enquiry and production powers contained in the bill will engage the right of privacy of the donor, the donor's family and any other person whose information is disclosed as a result of the exercise of the powers by VARTA. However, the bill ensures that the interference is neither unlawful nor arbitrary by clearly setting out the procedures that will govern the disclosure of the information and providing appropriate safeguards which protect the privacy of personal and health information.
> >
> > …
>
> However, the committee notes that:
>
> > new section 56F provides that a magistrate who is satisfied that a person has a requested record 'may' require that person to produce that record to the

> authority. The committee observes that the section does not specify any criteria for how the magistrate should exercise this apparent discretion;
>
> new section 56I(1) provides that the grounds that compliance 'would constitute unprofessional conduct or a breach of professional ethics' are not a reasonable excuse for non-compliance with an order to produce a record of a pre-1988 donor treatment procedure. The committee observes that this may mean that a lawyer may be required to produce a document containing confidential information supplied by a client (for example, where the client sought legal advice about his or her possible liability for child support as a result of the donation) even though that would breach ethical, professional and legal rules protecting lawyer-client confidentiality;
>
> new section 56I(2) may mean that a document relating to a pre-1988 donor treatment procedure that contains a communication made in confidence by an alleged sexual offence victim (for example, a questionnaire where a donor revealed, as part of his or her medical history or pre-donation counselling, that he or she was a rape victim) may be produced in a legal proceeding without a court first finding that the disclosure would have substantial probative value and would be in the public interest.

The committee observes that new section 56I(1) —

as I explained earlier —

> … may engage the charter's right to freedom of conscience, including the freedom to demonstrate that belief in practice and not to be coerced in a way that limits that freedom.

That is contained within the Charter of Human Rights and Responsibilities Act, section 14. It was referred to Parliament for its consideration as to whether that would be compatible with that particular section of the charter.

The other concern raised in *Alert Digest* No. 16 with respect to this bill appears under the subheading 'Freedom of expression — Person requested to provide documents or information must not disclose that request to most others', where it states:

> The committee observes that new sections 56C and 56K may engage the charter's right to freedom of expression.

That is contained in section 15(2) of the charter act. The committee noted that:

> The statement of compatibility does not discuss the charter's right to freedom of expression.

The third concern contained in the charter report appears under the subheading 'Medical or scientific treatment without full, free and informed consent — Disclosure of information that will or may identify a donor — Removal of requirement for donor consent — Donations made on basis of anonymity', where it states:

> Summary: the effect of clauses 18 and 19 may be to require the disclosure of information about a donor of gametes on a basis that is inconsistent with the basis on which the donor consented to donate those gametes.

The summary goes on to state:

> The committee notes that clauses 18 and 19, substituting existing ss 59 and 60, provide that, on receipt of an application from a person born as a result of a donor treatment procedure or a descendant of such a person for the disclosure of information recorded on the central register, the Victorian Assisted Reproductive Treatment Authority must disclose to the applicant information that will or may disclose the identity of another person, such as a donor.

The committee observed that:

> This replaces an existing provision that, in the case of donations made before 31 December 1997, the information can only be disclosed if 'the donor gives consent to the disclosure'.

The committee then noted that the statement of compatibility provided by the minister remarks:

> Section 8 of the charter protects the right of all people, including a child, to enjoy his or her human rights without discrimination.
>
> As noted in the submission of the Victorian Equal Opportunity and Human Rights Commission to the Law Reform Committee inquiry into access by donor-conceived people to information about donors —

that being the Law Reform Committee inquiry —

> this right is engaged when donor-conceived children are provided with different rights to obtain information about their donors based on when they were conceived.

It should be noted, however, that SARC observes that:

> … the charter defines 'discrimination' as meaning discrimination on the basis of an attribute set out in s. 6 of the Equal Opportunity Act 2010. That list of attributes includes neither the date of a person's conception nor the date of the relevant donation of gametes (which is the criterion stated in existing section 59(b)).

I also put on the record that footnote 5, which is on page 6 of the report, states that:

> The list of attributes in s. 6 of the Equal Opportunity Act 2010 are: age, breastfeeding, employment activity, gender identity, disability, industrial activity, lawful sexual activity, marital status, parental or carer status, physical features, political belief or activity, pregnancy, race, religious belief or activity, sex, sexual orientation, an expunged homosexual conviction or personal association with a person who is identified by reference to any of these attributes.

The report states that:

> The committee observes that the effect of clauses 18 and 19 may be to require the disclosure of information about a donor

> of gametes on a basis that is inconsistent with the basis on which the donor consented to donate those gametes.

The reality is that I have a substantial amount of concern after again having reviewed the *Alert Digest* as to the extent that the rights of the donor, as outlined in a range of issues under the Charter of Human Rights and Responsibilities Act, seem to have been superseded by the rights of those who have been donor conceived. It is for that reason that the Liberal Party and the National Party have decided to have a free vote on this. Like others, I have given deep thought to that. As was raised by Mr Ondarchie, a contract that would have been made back in the period prior to the changes would have been undertaken by the donor with a view that their anonymity was assured. I think there is enough evidence in the SARC report for me to decide that I will either oppose the bill or abstain from voting on it.

The reality is that this bill will pass. The numbers are plain to see: the government is supporting the bill, along with the Greens and a number of my colleagues on this side of the chamber, so the reality is that the bill will pass, but I thought it important to put on the record some of the concerns that may be expressed as a result of the inference in the Charter of Human Rights and Responsibilities Act.

I thank Ms Pennicuik for her proposed amendments. I have been through the bill in detail. In considering Ms Pennicuik's concerns, I have looked at the amendments and placed them where they would appear in the bill. I am of the view that I would oppose the amendments. I would oppose them on the basis that, in particular, where there is disclosure of information there is no way of ensuring that there is not a continual engagement in that. If you give an undertaking not to contact the donor and you continue to contact the donor, there does not appear to be any kind of enforcement provision. The only way I can think of to enforce that is to undertake an intervention order or something of that nature, and on that basis I would not support that amendment.

It is the same with the duration of contact preferences that are lodged. If you read the bill as it would be if amended — that is, if we were to apply Ms Pennicuik's amendment 6 to clause 23 — it would be very clear that the donor would not have the capacity for contact preferences to be extended. This in my view weighs too heavily away from the donor and the opportunities that may be provided by the donor, and on that basis I would oppose that as well. It is consistent with the other amendments: the removal of the 50 penalty units and the amendments to new section 63K, where again the contact preference appears to be removed in favour of the donor-conceived person as opposed to the donor. On that basis I cannot support the amendments. As I said, in relation to the bill, which will pass, I will most likely either oppose it or abstain from voting on it.

Mrs PEULICH (South Eastern Metropolitan) — I will speak only fairly briefly — although probably not sufficiently briefly to conclude before the dinner break — on the Assisted Reproductive Treatment Amendment Bill 2015. These bills are certainly always very difficult, and I would just like to echo the anguish that has been expressed by other speakers in relation to forming a view as to whether to support the legislation or not support the legislation. Like my colleagues would know, I have certainly been an exponent of the rights of the child and the right of the child to know their biological origins and their parentage where it is known. Like Dr Carling-Jenkins, I am a great supporter of birth certificates reflecting this reality — that is, birth certificates should not be a platform for anything but the accurate recording of a person's biological origin.

However, this is not just about adults who were conceived through a donor scheme under a regime where confidentiality was legislated for. Many of those who were donors, I understand, have not been part of the consultation or the inquiry. Quite simply, the expression 'Two wrongs don't make a right' comes to my mind. It comes to my mind because in some of the materials I have been receiving, just like everyone else has, and also in working through the bill when we were briefed, it was quite obvious to me that donors' families were a forgotten part of the equation. That includes the wife or the husband, the children and the grandchildren.

Whilst I certainly agree that everyone has the right to know who they are — I have got a degree in psychology; we all know the importance of knowing one's origin in developing a sort of completeness of one's identity — I also know how explosive information of this nature can be and what impact it can actually have on the innocent bystanders, on the spouses and the families of those who donated and the spouses and the children and grandchildren who did not exist at the time. When I am thinking about needs and the hierarchy of needs — I am thinking of Maslow's hierarchy of needs — self-esteem and belonging and self-actualisation are higher order needs, but the most basic one is for food and shelter, and then safety.

I have a fairly tragic story that I always come back to. A member of my family was a post-Second World War child whose father died and who regrettably became a teenage mother. Unable to raise or look after the child, she left the child at the front door of a nunnery. That woman is now well into her 80s. She knows some

broad information about the child she conceived and gave birth to. The irony of it, and the difficulty of that life, is that she ended up getting married and having a child and grandchildren, and that child died. Yet she did not have the courage to seek out the child she had left at the door of the nunnery. She did not have it because she knew how devastated her family — her husband — would be to know the truth. Her entire life she has been petrified that her life would be exposed as a fraud — as a big lie.

I guess my dilemma with this particular piece of legislation is that it forgets completely about the donors' families, children and grandchildren, and the potential negative impact. Who knows? Certainly mental health, violence, suicide.

Sitting suspended 6.30 p.m. until 8.04 p.m.

Mrs PEULICH — I was in the middle of my remarks on the Assisted Reproductive Treatment Amendment Bill 2015, explaining the anguish that I felt in relation to the bill. I think the anguish that I felt was well summed up by other speakers but also by one of the correspondents, Mr Clifford Stinson. In his opening paragraph he said:

> The proposed amendments to Victoria's IVF anonymity laws will soon go before the upper house.

He said:

> This paper is not an attempt to oppose the intent of the laws. Rather it is a discussion of the problems with the proposed laws. In their proposed form, these laws are ineffective, unfair and harmful …

He went on to explain how that is the case. I think that is really where my sentiments are. I certainly endorse the bill's intent, but I think the machinery of the proposed laws is flawed. In particular the major reason why I think this is the case, and I think this also stems in part from the inquiry, is that it indeed excluded the full participation of donors on the basis of their anonymity but also that of their family. We all know about the inquiry, and I do not wish to demean or diminish the amount of work that was put in, but I think that some of the points that have been made in this paper deserve to be given some exposition.

Mr Stinson said the inquiry was not well publicised. Unfortunately that happens with many inquiries. He also said:

> As a donor, I was unaware of it and I suspect most other donors were equally in the dark. Most donors who made submissions to the inquiry did not want their anonymity removed.

Of course we know they were protected by legislation. He went on to say that:

> The committee recognised that donors were not well represented in the inquiry and so in 2013 commissioned VARTA to produce a report on donors' views.

And that is a good thing. He mentioned that the report states, and I quote:

> A little more than half the donors rejected the recommendation. These donors said it would violate the terms of a contract and undermine trust in guarantees of privacy and confidentiality …

And for me, yes, breach of contract is always a concern, but when you are dealing with these high-order matters it is not so much about the breach of contract — although I think being given confidentiality and then having it removed has the potential, as I said before, to have an explosive effect — but I am concerned about the harm that it would actually have on donors and in particular their families. There is absolutely nothing in this legislation that considers their wellbeing and their interests.

He went on to say:

> Under Victorian law, a man cannot donate without the written permission of his wife. The law recognises the wives' interest and yet the committee heard nothing from the wives of donors.

He went on to make a number of other very salient points. He claimed:

> … a donor who might be happy to anonymously forward his medical details through a third party such as VARTA would be far less willing to share when he is publicly identified.

And I do believe that that is potentially the case. In actual fact, back in the 1990s I was arguing that the identity of adoptees should be preserved to allow for voluntary reconnection. I am a firm believer that that has got to be the mechanism that is in place and that this is better done through education rather than legislation. But obviously that information needs to be preserved in a way so that, in this instance, donor-conceived adults — all of them are now adults — can access the information of their birthright, without identifying information, in relation to their health and wellbeing and perhaps their ethnicity and so on.

