PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Friday, 23 June 2017

(Extract from book 12)

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By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

The ministry

(from 10 November 2016)

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Legislative Council committees

Privileges Committee — Ms Hartland, Ms Mikakos, Mr O'Sullivan, 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 — #Mr Barber, Mr Bourman, #Ms Dunn, Mr Eideh, Mr Finn, Mr Gepp, Ms Hartland, Mr Leane, #Mr Melhem, Mr Ondarchie, Mr O'Sullivan and #Mr Rich-Phillips.

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

Standing Committee on Legal and Social Issues — #Mr Barber, #Ms Crozier, #Mr Elasmar, Ms Fitzherbert, #Ms Hartland, Mr Morris, Mr Mulino, Ms Patten, Mrs Peulich, #Mr Rich-Phillips, Mr Somyurek, Ms Springle and Ms Symes.

participating members

Legislative Council select committees

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

Fire Services Bill Select Committee — Ms Hartland, Ms Lovell, Mr Melhem, Mr Mulino, Mr O'Sullivan, Mr Rich Phillips, Ms Shing and Mr Young.

Joint committees

Accountability and Oversight Committee — (*Council*): Mr O'Sullivan, 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, Ms Garrett 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 O'Sullivan, Mr Ramsay and Mr Young. (*Assembly*): Mr J. Bull, Ms Halfpenny, Mr Richardson and Mr Riordan.

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

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*): Ms Patten, Ms Pennicuik and Ms Shing. (*Assembly*): Mr Dimopoulos, Mr Morris, Mr Pearson, Mr T. Smith, Ms Staley 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

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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	SFFP	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	O'Sullivan, Luke Bartholomew [4]	Northern Victoria	Nats
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	Patten, Ms Fiona	Northern Metropolitan	ASP
Davis, Mr David McLean	Southern Metropolitan	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Drum, Mr Damian Kevin [3]	Northern Victoria	Nats	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Dunn, Ms Samantha	Eastern Metropolitan	Greens	Pulford, Ms Jaala Lee	Western Victoria	ALP
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Purcell, Mr James	Western Victoria	V1LJ
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Ramsay, Mr Simon	Western Victoria	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Fitzherbert, Ms Margaret	Southern Metropolitan	LP	Shing, Ms Harriet	Eastern Victoria	ALP
Gepp, Mr Mark [6]	Northern Victoria	ALP	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 [5]	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	SFFP
Melhem, Mr Cesar	Western Metropolitan	ALP			

[2] Appointed 15 April 2015
[3] Resigned 27 May 2016
[5] Resigned 6 April 2017
[6] Appointed 7 June 2017

[1] Resigned 25 February 2015
[4] Appointed 12 October 2016

PARTY ABBREVIATIONS

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

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FRIDAY, 23 JUNE 2017

Friday, 23 June 2017

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

JUSTICE LEGISLATION AMENDMENT (COURT SECURITY, JURIES AND OTHER MATTERS) BILL 2017

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms PULFORD (Minister for Agriculture); by leave, ordered to be read second time forthwith.

Statement of compatibility

Ms PULFORD (Minister for Agriculture) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter), I make this statement of compatibility with respect to the Justice Legislation Amendment (Court Security, Juries and Other Matters) Bill 2017 (bill).

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

Overview

The bill will make a range of amendments to support the implementation of a new security model for Victoria's courts and tribunals, improve the operation of the criminal and civil justice system, and make various other minor amendments.

Court security amendments

The bill amends the Court Security Act 1980 (Court Security Act) to support the implementation of a new security model for Victoria's courts and tribunals. The security model will deliver an increased and more highly trained private security officer presence across Victoria's court network.

It is proposed that these private security officers will be appointed as authorised officers under the Court Security Act and will hold existing powers as well as proposed new powers of authorised officers under that framework.

The bill clarifies and expands the powers of authorised officers to ensure they can prevent and respond to security incidents adequately and appropriately.

Right to life (section 9), protection from torture and cruel, inhuman or degrading treatment (section 10), freedom of movement (section 12), bodily privacy (section 13) and liberty and security of person (section 21)

Amendments to the Court Security Act that clarify and expand the circumstances where authorised officers may use force potentially engage the right to life (section 9), the right to protection from torture and cruel, inhuman or degrading treatment (section 10), the right of freedom of movement (section 12), the right to bodily privacy (section 13), and the right to liberty and security of person (section 21).

The Court Security Act expressly authorises the use of force in relation to the exercise of some powers of authorised officers, including:

in undertaking searches; and

in preventing a person entering, or removing a person from, court premises, where a person does not comply with certain requests of an authorised officer under the Court Security Act.

However, there is no express authorisation for authorised officers to use force in relation to other powers, for example, in exercising the power to seize a prohibited item or in exercising the power to prevent a person entering court premises, where the person is likely to adversely affect the security, good order or management of court premises. The bill makes amendments to enable the use of reasonable force in these circumstances.

The bill also enables the use of reasonable force to ensure the safety of an escorted person or an authorised person when the escorted person is being escorted to or from court premises, and to enforce a direction of an authorised officer.

The proposed use of force powers in the bill place reasonable limits on these human rights, as they are circumscribed by a legislative framework and are necessary to uphold the security, safety and good order of Victoria's courts. Authorised officers require clarity about when they can use force in the exercise of their powers to enable them to respond in the most appropriate way to security incidents that threaten the safety of court users.

There are adequate safeguards and strong policy grounds for enabling the proposed use of force by authorised officers.

The amendments to clarify and enable the use of force by authorised officers help ensure that the use of force will only occur when it is reasonable to enable the exercise of a power of an authorised officer. The effective exercise of these powers is critical to ensuring the safety of people on court premises and to minimise disruptions to the administration of justice by the courts. The bill provides that force, which is exercised by the authorised officer must be reasonable. The proposed powers align with human rights principles by permitting the use of force for specific purposes which are aimed at ensuring the safety and security of people on court premises.

The training provided to private security officers, as part of the new court security model, will ensure they exercise their powers in an appropriate and proportionate way, with a focus on de-escalation strategies, human rights and the use of force as a last resort. Private court security officers appointed as authorised officers will undertake training that will ensure that they are supported to use their authorised officer powers, and manage their equipment, such as batons and handcuffs, lawfully and appropriately. Police, protective services officers and police custody officers are also subject to comprehensive and ongoing training in relation to their powers.

In exercising all powers under the Court Security Act, an authorised officer, as a public authority for the purpose of the

Charter of Human Rights and Responsibilities Act 2006, will be subject to the obligations in section 38 of the act to act compatibly with human rights.

Under the new court security model, the private security company engaged under the Court Security Act will also be subject, through the contractual arrangements, to performance monitoring and reporting and be required to have a complaints management system. Further, the Ombudsman may investigate the administrative actions of a contractor that has entered an agreement to provide court security services under the Court Security Act.

The complaints and disciplinary framework under the Private Security Act 2004 will also apply, as private court security officers, appointed as authorised officers, will be required to be licensed security guards under that act. Police and protective services officers are subject to the complaints and investigation process under the Victoria Police Act 2013.

Freedom of movement and right to fair hearing (sections 12 and 24)

The powers of authorised officers to direct persons and respond to a contravention of a direction, may limit a person's right of freedom of movement (section 12).

These powers might also engage the right of a person charged with a criminal offence or a party to a civil proceeding to have the charge or proceeding decided after a fair and public hearing (section 24), for example, if members of the public were prevented from being present at hearing. To the extent that the fair and public hearing might be impacted by an authorised officer preventing members of the public being present in a proceeding, the bill does not provide for closed hearings and only enables an authorised officer to prevent a member of the public being present at a hearing where this is for the purpose of maintaining the security, good order or management of court premises.

The bill amends the Court Security Act and enables authorised officers:

> to give directions for the safety, security and order of courts, including to direct that a person cease harassing another court user or behaving violently;
>
> to give directions, when escorting a person to and from court premises, for the purpose of ensuring the safety of the escorted person or the authorised officer; and
>
> to give directions to a person where the authorised officer reasonably suspects that an unauthorised recording, transmission or publication is being made.

The bill enables an authorised officer to prevent a person from entering the court premises, or remove the person from the court premises, if the person has not complied with a lawful, reasonable direction of an authorised officer.

The bill also enables an authorised officer to use reasonable force to prevent a person contravening a direction.

A direction may only be made by an authorised officer for specific purposes that aim to uphold the safety of court users and the security and order of court premises. It is also appropriate and justified that a person be able to be removed from, or prevented from entering, court premises, where the person has not complied with such a direction. This power is critical to ensuring that order and safety can be maintained in a court. As discussed above, the bill provides that any force that is used in preventing the contravention of a direction or preventing a person entering, or removing a person from, court premises will be reasonable force. Authorised officers will have training in managing conflict, problem solving, human rights and de-escalation, which will ensure that any limits on a person's freedom of movement will only occur when lawful, necessary and appropriate. Further, the restriction on a person's freedom of movement is appropriately circumscribed, as it only applies when a reasonable direction is given for a specific purpose in relation to persons on, or being escorted to or from, court premises. The oversight mechanisms I discussed in relation to the use of force also apply.

Freedom of expression (section 15)

Section 15(2) of the charter provides that every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds.

There are existing offences in the Court Security Act that make it an offence for a person to make an unauthorised recording, transmission or publication of court proceeding. There are several exemptions in the Court Security Act that enable a recording, transmission or publication to be made, for example, where it is permitted by a judicial officer. There are also standing exemptions for representatives of news media and legal representatives to make recordings for certain purposes, which are subject to any direction of a judicial officer.

The right to freedom of expression is relevant to these existing offences, and to the power in the bill for an authorised officer to give a direction for a person to stop making a recording, transmission or publication or to delete an unauthorised recording, where the authorised officer reasonably suspects that an unauthorised recording, transmission or publication of a proceeding is being, or has been, made. While it will be an offence under the bill for a person not to comply with such direction, it will not be an offence if the recording, transmission or publication is authorised.

Section 15(3) of the charter provides that the right of freedom of expression may be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons or for the protection of national security, public order, public health and public morality. Further, in *Magee v. Delaney* [2012] VSC 407, the Supreme Court held that what constitutes a protected form of expression under section 15 of the charter is limited by public policy considerations inherent in the nature of a free and democratic society.

It is appropriate that judicial officers have powers to restrict the recording, transmission or publication of proceedings, consistent with their powers to make suppression orders under the Open Courts Act 2013. Restrictions on recordings, transmission or publications are justified in certain circumstances, for example, to prevent prejudice to the proper administration of justice, including a person's right to a fair trial, or to protect the safety of a person. The proposed directions power for authorised officers, and the accompanying offence for non-compliance, will help ensure the enforcement of such restrictions on recordings, transmissions or publications.

Right to privacy (section 13)

Under the bill, where an authorised officer reasonably suspects that an unauthorised recording, transmission or publications of a proceeding is being, or has been, made, the officer may direct a person to permit the officer to view the recording, transmission or publication on the device. Such a direction engages the right to privacy as it requires a person to show an authorised officer particular content on a device. However, any interference with the right to privacy as a result of this power is lawful and not arbitrary. This power is only exercisable where the authorised officer reasonably suspects that a person is making or has made an unauthorised recording, transmission or publication, and supports the enforcement on the existing restrictions on the making of unauthorised recordings, transmission and publications.

Consequential amendments to natural resources legislation

Distinct cultural rights of Aboriginal people (section 19(2))

Section 19(2) of the charter provides that Aboriginal people hold the distinct cultural rights and must not be denied the right to enjoy their identity and culture, and to maintain their language and kinship ties. Section 19(2) also recognises that Aboriginal people in Victoria have a distinctive, material and economic relationship with the lands and waters, and a right to maintain that relationship.

The bill makes technical amendments to the Forests Act 1958, Wildlife Act 1975 and Fisheries Act 1995, in order to achieve the intended effect of the Traditional Owner Settlement Amendment Act 2016 (amendment act). The amendment act provided that certain offences under the Forests Act 1958, Wildlife Act 1975 and Fisheries Act 1995 did not apply to the carrying out of 'agreed activities' by a member of a traditional owner group in accordance with a 'natural resource agreement' under part 6 of the Traditional Owner Settlement Act 2010 (TOS act).

However, the amendment act inadvertently 'switched off' all offences in regulations made under the Forests Act, Wildlife Act and Fisheries Act, in relation to 'agreed activities', including public safety offences. The bill provides a mechanism for certain offences, such as public safety offences, to continue to apply to the carrying out of 'agreed activities' by a member of a traditional owner group in accordance with a 'natural resource agreement' under part 6 of the TOS act.

The amendment act enhanced the distinct cultural rights of Aboriginal persons in Victoria by increasing the access and use of natural resources across different public land categories, by increasing the number of exemptions to offences that may prevent the exercise of natural resource rights and by permitting members of traditional owner groups to access and use natural resources on land owned by them or their traditional owner group entity. The proposed amendments to the Forests Act, Wildlife Act and Fisheries Act do not diminish these enhancements.

Juries amendments

The right to a fair hearing, as outlined in section 24 of the charter, is relevant to the juries amendments. Section 24(1) provides for the right to a fair hearing from a 'competent, independent and impartial court or tribunal'.

Fair hearing (section 24)

The bill amends the Juries Act 2000 to reduce the number of peremptory challenges to prospective jurors in criminal and civil trials, although that reduction will not limit the right to a fair hearing.

In its *Jury Empanelment* report (2014), the Victorian Law Reform Commission identified concerns that the existing number of peremptory challenges can be used to distort the representativeness of juries, and noted that overseas jurisdictions such as the United Kingdom had progressively abolished these challenges.

In criminal proceedings, peremptory challenges provide an opportunity for the accused to participate in the jury empanelment process.

While the bill reduces the number of challenges available to the accused in criminal trials and to parties in civil trials, challenges tend to be based on characteristics and appearance of the potential juror, facilitating stereotype-based judgements which distort the jury composition.

Additionally peremptory challenges, in both criminal and civil trials, will not be abolished entirely. There will still be some provision to exclude jurors who are unwilling or unable to serve, or jurors perceived as biased based on the behaviour of the prospective juror during the empanelment process.

Appeal costs amendments

Property rights (section 20)

Section 20 of the charter provides that a person must not be deprived of their property other than in accordance with law. This right requires that powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than unclear, are accessible to the public and are formulated precisely.

In relation to the Appeal Costs Board scheme, currently, a court must either refuse to grant an indemnity certificate, or grant an indemnity certificate without written limitations or specifications. The bill amends the Appeal Costs Act to provide a court with the power to grant an indemnity certificate of a more limited ambit in certain circumstances. An indemnity certificate creates an entitlement for an appellant in civil or criminal proceedings to be paid by the Appeal Costs Board for costs thrown away.

As this amendment affects the entitlement of parties to be paid by the Appeal Costs Board through an indemnity certificate, it may arguably be relevant to the property rights stated in section 20 of the charter.

If it is considered that this amendment limits property rights under section 20 of the charter, the limit is reasonable and demonstrably justified. Providing the courts with the power to grant an indemnity certificate of a more limited ambit can ensure that applicants who are deserving of a partial certificate are not completely deprived of an indemnity certificate. It enhances the fairness and clarity of the scheme in circumstances where it is not appropriate to provide the full benefit of an indemnity certificate to an applicant.

Fair hearing (section 24)

The bill amends the Appeal Costs Act 1998 to provide that, in certain circumstances, a court may grant an indemnity certificate of a more limited ambit. Parties will not be able to appeal a court's decision to grant or refuse a limited indemnity certificate. This restriction to appeal is relevant to the right to a fair hearing. While it does limit the options for a party to appeal, the decision to grant an indemnity certificate is made by the Supreme Court or the County Court (as the case requires), which are competent, independent and impartial bodies.

Moreover, the proposed restriction on appeals will not exclude the Supreme Court's supervisory jurisdiction to grant relief where a court's decision is infected by jurisdictional error.

Even if it is considered that this appeal restriction affects the right to a fair hearing, any resulting limitation is reasonable and demonstrably justified. The proposed restriction on appeals replicates the existing framework of the act, which already contains a restriction on appealing the grant of existing indemnity certificates, and helps to prevent the escalation of costs. This restriction will allow costs payments to be resolved expeditiously, and will alleviate unnecessary burdens on the courts. As recognised by Parliament during the original enactment of the principal act, it would be undesirable for the act to create an opportunity to bring further appeals and incur costs, when the objective of the act is to reduce the impact of the costs of appeals on litigants.

Land acquisition and compensation amendments

Fair hearing (section 24)

The bill amends the Land Acquisition and Compensation Act 1986 to update the jurisdictional threshold to reflect changes in property values and insert a case transfer mechanism. Generally, a disputed claim must be determined in the Victorian Civil and Administrative Tribunal if the matter falls within the jurisdictional threshold, while a party has a choice to be heard in either the tribunal or the Supreme Court if the claim is above the threshold. The jurisdictional threshold will be increased, as it has not changed since it was set in 1986. At the same time, the bill will insert a mechanism to enable the transfer of proceedings between the two jurisdictions, but with a restriction on appealing transfer decisions so as to avoid protracted litigation on interlocutory issues. The minor amendments will not limit the right to a fair hearing, as parties to disputed claims, which are civil proceedings, will continue to have their claims determined in a fair and public hearing. The amendments will not reduce the ability of parties to bring disputed claims for determination, but merely impact on the jurisdiction in which a disputed claim is heard.

Victorian Civil and Administrative Tribunal statutory fee reimbursement presumption

Fair hearing (section 24)

The bill amends a statutory fee reimbursement presumption in the Victorian Civil and Administrative Act 1998, which will enhance the right to a fair hearing by removing a disincentive for local councils to bring planning enforcement proceedings. This amendment extends the statutory presumption for fee reimbursement in certain Victorian Civil and Administrative Tribunal proceedings to also apply to planning enforcement proceedings.

Legal profession amendments

Section 6 of the Legal Profession Uniform Law Application Act 2014 overrides the charter in respect of the Legal Profession Uniform Law (uniform law), and bodies performing functions or exercising powers under the uniform law. However, statements of compatibility are still required for any bills that amend the uniform law.

Fair hearing (section 24)

The bill amends the Legal Profession Uniform Law Application Act to make changes to the regime of 'approved clerks', who receive trust money on behalf of Victorian barristers on account of legal costs in advance of the provision of legal services. The bill will provide that the Victorian Legal Services Board (instead of the Victorian Bar as is currently the case) may approve a person to be an approved clerk. The Victorian Legal Services Board will have the power to suspend or revoke an approval. The right to fair hearing will not be limited because the board must give notice of its intention to revoke or suspend an approval and give the approved clerk an opportunity to respond, and because an approved clerk whose licence is suspended or revoked will have the right to seek a review of the board's decision by the Victorian Civil and Administrative Tribunal.

Right to privacy (section 13) and property rights (section 20)

The bill will provide that the Victorian Legal Services Board may appoint a supervisor of trust money to supervise the handling of trust money by an approved clerk. A supervisor of trust money will have the powers of the approved clerk in relation to trust money, and will have a variety of related powers to ensure that it is capable of adequately protecting trust money.

Such powers may engage the property rights under section 20 and the right to privacy under section 13, because they will empower the supervisor to:

> enter and remain on premises used by the approved clerk (and may, where refused consent or where the premises are unoccupied, use whatever appropriate force is necessary to enter the premises and may be accompanied by a member of the police force to assist entry);
>
> take possession of any relevant material and retain it for as long as may be necessary; and
>
> require the approved clerk to give the supervisor access to files, documents, and information.

However, the powers are subject to a number of important safeguards and limits:

> if a supervisor takes anything from the premises, the supervisor must issue a receipt and must return any material as soon as it is no longer required;
>
> the supervisor may only enter and remain on premises during normal business hours or otherwise with consent; and
>
> the supervisor must not enter premises without having produced their notice of appointment and a form of identification.

In addition, the supervisor's role in managing the affairs of the approved clerk will be expressly limited to managing accounts and records that relate to trust money received by the approved clerk or that are otherwise required to be maintained by the approved clerk.

The right to privacy will not be limited, because the exercise of these powers by a supervisor will not be unlawful (as it will be authorised by legislation) and will not be arbitrary (as it will be for the purpose of protecting trust money held by approved clerks). Also, the supervisor will only be able to enter unoccupied premises or premises without consent where the supervisor considers that entry is necessary to prevent destruction of documents or for another urgent reason. Similarly, the property rights under section 20 will not be limited, because any removal of an approved clerk's property will be in accordance with the law, and will be suitably constrained to achieve the primary purpose of protecting clients' trust money.

The Hon. Gayle Tierney, MP
Minister for Corrections

Second reading

Ordered that second-reading speech, except for statement under section 85(5) of the Constitution Act 1975, be incorporated into *Hansard* on motion of Ms PULFORD (Minister for Agriculture).

Ms PULFORD (Minister for Agriculture) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Justice Legislation Amendment (Court Security, Juries and Other Matters) Bill 2017 will make a range of amendments to support the implementation of a new court security model and improve the operation of the criminal and civil justice system.

Court Security Act amendments

The government is committed to ensuring that all Victorians, whether in metropolitan or regional locations, have access to modern, safe and secure courts.

As was evident in the Royal Commission into Family Violence report, if courts are not safe, victims of family violence will not be willing to seek redress through the justice system.

The proper and efficient administration of justice depends on courts having effective security arrangements in place, so that security incidents can be responded to effectively and disruptions to proceedings can be minimised.

There are significant challenges in ensuring that our courts are safe. People attending court can be distressed, angry or vulnerable. We know that some perpetrators of family violence use their court attendance as an opportunity to further intimidate and threaten victims.

The government recognises the need for a modern, system-wide model of court security, and this is why we committed $58.1 million over four years in the 2016–17 state budget to deliver a new court security model and asset upgrades across Victoria's metropolitan and regional courts.

The new court security model will ensure that all Victoria's courts, including in our regional locations, have entry screening capability and an increased private court security officer presence. This year, Court Services Victoria will roll out a new integrated statewide contract to significantly increase the number of private court security officers, and will install entry screening equipment at a number of courts where it is not currently available.

This model will help keep all court users safe and increase public confidence in the justice system.

The bill makes amendments to the Court Security Act 1980 (Court Security Act) to support the increased use of private court security officers as part of the new court security model.

Court security officers will be appointed as authorised officers under the Court Security Act, and will hold existing powers as well as proposed new powers of authorised officers under the bill.

The bill clarifies and expands the powers of authorised officers to ensure that court security officers can prevent and respond to security incidents adequately and appropriately.

Under the Court Security Act, authorised officers already have a range of powers to ensure the safety of persons and the good order of legal proceedings at court premises. Authorised officers may require persons on court premises to undergo screening and frisk searches, provide personal identification information and surrender prohibited items.

The bill will provide new powers for authorised officers to give directions in particular circumstances, and clarify the permissible use of force that may be used by authorised officers.

Directions powers for safety and good order

Currently, where a person is creating a security risk on court premises, an authorised officer may respond by seeking to remove the person from the premises, but there is no express power to direct the person to stop engaging in particular behaviour.

The bill enables an authorised officer to give reasonable directions for the purpose of maintaining or restoring the security, good order or management of court premises.

This direction power, and the accompanying offence for non-compliance, will support the de-escalation of security incidents in a way that minimises disruption to court proceedings. The bill also enables an authorised officer to direct a person to do, or refrain from doing, a specified act when escorting another person to or from court premises. This will help ensure that a vulnerable person, such as a victim of family violence, can be safely escorted to and from transport and reduce the risk of the person being subjected to threats or physical harm from another person.

Directions powers in relation to unauthorised recordings, transmission and publications

The Court Security Act contains existing offences that prohibit the making of unauthorised recordings,

transmissions and publications, and empowers authorised officers to seize a prohibited item, which includes an item that is likely to affect adversely the security, good order or management of the court premises.

These days many of us routinely carry recording and transmission devices in the form of our smart phones.

The bill provides authorised officers with an additional tool to respond to the making of unauthorised recordings, transmissions and publication that may be deployed when a reminder about the statutory offences has been ineffective.

The bill provides a power for an authorised officer to give particular directions where a court user is suspected of making an unauthorised recording, transmission or publication. For example, an authorised officer may direct a person to stop making a recording, or to delete a recording where it is suspected that the person has made, or is making, an unauthorised recording.

Consistent with the other new directions powers, it will be an offence for a person not to comply with a direction, if the person makes an unauthorised recording, transmission or publication.

Clarifying use of force

The Court Security Act expressly authorises the use of force in relation to the exercise of some powers, including in undertaking searches. However, there is no express authorisation for the use of force in relation to other powers, for example, in seizing a prohibited item from a person.

The bill clarifies that reasonable force may be used by an authorised officer in the exercise of the following powers:

undertaking searches;

enforcing directions of authorised officers;

preventing people entering, or removing people from, court premises;

seizing prohibited items; and

ensuring the safety of an escorted person or the authorised officer while the escorted person is being escorted to or from court premises.