I do agree with the points being made by this correspondent. He said, and I quote:

> Some donors are happy to meet their offspring. Better promotion of the voluntary register would bring about such meetings.

I think that should have been the focus of stronger recommendations. He goes on to talk about the effect on women. As I mentioned earlier, no donor's wife made a submission to the inquiry. I would assume that some donors would have been ova donors, so this therefore affects husbands as well, and that is my concern as well.

He went on to say:

> The proposed laws apply only to people aged 18 or more and so no children are technically protected by the proposed law.

But the impact could in actual fact be substantial on children of donor families. With my strong commitment to the protection of the universal rights of children, we have to actually understand both sides of the equation and which children, minors in particular, still need to be protected. I do not believe this legislation achieves that objective at all.

I am pleased, however, that my party has again allowed a free vote on this legislation. Obviously Labor Party members are compelled by party rules to vote as a bloc. As I said, I support the intent of the legislation but I think the machinery is deeply flawed. I am concerned that there may well be some tragic events that occur as a result of the public exposition of donors and the impact that this may have on their family. So it is not so much the legislated confidentiality, although that is critical — when we trash that, it basically means that no legislation is worth the paper that it is printed on — but it is the impact of that that is of greater concern.

Regrettably in this instance I will not be supporting the legislation. I believe the existing laws already allow for all donors to be contacted on behalf of the donor-conceived parents and there is a much better way for all donor-conceived parents and those wishing to remain anonymous to be satisfied without any coercion, DNA tests, threats and signs. I do not believe this is the right way to go. In closing, could I say that two wrongs do not make a right and I do not believe that we have got the right answer here in this legislation.

Ms MIKAKOS (Minister for Families and Children) — I would like to say a few words in relation to this bill in summing up the second-reading debate. Can I begin by saying, firstly, how proud I am that this bill is before the house. This has had a very, very long history. Those of us like the Leader of the Government and many others who have been here for a little while remember very well the germination process that has led us to consider and debate this bill before the house tonight.

I want to refer to the parliamentary Law Reform Committee's inquiry into access by donor-conceived people to information about donors. That was a bipartisan committee that made a number of unanimous recommendations to this Parliament when it tabled its final report to the Parliament in March 2012. It made a number of recommendations on, as I said, a unanimous bipartisan basis, including recommendation 1:

> That the Victorian government introduce legislation to allow all donor-conceived people to obtain identifying information about their donors.

And recommendation 4:

> That … the Victorian government introduce provisions for contact vetoes that may be lodged by a donor or a donor-conceived person …

I know that at the time the committee considered a range of submissions from members of the public, from individuals who had been conceived through assisted reproductive technology and also from donors themselves. I note that at the time it appeared that the views of members of that committee had evolved in response to hearing directly from those people who were most directly involved. I note that at the time the committee chair, the then member for Prahran, Clem Newton-Brown, was quoted in the *Age* of 28 March 2012 as having said:

> The committee basically changed its view …
>
> One by one, we all came to the view unanimously that the right thing to do is to give the rights to the child.
>
> That outweighs the inconvenience and embarrassment of unwanted approaches.

My view in coming to this debate has been very much influenced by the findings and recommendations of this parliamentary committee following its inquiry. I urge those members in the chamber who have not as yet formed a view about which way to vote on this bill to have regard to the fact that we had a bipartisan committee, whose members spent many months weighing up the evidence and speaking to those individuals most dearly affected by this issue, form the view that, yes, there had been assurances given around confidentiality and anonymity in the past but this was absolutely the right thing to do.

Following that committee report, the now Leader of the Government, Mr Jennings, introduced a private members bill. That was based on the recommendations contained in that report. I want to commend Mr Jennings for doing that because he really tried to move us forward as a Parliament on this particular

issue. It was disappointing that that particular bill was not supported by the government at the time.

I also note that in 2014 we did in fact have some legislation come through the Parliament that was supported and that related to this issue in a part measure. It did not fully embrace the recommendations of the report but it addressed in a part measure the issues related to treating children in a different way under the law through the lottery of the date of their birth. It said that those children born before 1998 should have access to their donor-conceived information but only with the donor's consent. For those members who have been arguing that this is some massive breach of faith in terms of the assurances of anonymity that were given in the past, I remind them that their own party introduced legislation in 2014 that partly addressed the recommendations of this bipartisan parliamentary committee report but in my view did not go far enough.

My view for a long time has been that this is an issue that is long overdue to be addressed and that it absolutely needs to be addressed. I think it is fundamental to a person's identity to be able to answer that very basic question, which is, 'Who am I?', to have information that relates to their biological origins as well as their social circumstances. We know that a person's identity is formed through a combination of these matters. Having spoken to a number of the young people who are dearly affected by this issue, particularly some young adult women who themselves were conceived through assisted reproductive technology — and these conversations have stayed with me for many, many years now — I have to say that this law absolutely must pass today.

A number of members have already commented on the late Narelle Grech. She told the committee that she felt like a second-class citizen, constantly longing for a right most of us take for granted: to know who you are and where you come from. I have to say I was very pleased that the then Premier, Ted Baillieu, granted Narelle her last wish. She got to meet her donor father, Ray Tonna, just a few days before she passed away. That is just a heart-wrenching story, and I dedicate this bill to Narelle and to every other young person who has not had that opportunity to meet their biological father and to get to know what their biological origins are.

I think this bill is long overdue, and those members who have not yet made up their minds about which way they are going to vote need to be mindful of the fact that we have had for many years in this state a law that discriminates against children. We thankfully rectified the situation in relation to adoptees in 1984 when we accepted that every child has the right to identifying information about their natural parents. We corrected that wrong. We accepted that as a Parliament we got it wrong in the past, and I think we now today need to accept as a Parliament and as a state that we got it wrong many years ago when the proper legal safeguards were not put in place in relation to children conceived through assisted reproductive technology.

I am sure we are going to have a very lengthy discussion in the committee stage about these matters, but I strongly urge members to support this bill. I want to commend the Minister for Health, Jill Hennessy, for bringing this bill before the Parliament and for implementing a Labor election commitment to give every child the right to know the names of their biological parents as a birthright. I think this law is way overdue, and I commend bill to the house.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

The DEPUTY PRESIDENT — Order! As I understand it, Ms Pennicuik has circulated a number of amendments, which are all to clause 23. I also understand that Ms Wooldridge has a number of questions that she will be exploring. Are there indications from anyone else that they wish to participate? Dr Carling-Jenkins. To test the situation I will ask if there are any speakers on clauses 1 to 22.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the Minister for Families and Children for helping to provide some clarity around some of the areas that I have questions about. In some cases there are specific clauses through the bill, but often it is easier to cover some of these issues in clause 1. The first question I have is seeking some clarification in relation to identifying information. I am wondering if the minister can provide some information to the house about what information will be collected and, importantly, of that information that is collected, what will subsequently be provided to the person who receives this identifying information.

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. I refer the member to the Assisted Reproductive Treatment Regulations 2009, in particular to schedule 3(a) of those existing regulations, which relate

to information that is currently recorded in the register in respect of pre-1988 donor treatment procedures kept by registered assisted reproductive technology providers. Those regulations — I do not propose reading out all the details — have a very extensive list of information that is required in relation to each pre-1988 donor of gametes, including the unique donor identifier, full name, date of birth, place of birth, sex of the donor, residential address, contact telephone number et cetera. It is a pretty extensive list and goes to things like height, build, blood group and other identifying information.

In relation to the information that donor-conceived people will be able to access when the legislation changes, I can advise the member that available identifying information, such as the donor's name and date of birth, will be released to a donor-conceived person if requested. Where a donor puts in place a no-contact preference because they do not want any contact with their offspring, the donor's address and phone number will not be provided.

Prior to 1988 there was no legal requirement to keep records, so many records from this time will be incomplete or may be inaccurate and in some cases there will be no record or not enough information to identify a donor. In these cases counselling will be provided.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister for her answer. Is the information that is to be provided to the pre-1998 cohort the same as the information that is provided to the post-1998 cohort? I read that there are still regulations to be developed, so will it be parallel, I suppose, in terms of the information that is provided? Or does the minister see that the information might be different between those two groups in the regulations that are developed?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. Yes, it is intended that it will be similar information and that information will be provided if it is available, as I have already explained. Unfortunately, due to poor record-keeping at that time, at that early stage when ART technology was being developed, the same level of record-keeping was not always necessarily kept.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister for that. I also just wanted to get some information about the expectations the minister has in relation to the volume of records, donors and people who are donor conceived that will be dealt with by the Victorian Assisted Reproductive Treatment Authority **(**VARTA) and how that will be managed going forward. Has the department done any modelling or done any estimates in relation to the numbers we have seen now through the VARTA annual report? What is the minister's expectation as a result of this legislation in regard to how those numbers might grow or change because of the access to information if this bill is passed?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. I am advised that there were 90 applications to the central and voluntary registers between 1 July 2014 and 30 June 2015 according to the 2015 annual report of the Victorian Assisted Reproductive Treatment Authority. The Victorian Registry of Births, Deaths and Marriages has advised that since 29 June 2015 — that is, in the last six months — when donor-conceived people conceived from donations made pre 1 July 1988 could apply for information about their donors with donor consent, there have been 97 applications for information from the registers. So there have been more applications in the last six months than there were for the whole of the previous financial year. It would be expected that with the implementation of the government's commitment in respect of this bill there will be a further increase in the number of applications by donor-conceived people for information about their donors, particularly to the central register.

Ms WOOLDRIDGE (Eastern Metropolitan) — Is the minister able to advise if the funding for births, deaths and marriages changed with the new legislation to enable it to be funded to deal with the increase in contacts?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. In respect of the specific question that the member has asked in relation to funding for births, deaths and marriages as it relates to the past, given that we are now changing the arrangements through this bill, that is information that I do not presently have at hand and I will have to take on notice.

I can advise the member that in response to VARTA taking on additional functions as a result of this bill the issues that will require resources relate to the management of the donor conception registers, such as the central register and the voluntary register, the provision of additional counselling and support services, search activities and education about the legislative changes. I am advised that the Department of Health and Human Services will work with the authority as part of the implementation of this bill to ensure that VARTA has the resources it needs to perform these functions.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister. She was obviously anticipating where I was going with those questions, and I appreciate that. Could the minister clarify then with the transfer of the information and responsibility from births, deaths and marriages to VARTA that that births, deaths and marriages funding will transfer over 100 per cent so that at least we can have some clarity about whether VARTA is starting with the same budget — well, probably in addition to what it has for its other roles? Secondly, does the minister anticipate, given the obvious growth, that additional funding will be needed to supplement that for VARTA to be able to fulfil its role?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. As I explained in response to the previous question, there are obviously some additional functions that VARTA is going to be taking on as a result of this legislation. The department is obviously having discussions with VARTA around these particular issues, and these matters are to be determined. Obviously we are mindful of the additional functions and roles that VARTA will be taking on board in response to this.

I will need to take the specific question around births, deaths and marriages funding on notice as well. Obviously the member would be aware that that sits with a different minister, in the Attorney-General, and I would need to take that particular question on notice.

But we are obviously wanting to ensure that VARTA is able to take on these responsibilities. This was an election commitment of the government. We are keen to see this new legislation implemented and working smoothly. I think the figures that I gave to the member earlier are a bit indicative in terms of what has happened in the last 12 months, particularly the last six months, in terms of additional people coming forward, and I guess that might give us a bit of a sense of what might happen over coming months as well.