These clarifications will ensure that authorised officers have clear authority to use reasonable force to ensure the safety and security of persons at court premises.

As outlined in the statement of compatibility, there are a range of legislative, contractual and operational safeguards that will apply in relation to the exercise of powers by authorised officers under the new court security model. These include the application of the Charter of Human Rights and Responsibilities Act 2006 and the Ombudsman Act 1973, to the actions of authorised officers engaged under the Court Security Act. In addition, contractual requirements will apply to private court security officers, such as reporting and complaints management, and qualification and training.

The Court Security Act provides for courts to appoint authorised officers and enter into arrangements for the provision of security services to courts. The bill will also enable the chief executive officer (CEO) of Court Services Victoria (CSV) to appoint authorised officers under section 2A of the Court Security Act, and it will enable CSV to enter into agreements for the provision of court security services for the Supreme, County, Magistrates, Children's and Coroners courts, the Victorian Civil and Administrative Tribunal (VCAT) and the Victims of Crime Assistance Tribunal. These amendments recognise CSV's responsibility for administrative support for the courts and VCAT, and will provide administrative efficiencies, particularly as there will be an integrated contract for private court security officers for the courts and VCAT.

These amendments will support the new court security model, and help ensure that our courts are safer for all Victorians.

Juries reforms

The bill will also amend the Juries Act 2000 to implement a number of key recommendations made by the Victorian Law Reform Commission in its *Jury Empanelment* report (2014).

The Victorian Law Reform Commission identified issues of potential discrimination in the jury empanelment process, and recommended reducing the number of peremptory challenges available to parties in criminal and civil trials. A peremptory challenge is a challenge made by a party to exclude a prospective juror from a jury, where that party does not need to provide a reason for making the challenge. Peremptory challenges can serve to improve parties' confidence in juries by providing a mechanism by which biased or unwilling potential jurors are excluded. However, peremptory challenges can also be used to reduce the representativeness of juries, and facilitate discriminatory, stereotype-based judgements. In particular, peremptory challenges are disproportionately used against potential female jurors, compared to potential male jurors, in criminal trials. Adopting the commission's recommendation, the bill will reduce the number of peremptory challenges available to parties in criminal and civil trials, and the number of stand asides available to the Crown will be reduced in an equivalent manner. The bill will also make a minor amendment to provide that an accused can voice their challenge personally or through their legal representative in criminal proceedings.

The bill will create a presumption for jury empanelment to occur by number, to establish a consistent empanelment practice and further reduce the potential for discrimination during the empanelment process. Courts will retain a discretion to empanel using jurors' names, if it is in the interests of justice to do so.

Additionally, the bill will insert some statutory criteria to guide a court's discretion to empanel additional jurors, so as to improve courts', practitioners' and jurors' understanding of the possible need for additional jurors and the subsequent balloting off process.

The bill will also make some minor machinery changes.

Appeal Costs Act amendments

The bill will make a number of changes to improve the efficient operation of the appeal costs scheme. The Appeal Costs Board administers the scheme, which partially compensates litigants who suffer loss and incur legal costs arising from judicial error or other specific circumstances.

The bill will make it easier for an appellant to request direct payment from the Appeal Costs Board, after the applicant has

taken reasonable steps to try to obtain payment from the other party. The bill will remove the requirement for the applicant to provide information regarding the financial capacity of the other party.

The bill will also allow courts to grant an indemnity certificate with a more limited ambit in certain circumstances. An indemnity certificate with a more limited ambit would be expressed as applying to limited or specific costs of an appeal, allowing the courts to take account of relevant circumstances, such as the parties' conduct in trial, when granting an indemnity certificate.

The bill will also enhance the clarity of the scheme by replacing outdated references, clarifying tests, and making minor amendments to improve the ability of the Appeal Costs Board to make decisions and conduct meetings.

Land Acquisition and Compensation Act 1986 amendments

The Land Acquisition and Compensation Act 1986 establishes procedures for the compulsory acquisition of interests in land and for the determination of how much compensation is payable for those interests. The bill will make minor amendments to the provisions in the act regarding the correct forum for determining relevant disputes over the amount of compensation payable. The bill will not alter a person's entitlement to, or the calculation of, compensation.

The bill will amend the outdated jurisdictional threshold, which was inserted in 1986 and has not been increased since that time. Presently, the Victorian Civil and Administrative Tribunal generally hears disputed claims with an amount in dispute not exceeding $50 000, while parties can choose between the tribunal and the Supreme Court for claims above that amount. The bill will increase the $50 000 jurisdictional threshold to $400 000, to reflect the change in property values since 1986.

At the same time, the bill will insert a case transfer mechanism to enable proceedings to be transferred from one jurisdiction to another.

Statutory fee reimbursement presumption

In 2014, the Victorian Civil and Administrative Tribunal Act 1998 was amended to introduce a presumption in certain civil proceedings that a party who has substantially succeeded against another party is entitled to be reimbursed by the unsuccessful party for any fee paid in the proceeding, unless the Victorian Civil and Administrative Tribunal orders otherwise.

Presently, that presumption does not apply to planning enforcement proceedings, thereby discouraging local councils from taking action to enforce contraventions of planning laws. The bill will remove this disincentive and extend the statutory fee reimbursement presumption to enforcement proceedings under the Planning and Environment Act 1987.

Regulation of approved barristers' clerks

The bill will provide the Victorian Legal Services Board ('board') with greater power to safeguard clients' trust money that is handled by barristers' clerks. It will grant the board power to approve a clerk to receive trust money on behalf of a barrister in advance of legal services being provided. This power currently resides with the Victorian Bar. The board will need to be satisfied that the clerk is a 'fit and proper' person to receive trust money. The board will also be empowered to revoke or suspend its approval of a clerk, or to appoint a trust account supervisor to an approved clerk. A clerk who is refused approval, whose approved status is revoked or suspended, or to whom a trust account supervisor is appointed, will have a right to seek merits review of the decision of the board in the Victorian Civil and Administrative Tribunal. A barrister or any other person whose interests might be adversely affected by a decision to appoint a trust account supervisor will also be able to seek merits review.

Technical amendments as a consequence of traditional owner settlement amendments

The bill makes technical amendments to the Forests Act 1958, the Wildlife Act 1975 and the Fisheries Act 1995 to achieve the intended effect of the recent Traditional Owner Settlement Amendment Act 2016 (amendment act). The amendment act intended to provide that certain offences under these three acts did not apply to a subset of 'agreed activities', but inadvertently 'switched off' all offences concerning 'agreed activities' set out in regulations under these three acts.

These technical amendments will ensure that the amendment act operates as intended.

Miscellaneous amendments

The bill will also make a range of minor amendments to court and tribunal statutes, and associated statutes, to:

harmonise some provisions in court statutes governing the leave to appeal and appeals process, as a consequence of the new civil appeals regime introduced into the Court of Appeal;

amend certain statutory time frames to accommodate Australia Post's revised delivery times;

enable judicial registrars to undertake certain case transfer functions in the Supreme, County and Magistrates courts;

empower both the Magistrates Court and the Children's Court to make rules to improve the process for the return of warrants;

add certain heads of jurisdiction to the board of the Judicial College of Victoria; and

provide clear authority for the Chief Magistrate to be paid out accrued sabbatical and long service leave entitlements, consistent with other judicial officers who are eligible to receive a judicial pension.

Statute law revisions

The bill will also make various statute law revisions to correct a number of ambiguities, minor omissions and errors found in statutes.

Section 85(5) of the Constitution Act 1975

Ms PULFORD — I wish to make a statement under section 85(5) of the Constitution Act 1975.

Appeal Costs Act 1998

It is the intention of clause 28(2) of this bill to alter or vary section 85 of the Constitution Act 1975. I therefore wish to make a statement under section 85(5) of the Constitution Act 1975 setting out the reasons for altering or varying that section. Clause 29 of this bill is included to satisfy the requirements of section 85 of the Constitution Act 1975 in respect of changes effected by clause 28(2).

Clause 26 of the bill inserts new section 31A into the Appeal Costs Act 1998 to provide that a court may grant an indemnity certificate of a more limited ambit in certain circumstances. The new section 37(3), inserted by clause 28(2), provides that parties cannot appeal a decision to grant a limited ambit indemnity certificate. This restriction will limit the jurisdiction of the Supreme Court and engage section 85 of the Constitution Act 1975.

Restricting appeals against a court's decision to grant a limited ambit indemnity certificate is consistent with the existing framework of the act. Section 37(2) of the Appeal Costs Act 1998 already restricts parties from appealing the grant or refusal of indemnity certificates which are not limited; this restriction also engaged section 85 of the Constitution Act 1975. It is appropriate to similarly restrict appeals against these new limited ambit indemnity certificates to allow costs issues to be resolved expeditiously, and to avoid an unnecessary burden on the courts.

During the debates on the Appeal Costs Bill 1998, the Honourable Jan Wade, the then Attorney-General, explained that the restriction on bringing appeals would prevent the further escalation of costs. As part of the Attorney-General's section 85 statement, she advised that:

> [a] major objective of the bill is to reduce the impact on litigants of the costs of appeals. It would be undesirable if, in carrying out this objective, the bill were to provide an opportunity to bring further appeals. (*Hansard*, Legislative Assembly, Thursday, 8 October 1998, pp 458–459).

Land Acquisition and Compensation Act 1986

It is the intention of clauses 34 and 36 of this bill to alter or vary section 85 of the Constitution Act 1975. I therefore wish to make a statement under section 85(5) of the Constitution Act 1975 setting out the reasons for altering or varying that section. Clause 39 of this bill is included to satisfy the requirements of section 85 of the Constitution Act 1975 in respect of changes effected by clauses 34 and 36.

Clauses 34 and 36 of the bill amend section 81 of the Land Acquisition and Compensation Act 1986, and insert a new section 84A into that act, to update the threshold amount and insert a flexible mechanism for transferring proceedings between the Victorian Civil and Administrative Tribunal and the Supreme Court.

The existing section 81 of the Land Acquisition and Compensation Act 1986 provides that the tribunal must determine disputed claims with an amount in dispute not exceeding $50 000, absent questions of general importance or unusual difficulty arising from the claim. For amounts in dispute exceeding $50 000, parties can elect for either the tribunal or the Supreme Court to determine the claim.

The bill will amend section 81 to update the amount in dispute from $50 000 to $400 000 so that claims with an amount in dispute not exceeding $400 000 will generally be determined by the tribunal, while parties will have a choice between the tribunal or the court for an amount in dispute exceeding $400 000.

While section 81, concerning the amount in dispute and a party's election, will often be a guide to the 'appropriate' jurisdiction, there might be other circumstances which make it appropriate for a disputed claim to be transferred between the two jurisdictions (for example, it might become evident there is an associated proceeding in the other jurisdiction). Consequently, the bill will further amend section 81 by replacing the 'general importance or unusual difficulty' test in section 81(1)(c) with a mechanism for the discretionary transfer of proceedings between the two jurisdictions.

The bill will insert a new section 84A, providing for the transfer of a proceeding, or part of a proceeding, between the two jurisdictions. As part of the transfer mechanism, the bill will provide that a party cannot appeal a case transfer decision made by the tribunal or the court, so as to avoid protracted litigation on interlocutory matters.

The reason for limiting the jurisdiction of the Supreme Court in the ways just described is to facilitate the resolution of disputed claims in a just and cost-effective manner. In relation to section 81(1), the amount in dispute of $50 000 was set in 1986 and has never been updated, notwithstanding the increase in property values since that time. Increasing the amount in dispute to reflect the increase in property values will ensure that

disputed claims are dealt with in civil proceedings in a manner proportionate to the size and importance of the issues in dispute. It would thwart the dispute resolution process if, absent some special factor, a disputed claim of $50 000 could be taken to the Supreme Court. Additionally, for the new section 84A, in order to prevent an escalation of costs and reduce delays in resolving claims, it is appropriate that a case transfer decision should not be appealable.

I commend the bill to the house.

Debate adjourned on motion of Mr RICH-PHILLIPS (South Eastern Metropolitan).

Debate adjourned until Friday, 30 June.

JUSTICE LEGISLATION AMENDMENT (PROTECTIVE SERVICES OFFICERS AND OTHER MATTERS) BILL 2017

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms PULFORD (Minister for Agriculture); by leave, ordered to be read second time forthwith.

Statement of compatibility

Ms PULFORD (Minister for Agriculture) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the charter), I make this statement of compatibility with respect to the Justice Legislation Amendment (Protective Services Officers and Other Matters) Bill 2017.

In my opinion, the Justice Legislation Amendment (Protective Services Officers and Other Matters) Bill 2017 (the 'bill'), as introduced to the Legislative Council, is partially incompatible with the human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

Overview of the bill

The bill amends various acts in relation to the functions and powers of protective services officers (PSOs) when on duty at designated places, including railway stations and railway infrastructure. PSOs exercising duties at designated places are known as 'transit PSOs'.

The bill will support the deployment of additional PSOs who will form mobile patrols on the public transport network by expanding the scope of transit PSOs' powers to enable the exercise of those powers both at, and in the vicinity of, a designated place.

The bill also provides PSOs with a range of additional police powers, including powers flagged in the recent Night Network transport security review by former South Australian police commissioner Mal Hyde (the 'Hyde review'). These powers will complement PSOs' existing powers and support their role in combating crime and antisocial behaviour, as well as improving public safety on the public transport network. The new transit powers include the power to:

apprehend a person under an emergency care warrant under the Children, Youth and Families Act 2005;

arrest a person whose parole has been breached or cancelled under the Corrections Act 1986;

request the name and address from a witness to an indictable offence under the Crimes Act 1958;

conduct warrantless searches for drugs of dependence under part VI of the Drugs, Poisons and Controlled Substances Act 1981;

issue infringement notices for supplying liquor to a minor under the Liquor Control Reform Act 1998; and

randomly search members of the public in a specified place, as part of a planned 'control of weapons' operation under the Control of Weapons Act 1990.

The bill also makes other miscellaneous and technical amendments in respect of police and custody matters, including:

to ban cash payments for scrap metal in order to reduce the unlawful dealings and motor vehicle theft that has been identified as being associated with the scrap metal industry;

to implement a recommendation from the *Victoria Police Mental Health Review*, to allow specialist psychologists to conduct Victoria Police's psychological fitness for duty assessments;

to expressly provide for and regulate the holding of children in police cells to facilitate attendance to and from courts and youth justice facilities; and

to establish a new category of police custody officer (PCO) known as a PCO supervisor for police gaols.

A number of the amendments contained in this bill support the implementation of the government's Community Safety Statement 2017.

PSOs in Victoria

PSOs are a type of 'sworn' Victoria Police personnel. PSOs are highly trained; all PSOs undergo a 12-week training course at the police academy, which gives them the same training as police officers in respect of their specific community protection functions. This includes receiving the same operational tactics and safety training as police officers, which equips PSOs to use their firearms and other equipment safely and appropriately, and to apply principles that help members choose appropriate tactical options to resolve

incidents. The principles include: safety first, risk assessment, avoid confrontation, avoid force, and minimum force (where using force is unavoidable). PSOs also undergo the same rail safety training, as is undertaken by members of the Victoria Police transit safety division. Similarly to police officers, PSOs are trained to execute search powers that form part of their functions. This includes receiving training in relation to conducting searches of children.

Under the Victoria Police Act 2013, PSOs are required to comply with the chief commissioner's instructions, including the requirements under the Victoria Police manual (VPM), for property management, security and integrity of evidence, and operational safety and equipment. Failure to comply with the VPM can lead to management and disciplinary action. PSOs are also 'public authorities' under the charter, and are therefore required to give proper consideration to, and act compatibly with, human rights when performing their functions.

Human rights issues

Expanding PSO powers — provisions that are partially incompatible with charter rights

Control of weapons operations — random searches

Division 2 of part 2 of the bill amends the Control of Weapons Act 1990 (the 'CW act') to enable a PSO to exercise powers in a designated area that is declared under section 10D (a 'planned designated area') or section 10E (an 'unplanned designated area') of that act.

Under section 10D, the Chief Commissioner of Police may declare an area to be a 'designated area' (for 12 hours or less), if there have been previous incidents of violence and disorder in that area involving weapons and there is a likelihood that the violence or disorder will reoccur. Notice of a planned designation must be published in the *Government Gazette* and in daily newspapers specifying the area and the relevant powers authorised to be exercised. Under section 10E, the chief commissioner may declare an area to be a designated area (for 12 hours or less) if satisfied that there is a likelihood that violence and disorder involving weapons will occur in that area; and it is necessary to designate the area to enable police officers to exercise search powers to prevent or deter any anticipated violence or disorder. At present, only police officers have powers to search persons in designated areas. These powers were first introduced in 2009 by the Summary Offences and Control of Weapons Acts Amendment Act 2009 as part of a suite of reforms aimed at tackling violence and disorder, and were further amended in 2010 by the Control of Weapons Amendment Act 2010.

The bill inserts a new section 10GA into the CW act to provide that a PSO on duty at a designated place may, without a warrant, stop and search a person, and search anything in the possession of, or under the control of the person, for weapons, if the person and thing are in a public place that is within a designated area. The bill also amends section 10H of the CW act to provide for the power of a PSO on duty at a designated place to search vehicles. A PSO need not form a reasonable belief or suspicion that the person or the vehicle is carrying a weapon before conducting a search.

Under the bill, a PSO may detain a person for so long as is reasonably necessary to conduct the search, and it is an offence for a person, without reasonable excuse, to obstruct or hinder the police in the exercise of their search powers or to fail to comply with a relevant direction. However, PSOs must conduct the least invasive search that is practicable in the circumstances, and must be supervised by a police officer when conducting the search. PSOs will be authorised to conduct searches in accordance with the requirements set out in schedule 1 to the CW act. However, unlike police officers, PSOs will not be authorised to conduct strip searches. PSOs will also have the power to seize and detain any item detected during a search that the PSO reasonably suspects is a weapon.

In my opinion, new section 10GA and section 10H of the CW act as amended by the bill are incompatible with the rights in sections 13(a) relating to privacy, and 17(2) of the charter relating to protection of the best interests of children, for the reasons outlined below. The rights in sections 20, 21 and 25(1)(k) of the charter are also relevant to these provisions of the bill; however, I consider that these rights are not impermissibly limited by the bill.

Privacy

Section 13(a) of the charter provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with. The concept of 'privacy' encompasses notions of personal autonomy and dignity. The power to conduct random searches of persons or vehicles in a particular area will constitute a potential interference with the right to privacy.

The power to conduct the searches and the circumstances and manner in which they are permitted to occur, are clearly provided for in the provisions of the bill and the CW act. As such, the interference with privacy occasioned by these new powers will not be an unlawful interference. However, an interference will also be incompatible with the charter if it is an 'arbitrary' interference. 'Arbitrariness' has been said to incorporate a lack of proportionality to the ends sought, and lack of justification, inappropriateness, injustice or lack of predictability.

In the statements of compatibility that accompanied the Summary Offences and Control of Weapons Acts Amendment Act 2009 and the Control of Weapons Amendment Act 2010, it was concluded that the provisions governing the exercise of these random search powers by police are incompatible with the section 13(a) of the charter. I am of the opinion that this aspect of the bill, which confers some of the same search powers on PSOs, may also be incompatible with section 13(a) of the charter.

I note that unlike police who may exercise their random search powers at any location that has been temporarily declared to be a designated area under the CW act, PSOs can only exercise these powers when they are on duty at a designated place that overlaps with, or is in the vicinity of, a declared designated area. Further, unlike police, the bill does not permit PSOs to conduct strip searches in designated areas. As such, one of the bases on which those previous statements reached a conclusion of incompatibility with the right to privacy is not present in this bill. Further the provisions that will now apply to the new search powers of PSOs to conduct searches are carefully tailored to protect against inappropriate use; for example:

> Designations can only be made in the limited circumstances set out in sections 10D and 10E as outlined above. Those circumstances are directed to

patterns of weapons-related offending that present significant challenges for police.

The designations must be geographically limited to an area that is no larger than is reasonably necessary to effectively respond to the particular threat.

Each designation only operates for a limited time. In addition to the maximum durations of 12 hours, the period of operation of a designation must be for no longer than is reasonably necessary to enable the police to respond effectively to the particular threat (unless the designation is in relation to an event, in which case more than one period of designation may be declared).

In the case of planned designations, the requirement to publish a notice in the *Government Gazette* and through daily newspapers will enable at least some members of the public to moderate their expectations and to avoid travelling through the designated areas if they are sufficiently concerned about the effect on them of the search power.

Any search of a person under new section 10GA must be graduated, commencing with the least intrusive form of search available, i.e. a search by the use of a metal detection device and only proceeding to a pat-down search and search of outer clothing if, as a result of the initial search, the member considers that the person may be concealing a weapon. These requirements seek to preserve the dignity of persons subjected to a search.

New section 10I(1A) that is inserted by the bill provides written and oral notice requirements that apply once any person or vehicle is detained by a PSO for the purposes of a search. These requirements ensure that the person is informed of the reason for and authority for the search and, if they wish to know it, the identity of the PSO.

When exercising their search powers, PSOs will be under the operational supervision of police; police officers will also be carrying out searches in the designated area at the relevant time.

Despite these safeguards, I accept that the power to randomly search persons and vehicles in public places within designated areas, even where the PSO has not formed a reasonable suspicion that the person or vehicle is carrying a weapon, could be considered an arbitrary interference with privacy in the same way as police officers' existing powers. The government intends to proceed with this legislation notwithstanding the conclusion that it is incompatible to the extent described above with section 13(a) of the charter.

Protection of the best interests of children

Section 17(2) of the charter provides that every child has the right, without discrimination, to such protection as is in their best interests and is needed by them by reason of being a child.

The powers contained in division 2 of part 2 of the bill will permit PSOs to randomly search children who are in a public place within a designated area, as well as adults. I have already determined that new section 10GA that is to be inserted into the CW act by the bill, and section 10H as amended by the bill are incompatible with the charter in relation to section 13(a). Similarly, I have determined that they are incompatible with section 17(2). However, the government believes that this legislation is important for preventative and deterrent reasons, including the protection of children.

Liberty and freedom of movement

Section 21 of the charter provides that all persons have the right to liberty and security of the person, including the right not to be arbitrarily detained, and sets out the minimum rights of individuals who are arrested or detained. By restricting the valid reasons for detention, the charter aims to minimise the risk of arbitrary or unlawful deprivation of liberty. Section 12 of the charter provides that every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live.

The rights to liberty and security in section 21 of the charter, and the right to freedom of movement in section 12, are relevant to the search powers contained in the bill to the extent that the exercise of those powers prevent an individual from being free to move on from the place where they are searched. However, I have concluded that the search powers do not amount to arbitrary interferences with liberty or security. Further, I have concluded that any limit to a person's freedom of movement is reasonable in all of the circumstances and demonstrably justified in accordance with section 7(2) of the charter.

For the search powers to be effective, PSOs must be able to place whatever restrictions on the liberty of individuals that are necessary in order to ensure that they receive cooperation for the duration of the search. The new powers to detain are strictly limited to what is reasonably necessary to conduct the search. In my view, therefore, those sections are not incompatible with the charter right not to be subjected to arbitrary detention, and otherwise amount to a reasonable and proportionate limit to freedom of movement. I note also that new section 10I(1A) contains notice requirements that ensure that any person who is detained is informed of the reason for the search in compliance with section 21(4) of the charter, namely the right of persons who are detained to be informed of the reason for the detention.

It is my opinion that the powers of detention, which are strictly confined to what is reasonably necessary to conduct a search, are compatible with section 21 of the charter. However, I accept that a person may reach a different view if it is considered that, to the extent that random search powers themselves are arbitrary (and therefore incompatible with section 13(a) of the charter), this results in any attendant deprivation of liberty also being arbitrary. If that were the case, then the relevant provisions would also be incompatible with section 21.

Property

The property right as protected by section 20 of the charter is also relevant to the powers to seize suspected weapons. That right protects against any deprivation of property other than in accordance with law. However, in my view, any deprivation of property will be in accordance with law and, accordingly, the right in section 20 is not limited. I note also that under the CW act, if a PSO who seizes and detains a suspected weapon, determines after examination of the item that it is not a weapon, the PSO must return the item to the person from whom it was seized, without delay.

Presumption of innocence

Section 25(1) of the charter provides that any person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. The right in section 25(1) of the charter is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding so that the accused is required to prove matters to establish, or raise evidence to suggest, that he or she is not guilty of an offence.

Section 10L of the CW act, which is amended by the bill now provides for an offence where a person 'without reasonable excuse' obstructs or hinders a PSO in the exercise of their search and seizure powers under sections 10AA, 10GA, 10H or 10J of the CW act. Provisions that create 'reasonable excuse' exceptions to offences may be viewed as engaging the right to be presumed innocent in section 25(1) of the charter by placing an evidential burden on the accused.