Ms WOOLDRIDGE (Eastern Metropolitan) — I suppose what I am trying to establish is, with the numbers the minister has given us, it is about a doubling of the workload. Can she then confirm that to date there has been no additional funding provided to meet the increase anticipated, so that any funding change would be something that would happen through the course of the upcoming budget?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. The member may well be aware that following the 2014 legislative changes there were some additional resources that were provided in response to that particular change. In response to these particular legislative changes that we have before us, as I indicated to the member previously, these matters are the subject of discussion and are to be determined in terms of the implementation of this particular bill, should it pass the Parliament.

Ms WOOLDRIDGE (Eastern Metropolitan) — I take it that there is not yet any funding for these particular changes and that any additional funding has been provided to enact the previous legislation rather than this. Have I paraphrased the minister rightly?

Ms MIKAKOS (Minister for Families and Children) — As I have been seeking to explain to the member, there are obviously discussions that are occurring, and these matters are to be determined to ensure that the bill is able to be implemented.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister. I was persisting with that because I think one of the parts of the debate that has been significant is a great appreciation of the role that VARTA can play and the importance of this transition happening, but also that VARTA not only can fulfil the functions of the bill but could potentially go further. I think the feedback I took from the debate in the house is that there is a lot of support for VARTA to continue to do the important work not only in doing this but in reaching out and being proactive as well.

Dr CARLING-JENKINS (Western Metropolitan) — I just have one question of the minister, if I may, on clause 1, and I thank her for explaining quite a bit in her concluding remarks. Most of my questions have been covered by Ms Wooldridge, but the minister mentioned counselling being provided to donor-conceived people who are unable to contact their donor, and I appreciate that. I wonder if there is any counselling offered to donors as they potentially grapple with how to respond to contact requests.

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. I can advise her that all donors must be offered counselling in response to this particular change. I can further advise the member that at the moment there is no requirement for counselling to be offered to donors and donor-conceived people where applicants have applied for their identifying information. The bill addresses this by requiring the authority to offer counselling to pre-1998 donors and all donor-conceived people whose identifying information is applied for. With respect to donors this will ensure that they are given the support that they need to work through the process of being

identified and informing family members who may not know that they donated. It is already a requirement under the Assisted Reproductive Treatment Act 2008 that applicants receive counselling. Under the bill applicants must receive counselling on prescribed matters, which will ensure that they are properly supported on a range of matters relevant to their application.

Clause agreed to; clauses 2 to 21 agreed to.

Clause 22

The DEPUTY PRESIDENT — Order! Ms Wooldridge mentioned she had a question on this clause.

Ms WOOLDRIDGE (Eastern Metropolitan) — Thank you. I think it is probably here and possibly in a couple of other spots as well. I will ask it here and see how we go. It is in relation to a donor lodging a contact preference, which is outlined here, but it is also referred to in new section 63C. That might be where there is actually a bit more detail. The question I want to ask is: why has the decision been made to allow a donor to lodge a contact preference but to not allow a contact preference from a donor's spouse or adult children?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. I refer the member to — and I guess I alluded to this in the summing up comments I made earlier — the recommendations of the parliamentary committee inquiry. As I said, there was a bipartisan committee view that there be contact preferences able to be made by donors directly. Contact preferences will allow a donor to refuse contact from the donor-conceived offspring or to specify what form of contact they are willing to have.

The parliamentary Law Reform Committee found that donor-conceived people are interested in identifying and potentially making contact with their donor. Therefore the contact preferences regime is primarily framed around contact between donors and donor-conceived people. It is not aimed at preventing any contact by the donor-conceived person with other adult members of the donor's family. The donor will not have the ability to lodge contact preferences that cover adult members of their family. This would be inappropriate, as adult family members should have the ability to make their own decisions about whether or not to have contact with the donor-conceived person, and this should not be a matter for regulation. A donor's siblings, parents or children may wish to have contact with the donor-conceived person because they are genetically related, or for other reasons.

There are no legal precedents for allowing one adult to specify who another adult can or cannot contact. However, under the law as it currently exists, in cases where a person has grounds to fear for their safety they can apply to the Magistrates Court for a personal safety intervention order to prevent contact. However, the bill does enable donors to lodge legally enforceable contact preferences that also prohibit or limit contact with their non-donor-conceived children while they are under 18, if they wish — for example, a donor could choose to impose a no contact preference that applies to their children in the event that a donor-conceived person may wish to contact their genetic half-siblings. Once each such child turns 18, the contact preference will no longer apply to them.

The bill allows the donor to impose contact preferences for their children, because the government recognises a donor may not want their family life to be disrupted whilst their children are young and that such disruption could potentially be detrimental to the donor's children if they do not have the maturity to cope with the situation or the timing is not appropriate because they have to cope with other stressors — for example, Victorian certificate of education exams. This approach will also give donors greater capacity to choose when to inform their children about their past donations. The donor's family is also protected from contact they may not want through the requirement for donor-conceived persons to undergo compulsory counselling prior to the disclosure of the donor's identifying information. This counselling will emphasise that any contact preference lodged will represent the broader wishes of the donor's family regarding contact with a donor-conceived person. In the adoption context it has been shown that contact preferences are respected.

Ms WOOLDRIDGE (Eastern Metropolitan) — I might be a simple soul, but let us see if we can simplify that extended answer — and once again I do not want to verbal the minister, so see if my paraphrasing is accurate. The key message I took out there in relation to my question about why they cannot lodge preferences is that the minister does not think it is appropriate for this issue to be regulated and they have got a mechanism through the courts rather than through VARTA. Is that the nub of it?

Ms MIKAKOS (Minister for Families and Children) — The member is inviting me to paraphrase, but essentially I refer the member to the parliamentary committee report. It had a few views around these issues. If I can recall correctly in relation to issues of

broader family members, it did express some views according to these particular matters. But I made the point specifically that there are no precedents in relation to these matters in terms of other family members. We have taken the view that the contact preferences should be limited only to the donors themselves and to children who are minors. In respect of expressing a preference in relation to other family members, as I have indicated, donors will be offered compulsory counselling prior to the disclosure of the donor's identifying information. This gives the donor the opportunity to consider the timing of any discussion that they may wish to have with other family members as well — whether that be a spouse, whether that be their own children — and to be able to broach the subject at a time that is suitable to them, so the view that has been taken is one that the contact preferences should be limited to the donor and to children who are minors.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister. I am just trying to look quickly but perhaps with the benefit of the minister's team members, who have a much more detailed knowledge of this, can the minister tell me if the former Law Reform Committee's report did make a recommendation on this matter?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. I would advise her that the bill is consistent with the views expressed in the parliamentary committee report, and I specifically refer her to page 81 of the March 2012 Law Reform Committee report. The committee there said, and I quote:

> … the committee believes that donors and donor-conceived people should have the option of lodging a contact veto, if they wish to. However, the unwanted behaviour may extend to other family members of either a donor or a donor-conceived person. In this circumstance, the committee believes that rather than employing contact vetoes, the appropriate measure for a person who is subject to unwanted contact would be to make use of the usual protections available in such a situation. That is, the person who is being subjected to unwanted contact can apply for a personal safety intervention order against the other person.

It then goes on to explain how the intervention order regime works, which I referred to in my quite lengthy answer earlier and which are the usual legal measures that most people can employ in those circumstances.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister. That is very helpful. Can I ask then if there is to be some overall review of this act and, if so, if that element of it could be considered as part of any review and assessment of the outcomes in relation to this change in the law?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. Obviously if there are any issues experienced by donors or donor-conceived children, for that matter, or family members of donors, then they will be able to raise these matters with VARTA and that will therefore come to the attention of both the department and the government, but we have got legislation that has been building on progressive changes over a period of time. Obviously all governments are mindful of looking at and examining how legislation operates in practice, and we will be mindful of any concerns that might be raised by any of the affected parties.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister very much for that. Can I just clarify if there is a commitment to a formal review in relation to the act, or is it more the ongoing legislative process that the minister has just described?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. There is no built-in requirement for a review, but I am indicating to the member that any issues or complaints will be able to be directed to VARTA as part of the implementation of this legislation. It will have particular responsibilities under the act as part of these changes and therefore these matters will be able to be brought to the attention of both the Department of Health and Human Services and the government.

Clause agreed to.

Clause 23

The DEPUTY PRESIDENT — Order! I call on Ms Pennicuik to move her amendment 1, which seeks to remove the penalty for contacting a donor under certain circumstances. In my opinion Ms Pennicuik's amendment 1 tests her further amendments 7 and 13.

Ms PENNICUIK (Southern Metropolitan) — I move:

1. Clause 23, page 26, line 15, omit all words and expressions on that line.

Clause 23 repeals an existing section of the act and replaces it with new section 63 and new divisions 3A and 3B. This very long new section, quite a comprehensive part of the bill, refers to the issue of contact preference statements that we have been discussing so far in the committee under clause 22. The amendment I have moved makes an amendment to new section 63(3) on page 26 of the bill. It removes the penalty of 50 units that applies if an applicant

knowingly contacts a pre-1998 donor unless there has been previous contact.

As you mentioned, Deputy President, this is a test for my further amendments 7 and 13. Amendment 7 is an amendment to section 63G on page 32, which applies a penalty of 50 units and states that an applicant who has given an undertaking must not knowingly contact the pre-1998 donor in contravention of the contact preference.

Amendment 13 is to section 63O on page 40, which applies a penalty of 50 units and states that an applicant who has given an undertaking under the previous subsection must not knowingly contact the person born as a result. This is the donor contacting the donor-conceived person — a penalty of 50 units.

As I mentioned in the second-reading debate, the Greens have always been concerned about contact vetos or contact preference statements. I note that in terms of the adoption laws they have been removed. They have not been supported by groups such as the Victorian Adoption Network for Information and Self Help (VANISH), Origins Victoria or Tangled Webs. For example, the letter that came to us from VANISH late last year with regard to the bill and how it is similar to the adoption laws says:

> At VANISH we have experienced a similar process with adoption whereby previous agreements to unfair secrecy were revoked by legislation —

as the minister mentioned earlier. It continues:

> We know that when records were opened, nearly 100 per cent of people acted with full respect for their birth parents and adopted children. Our law has excellent mechanisms for preventing stalking or unwanted contact; laws that have hardly ever needed to be used under these kinds of circumstances.

I also pointed out in relation to Mr Jennings's private members bill, when the issue of contact statements came up, that contact vetos were being phased out. No new ones have been allowed in Western Australia since 2005, and other states are also phasing them out. The Greens believe there is no need for them. People can make their wishes clear without us making it an offence under the law to make contact with someone. In Western Australia they are certainly saying they do not view making contact with someone to be an offence, but obviously in the rare cases that the contact becomes harassment there is already an offence under the law. Also, the experience with the voluntary register, with the incremental changes that we have already had so far, has been positive.

If I can just reflect a little bit on what was said by some speakers in the second-reading debate about the particular issue of contact, I point out that because of the notation on birth certificates anybody who is over 18 years of age and applies for a birth certificate will be able to find out that they are donor conceived. Those people who were donors know that they were donors. Under this bill the donor-conceived person does not have access to everybody in the family; it is about the donor that the identifying information will be supplied — that is, the identifying information about the donor will be supplied and, under the bill, any children of that donor will not be.

This amendment will not take away the contact preference statements; they will be left in place. It is just the penalty of 50 penalty units. We believe that we should not be putting punitive provisions in this bill when we are talking about the sorts of issues that we have. As I said, I think that if a person indicates a contact preference, the vast majority — 99.95 per cent — of people will respect that, and if on the odd occasion that does not happen, we already have laws in place, as the minister referred to in her previous answer to a question from Ms Wooldridge.