The reverse onus is required in relation to these offences, as the 'reasonable excuse' exception relates to matters which are peculiarly within an accused's knowledge and introduce additional facts from the subject matter of the offence, which would be unduly onerous for a prosecution to investigate and disprove at first instance. Further, I note that these defences are available for the benefit of an accused to escape liability where they have taken reasonable steps to ensure compliance, in respect of what could otherwise be an absolute or strict liability offence. Once the accused has pointed to evidence of a reasonable excuse, which they should have access to if the excuse is applicable, the burden shifts back to the prosecution who must prove the essential elements of the offence to a legal standard. I am of the view that there is a negligible risk that these provisions would allow an innocent person to be convicted of any of these offences. Accordingly, I am of the view that this offence provision does not limit the right in section 25(1) and is therefore compatible with the charter.

Expanding PSO powers — provisions that are compatible with charter rights

Mobile transit PSOs

The bill amends the Victoria Police Act 2013 and various other acts to enable transit PSOs to exercise their powers at or 'in the vicinity of' a designated place. These amendments do not give PSOs powers at large; rather, they seek to ensure that PSOs can use their designated place powers at and near a designated place. For example, it is intended that PSOs can use their designated place powers where a public safety incident occurs in sight of a PSO at a designated place but technically outside that place, or where an offender runs outside the designated place.

The bill's expansion of the scope of a PSO's powers to continue beyond a designated place, which supports the *Community Safety Statement*, whose aims include improving safety and holding offenders to account, does not, of itself, raise any human rights issues. PSOs will be able to use their existing powers outside the designated place to the limited extent as described. I am satisfied that the PSOs' existing powers are compatible with the human rights protected by the charter, because any limitations on human rights that may occur pursuant to the exercise of those powers are reasonable and justified having regard to the important purposes of preventing offences and protecting the public. To the extent that the bill provides PSOs with new or expanded powers, which may be exercised both at a designated place and in the vicinity of a designated place, the compatibility of those new powers with human rights is discussed in this statement.

Apprehending a child under an emergency care warrant

Division 1 of part 2 of the bill extends the protective apprehension powers of PSOs by inserting a new part 8.3A into the Children, Youth and Families Act 2005 ('CYF act') under which a PSO may apprehend a child in respect of whom the Children's Court has issued a search warrant under a number of specified provisions, for the purpose of having the child placed in emergency care. These emergency care warrants may be issued by the Children's Court where it has been determined that a child is in need of protection and either has failed to appear before the court or needs to be placed in a protective care environment. The Hyde review noted that where a warrant has been issued under the CYF act (for example, to search for and apprehend a child who is absent without lawful authority from interim accommodation), it could be expected that the child may be located using the public transport system and that PSOs may be in a position to assist with their apprehension.

The new power only arises where a PSO is on duty at a designated place and the child named in the search warrant is at or in the vicinity of the designated place. If a PSO arrests a child under this provision, the PSO must hand the child into the custody of a police officer as soon as practicable after the child is apprehended. The police officer will then process the child in accordance with existing legislative provisions.

Right to liberty and freedom of movement

The rights in section 21 (protecting the right to liberty and security of the person), and section 12 (freedom of movement) of the charter are relevant to the power of PSOs to apprehend and detain a child who is named in an emergency care search warrant under new part 8.3A of the CYF act. To the extent that the apprehension of a child by a PSO in accordance with a search warrant will result in that child's rights to liberty and freedom of movement being limited, in my opinion any such limits are reasonable and justified in order to achieve the purpose of ensuring the safety of the child.

In general terms, an emergency care search warrant will only be issued by a magistrate where it has been determined that the child is at risk or in need of protection within the meaning of the CYF act and other means of gaining access to the child or placing the child in emergency care would not be effective. As such, any limits to the human rights of children that occurs through the execution of the warrant will not be arbitrary. Further, the bill seeks to minimise the duration and extent of the limits on liberty and freedom of movement, and includes a number of procedural safeguards that will assist in ensuring that detention following arrest does not become arbitrary. PSOs' power of apprehension is appropriately limited with reference to the terms of the search warrant that has been issued and being confined by reference to the designated place. The bill only authorises apprehension and detention to the extent necessary to convey the child into the custody of a police officer, for the purpose of having the child placed in a protective care environment or being brought before a court.

Therefore, in the circumstances, limiting these rights is a proportionate means to achieving a legitimate public purpose. The powers of apprehension mirror powers that members of the police force currently have in order to

address the immediate risk to the child, in order to improve the efficacy of executing emergency care warrants and in order to keep vulnerable children and young people safe. However, unlike police officers, PSOs will not have the powers to break, enter and search premises to apprehend a child pursuant to these warrants.

Protection of families and best interests of children

The vulnerability and special status of children, and the special status of families, are recognised under several provisions of the charter. In particular, section 17(1) provides that families are the fundamental group unit of society and are entitled to be protected by society and the state. Section 17(2) of the charter provides that every child has the right, without discrimination, to such protection as is in their best interests and is needed by them by reason of being a child.

The CYF act establishes a scheme for the welfare of children found by the Children's Court to be 'in need of protection'. In this legislative context, the power of PSOs to apprehend a child in order to facilitate them being placed in emergency care is protective of the best interests of the child, and therefore promotes the right in section 17(2). Importantly, an emergency care warrant is issued by a magistrate following an assessment of why being placed in emergency care is in the child's best interests, having regard to the factors set out in the CYF act. Improving the effectiveness of the processes by which a child, who is the subject of a warrant, may be apprehended is also consistent with the aims of the community safety statement to reduce harm and keep vulnerable children and young people safe.

Although the placement of a child in emergency care may involve the removal of a child from the care of their family, any such removal is to prevent an immediate and unacceptable risk of harm to the child and this action will only be taken following a comprehensive assessment of the circumstances in accordance with the criteria in the CYF act. As such, to the extent that the power of a PSO to apprehend a child who is the subject of an emergency care search warrant limits the right to protection of families and children, I am satisfied that such a limit is demonstrably justified in accordance with section 7(2) of the charter.

Arrest powers in relation to breach or cancellation of parole

Division 3 of part 2 of the bill extends to PSOs the power under section 77B of the Corrections Act 1986 to arrest a prisoner whose parole has been cancelled or taken to be cancelled, where a warrant has been issued by either the adult parole board or a court. If a PSO arrests a person under this provision, the PSO must hand the person into the custody of a police officer as soon as practicable after the person is arrested. It will be the responsibility of police officers to return the prisoner to prison, in accordance with existing provisions of the Corrections Act.

Division 3 also extends to PSOs the power under section 78B of the Corrections Act to arrest, without a warrant, a prisoner released under a parole order, if the PSO suspects on reasonable grounds that the prisoner has committed an offence against section 78A (namely breaching a parole term or condition). Again, if a PSO arrests a person under this provision, the PSO must hand the person into the custody of a police officer as soon as practicable after the person is arrested. These powers of arrest for suspected breach or cancellation are existing powers held by the police force; however, unlike police officers, PSOs will not have the powers to break, enter and search premises in order to arrest a person whose parole has been cancelled. These powers are consistent with community safety statement aims of preventing and detecting crime, improving safety and holding offenders to account.

Rights to liberty and freedom of movement

Arresting and detaining a person who is on parole will amount to a prima facie interference with that person's freedom of movement and may be regarded as a deprivation of liberty. However, the sentence of imprisonment that the person is ultimately required to serve as a result of the cancellation of parole is one that is imposed by a court for the punishment of the offence and protection of the community. In circumstances where parole is cancelled, it is appropriate that the person be required to serve the full term of imprisonment in order to protect the community from further offending. As such, the cancellation, or possible cancellation of parole cannot properly be construed as depriving a person of their liberty.

Moreover, the bill includes a number of safeguards which restrict the use of these new powers of arrest by PSOs. The new power in section 77B may only be exercised where the person's parole has been cancelled and the adult parole board or a court has issued a warrant for their arrest. Although a PSO may arrest a prisoner under new section 78B without a warrant, they may only detain that prisoner in custody in certain situations. For example, only a PSO who is on duty at a designated place may arrest the prisoner and only if the prisoner is at the designated place. The requirement that PSOs can only detain any prisoner who they arrest until such time as they may be handed into the custody of a police officer, minimises the duration and extent of the limits on liberty and freedom of movement.

In my opinion, in this context, any apparent limits on the rights to liberty and freedom of movement of a person on parole in respect of whom a warrant has been issued, or who is reasonably suspected as having breached a condition of their parole, are not arbitrary and otherwise are justified in order to ensure the proper operation of the parole system and the protection of the community.

Requesting name and address of suspected offender or person with information about an indictable offence

Division 4 of part 2 of the bill amends the Crimes Act 1958 to extend to PSOs the power in section 456AA(2) of that act to request a person's name and address, where the PSO believes on reasonable grounds that the person has committed, or is about to commit, an offence, whether indictable or summary, or may be able to assist in the investigation of an indictable offence which has been committed, or is suspected of having been committed. When exercising the powers to require a person's name and address under the Crimes Act, the PSO must inform the person of the grounds of the belief, in sufficient detail to allow the person to understand the nature of the offence or suspected offence. A person commits an offence if they do not comply with the request for their name and address.

The power of a PSO to compel a person to provide their name and address in these specified circumstances may constitute an interference with the person's privacy as protected by section 13(a) of the charter. However, I am satisfied that any

interference with privacy would be neither unlawful nor arbitrary. In particular, these powers will serve an important purpose of enabling PSOs to obtain basic investigative information to give to investigating police officers. In addition, when an offence is committed at a designated place, PSOs are often the first officers at the scene and able to quickly identify persons who may be able to assist with an investigation. These powers will therefore complement the community safety statement aims of preventing and detecting crime, improving safety and holding offenders to account.

Searches without warrants for drugs of dependence

Division 5 of part 2 of the bill extends the search and seizure powers under section 82 of the Drugs, Poisons and Controlled Substances Act 1981 (DPCS act), empowering PSOs to search for drugs of dependence without a warrant. The bill inserts a new section 82A into the DPCS act to provide that a PSO on duty at a designated place may exercise all the powers of, and all the duties given to or imposed on, a police officer under section 82, with certain limited exceptions as specified in the bill.

Under section 82, as applied by new section 82A, where a PSO has reasonable grounds for suspecting that on or in a vehicle, on an animal, or in the possession of a person in a public place, there is a drug of dependence in respect of which an offence has been committed or is reasonably suspected to have been committed, the PSO may search the vehicle, animal or person. If, in the course of a search, the PSO on duty at a designated place seizes any instrument, device, substance, drug of dependence or psychoactive substance, the PSO must, as soon as practicable after the seizure, give the item to a police officer who must deal with the item according to law. These powers will complement PSOs' existing powers to search persons for volatile substances.

Privacy

The new search powers introduced by division 5 are relevant to a person's right to privacy, as the powers may involve an interference with a person's bodily integrity. It is arguable that, in the absence of a requirement to seek a warrant, these searches have the potential to arbitrarily intrude into the private sphere of any person at a designated place. In my view, the power to search a person for a drug of dependence in respect of which an offence has been committed or is reasonably suspected to have been committed will not constitute an arbitrary or unlawful interference with privacy. The limited circumstances in which a search may be conducted are clearly set out in the relevant provisions and are appropriately circumscribed. For the powers to be lawfully exercised, the relevant officer must possess the requisite belief or suspicion that the drug of dependence is present, and that there has been an offence committed in respect of that drug. I am satisfied that any interference with a person's privacy that occurs will therefore be permitted by law.

Further, the search powers are not arbitrary as they are reasonable and proportionate to the law's legitimate purposes of improving safety, deterring criminal and harmful behaviour and holding offenders to account, and in this way they implement some of the aims of the community safety statement. It is my view that the nature and scope of the search powers conferred on PSOs are proportionate to the purpose of the new provisions. I do not consider there to be any less restrictive means reasonably available to ensure community safety is improved, drug-related harm is prevented, and crime is detected and prevented.

Liberty and freedom of movement

The rights to liberty and security in section 21 of the charter and the right to freedom of movement in section 12 are relevant to the powers to search for drugs of dependence without a warrant to the extent that the exercise of those powers results in a person been restrained or detained while they are searched. In my opinion, for the reasons discussed above in relation to the privacy right, I am satisfied that the search powers do not amount to arbitrary interferences with liberty or security, nor do they impermissibly limit the right to freedom of movement. Further, I have concluded that any limit to a person's freedom of movement is reasonable in all of the circumstances and demonstrably justified in accordance with section 7(2) of the charter.

Property

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with the law. In my opinion, any deprivation of property that results from the seizure and forfeiture of items under the DPCS act will be in accordance with the law and, accordingly, the right in section 20 is not limited. To safeguard the chain of custody, the bill requires that PSOs who locate drugs of dependence or a related item are required to give the item to a police officer as soon as practicable. As is the case for police officers, PSOs will continue to be required to comply with the property management standards contained in the VPM. Failure to comply with these standards can lead to management and disciplinary action.

Other amendments

Banning the use of cash to pay for scrap metal

Part 3 of the bill amends the Second-Hand Dealers and Pawnbrokers Act 1989 (the SHD act) to implement the community safety statement's commitment to ban cash for scrap metal in order to ensure that tracing information will be available for transactions relating to scrap metal. Victoria Police has identified the lawful scrap metal industry as being highly susceptible to infiltration by organised crime, which was also reflected in the Victorian Law Reform Commission's report on regulatory regimes and organised crime. Cash-based transactions for scrap metal can conceal unlawful dealings and incentivise motor vehicle theft. These reforms to ban cash for scrap metal will reduce the risk of offending.

Currently, under the SHD act, any person or company who carries on the business of buying, selling, exchanging or otherwise dealing in second-hand goods meets the definition of 'second-hand dealer', unless an exemption applies. The SHD act contains various enforcement powers in relation to second-hand dealers. The amendments contained in the bill will take effect in conjunction with the amendment of the Second-Hand Dealers and Pawnbrokers (Exemption) Regulations 2008. The existing exemption that applies to persons or businesses who deal with metals, will be amended so that anyone carrying on the business of dealing in scrap metal will be a second-hand dealer for the purposes of the SHD act, whether or not they are registered under that act.

In addition to banning cash payments for scrap metal, the bill prohibits trade in unidentified motor vehicles by creating an offence for second-hand dealers to buy scrap metal that consists

of a motor vehicle if the vehicle identifier has been removed, obliterated, defaced or altered; and an offence for second-hand dealers to possess, sell or otherwise dispose of scrap metal of this nature, unless authorised to do so by a police officer in writing. To ensure the new provisions act as a strong deterrent to those who commit motor vehicle theft and who seek to conceal unlawful dealings through the scrap metal industry, the new offences for paying or accepting cash for scrap, or trading in unidentified motor vehicles carry a substantial penalty of 200 penalty units. To avoid retrospectivity, these offences will only apply where a second-hand dealer comes into possession of the motor vehicle after the commencement date of the new offences. The bill also imposes a new requirement on second-hand dealers who receive or dispose of scrap metal to keep accurate and complete records of every transaction of this nature. Record-keeping requirements will be further prescribed by regulation.

Clause 24 of the bill amends the general police powers contained in section 25 of the SHDP act to provide police with an express power to enter, without a warrant, a business or storage premises occupied by or under the control of a second-hand dealer and to inspect the premises or any goods at the premises, where the business of dealing in scrap metal is, or is reasonably believed to be, being carried on at the premises. This new power will permit police to enter and search business premises or storage premises at any time when it is apparent that business is being carried on there, not just when the premises are open (as is the case under the current provisions).

Clause 25 of the bill introduces a new division 4 of part 5 into the SHD act, which provides for search warrants to be issued in respect of any premises (whether or not they are premises occupied by or under the control of a second-hand dealer) for the purposes of monitoring compliance with the SHD act in relation to second-hand dealers. If the magistrate is satisfied by evidence on oath, or by affidavit, that the warrant is necessary for the purposes of monitoring compliance, the magistrate may issue a warrant. The warrant authorises the police officer to enter the premises, and to search for, seize, secure against interference, examine and inspect, make copies or take extracts from things named in the warrant that are believed on reasonable grounds to be connected with a contravention of the SHD act or the regulations, in relation to second-hand dealers.

In addition to stipulating the requirements for search warrants and their execution, the bill also provides for the seizure of things not mentioned in the warrant in certain limited circumstances, and provides for the police officer to issue an embargo notice to prevent a thing that cannot readily be physically seized and removed being sold, leased, moved without consent, transferred or otherwise dealt with. Despite anything in any other act, a sale, lease, transfer or other dealing with a thing in contravention of an embargo notice will be void.

Privacy and property

The restrictions contained in the bill relating to scrap metal may interfere with the property rights of second-hand dealers in that they restrict the manner in which they can deal with scrap metal that is in their possession. However, I am satisfied that the right in section 20 of the charter is not limited, because any deprivation of property that occurs under the bill will be in accordance with law. Further, the provisions also aim to reduce financial incentives for car theft, and in this way are protective of property rights.

The ability for police to enter premises occupied by, or under the control of, second-hand dealers without a warrant, or to enter any premises with a warrant, and to search those premises, will also potentially interfere with privacy, as protected by section 13(a) of the charter. To the extent that the privacy right is engaged, I am satisfied that any interference would be lawful and not arbitrary. In addition, I consider that any detention or seizure of items in reliance on a search warrant issued in accordance with these provisions, would constitute a lawful deprivation of property and therefore would not limit the right in section 20 of the charter.

Having regard to the purposes for which these reforms are being introduced, it is necessary for police to have strong and effective powers to identify where scrap metal may be being dealt with in contravention of the SHD act and to seize and preserve scrap metal and other things that may be evidence of offences. Further, the powers to enter, search and seize under the bill are suitably circumscribed and accompanied by appropriate safeguards. For example, in order for police to enter a premises without a warrant under new section 25(1A), police must know or reasonably believe that a business of dealing in scrap metal is being carried on at the premises. Unless there is a warrant, police may only inspect the premises and goods and may not seize any items. New section 25(1A) intentionally permits entry without a warrant at any time the scrap metal business is being carried on, rather than just when the second-hand dealer's premises are open. However, as is the case with police officers' current powers under section 25, this power only permits entry to business or storage premises, and not any part of premises used for residential purposes only. The power may only be executed in respect of premises occupied by or under the control of a second-hand dealer as defined in the act. While it would be less restrictive on business operators' privacy to only permit entry during hours of business operation, the aim of this regulatory scheme is to prevent and disrupt criminal conduct occurring in the scrap metal businesses. This new power to enter at any time is necessary to prevent businesses dealing with scrap metal from being able to evade compliance inspections by police and will enable effective enforcement action to be taken to clean up the industry.

Where a magistrate is satisfied on the evidence that a warrant is necessary for the purpose of monitoring compliance, and police enter a premises in execution of a warrant issued under new division 5, the bill requires police to announce their authorisation before entering and provide an opportunity for allowing them entry to the premises and to provide details of the warrant to the occupier of the premises. The bill clearly sets out the limited circumstances — linked with enforcing compliance with the legislative scheme — in which things not named in the warrant may be seized, and prescribes specific requirements for how police must deal with seized documents and things, which are subject to the supervision of the Magistrates Court.

For these reasons, I am of the opinion that these new enforcement provisions relating to the scrap metal industry are compatible with the rights in sections 13(a) and 20 of the charter.

Presumption of innocence

As discussed above, the right in s 25(1) of the charter, which protects a person's right to be presumed innocent until proved guilty, is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding.

Under new subsection 26ZK(2), introduced by clause 25 of the bill, it is an offence for a person who knows that an embargo notice relates to a thing, to sell, lease, move (without the written consent of the police officer who issued the embargo notice), transfer or otherwise deal with the thing. New subsection 26ZK(3) provides that it is a defence to a prosecution for this offence to prove that the accused moved the thing or the part of the thing for the purpose of protecting and preserving it. The right in section 25(1) of the charter is relevant new section 26ZK(3), because it places the legal onus of proof on a defendant with respect to available defences.

The right to be presumed innocent is an important right that has long been recognised under the common law. However, the courts have held that it may be subject to limits, particularly where, as here, a defence is enacted to enable a defendant to escape liability. In these circumstances, the purpose for which an accused moved a thing that was subject to an embargo notice is a matter that is peculiarly within the defendant's knowledge. The imposition of a burden of proof on the accused is directly related to the purpose of enabling the relevant offence to operate as an effective deterrent, while also providing a suitable defence in circumstances where the contravention was not deliberate. Further, the limit on the right to be presumed innocent is imposed only in respect of the defence. The prosecution will still first have to establish the elements of the offence, including that the accused knew that an embargo notice was in operation. Although an evidential onus would be less restrictive than a legal onus, it would not be as effective because it could be too easily discharged. The inclusion of a defence with a burden on the accused to prove the matters on the balance of probabilities achieves an appropriate balance of all interests involved. Accordingly, in my view, the limitation imposed on the right to be presumed innocent by section 26ZK(3) is reasonable and justifiable in accordance with section 7(2) of the charter.

The right in section 25(1) is also relevant to new section 26ZP, introduced by clause 25 of the bill. That provision provides that it is an offence for a person to refuse or fail, without reasonable excuse, to comply with a requirement of a police officer under this division. By creating a 'reasonable excuse' exception, this offence may be viewed as placing an evidential burden on the accused, in that it requires the accused to raise evidence as to a reasonable excuse or belief. However, in so doing, this offence does not transfer the legal burden of proof. Once the accused has pointed to evidence of a reasonable excuse or belief, which will ordinarily be peculiarly within their knowledge, the burden shifts back to the prosecution. For these reasons and those set out above, these provisions do not limit the right to be presumed innocent.

Self-incrimination

Section 25(1)(k) of the charter provides that a person charged with a criminal offence is entitled not to be compelled to testify against himself or herself or to confess guilt.

This right is relevant to the provisions introduced by the bill that require the occupier of a premises at which a search warrant is being executed to cooperate with police. New section 26ZP provides that a police officer may, to the extent that it is reasonably necessary to determine compliance, require the occupier, or an agent or employee of the occupier, to give information to the police officer, orally or in writing, to produce documents, and to give reasonable assistance to the police officer. Under new section 26ZP it is an offence to refuse or fail, without reasonable excuse, to comply with a requirement of a police officer. Under new section 26ZR, it is an offence to give false or misleading information. New section 26ZQ(1) provides that a person is not excused from answering a question or producing a document on the ground that the answer or document might tend to incriminate the person.

New section 26ZQ(1) abrogates the privilege against self-incrimination, and in doing so constitutes a limit to the charter's protection against self-incrimination. However, it is replaced by a direct use immunity in subsection 26ZQ(2) which provides that if the person claims, before answering a question, that the answer might tend to incriminate the person, the answer is not admissible in evidence in any criminal proceeding other than in any proceeding in respect of the falsity of the answer.

While section 267Q(2) prevents a person's answer from being admissible in a criminal proceeding, because there is no 'derivative use' immunity, their answer may also be used to uncover further evidence that incriminates the maker of the statement, and which may be used in later criminal or civil penalty proceedings.

Although new section 267Q(2) limits the right against self-incrimination by not providing a derivative use immunity, the statutory purpose underlying the limit to the right is to enable police to effectively perform their law enforcement and compliance functions in relation to the new ban on cash for scrap metal, having regard to the difficulties faced when an occupier of premises at which there may be evidence of contraventions refuses to answer. It also ensures that any evidence that is relevant to contravention of the scheme can be acted upon in an investigatory sense, whilst the direct use immunity still protects the person who is required to provide the incriminatory information. Further, the absence of a derivative use immunity engages the rationale for the privilege against self-incrimination to a lesser extent than the direct use of evidence because of the fact that the derivative evidence exists independently of the will of the accused.

I acknowledge that there is no accompanying 'use immunity' that restricts the use of the produced documents. The privilege against self-incrimination generally covers the compulsion of documents or things which might incriminate a person. However, at common law, the High Court of Australia has recognised that application of the privilege to pre-existing documents is considerably weaker than that accorded to oral testimony or to documents that are required to be brought into existence to comply with a request for information. I also note that some jurisdictions have regarded an order to hand over existing documents as not engaging the privilege against self-incrimination. The primary purpose of the abrogation of the privilege in relation to documents is to facilitate compliance with the legislative regime by assisting police to access information and evidence that is difficult or impossible to ascertain by alternative evidentiary means. Taking into account the protective purpose of the amendments, there is significant public interest in ensuring that the environments that are regulated by these provisions are operating in compliance with the SHDP act. I am satisfied that any

limitation on the right in section 25(2)(k) that is occasioned by the limited abrogation of the privilege in respect of produced documents is directly related to its purpose. The documents required to be produced are those that are connected with an alleged contravention of the act. This is because the powers to require production of documents under these provisions are only exercisable where there is a basis on which entry and search of a premises where a magistrate has issued a search warrant on the grounds outlined above. Importantly, the requirement to produce a document does not extend to having to explain or account for the information contained in that document. If such an explanation would tend to incriminate, the privilege would still be available.