We do not believe these penalties are fair. They are punitive and they are aimed at people who have already undergone many years of fighting for their right to the information about their birth heritage, to their genetic information and to just know about who they are. So while we are not necessarily supportive of them, they are not being removed by this amendment. It is just the punitive 50 penalty units, or $7500 fine, and any unwanted contact can therefore be dealt with by existing laws.

The DEPUTY PRESIDENT — Order! Does the minister wish to respond at the moment?

Ms MIKAKOS (Minister for Families and Children) — Yes. Thank you, Deputy President. I wish to indicate to the house that the government will not be supporting Ms Pennicuik's amendment. In doing so I say to her that, as she would be well aware, I have expressed some pretty strong views around this issue in the past, particularly as they relate to adoption. I do make the distinction here that we dealt with the adoption issue in response to a very heartfelt apology by this Parliament to people affected by past adoption practices. It was in keeping with that apology, where there were no views expressed by a parliamentary committee inquiry expressing very strong views on a bipartisan basis, that we took the view that the best way to deliver on that heartfelt apology was to make

information available to people in a respectful way without the impediment of contact preferences.

In my summing up at the end of the second-reading stage I did indicate that we have had a long germination in getting this bill relating to donor-conceived children before the house. The bill was based on the parliamentary committee report of 2012 that expressed on a unanimous bipartisan basis that donor-conceived children should have access to information about their conception, but also that donor preferences would be put in place through the introduction of legislation. I specifically refer Ms Pennicuik to recommendation 4 on page 81 of that report which states:

> That, with the introduction of the legislation described in recommendation 1 —

being that contact information should be made available to donor-conceived children —

> the Victorian government introduce provisions for contact vetoes that may be lodged by a donor or a donor-conceived person following counselling, with the following features …

It lists a number of features, and goes on to say:

> … that suitable penalties be established for breach of a veto.

So I make the point to the member that after hearing all the evidence, including from donors and from donor-conceived children, we have a situation where a parliamentary committee has formed the view that this is what strikes the appropriate balance in these particular circumstances, having regard to assurances that were given in the past — misguided assurances in my view, but assurances nevertheless that were given in the past — to donors and also respectful of the anxieties that donors might have about unwanted contact.

I certainly share with the member my hope that these provisions need not be used. I would certainly hope that, following counselling that donors will be offered — as I said, on a mandatory basis — most donors will take the view that the time has come for them to make that contact and to have that contact. The thing that really strikes me in terms of the adoption issue and speaking with many families around the adoption issue is how enlightened as a society we have become around this issue, where we have open adoption situations where adoptive families actively encourage their children to make contact with their natural parents.

In fact Mr Ondarchie referred in his contribution to his own family situation and how he has striven to put those kinds of arrangements in place. I think it is very important that children, whatever their circumstances, have those opportunities. But we have had to strike a very difficult balancing act here. We have had to look at the situation as it relates to adoption and in most cases we are talking about one adopted child being contacted by natural parents, but in the case of donor-conceived children the anxiety that donors might have that 50 donor-conceived children might perhaps be knocking on the door.

So I do think the bill is very much a product of the research and submissions and the balance that the parliamentary committee took in response to this particular issue in putting to the Parliament a specific recommendation around this issue, and the government has been respectful of those views. As I indicated earlier when I quoted the then chair of that committee, their views came around as having listened to the evidence. I think all of us who participate in parliamentary committee inquiries know that we all learn so much about various issues. You really get immersed in the issues by listening to the people who are so directly affected by these issues.

As I indicated earlier, my views have been very strongly formed by the conversations I had many years ago with some donor-conceived children and their heartfelt wish to no longer be treated like second-class citizens, to really be able to have access to donor-conceived information and to be given access to their donors for the first time. I certainly hope that donors, in being offered the counselling, will take the view to make that contact and enable contact to take place.

At the end of the day we have had to grapple with some very difficult issues here and be respectful of the views of a parliamentary committee inquiry in putting these provisions in the bill. Having said that, I have some sympathy for the views expressed by some organisations that I have immense respect for and have worked closely with in opposition and in government — organisations like TangledWebs, VANISH, the Association of Relinquishing Mothers and many other organisations that I know have very passionate, heartfelt views around these particular issues. I think on balance, however, we need to be guided by the parliamentary committee. We need to ensure that we are putting to the Parliament a bill that respects the views of that committee with the view of putting forward legislation that is in the best position for also garnering the support of this Parliament.

I am certain that if we came to the Parliament and we had some significant departures from the committee report, there would be members of Parliament jumping up here and saying that we had made significant

departures and that we had moved away from the spirit and intent of that parliamentary committee inquiry. I hope that assists the member in understanding the government's position in respect of this particular issue.

Ms PENNICUIK (Southern Metropolitan) — I thank the minister for her response. As much as she wishes to point out to me how long she has been involved in the issue, she would know how long I have been, because we have both spoken on this issue across the chamber from each other many times. I just want to clarify that this amendment does not remove contact preference statements. They still remain in new section 63. The amendment just seeks the removal of the 50 penalty units associated with them, as I have already outlined.

As I said, I wanted to reflect on some of the things that were said during the second-reading debate about contact. There was an unduly negative view put by some speakers as to the result of contact. I take on board what the minister says: hopefully with the passage of this bill more and more donors will take the view that they do want to have contact and will see that as a positive thing — and many already have. There has been a lot of negativity — as if there is going to be a negative experience — whereas I think in the vast majority of cases it will be a positive experience, particularly for the donor-conceived people. The amendments tested by amendment 1 do not remove those contact vetos, just the penalty.

Regarding one more point the minister raised, which was about the report, I am very familiar with the report. I was very closely watching what was going on in the inquiry, I was reading the submissions and I have read the report. I know what is in the report. The Senate inquiry report released in February 2012 recommended to have the same thing for adoption, but states have not gone down that path, because even in the short time from 2012 to now the world has moved on. The idea of contact statements is being phased out in other states. I understand it was in the report, but I point out that I am not seeking its removal from the bill; I am just seeking the removal of the penalties associated with it.

Committee divided on amendment:

Ayes, 5

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

Noes, 33

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

Amendment negatived.

The DEPUTY PRESIDENT — Order! I will now call on Ms Pennicuik to move her amendment 2, which seeks to insert a date by which a donor may lodge a statement of contact preferences. In my view this amendment tests Ms Pennicuik's further amendments 3 to 6 and 8 to 12.

Ms PENNICUIK (Southern Metropolitan) — I move:

2. Clause 23, page 27, line 32, after "may" insert "before 1 July 2020".

This amendment is to insert basically a sunset clause on the contact preference provisions. As you say, Deputy President, this amendment is a test for my proposed amendments 3 to 6 and 8 to 12 — basically, the remaining amendments. Those amendments are consequential and technical amendments, or they are restating the original amendment, which is to insert a day after which contact preference statements can no longer be lodged. This would be, as the amendment says, before 1 July 2020 — that is, not after 30 June 2020.

As I mentioned in the second-reading debate, I chose that date because it is four years from now. In practical effect it could mean that a contact preference statement could still be put into effect a week before that date and last another five years, so practically it could mean contact preference statements could be in existence for another nine years. The date of 30 June 2020 will be exactly 40 years and one week after the first IVF, or donor-conceived, person was born in Australia — 23 June 1980. I think that by that stage we will have moved far along in terms of what the minister was saying are enlightened views about adoption, views that have changed so much over the last 30 or 40 years. Our views have moved so far on this issue in the last eight years; with another eight years I think that we would have got to the stage where we are definitely dealing with adults and contact between adults. This regime will have been in place for four years, and in that time I

think, especially if the government steps up awareness raising, people will be more comfortable with what is in place.

I would not like to see the idea of contact preference statements being in the legislation in perpetuity, and the minister has already indicated that there will not be any review. These sorts of issues, as I mentioned earlier, are being phased out in other states and are not being renewed. That is why we think a sunset date is a good idea, and I picked that particular date because it is enough years into the future and also has a very strong relationship and connection to the issue that we are dealing with.

Ms MIKAKOS (Minister for Families and Children) — I wish to indicate to the chamber that the government will not be supporting Ms Pennicuik's amendment. I think I have already outlined to the house at some length, in respect of the previous amendment, the reasons the government has formed that view. I again refer Ms Pennicuik to recommendation 4 of the parliamentary committee report, where the committee took a view on a bipartisan basis — a unanimous basis — that there be contact vetos and that these vetos lapse within five years if they are not renewed. I point out to the member that these contact preferences in the legislation will lapse after five years, but will be able to be renewed by the donor.

I share the sentiment that has been expressed by Ms Pennicuik in terms of what she said earlier in terms of contact being seen as a positive experience. I certainly hope that contact will be viewed as a positive experience. As I explained, counselling will be offered to donors on a mandatory basis, and I hope through that process they will take the view that contact is going to be a positive experience.

I note that members, including myself, have received a range of views about these matters from donors, and I also want to acknowledge that a number of donors have contacted us and expressed the view that they are supportive of this particular legislative change. They do not seem to have any undue anxiety about it. I know that when Ray Tonna, the donor father of the late Narelle Grech, got to make contact with Narelle he was overjoyed by that experience. I would certainly hope that other donors would have a similarly positive experience, and I would hope that the use of these preferences will diminish over time.

Amendment negatived.

Ms WOOLDRIDGE (Eastern Metropolitan) — In some of the minister's responses she has relied — and in fact the government's design of the bill has relied — heavily on the then Law Reform Committee inquiry. I refer the minister to page 105 of the committee's report, and finding 10 on that page, which states:

> Current provisions of the Assisted Reproductive Treatment Act 2008 allowing donors to seek identifying information about children conceived from gametes donated after 1988 should not be extended retrospectively to allow donors to seek identifying information about children conceived from gametes donated prior to 1988.

The committee made a very clear recommendation that donors should not be retrospectively allowed to have identifying information about their children who are donor conceived.

I refer the minister to division 3B, particularly new section 63I. This whole section actually allows donors to seek identifying information about their children who are donor conceived. I ask the minister why the government has gone down this track in terms of allowing that information, when it is clearly in conflict with the finding of the Law Reform Committee.

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. I just want to be clear here, because the finding that the member referred to, on page 105 of the parliamentary committee report, relates to donors. The advice that I have is that donors currently have the ability to obtain identifying information about donor-conceived children with the consent of those children. The new section 63I that the member referred to relates to contact preferences for donor-conceived children, so I am just failing to understand the relevance of that particular clause as it relates to donors. Section 63I relates to donor-conceived children and their ability to put in place contact preferences.

Ms WOOLDRIDGE (Eastern Metropolitan) — Perhaps then the minister can direct me. There is clearly an ability in this bill for donors to be able to receive identifying information. Perhaps the minister could help me clarify which exact section, but the question still stands in relation to this bill extending the capacity of donors to receive identifying information about their children who are donor conceived.

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that there is no change in this bill to the current position in respect of donors. I am advised that they can currently seek information about donor-conceived children with the consent of those children. That in fact was something that was included in the 2014 legislative changes.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister for that advice. I suppose that is not the view of some in the medical community who have contacted me with concern that this does extend further that contact. I do not believe that was the briefing that I was provided with either. The briefing also outlined there was some further clarification here in relation to donors. Can the minister say confidently that there is nothing in the bill that extends or clarifies in relation to donors accessing information about their donor-conceived children?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. As she has no doubt seen from the advisers box, I am being advised that there is no legislative change in regards to this specific issue in this particular bill.