For these reasons, I am of the opinion that these limits on the right in section 25(2)(k) of the charter are justified in accordance with section 7(2) of the charter.

Mental Health Review recommendation

Victoria Police's mental health review (published in May 2016) made 39 recommendations to improve mental health, wellbeing and suicide prevention outcomes in the organisation. Clause 60 of the bill implements recommendation 14 of that review, by amending the Victoria Police Act 2013 (VP act) to provide for a police officer or a PSO to be examined by a registered psychologist nominated by the Chief Commissioner of Police, for the purposes of conducting psychological fitness for duty assessments. These assessments are part of the ill-health retirement process in section 67 of the VP act. That provision enables the chief commissioner to inquire into the physical or mental fitness and capacity of an officer to perform his or her duties. Currently, fitness for duty assessments are carried out by Victoria Police's medical advisory unit which is separate from Victoria Police's psychology services. These changes also implement the government's commitment in the community safety statement to ensure police officers are safe and healthy, both at work and at home.

Medical treatment without consent and privacy

Section 10(c) of the charter provides, relevantly, that a person has the right not to be subjected to medical experimentation or treatment without their full, free and informed consent. In addition, section 13(a) of the charter protects a person's right not to have their privacy unlawfully or arbitrarily interfered with. In addition to protecting a person's private information, the right in section 13(a) extends to protecting an individual's personal autonomy and integrity.

The amendment to section 67 of the VP act contained in the bill only extends the existing power of the chief commissioner to require an officer to be assessed by a registered psychologist (in addition to the existing powers relating to a police medical officer or a registered medical practitioner). In my opinion, being required to undergo a psychological assessment as provided in the bill would not involve 'medical treatment' for the purposes of the charter, as the nature of the assessment or examination is unlikely to involve any procedures which could constitute medical treatment. The Supreme Court of Victoria has held that 'medical treatment' under section 10 of the charter means medical treatment as defined by section 3 of the Medical Treatment Act 1988; that is an operation, the administration of a drug or other like substance, or any other medical procedure with the exception of palliative care. Accordingly, the protection against medical treatment without consent in section 10(c) of the charter is not, in my view, relevant to this amendment. Even if being required to undergo a psychological assessment was considered to be medical treatment, I consider that any limit to this right that occurred would be demonstrably justified. Police officers and PSOs are charged with protecting the community and are given a broad range of powers to do so. The exercise of these police powers can significantly limit the rights of citizens, including the rights to life, liberty and security. It is essential to the protection and promotion of those rights that the chief commissioner has sufficient powers to effectively investigate whether an officer is affected by a health issue that may affect their ability to carry out their duties, and to investigate and manage the performance of officers.

Under section 67 of the VP act, the person conducting the examination or assessment may be required to give a report of the examination to the police officer or PSO and the chief commissioner. This provision enables interferences with the privacy of officers; however, I am of the view that such interferences will be for the reasonable purpose of assessing fitness for duty. Further, any requirement to attend for an examination or assessment will be subject to the terms of relevant industrial instruments which confine the circumstances in which an officer must attend an examination to those where there is legitimate reason to question capacity. In my view, clause 67, as amended by the bill does not constitute either an unlawful or an arbitrary interference with privacy.

Transitional holding of children in police gaols

Clause 59 of the bill inserts a new section 347A into the CYF act to provide express authority to temporarily hold or detain a child in a police gaol, for the purposes of facilitating the transportation of a child between a youth justice facility and a court.

The Children's Court, which hears cases involving children who are on remand or in detention under the CYF act, sits at various metropolitan locations. Not every court premises has holding rooms on site. As such, children and young people are sometimes transitionally held in a police gaol either before or after the court appearance. These technical amendments are being made to ensure that this practice of temporarily holding children, which is necessary to ensure the efficient administration of the youth justice system, is appropriately provided for and regulated. I confirm that this temporary power to hold children in police gaols in order to facilitate transport to and from a court or an inquest is intended to be used in limited situations where a child is required to appear in a court and cannot be otherwise accommodated in a holding cell. It does not permit the ongoing accommodation in police gaols of children who have been remanded or sentenced to reside at a youth justice facility. The amendment is unrelated to the temporary holding of children in a police gaol that occurred following the damage that occurred at the Parkville youth justice centre in 2016.

The power to hold or detain children in police gaols raises the following charter rights: the right of a child to such protection as in his or her best interests (section 17(2)); the rights of children in the criminal process (section 23) and the rights to humane treatment when deprived of liberty, including the right of a person on remand to be segregated from convicted persons except where reasonably necessary (section 22). In my view, to the extent that these human rights are limited by this context, any such limit would be justified.

If a child has been remanded or sentenced to a youth justice facility and they are subsequently required to be brought before a court, it is essential for police who are tasked with facilitating the transportation of the child to be able to safely and securely hold or detain the child either before or after their court appearance. In light of the practical difficulties at certain court locations that do not have holding cells, temporarily accommodating children in police gaols is the least restrictive means to achieve this purpose.

The transitional holding power contained in the bill is accompanied by a number of safeguards to protect a child's human rights and to minimise the duration and extent of any necessary limits to those rights. For example, under new section 347A, if a child is held or detained in a police gaol, the period of holding the child must be no longer than two working days, the child must be kept separate from any adults also detained at the gaol, and is entitled to be kept separate according to the child's gender. For these reasons, I am satisfied that new section 347A which is inserted into the CYF act by the bill is compatible with the human rights as protected by the charter.

Police custody officer supervisors

Division 1 of part 4 of the bill creates a new category of police custody officer (PCO) known as a PCO supervisor. These provisions amend the Victoria Police Act 2013 to establish the role of a PCO supervisor and amends the Corrections Act 1986 to authorise PCO supervisors to perform certain duties. The bill also makes minor amendments to clarify the scope of PCO duties. PCOs are currently responsible for managing persons detained in police gaols (detained persons), including during their transport to court. The new PCO supervisors will manage a team of PCOs and perform supervisory and oversight duties at or in connection with police gaols. The bill provides for the Chief Commissioner of Police to authorise a Victoria Police employee to act as a PCO supervisor.

The bill extends to PCO supervisors a number of existing statutory powers which relate to custody management, including powers relating to the management of visitors in police gaols, the restraining of detained persons, searches in police gaols, and the direction of transportation and supervision of persons. These powers are currently exercisable by officers in charge of police gaols (officers in charge). A PCO supervisor also has all of the functions, duties and powers of a PCO under various acts as specified in the bill.

The bill does not introduce any new PCO powers and in this sense does not engage any charter rights. However, to the extent that the existing powers that are now extended to PCO supervisors engage rights, in my view they are compatible with the charter. The human rights issues associated with these powers were considered in detail in the statement of compatibility accompanying the Justice Legislation Amendment (Police Custody Officers) Act 2015, which inserted these powers into the Corrections Act or extended them to PCOs. That statement of compatibility concluded that these powers were compatible with the human rights protected by the charter. Furthermore, the bill creates an additional safeguard for the exercise by PCO supervisors of the powers of an officer in charge. The officer in charge may overturn a decision or order of a PCO supervisor in the exercise of such a power and decide the matter themselves. As a consequence, and in light of the safeguards provided by the bill, the Corrections Act and the Victoria Police Act, it is my view that the bill's establishment of the role of a PCO supervisor and the other clarifying provisions in relation to PCOs are compatible with human rights.

Conclusion

In my opinion, the majority of this bill is compatible with the charter because, to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society. However, I have concluded that the bill is incompatible with the charter to the extent that it limits rights under sections 13(a) and 17(2) in providing powers for PSOs to randomly search persons (including children) and vehicles in public places within designated areas, even if the PSOs have not formed a reasonable suspicion that the person or vehicle is carrying a weapon. The government intends to proceed with the legislation in its current form as there is considerable concern about community safety in relation to patterns of weapons-related offending, with which these amendments are concerned.

The Hon. Gayle Tierney, MP
Minister for Corrections

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms PULFORD (Minister for Agriculture).

Ms PULFORD (Minister for Agriculture) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Victorian government is committed to preventing crime and ensuring Victorians feel safe in their homes and on the streets. The first ever community safety statement, which was jointly developed by the government and Victoria Police, is our strategy for how we will make our state safer.

The community safety statement acknowledges the need for visible presence of police and protective services officers (PSOs) in the community — and notably on public transport — to improve feelings of safety and to prevent and detect crime. Highly trained PSOs deter crime and antisocial behaviour and help people feel safe and confident to use the train network. These transit PSOs have freed up more than 47 000 shifts for police officers, allowing police to spend more time on the street and doing specialised work.

The bill supports implementation of a number of community safety statement initiatives to further reduce harm in our community by deploying mobile PSOs across the public transport network and providing them with the flexibility they need to respond to incidents, banning cash for scrap metal to reduce the trade in stolen vehicles, and implementing Victoria Police's mental health review.

Mobile PSOs were announced in the community safety statement. They will tackle hotspots across the public transport network, based on Victoria Police's intelligence about the time, location and types of crime and antisocial behaviour occurring on public transport. The bill will make

transit PSOs' powers consistent across the statute book, giving PSOs an appropriately limited measure of flexibility to respond to persons or incidents where they are on duty.

The bill will amend a number of acts that contain existing powers in order to enable PSOs to exercise these powers both at a designated place as well as in the vicinity of a designated place. This will provide PSOs with the flexibility they need to respond to persons or incidents both at the designated place (such as a train station) and in the surrounding area. For example, it would allow limited pursuit of a fleeing offender by a PSO or allow a PSO to attend to a crime taking place across the road from a train station. These amendments will enable this common-sense response which the public expects.

The community safety statement highlights the need to expand PSOs' functions to optimise safety outcomes and return sworn police to the front line. The bill will give PSOs several additional police powers to give them a more active community safety role where they are stationed.

Specifically, the bill will expand the circumstances in which transit PSOs may: request a person's name and address, issue an infringement notice, apprehend a person and search a person or thing. These powers are similar to powers that PSOs already have in other contexts. The following acts will be amended to provide transit PSOs with these new powers:

the Children, Youth and Families Act 2005 (CYFA);

the Corrections Act 1986;

the Crimes Act 1958;

the Drugs, Poisons and Controlled Substances Act 1981;

the Liquor Control Reform Act 1987; and

the Control of Weapons Act 1990.

All PSOs will continue to be trained for 12 weeks prior to commencing their role. This includes the same training that police officers receive on using tactical equipment (such as firearms and batons), and how to deal with vulnerable persons. In the same way as police, PSOs are required to requalify in the use of tactical equipment every six months. Following graduation, PSOs continue to receive supervision from police officers for three months while 'on the job'.

Transit PSOs will receive the same training as police officers in respect of the new powers and will be subject to the same complaint investigation and discipline processes as apply to police officers.

The bill implements the community safety statement commitment to ban the use of cash to pay for scrap metal. Victoria Police and the Victorian Law Reform Commission have both identified the lawful scrap metal and vehicle recycling industries as being highly susceptible to infiltration by organised crime. Cash-based transactions for scrap metal can be used to conceal unlawful dealings, incentivise motor vehicle theft and provide a breeding ground for organised crime. By prohibiting cash payments, prohibiting trade in unidentified motor vehicles (including where a compliance plate has been removed and replaced with another), and requiring records to be kept of all transactions involving scrap metal, the bill will ensure that traceable information on every transaction is available.

The bill takes a deliberate law enforcement approach, strengthening police search powers in respect of second-hand dealers by allowing entry without warrant onto business and storage premises of a second-hand dealer when a business of dealing in scrap metal is being carried on or is reasonably believed to be carried on. This includes when business is being conducted after hours. Police will also be able to enter parts of residential premises that comprise business premises or storage premises. The bill also gives police the power to apply for a warrant to search particular premises to monitor compliance with law.

These measures, developed in consultation with Victoria Police and informed by criminal intelligence, equip Victoria Police with the tools to disrupt the trade in stolen motor vehicles and deter organised crime infiltrating the scrap metal and vehicle recycling industries.

The government will continue to work with Victoria Police and industry stakeholders to examine and develop regulatory options to further enhance the measures in this bill, prevent criminal activity in the scrap metal and vehicle recycling industries and to support legitimate businesses and protect consumers. Building on the work currently being conducted through the Organised Crime Infiltration Project, the government will embark on sector-wide consultation and develop these options in the second half of 2017.