Ms WOOLDRIDGE (Eastern Metropolitan) — I am wondering if I could seek the understanding of the minister. I had understood that this was under clause 23. There is, as I read it, a reference under new section 62(3), inserted by clause 22, that I thought also applied under clause 23. I ask whether the minister would enable me to at least ask the question in relation to that while acknowledging that we have moved on from clause 22. New section 62(3) says:

> If the Authority intends to disclose identifying information under this Division relating to a person born as a result of a donor treatment procedure —

that is, the release of identifying information about someone who is donor conceived —

> the Authority must make all reasonable efforts —

to inform the person that an application has been made by the donor.

I just want to clarify whether the minister is saying that this bill actually has no extending information in relation to identifying information for donors of their donor-conceived children when new section 62(3) clearly deals directly with that issue.

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. I do want to refer her to section 56(1)(d) of the Assisted Reproductive Treatment Act 2008. That particular section, as the law currently stands, provides that:

> The following persons may apply for the disclosure of information recorded on the Central Register —

and it clearly lists in subsection (1)(d) 'a donor'. So they do currently have the ability to apply for information.

If I could assist the member in terms of giving some guidance on the purpose of new section 62(3) — I think that is the one she referred to — which is being inserted by clause 22, new section 62(3) provides that if the authority intends to disclose identifying information under division 3 of part 6 relating to a person born as a result of a treatment procedure, the authority must make all reasonable efforts to inform that person or, if the person is a child, the person's parent or guardian that an application for the person's identifying information has been made by the donor whose gametes were used in the treatment procedure and that the person born as a result of a donor treatment procedure or, if the person is a child, the person's parent or guardian may lodge with the authority a contact preference under new section 63I. The new section relates to the ability of donor-conceived children to, in a similar way to donors, lodge contact preferences. Essentially the bill is providing parity between the parties in terms of their abilities to indicate their contact preferences in a similar way.

Ms WOOLDRIDGE (Eastern Metropolitan) — Thank you. I thought I was on it with 63I in relation to this issue. I think we have done a lap and have come back with that it actually does extend in relation to information sought by donors about their children who are donor conceived. Once again I can try to paraphrase the minister and she can confirm whether I am right or not: Minister Mikakos is saying that the previous legislation enabled donors to make contact; this is actually potentially extending the protections and the safety nets around people who are donor conceived if that contact takes place by parallel provisions that are also in place for the donor. Is that essentially what she is saying?

Ms MIKAKOS (Minister for Families and Children) — Not quite. What I was explaining is that donors can under the current provisions of the act apply for information about their donor-conceived children. What is changing in this bill is that contact preferences will be able to be put in place by either the donors or the donor-conceived children.

Ms WOOLDRIDGE (Eastern Metropolitan) — So I am wondering if I can just once again place on the record that people who are in the medical profession and who are intimately involved in this process have some significant concern about the impact of donors being able to contact those who are donor conceived. I acknowledge you are saying some of that is in the previous bill and some of that is defined here.

What I suppose I would like to have placed on the record is whether there is the capacity to monitor the impact of that situation closely, and I understand there have already been a couple of instances last year in relation to contact being made, sometimes in very distressing circumstances. Is there the capacity for a proactive monitoring of that situation — obviously VARTA will be alerted, and perhaps it is VARTA that does it — to see whether the decision by the Parliament to previously legislate and then potentially support this situation for donors to be able to make that contact is appropriate? Are there risks, and how does that translate in terms of what may often result from actions by the donor where people who are donor conceived find out that they are in fact donor conceived for the first time through that process?

This is a genuine concern about people. All of the arguments in this house have been in relation to the rights of an individual to know about their genetic heritage and their identity and the rights of the individual who is not a party to this contract. What this allows and what has previously been allowed is a donor who signed a confidentiality clause is able to pursue that information, sometimes for the first time letting someone who is donor conceived know that they are actually in fact donor conceived. My question is: is the minister able to give some assurance as to whether it is through the government or ideally probably through VARTA that there will be particular attention to this issue to ensure that there are not unintended consequences for individuals and families in relation to that donor contact?

Ms MIKAKOS (Minister for Families and Children) — I am hoping I am providing some clarity here, but the advice that I have is that the matters that the member is referring to relate to the 2014 changes. These were in fact changes made by the previous government — the member's government — in relation to these particular concerns that may have been expressed by members of the medical profession. The advice that I have is that under the current law donor-conceived people may already find out for the first time that they are donor conceived from the authority managing the donor register — that is currently the registry of births, deaths and marriages — if their parents have not told them and there is an application for information about them. The bill does not change this, except that the authority, VARTA, will now manage the registers and applications that are made for donor conception information.

Essentially we are putting in place through this legislation that VARTA will now be the one-door-in service that will be well placed to provide support to donor-conceived people and their families through this process. I did refer the member to section 56 of the Assisted Reproductive Treatment Act 2008. I have explained to the member the advice that I have is that this particular change happened following the 2014 changes. As to why that happened, perhaps the member needs to ask Mr Davis about that. I have already expressed to the member that if there are complaints and issues, then there is of course the ability for individuals to raise those concerns and complaints with VARTA, which will no doubt be mindful of the implementation of this legislation and be monitoring these particular changes, but the concern that has been expressed appears to relate to changes made by the previous government.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister and acknowledge that. I also acknowledge, though, that this bill does extend that. With the establishment of VARTA as the new responsible agency all in one place, I think this bill does provide an opportunity for a comprehensive assessment in relation to this particular area. I do not believe the minister is giving the commitment for a specific review of that, but I can only place on the record in relation to VARTA and the work it does that this is an area of deep concern for some who are intimately involved in the process. I hope that VARTA will monitor that actively and that the government will take an interest to ensure that there are not unintended consequences either of earlier legislation or of this legislation in terms of the safety and wellbeing of people who are affected.

Clause agreed to; clauses 24 to 41 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Ms MIKAKOS (Minister for Families and Children) — I move:

That this bill be now read a third time.

In doing so I thank all members for their contributions.

Motion agreed to.

Read third time.

TRANSPORT ACCIDENT AMENDMENT BILL 2015

Second reading

Debate resumed from 26 November 2015; motion of Mr HERBERT (Minister for Training and Skills).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise this evening to make some remarks on the Transport Accident Amendment Bill 2015. This is a relatively straightforward bill in terms of what it does. It largely reverses decisions and changes that were introduced to the Transport Accident Act 2013 in the previous Parliament. I will run through each of those in turn, and outline some of the coalition's concerns with the provisions that are being proposed to be changed with this bill.

The bill is actually short in terms of its key content. It is a bill of only four pages because it largely repeals existing provisions. The main provision of the bill, clause 4, repeals section 46 A(2C) and (2D) of the principal act. This section of the principal act is to allow for the creation of guides modification documents, with ministerial approval, in order to amend the American Medical Association (AMA) guidelines, which are used to assess impairment in Transport Accident Commission (TAC) cases. To put some background around this, the AMA guidelines, which are the American Medical Association guidelines, not the Australian Medical Association guidelines, are the set of criteria by which medical practitioners assess the claims for impairment against TAC legislation. In 2013 the previous government legislated to allow, by ministerial direction, those guidelines to be altered for a guides modification document.

The reason this was done was in reflection of a matter which had been before the courts in Victoria — the Serwylo case — in which a decision around spinal impairment had been made which resulted in an unintended outcome. In that particular case it resulted in the claimant being assessed as having a higher level of impairment than would ordinarily be the case and would ordinarily have applied with comparable injuries not of a spinal nature, simply because of the way in which the AMA guidelines applied. So it was the recommendation of the Transport Accident Commission at that time that a mechanism be created to allow those guidelines to be amended in circumstances where determinations have been made by the court which led to perverse outcomes, as had been the case in Serwylo.

So that provision was inserted and a process was undertaken by the previous government to create a guides modification document which would give true effect and reflect the true intention of the application of spinal injury in TAC cases rather than the outcome which had been created through the Serwylo case. The government, with this legislation this evening, is indicating that it intends to repeal the capacity for a guides modification document to be made by ministerial direction, and that will have the effect that, where there are unintended consequences in the interpretation of AMA guidelines or where there are perverse outcomes which lead to some categories of injury being assessed at a higher level and therefore being able to access common law where comparable injuries are assessed at a lower level, those unintended consequences and perverse outcomes will be allowed to continue. It is unfortunate that we are seeing this provision in the legislation tonight.

Clause 4 of the bill is straightforward and is one that is supported by the coalition. In the 2013 legislation we adjusted the level of supported accommodation payment for certain TAC claimants. This bill indexes that, which was set at $32.50. This bill allows for CPI indexation — we believe that is an appropriate step — and that is backdated to November 2013, when the previous provision was put in place.

Clause 5 is also a significant clause of this bill. It repeals section 93(2A) of the principal act, which limits the ability of the TAC in relation to common-law damages for mental injury as a result of the driver's negligence or an attempted suicide. This is something that was discussed at length in the debate in the committee stage in 2013. Again, this was introduced to the legislation on the recommendation of the Transport Accident Commission, having regard to the way in which common-law mental injury claims had developed in that TAC scheme over a period of time, particularly claims where the proximity between the actual transport accident, the physical event, and the claimant was growing increasingly distant.

It is worth reflecting back on the history of the TAC, an organisation which was established in 1987 with the intention of providing access to statutory benefits without the need to prove fault in a transport accident scenario. It was established on the background of the experience of the then Premier, John Cain, who had previously practised law in the area of motor vehicle accident claims prior to the establishment of a no-fault statutory scheme. They were his experiences in practising law in motor vehicle injury claims prior to there being a statutory scheme that informed his view of the need for such a scheme. Something that I had the

opportunity while TAC minister to discuss at great length with Mr Cain was the background of that scheme and how it came to be. It was very clear from those discussions, his experiences, the way the legislation was enacted in 1987 and the way it had developed that it was always the intention of Parliament — and indeed I believe the expectation of the community — that claims under the TAC scheme would be for the benefit, compensation, assistance and medical and like support for people who are injured in motor vehicle accidents — transport accidents as defined under the legislation.

We have seen over the 30 years of this scheme coverage under the scheme evolve away from people who are directly injured in the proximity of a motor vehicle accident to people who have mental injury claims related to a transport accident. These can be people who have claims on the basis that they are related to someone who was involved in a motor vehicle accident or who have experienced a motor vehicle accident without being in the motor vehicle accident. We have seen a significant growth in the TAC scheme in mental injury claims.

It was on the advice of the Transport Accident Commission that the previous government sought to strengthen the provisions around mental injury claims, recognising that there are occasions when it is appropriate for mental injury claims to be made under the TAC scheme, but the basis of those claims must be rigorous and must be tested. It was for that reason that section 93(2A) was inserted in the legislation in 2013, to ensure that there is rigour around mental injury claims, particularly where there is not proximity between the transport accident and the person making the claim.

We know that the TAC scheme has been very successful in providing support to Victorians injured in transport accidents for over 30 years. It has been successful because the compensation it provides — the medical and like support and the rehabilitation — is well targeted, is well structured and indeed is well costed. It is, I think, a testament to the organisation over those 30 years and to successive governments that the TAC has operated successfully and has become a world leader in the provision of support to transport accident claimants. It is a scheme which we believed in government had the potential to form the model for the national disability insurance scheme and in particular for the national injury insurance scheme, based on having a full balance sheet, recognition of whole-of-life costs and whole-of-life liabilities on claimants and ensuring that assets are provided for those claims.

Now with a scheme like the TAC, and indeed with WorkCover, if you are to recognise whole-of-life costs, if you are to have those liabilities on the balance sheet, to have commensurate assets on the balance sheet you need to manage those schemes prudently, you need to manage costs prudently and you need to ensure that claims are appropriately within the scope of the legislation. One of the challenges there is judicial interpretation. These schemes are big cash cows, particularly on the common-law side of the equation as distinct from the regimes of statutory benefits which are available under the TAC and WorkCover schemes. Because of the value of those common-law portfolios, there is constant pressure on the scheme through judicial interpretation as to the expansion of the scope of the legislation.

It is for that reason that it is necessary for both agencies and for successive governments to be constantly looking at the way in which the legislation is interpreted by the courts to ensure that their original intention is reflected. The amendments of 2013 were designed to do that. They were done on the recommendation of the TAC. They were done with the advice and counsel of the TAC's actuaries in assessing the long-term impact on liabilities, in looking at where the growth, particularly in common-law exposure, had occurred and in looking at the way in which courts over time had interpreted and reinterpreted provisions with respect to mental injury, and, as I said earlier, reinterpreted the AMA guides, particularly with respect to mental injury in the Serwylo case.

So it is necessary that these things are constantly monitored and constantly adjusted as interpretations by the courts change and as unintended consequences arise. Because what we do not want to see is a scheme which is unsustainable, a scheme where you have a huge blowout in liabilities due to common-law action where the scheme becomes unviable with deteriorating asset positions and the need for rapid increases in premiums. We have successfully avoided that in Victoria. In fact TAC premiums have not increased more than CPI for a great many years. We have been successful in avoiding that in the WorkCover scheme, where premiums as a proportion of statewide payroll have come down. So it is incumbent upon us to ensure that we continue to monitor the schemes and continue to monitor judicial interpretation and that the Parliament, via the government, intervenes where appropriate.

Our concern with this legislation is that the government is now seeking to undo these changes, which were introduced to ensure the ongoing viability of the scheme so that the common-law claims under the

scheme were those that were originally envisaged when the scheme was established and to ensure that assessment of impairment on spinal injury was consistent with impairment on other types of whole-of-body injury.

We are seeing with this legislation that that is being undone. What we have not heard from the government is an explanation as to why. We know that one of the big beneficiaries of common-law claims under the schemes is the plaintiff's lawyer. We heard Mr Somyurek talk about the way in which Maurice Blackburn conducts itself as a plaintiff firm, and it is a matter of public record that the major plaintiff firms are substantial donors to the government.

When the legislation was previously considered by this Parliament, one of the key opponents of the changes were the plaintiff lawyers who are substantial donors to this government, and it is with great interest that we see those changes, which were opposed by those plaintiff lawyers, now being reversed by this government which has been a beneficiary of those substantial donations.

Business interrupted pursuant to standing orders.

ADJOURNMENT

The PRESIDENT — Order! The question is:

That the house do now adjourn.

Safe Schools program

Ms SHING (Eastern Victoria) — I rise this evening to raise a matter for the attention of the Minister for Education. The action that I seek from the minister is that he provide positive encouragement to and assistance in the rollout of the Safe Schools Coalition program in Victoria to assist with reducing and eliminating the discrimination, bullying, harassment and victimisation which is suffered by young people throughout our state in a needless, preventable and often horrid way that causes them to be alienated, victimised and very much like invisible people, invisible citizens and people who have limited prospects either at school, in life or in terms of general dignity overall.

As Victorians we have a very proud track record of advancing progressive social reforms that seek to counter LGBTI-based discrimination and harassment. The Safe Schools Coalition is one such program which is designed to encourage students and young people to behave better towards their peers and towards their schoolmates. I implore the Minister for Education to continue with this very excellent work that has made a significant difference in Victoria to LGBTI young people, who will often resort to self-harm, will often suffer from anxiety and from mental health issues and will often suffer lesser employment terms and conditions. They are also often far more represented in the statistics related to attempted suicide or successful suicide.

In relation to the Safe Schools Coalition I ask that the minister provide favourable consideration and support to assist with its fulsome rollout in government secondary schools, to promote and encourage schools to take on this program and to provide specific tools for schools to assist students in understanding the ways in which they can treat their LGBTI peers with more compassion, more inclusiveness, less discrimination and less harassment in order to enhance their chances later in life to feel part of a community.

I also call upon the minister to make very clear that the composition of the program does not include any reference to chest binding, genital tucking or any of the myths which have arisen in relation to this particular program. I call on him to set the record straight about the program's design, which is very clearly to minimise and, wherever possible, remove that discrimination, harassment, bullying and victimisation which frequently damages young people immeasurably and can often lead to their considering that they are not worthy of any meaningful role in our communities and that they do not have the same value that their non-same-sex attracted or gender-diverse colleagues may have.

Goulburn Valley Health

Ms LOVELL (Northern Victoria) — My adjournment matter is for the Minister for Health, and it is regarding the consistently poor ambulance patient transfer times at Goulburn Valley Health (GV Health), which in the December quarter recorded the worst transfer times of all regional hospitals and the second worst transfer times in the entire state — second only to St Vincent's Hospital, which is one of the biggest and busiest hospitals in the state. The action I seek is that the minister, the Premier and the Treasurer acknowledge that the consistently poor performance data for GV Health is due to the inefficiency and limitations of the inadequate infrastructure of the hospital and that they support the staff and patients by immediately funding the complete redevelopment and expansion of the hospital.

The most recent Victorian health services performance data shows that the Shepparton campus is the worst performing regional hospital and the second-worst

performing hospital in the state for the proportion of ambulance patient transfers within 40 minutes. The statewide target is for 90 per cent of patients to be transferred from an ambulance service into the care of the hospital within 40 minutes, but for the October–December 2015 quarter, the Shepparton hospital had only 79.7 per cent of ambulance patients transferred on time. These are the lowest figures for the Shepparton campus in at least 12 months, although the proportion of patients transferred within time has never been above 82.5 per cent in this 12-month period, so the hospital is consistently failing to meet the statewide target. These figures compound those released for the same quarter that show the Shepparton hospital had the worst performing emergency department in the state.

The poor performance of GV Health has been consistent across quarterly Victorian health services performance data for the past 12 months or more, with poor performance across a number of measures, including the ambulance patient transfer time and the percentage of emergency patients treated within time, which has fallen to only 50 per cent. This poor performance is not a staff issue — the staff are doing the best they can to deliver quality care. The issue is the inefficient infrastructure and limited capacity at Goulburn Valley Health.

By failing to act on this crisis at the Shepparton hospital, the Premier is breaking an election promise that he made while opposition leader. In an open letter to all Victorians, as part of Labor's 2014 election ambulance policy document, he said:

> As Premier, health will be my number one priority.
>
> …
>
> We will improve response times and reduce the hours that paramedics spend waiting outside hospitals.

In a press release issued by the Minister for Health last Thursday, the Premier is quoted as saying:

> Under the former Liberal government, patients were waiting too long in emergency departments …

But the truth is that under the Andrews Labor government patients at Goulburn Valley Health are waiting for increasingly longer periods before being seen.

The action that I seek from the minister is that she, the Premier and the Treasurer acknowledge that the consistently poor performance data for GV Health is due to the inefficiency and limitations of the inadequate infrastructure at the hospital and support the staff and patients by immediately funding the complete redevelopment and expansion of Goulburn Valley Health.

Police custody officers

Ms TIERNEY (Western Victoria) — My adjournment matter this evening is for the Acting Minister for Police in the other place, and it deals with police custody officers. Under the previous government there were significant issues that arose as a result of the overcrowded prison system. That being the case, this government has made it a priority to put significant resources into the area. In fact it has committed over $148 million to recruit 400 police custody officers in 22 police stations over the next three years.

The action I seek from the acting minister is that he provide me with details on the number of police custody officers who will be allocated to the Geelong region and the timing of this allocation, what their duties will be and indeed how their work will release police officers to be able to do frontline police work in the Geelong region.

Western Victoria bushfires

Mr MORRIS (Western Victoria) — My adjournment matter this evening is for the attention of the Minister for Emergency Services. The action that I seek is that appropriate disaster assistance be provided to western Victorian communities in response to the bushfires that have impacted, and continue to impact, the communities of Glendaruel, Coghills Creek, Mount Bolton, Addington and Learmonth.

It was during question time in our house today that I became aware of several large grass and scrub fires that were impacting several communities in western Victoria. There are unconfirmed reports of homes being lost in these fires, and my thoughts are certainly with those families directly affected by them. There were today in excess of 60 Country Fire Authority appliances fighting these fires, and I would like to record my thanks to all firefighters, both volunteer and career, who have spent today containing a dangerous fire in difficult climatic conditions.

A well-attended community meeting was held at 8 p.m. this evening in Wendouree to keep residents up to date with the relevant news with regard to these fires, and I am pleased that the member for Ripon in the other place, Ms Louise Staley, attended this meeting and spoke with affected residents, including some who fear they may have lost their homes. Once again, the action I seek is that the minister provide the appropriate

assistance to communities impacted by today's bushfires.

Urban Camp Melbourne

Ms DUNN (Eastern Metropolitan) — My adjournment matter is for the Minister for Public Transport. The action I seek is that she intervene to ensure that Urban Camp Melbourne continues to access safe pick-up and drop-off facilities for its camp participants free of charge at the bus terminal parking area at Southern Cross station.

The redesign of Spencer Street station to Southern Cross station resulted in no safe street access to pick up and drop off school students and associated school group luggage for groups travelling to Melbourne. This redesign impacted on the operation of Urban Camp Melbourne. At the time of the redesign, discussions with the stationmaster resolved that a proposed relocation to the corner Collins and Spencer streets to a 5 minute drop-off space was deemed too dangerous for the 30 to 80 students gathering and loading or unloading luggage on the footpath. Subsequently Urban Camp vehicles were granted use of the bus terminal parking area. This allowed Urban Camp to meet school groups arriving and departing Southern Cross station and loading and unloading their luggage.

It is my understanding that the Southern Cross bus terminal is now independently operated and charges for use of the bus terminal. Urban Camp is a not-for-profit organisation. Its vision is to provide schools and community members with an opportunity to enjoy a positive experience in the city of Melbourne. Urban Camp brings together country and city in a unique camping experience. Urban Camp provides a quiet and comfortable base at Royal Park to explore Melbourne's cultural, educational and recreational attractions. The camp offers a haven for school, sporting and community groups visiting Melbourne.

Urban Camp assists eligible schools from economically challenged areas with its country relief project which commenced in 2001 in response to its vision to improve quality of life. Each year six schools, identified from different regions, are beneficiaries of a subsidised Urban Camp. For the past 9 to 10 years Urban Camp has had an arrangement where it has been able to collect school camp participants from regional Victoria via the regional bus bay area at Southern Cross station for no charge. It has now been abruptly advised by the operator of the bus bay that it will have to pay.

Urban Camp only uses the Southern Cross bus bay because there is no on-street parking on Spencer and Collins streets and because the Southern Cross refurbishment did not create any public pick-up or drop-off points that can accommodate busloads of students. I urge the minister to intervene and give her support to Urban Camp so it can continue the longstanding arrangement that has been in place and provide safe access at no cost to students from across regional Victoria experiencing this unique Melbourne-based school camp.

Geelong and Bellarine Peninsula bus services

Mr RAMSAY (Western Victoria) — My adjournment matter is for the Minister for Public Transport. The action I seek is for the minister to implement an immediate review of the bus timetables in the Geelong and Bellarine region and make the necessary changes to meet the needs of bus users as identified in the Public Transport Victoria (PTV) regional network planning forums.

The people of Geelong and the Bellarine Peninsula need to know if there is any intention to listen and respond to their feedback on a new bus network. Last year Public Transport Victoria promised more extensive, frequent, reliable and direct bus services, and for six months this has not been experienced by commuters. A woman in her 80s came into my office last week and said that her friends, a group of active seniors, were extremely disappointed with the new bus timetable and the fact that their feedback to PTV has not been acknowledged. Since the new loop route was introduced, it has taken her almost an hour, on two separate buses, just to get from her home in Highton to the closest major shopping complex in Belmont, only a few kilometres away; and this is not an isolated example. Public Transport Victoria knows about this. PTV knows that long trips are hard on the elderly. But PTV is not listening.

I have spoken out on the Bellarine bus schedule countless times since it was revealed that commuters would be stranded on the peninsula with 80-minute services from Portarlington, St Leonards and Indented Head. In fact more than 2300 signatures on a petition will speak to the feelings about this service, but still PTV's regional community development planning meetings have changed nothing.

The entire rollout process for this timetable was mismanaged from the start — done through the Christmas holidays — from the initial advertising and communication to public feedback and responses to changes, and, as we feared, no review or consultation for feedback has resulted in better outcomes for our communities. So apart from the V/Line train mess that

Geelong and Bellarine commuters are having to deal with, we now have a crisis in the bus network where timetables are not meeting the needs of bus users, particularly those in more isolated areas of Bellarine.

The urgent action I seek is that Ms Allan do an immediate review of the timetables and instruct PTV to provide more user-friendly timetables for bus users both in Geelong and on the Bellarine Peninsula.

Post-traumatic stress disorder

Mr BOURMAN (Eastern Victoria) — My adjournment matter is for the Minister for Veterans. Post-traumatic stress disorder (PTSD) is an affliction that is all too common in today's society for a number of reasons. Indeed we have a ministerial portfolio for veterans in this state to look after the affairs of returned service personnel, and amongst those issues is PTSD. Sadly, it is not just those in the armed forces that have to endure the traumatic scenes and situations that may lead to PTSD. Our police and emergency services personnel deal on a daily basis with horrific situations that lead to some of them acquiring PTSD, yet there is no formal mechanism to help these people out.

The issue of providing help to police and emergency services personnel with PTSD has raised its head again. I believe that the Chief Commissioner of Police made a comment which may have been misreported or taken out of context, but the idea that was reported seems to me to have some validity. We already have a mechanism in place to help deal with people who have served the country and need assistance that they cannot get from the federal Department of Veterans Affairs. The idea is that the department that assists veterans in Victoria could be expanded to provide assistance to those from our state services who are in need of help. I call on the minister to fully investigate the option of expanding the existing department to assist those from the police and emergency services with PTSD and any other relevant issue.

South Gippsland water supply

Ms BATH (Eastern Victoria) — I seek action from the Minister for Environment, Climate Change and Water, the Honourable Lisa Neville, for my adjournment matter tonight, and it relates to the inadequate water supply in South Gippsland, particularly in the northern towns of Korumburra, Loch, Poowong and Nyora. The action I seek from the minister is that she actively commit to allocating funds in the 2016–17 Victorian state budget to improve Korumburra's inadequate water supply and support South Gippsland Water's northern town plan.

Constituents of mine are very concerned about Korumburra's lack of water and future supply. Not since the Bellview Creek Reservoir was opened in 1958 has there been a significant investment in the town's water capacity, which sits at a woefully inadequate 575 megalitres. Korumburra needs up to 2.5 megalitres per day at peak times.

Stage 1 water restrictions were imposed in Korumburra in January 2014 and the region continues to be gripped by drought and has a high demand for water. The restrictions came after South Gippsland received the lowest spring rainfall in the region since the late 1930s. The restrictions place a great deal of pressure on various industries, including Burra Foods, which is a significant and much-needed business in the area and has local economy improvements and export potential. Already on stage 1 water restrictions, the worst case scenario is that Korumburra could end up being on stage 4 restrictions by May if these particularly dry conditions continue, and we have had very warm weather again today.

South Gippsland Water published a storage outlook for the Korumburra water supply system for the period from November last year to October 2016 which states that without supplementary supply, storage levels are likely to fall below the trigger for restrictions. The water authority will look at ways to supplement the supply by pumping from the surface water resources in the area, including the Tarwin River.

The Labor government promised before the election that it would take action on this issue, yet there has been no progress made. Constituents in Korumburra believe that reservoirs need to be expanded to cater for current and future water demand. The Korumburra system comprises just three seasonal reservoirs, relying on winter rains to replenish each season. With the town already on water restrictions and no sign of heavy rainfall, again the action I seek is for Minister Neville to commit to allocating funds to improve this much-needed infrastructure.

Consumer scams

Mr MELHEM (Western Metropolitan) — My adjournment matter is for the Minister for Consumer Affairs, Gaming and Liquor Regulation and Minister for Emergency Services, the Honourable Jane Garrett. The issue that I want to raise is regarding unscrupulous members of our society who prey on the elderly with promises of work to be done which is never performed — like in the case of Mr and Mrs Mahon of Bundoora, who paid $500 cash to a man with a promise of having their driveway pressure cleaned and sealed.

These poor pensioners were duped into paying the full amount and never got what they paid for. The driveway was cleaned but not sealed, and the man was never seen again.

Police were notified but told Mr and Mrs Mahon there was nothing they can do. A complaint has been registered with the consumer affairs department. This is probably one of many scams around ripping off pensioners, and it must be addressed. The action I seek is for the minister to ask her department to investigate this matter and ask the department to advise whether or not this is a widespread issue. If so, I ask the minister to take the necessary action to stamp this out. I will forward the necessary details in relation to this particular matter to the minister's office in due course.

Bulla-Diggers Rest Road

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Roads and Road Safety. The minister would be aware that I have raised in this house on many occasions a number of roads, particularly in the outer west and the outer north-west, that were built long ago and have since been absolutely inundated with traffic. The growing suburbs, the increasing population, are using these roads, and of course the roads were built at a time when that sort of traffic was just not happening. In fact many of them — and Minister Jennings may well remember these times — —

Mr Ramsay — The horse and buggy.

Mr FINN — The horse and dray. I am sure the minister remembers — —

Ms Shing — There is no need to get sulky.

Mr FINN — Very good, Ms Shing; yes, very good. The particular road I wish to mention this evening is the Bulla-Diggers Rest Road.

Mr Morris — Oh, yes.

Mr FINN — You know the one?

Mr Morris interjected.

Mr FINN — Mr Morris knows the one. That is the main road between the Calder Highway and the Melbourne–Sunbury road. This has become a main road in itself of recent years because a huge number of people use that road to get from places up the Calder Highway — Gisborne, for example, and Diggers Rest — to Tullamarine airport, where a good number of them actually work. We have found ourselves with a situation where we have a road that is not much better than a goat track being used by huge numbers of cars on a daily basis. And I should point out to the minister as well that on this particular road there is a bridge which crosses Deep Creek. That bridge will only allow one car to pass at any — —

An honourable member interjected.

Mr FINN — Or to cross it, I should say.

Mr Jennings interjected.

Mr FINN — It is Little John, and there is not even a troll under the bridge. But the problem with the bridge is that only one car can travel across the bridge at any given time, so we have a situation where we have, quite often, huge numbers of cars that are stopped awaiting huge numbers of other cars across the other side of the bridge making their way across. The minister might be surprised to learn this; I know that there are not too many bridges of this nature in the inner suburbs. But in the outer suburbs it is not unusual, and on this particular road, the Bulla-Diggers Rest Road, it is something that has been fair dinkum driving the locals nuts for a very long time.

I am asking the minister to provide the appropriate resources to upgrade the Bulla-Diggers Rest Road to provide a facility that will adequately meet the needs of locals and those beyond, and in particular to duplicate the bridge across Deep Creek on the Bulla-Diggers Rest Road.

Animal welfare

Ms PATTEN (Northern Metropolitan) — My adjournment matter is for the Minister for Agriculture, Ms Pulford. The action I call for from the minister is to examine the feasibility of legislation to create mandatory reporting of cases of suspected animal abuse — —

The PRESIDENT — Order! Under the standing orders Ms Patten is not allowed to call for legislation, and therefore for a review of legislation, so I wonder if she could change her action.

Ms PATTEN — Thank you, President. I will reword that. The action I call for is that the minister look at how we deal with the cases of animal abuse that are being seen by vets.

In situations of family violence, the victims may extend beyond human families. In a 2014 survey by Dr Lydia Tong of the University of Sydney she found that 70 per cent of women escaping violent homes also reported

pet abuse. Long the subject of academic research and discussion, the use of threats and violence against pets as a form of control has a firm place in the domestic violence discourse. Some reports have indicated that vets may in fact be the first to discover such cases of domestic violence.

While seeking support from a doctor at times is very difficult for those experiencing family violence, they will take their beloved pet to see the vet. Where a non-accidental injury is encountered, there is currently no requirement for such a case to be reported. I recently visited Lort Smith Animal Hospital, where staff told me of cases where people brought dogs in saying the dog ran into a door or got hit by a car, and the injuries certainly did not match what was being reported.

The Australian Veterinary Association includes the reporting of animal abuse in its guidelines but also maintains the importance of states developing some form of statutory protection against litigation and other reprisals against veterinarians in such cases. Currently vets who suspect cruelty should report it to the responsible authority, but in most cases they do not.

The action I am seeking is that the minister consider how we deal with cases of animal cruelty where the vet believes them to be linked to domestic violence and how we might be able to realise that these are indicators of domestic violence and that these — —

The PRESIDENT — Order! I thank the member. I am actually reminded by the Clerk that it is not a standing order that prevents calling for legislation but a ruling from the chair that goes back with precedent for quite a few presidents, so it is a practice of the house, if you like.

Ferrars Street primary school

Ms FITZHERBERT (Southern Metropolitan) — My adjournment matter is for the Minister for Education, and the action I am seeking is clarification of the government's position regarding the Ferrars Street school site, given a very confusing item on the website run by the member for Albert Park.

I was at the site last week, and it has been untouched since 2014, like the member for Albert Park's website. I quote from the website:

> In September 2012, the Napthine government announced a vertical school at the site in the Fishermans Bend precinct on Ferrars Street. Almost two years later, the community are still waiting for the funding for the promised school. This year the site was purchased but only $5 million was committed for 'site preparedness'. Added to this, the proposed site is right in the middle of a high-rise, developer free-for-all, with the Minister for Planning about to sign off on at least 13 high-rise developments — including one directly opposite the school on what was promised open space. The uncertainty of what the site would look like and how it will be funded meant Victorian Labor needed to find a better option for our kids.

The first point I want to clarify is whether that last statement still holds, because the government has indicated that it is going to proceed with that site, but as I said, it is untouched. Will it finally be funded in the 2015 budget? To date the $5 million that the member for Albert Park referred to is the only money that has been allocated to this site, and I note that the Minister for Planning has continued to sign off on high-rises around it. I question, lastly: when will it be open? In short, the action I seek from the minister is that he clarify the statements made by the member for Albert Park in relation to the Ferrars Street school site.

The PRESIDENT — Order! Members should be aware that they can only ask for one action. I guess the action is clarification and therefore three aspects of that clarification were sought, but that did skirt close to the wind in terms of asking three different questions.

Nagambie Lakes Tourism & Commerce Inc.

Ms SYMES (Northern Victoria) — My adjournment matter this evening is for the Minster for Regional Development, and the action I seek is her direction that Regional Development Victoria provide support and assistance to Nagambie Lakes Tourism & Commerce Inc. in the preparation of its application for funding under the farmers markets support program and that she in turn approve its application. Nagambie Lakes Tourism & Commerce Inc. has an exciting proposal to establish a new farmers market in lovely Nagambie. Farmers markets are of course an important source of income for small agriculture producers and if done well have the ability to largely increase tourism and visitation to country areas, which in turn contributes millions to the local community.

Nagambie Lakes Tourism & Commerce Inc. does a great job of passionately promoting its town. Nagambie is a region of wine, waterways, wetlands and wildlife only 90 minutes from Melbourne and only 40 minutes from Shepparton. The township of Nagambie offers a huge range of outdoor activities, both on and off the lake, and there are plenty of quality accommodation houses, motels, resorts and bed and breakfasts, and plenty of lovely camping spots. A new farmers market would only add to this fantastic destination. There is very broad community support and a strong desire to be a 'go to' market in my electorate of Northern Victoria Region.

As the application will be for a grant to start up and to obtain accreditation, it is important that the organisation is assisted to meet all of the criteria under the terms of the program, so assistance from Regional Development Victoria would be welcome. I am fully supportive of the work of Nagambie Lakes Tourism & Commerce Inc. and also support its forthcoming application and encourage the same from the minister.

Gippsland rail services

Mr O'DONOHUE (Eastern Victoria) — I raise a matter for the attention of the Minister for Public Transport in the other place. The action I seek is that the minister provide funding in the upcoming May budget to duplicate the Gippsland rail line between Bunyip and Longwarry, including duplicating the bridge over the Bunyip River and station upgrades at those two towns of Bunyip and Longwarry.

Members may remember that my colleague and friend the member for Narracan in the other place, together with the then minister, committed to this project prior to the 2014 election, and while the focus on V/Line in recent months has been the issue of trains not running and the chaos that has existed on the network, the government needs to also focus on providing additional capacity for the network as the number of commuters, particularly from Baw Baw, parts of Cardinia and elsewhere in Gippsland, continues to grow and continues to grow strongly with significant population growth through that catchment and throughout that region.

Together with Mr Blackwood, Mr Northe and Mr Hodgett in the Legislative Assembly, I had the pleasure of meeting with the Gippsland V/Line Users Group this afternoon here at Parliament House. It made the point that even when the network is running according to its timetable and running smoothly it now takes longer to get to Warragul or Drouin than it did back in 2008 or 2009, so we need to focus on not only increasing the capacity of the system but also reducing the time it takes to travel between destinations to make commuting to West Gippsland, Baw Baw and such places realistic and attractive for people. As I say, I seek that funding for that important infrastructure project which is critical to relieving a significant congestion point on that line in the upcoming May budget.

Kindergarten funding

Ms CROZIER (Southern Metropolitan) — My adjournment matter this evening is for the Minister for Local Government in the other place. For months I have been calling on the Minister for Families and Children to confirm that the rises in kindergarten costs due to the government's funding shortfall will not be passed on to parents, and unfortunately the minister has refused to answer those requests adequately.

Last year it was reported in a number of papers that a council in a regional area was facing significant challenges and had to prepare for the government's rate capping regime. As part of that preparation the council was contemplating having to increase kindergarten fees by anywhere between 33 and 55 per cent to meet funding shortfalls or possibly absorb some of the funding shortfall that I have mentioned.

As we know, many areas in Victoria are doing it tough at the moment, particularly those drought-stricken areas, and I was very pleased that the member for Murray Plains in the Legislative Assembly, the Honourable Peter Walsh, challenged the Premier and called on him to honour the commitment he made last November to deliver free kindergarten to drought-stricken areas in the 10 affected local government areas across the state. The drought-affected areas will now get the free kindergarten as was promised, but what of other regional areas and other areas in metropolitan Melbourne, where councils are being significantly affected by the Andrews government's rate capping policy? The action I therefore ask of the minister is that she provide to the house details of any shires or councils across the state that will absorb any kindergarten funding shortfalls to prevent passing on to parents the higher kindergarten costs that they may be subjected to throughout 2016.

Dingley Village bus services

Mrs PEULICH (South Eastern Metropolitan) — The matter that I wish to raise is for the attention of the Minister for Public Transport, and it is in relation to the problem that the children of Dingley Village — it is the suburb that I live in, so I am certainly very open to receiving the feedback of the community — have in getting onto the bus in the morning to go to a fairly popular school, Parkdale Secondary College. Dingley Village does not have a secondary school of its own, but it is well serviced by a number of good schools in the area. There are some shortfalls in Keysborough as a result of a number of amalgamations that the previous Labor government undertook, and with urbanisation and renewal there has been significant pressure placed on these schools.

It is not unusual for children from Dingley Village to actually be riding bicycles or buses to their nearby school or the school of their choice. In this instance it seems that bus route 315, which is a Ventura Bus Lines

route, is crowded in the mornings and often children cannot get onto the bus. I am asking the minister whether she can have a look, with the bus company, to see whether those patronage issues can be resolved so that parents are not having to, at the last minute, get into their cars to drop their loved ones off at the local school, and perhaps to have a look at the frequency of the timetable or any other issues that may be impacting on the availability of bus capacity to take children from Dingley Village through to Parkdale Secondary College.

Responses

Mr JENNINGS (Special Minister of State) — I have written responses to adjournment debate matters raised by Mr Ramsay on 15 September 2015 and Mr O'Donohue on 9 December 2015.

In the rich tapestry of matters that were raised on the adjournment this evening, Ms Shing raised a matter for the attention of the Minister for Education, seeking his proactive support for the Safe Schools Coalition program to make sure that that program achieves its intended outcome of eliminating discrimination and supporting students from LGBTI communities in terms of making sure that they have a life that is actually free of discrimination and that they can fully participate in school and community life. It is a program that is currently under siege by a number of people who are telling myths and tall stories about the intention and the actions of the program. It is a program that the government is totally supportive of and, I am sure, will maintain its commitment to, and I am sure the Minister for Education will respond in a positive way.

Ms Lovell raised a matter for the attention of the Minister for Health, referring to the ambulance performance of Goulburn Valley Health and its connection to the quality of care and the reliability of care that is provided by a great hospital. She identified great staff and the great capacity of Goulburn Valley Health in Shepparton, but it is a service that is under some demand pressures. She encouraged the Minister for Health to identify those and respond accordingly.

Ms Tierney raised a matter for the Acting Minister for Police seeking his explanation to her and to members of the Geelong community about the role that the custody officers will be playing within that local community and, most importantly, how many custody officers will provide relief to full-time police officers to enable them to perform an enhanced role at the community interface on the streets and to outline the rollout of that program in the Geelong community.

Mr Morris raised a matter for the attention of the Minister for Emergency Services referring to a number of communities that have been affected by fire across western Victoria, seeking her support for additional disaster relief to be provided appropriately to those communities and for information to be disseminated to those communities about what may be available to them.

Ms Dunn raised a matter for the attention of the Minister for Public Transport. She identified a difficulty that is currently, in her terms, jeopardising the viability of Urban Camp Melbourne for students who may be dropped off at Southern Cross station, where at the moment there is inadequate bus bay parking due not so much to changed physical conditions but in fact to an expectation that there be a commercial outcome from the operator, and seeking the Minister for Public Transport's support in that matter.

Mr Ramsay also raised a matter for the attention of the Minister for Public Transport seeking her review of and support for better bus timetabling outcomes for people in Geelong and the Bellarine Peninsula. He urges the minister to review those circumstances to enhance the services to those communities.

Mr Bourman raised a very unusual matter, from my vantage point of having been on the adjournment for quite some time. He identified a reference to the Minister for Veterans seeking that the minister consider the scope of the portfolio in relation to whether it adequately addresses the needs of members of the police and emergency services in Victoria who may be subjected to post-traumatic stress syndrome or other conditions that may warrant ongoing support after they leave active duty, in the way that the Victorian government has recognised the support for servicemen and women who may be falling through the gaps of commonwealth programs, to ensure that there is support provided to those residents of Victoria. He is encouraging the minister to review whether the scope of the portfolio could be broadened to make sure that we provide equal care to retired members of the police and emergency services. I am sure the minister will pay attention to those matters.

Ms Bath raised a matter for the attention of the Minister for Environment, Climate Change and Water seeking her support for investment in water supply issues to support the communities of Korumburra, Loch and Nyora.

Mr Melhem raised a matter for the attention of the Minister for Consumer Affairs, Gaming and Liquor Regulation, and he will provide the minister with the

details of the circumstances of Mr and Mrs Mahon, who are pensioners and who have unfortunately been subjected to a confidence trickster who gave undertakings in relation to a quality of service in their driveway and clearly left them short of what their expectations were. Their recourse is not clear to them, and Mr Melhem seeks the minister's review of that case and a consideration of how widespread these issues may be and for the minister to report back to him and to the Mahon family.

Mr Finn raised a matter that he actually described as an issue that is driving the local residents who use the Bulla-Diggers Rest Road 'fair dinkum nuts', in his terms. He refers to the capacity shortcomings of a bridge that crosses the Deep Creek. Perhaps Mr Finn was overly suggestive of the slight that that bridge was causing to traffic users on the basis that the bridge was preventing them from taking action. I think the capacity of the bridge actually probably created some physical impairment to the safe egress for those passengers and the drivers of cars. In fact we should have a fair dinkum, red-hot go. The Minister for Roads and Road Safety should fix that issue, and I am sure he will be very responsive to the concerns of the member and his constituents.

Ms Patten raised, again in the spirit of the interesting issues being raised by the crossbench this evening, a matter for the attention of the Minister for Agriculture. It made me certainly reflect on what she described as the coincidence between victims of family violence, domestic violence and animal abuse that may occur within our community. She suggested that the perpetrators of violence in the home actually may also be impacting in a very dramatic and totally inappropriate way on household animals and that there should be some scrutiny brought to bear within the agricultural portfolio of the way in which vets may have the opportunity to report not only the instance of animal abuse but indications where this may relate to domestic violence situations. There may be a connection in terms of this government's interest to make reforms in the family violence area to make sure that there are no blind spots in our service configuration. Our government does understand that in fact the incidence of animal abuse is quite prevalent in our community. I am certain that our investment in pet shelters in some part is actually a demonstrated recognition of these issues.

Ms Fitzherbert raised a matter for the attention of the Minister for Education seeking his clarification of the timing and implementation of the government's commitment to a school in the South Melbourne-Fishermans Bend precinct in Ferrars Street. The member was seeking a greater degree of certainty for the community in relation to the school that the previous government and this government have made commitments to in circumstances where there are, as she described in her own contribution, a lot of developments going on in that neck of the woods, and the availability of affordable land for the school precinct is actually something that has been a very vexing one for the local community.

Ms Symes raised a matter for the attention of the Minister for Regional Development relating to the Nagambie Lakes Tourism & Commerce Inc.'s funding application to the farmers market support program in extolling the virtues of Nagambie and surrounds. The member is confident that submission will be worthy of consideration and would hope the department responsible for regional development and the minister would be sympathetic to outcomes that would see greater tourism opportunities and community benefit through activities that would be supported by the farmers market support program.

Mr O'Donohue raised a matter for the attention of the Minister for Public Transport relating to the funding of the Bunyip–Longwarry rail connection, including station upgrades, and I am sure the minister will examine those matters.

Ms Crozier raised a matter for the Minister for Local Government relating to an assessment by the Minister for Local Government of whether there are additional shires that provide financial support for their communities in relation to kindergarten services beyond those communities that have been supported by the Andrews government of recent times in relation to families receiving free kindergarten for their children in drought-affected shires and asking whether in fact the Minister for Local Government may make an assessment about the ability for other local governments to provide similar support.

Mrs Peulich raised a matter for the Minister for Public Transport seeking her review of the number of seats that are on the 315 Ventura Bus Lines service that runs in part between Dingley Village and Parkdale Secondary College, because in fact there are a number of students in the mornings who are finding difficulty in getting on the bus, getting a seat and getting to school.

The PRESIDENT — Order! The house now stands adjourned.

House adjourned 10.50 p.m.