A key priority in the community safety statement is to improve Victoria Police's capability, culture, and technology. Police must be able to keep the community safe without jeopardising their own safety. A recent independent review into the mental health and wellbeing of Victoria Police employees found that police officers experience higher levels of recurrent exposure to potentially traumatic events compared to any other industry. Over time, these traumatic events can increase the risk of police officers experiencing mental illness such as anxiety, depression and post-traumatic stress disorder. The Chief Commissioner of Police has committed to implementing all recommendations of the mental health review, and is prioritising raising awareness of mental health issues in Victoria Police, and increasing prevention and early identification.

The government has said it will stand with Victoria Police in its efforts to improve the health and wellbeing of police staff. This bill will support implementation of the mental health review recommendation that psychologists with relevant specialist training should be permitted to conduct psychological fitness for duty assessments. This reflects contemporary mental health practice, is expected to lead to more accurate assessments, and will support the community safety statement aim of ensuring that Victoria Police has the right capability to keep Victorians safe and secure over time.

The bill will make a minor and technical amendment to the Children, Youth and Families Act 2005 to put beyond doubt Victoria Police's ability to incidentally hold young people in police gaols to facilitate their transfer to and from courts and youth justice facilities. Not every court premises has holding rooms on site, so in some situations, a police gaol may be the only place available to hold young people before or after their court appearance. The maximum time for transitionally holding these young people in a police gaol will be two working days. However, it is the intention that young people will be held in police gaols for the shortest time possible and that their transfer to either a court or youth justice facility occur at the earliest opportunity. Importantly, they must be kept separately from

adults and will be afforded the same protections as young people temporarily remanded in custody in a police gaol in other circumstances under the CYFA. This is a minor and technical reform which is unrelated to the temporary holding of children in the Mill Park police station gaol following last year's events at Parkville youth justice centre.

The bill will facilitate the government's election commitment to recruit, train and employ 400 police custody officers (PCOs) by the end of 2017 by creating the new police custody officer supervisor position. PCO supervisors will lead a team of PCOs and will be authorised to perform some of the responsibilities currently assigned to the officer in charge of a police gaol, who is a sworn officer. These responsibilities include managing visitors to police gaols and those detained within police gaols, authorising searches of persons within a police gaol and the use of restraints, and directing PCOs who transport and supervise persons from a police gaol to other destinations. The chief commissioner will ensure that PCO supervisors will be selected from suitably qualified candidates and required to undertake appropriate training to acquit their responsibilities.

The bill also clarifies the scope of the current duties of PCOs so that they more accurately reflect their existing role and function. In addition to their work at police gaols, PCOs play a vital role in supporting the work of sworn and unsworn officers at police stations. For example, PCOs maintain attendance registers at the police gaol and complete correspondence and reports. The administrative work of PCOs within the custody area is separate yet complementary to the efforts of current and hardworking VPS staff who are fundamental to the efficient functioning of police stations in Victoria. The administrative functions of VPS staff already working in police stations will continue.

In addition to supporting the progressive release of police officers to frontline duties in line with the community safety statement, the new dedicated PCO supervisor position will promote best practice within the custody environment, create a clear career pathway for PCOs and will help Victoria Police to retain skilled staff.

Debate adjourned on motion of Mr RICH-PHILLIPS (South Eastern Metropolitan).

Debate adjourned until Friday, 30 June.

LAND LEGISLATION AMENDMENT BILL 2017

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms PULFORD (Minister for Agriculture); by leave, ordered to be read second time forthwith.

Statement of compatibility

Ms PULFORD (Minister for Agriculture) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the charter), I make this statement of compatibility with respect to the Land Legislation Amendment Bill 2017 (the bill).

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

Overview of the bill

The bill will make small, but important, changes to the Transfer of Land Act 1958, the Subdivision Act 1988 and the Valuation of Land Act 1960 to improve the operation of these acts.

A primary purpose of the bill is to accelerate the general law land conversion process to ensure that all freehold land in Victoria can be dealt with under the Transfer of Land Act 1958. It is intended that the registrar identify freehold owners of general law land in Victoria and create a provisional folio of the land in the freehold owner's name.

The bill will amend the Transfer of Land Act 1958 to clarify the powers of the registrar to act when a notice sent by the registrar to a landowner or customer is returned or not delivered. The bill will amend the Valuation of Land Act 1960 to provide valuation data in the same manner that property sales data is currently provided.

Charter rights that are relevant to the bill

Section 13 — privacy

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

The registrar holds records of general law land. This includes the name and address of the last owner registered against the land. As registration of a general law land transactions is not mandatory the details held by the registrar may not accurately reflect the details of the current owner. The bill introduces a mechanism for the registrar to verify the identity of the current owner and bring the land under the Transfer of Land Act 1958. In order to create a provisional folio of the register of land (the register), the bill permits limited information sharing. Information retained by the registrar/registrar-general will be checked against personal information held by municipal councils, statutory authorities or other persons to confirm the identity of the freehold owner of the general law land. The registrar will then create a provisional folio of the register in the owner's name.

The bill inserts a new section 26X of the Transfer of Land Act 1958. New section 26X(1) permits the registrar to make enquiries with municipal councils, statutory authorities or other persons (including financial institutions) for personal information that identifies who is the ratepayer or mortgagor of the land. Proposed section 26X(2) permits a municipal council, statutory authority or mortgagee to disclose personal information that identifies who is the ratepayer or mortgagor of the land to the registrar, i.e. names and addresses.

This personal information collected and held by a municipal council, statutory authority or mortgagee will be matched with information retained by the registrar/registrar-general that is already publicly available. The use of the personal information provided in this way will only extend to verification of the accuracy of the identified freehold owner in information retained by the registrar/registrar-general.

The amendments introduced by the bill only permit a municipal council, statutory authority or mortgagee to make disclosure of this information in specified limited circumstances. Proposed section 26X(2) states information must only be disclosed 'for the purpose of bringing land under this act'. This limits the disclosure of personal information to a specific purpose. The type of personal information that may be disclosed is also limited under proposed section 26X(2). Only personal information 'that identifies who is a ratepayer or mortgagor of the land' can be disclosed. The permitted disclosure serves a legitimate and necessary purpose. This purpose is not arbitrary and is authorised by law.

In addition, the personal information to be provided to the registrar is of a nature where complete privacy would not generally be expected by those persons whose personal information is relevant. That is, such personal information is routinely provided to the registrar for any person with an interest in land.

Further, existing section 114 of the Transfer of Land Act 1958 will apply to the information. It provides that any person may access the information and documents registered or recorded on the register. This means that once a provisional folio is created, any new information collected under these new provisions in the bill can be publicly searchable.

The process of identification and creation of provisional folios of the register is intended to benefit freehold owners of general law land. Sections 14 and 15 of the Transfer of Land Act 1958 provide mechanisms for a freehold owner to convert general law land to land under the Transfer of Land Act 1958. The process enabled by this bill will accelerate that process and alleviate costs and burdens to freehold owners of general law land in bringing their land under the Transfer of Land Act 1958.

Personal information sought by the registrar and provided by a municipal council, statutory authority or mortgagee is the required information for making a conversion application. The bill does not enable the disclosure of any further personal information under proposed section 26X(2).

The proposed amendments do not limit or interfere with the rights to privacy contained in section 13 of the charter.

The valuer-general collects statewide valuation information and retains a record of the data under the Valuation of Land Act 1960. The bill proposes to provide statewide valuation information to the public in line with government policy to make data as widely available as possible.

The bill inserts into section 2(1) of the Valuation of Land Act 1960 a definition of 'releasable information'. The definition limits the data disseminated to the wider community from the valuer-general to de-identified data. Valuation information will only be searchable by land description (e.g. address). Searches based on an individual person will not be permitted under the proposed changes. Information on tenancy rents will not be available to the public. The value of a house or property does not constitute personal information under the Information Privacy Act 2000 as it does not relate to the identity of an individual, but rather, relates to a property.

The bill amends section 7E of the Valuation of Land Act 1960 to provide for access to releasable information upon payment of a fee and in accordance with ministerial policy. The change will make valuation information available in the same way as property sales information is provided under section 5(2) of the Valuation of Land Act 1960.

The proposed change will not make any personal information available by public search, only de-identified valuation information provided in the same manner as de-identified property sales information is currently provided.

Public searching of property valuation information will not affect personal privacy or a person's right to reputation. Public searching of valuations is currently available in other Australian jurisdictions. The amendments to sections 2(1) and 7E of the Valuation of Land Act 1960 do not limit or restrict the scope of the rights under section 13 of the charter.

Section 20 — property

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with the law.

While general law land will be converted without the request of the landowner, the landowner will be informed and will not lose any of their rights in the land. Converting the land from a general law to land under the Transfer of Land Act 1958 will enhance the landowner's title. Converted titles will be covered by the government guarantee of title, providing added certainty for landowners.

The registrar's conversion of general law land to land under the Transfer of Land Act 1958 will not limit a property owner's right to property. The effect of proposed sections 26X and 26Y will only be to change the land from freehold general law land to freehold land under the Transfer of Land Act 1958 i.e. Torrens title land.

The proposed amendments remove the option for a general law landowner identified by the new procedure to hold land under the general law. However, the benefits to the landowner of bringing land under the Transfer of Land Act 1958 will eclipse any concerns about a landowner no longer having this choice. The benefits to the landowner in gaining Torrens title to land and to the registrar in greater efficiencies in maintaining the register, together with the ability to transact electronically in land transactions, are legitimate objectives for the proposed change.

Proposed section 26Y will convert a provisional folio of land to an ordinary folio after 15 years. Any person with a competing interest in the land will be required under the proposed changes to make a claim to the land before the 15-year period lapses, or lose any rights in the land. This 15-year window for a person with a competing interest to make a claim is a reasonable limit to any potential property right. This is a sufficient and non-arbitrary period after which no further claims may be made. The conversion of a provisional folio at 15 years is necessary for the purpose of completing the bringing of general law land under the Transfer of Land Act 1958.

The proposed sections 26X and 26Y do not limit the right to property contained in section 20 of the charter. The bill does not limit the rights of landowners or any other person with

competing interests because the proposed changes are in accordance with law and serve legitimate objectives.

Section 24 — fair hearing

Section 24 of the charter provides that a person who is party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The courts have determined procedural fairness to be co-extensive with the right to a fair hearing.

The bill will amend section 113(7) the Transfer of Land Act 1958 in relation to the powers of the registrar when a notice sent by the registrar to a landowner or customer is returned or not delivered.

Civil proceedings have been interpreted by the courts to include administrative proceedings. However, the amendment to section 113(7) does not relate to administrative proceedings. The bill clarifies what the registrar may do when a notice sent by the registrar is returned or not delivered. Notices from the registrar may be sent in relation to numerous administrative matters such as requests for further information or notice of an application being made where the person appears to have an interest in the subject land. The changes made by the bill do not relate to the registrar's participation in litigation. In litigation the registrar complies with the relevant court rules and the Victorian model litigant guidelines.

The amendment to section 113(7) will provide for the registrar to continue with an action when a notice is returned or not delivered. This means that in some specific instances a person may not receive a notice. However, the registrar will only proceed with an action when an attempt has been made to give notice. When a person has failed to keep their address current in the register or a customer has failed to keep their contact details up to date the registrar should not be prevented from acting on another person's application or updating the register. The requirement on the registrar to have attempted giving notice before proceeding is a reasonable measure to ensure as much as possible that a person is notified of any intended action by the registrar. For this reason this amendment is consistent with the procedural fairness aspect of the fair hearing right even though it does not relate to proceedings attracting section 24 of the charter.

The bill does not expand the registrar's powers to take an action without notice. The amendments to section 113(7) only extends the same treatment as other notices sent by the registrar to electronic notices.

The powers of the registrar replicated in proposed section 113(7) are consistent with section 24 of the charter.

Consequently, in my view and for the reasons given, the rights to privacy, property and procedural fairness are not limited by the bill.

Hon. Philip Dalidakis, MLC
Minister for Small Business, Innovation and Trade

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms PULFORD (Minister for Agriculture).

Ms PULFORD (Minister for Agriculture) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

I am pleased to introduce the Land Legislation Amendment Bill 2017. The bill makes a number of small, but important and necessary, changes to the Transfer of Land Act 1958, the Subdivision Act 1988 and the Valuation of Land Act 1960 to improve the operation of these acts.

The bill:

promotes greater efficiency in the conveyancing process and enables the registrar of titles to more effectively maintain the register of land;

improves the efficiency of the process for registering plans of subdivision; and

enables the valuer-general to provide statewide valuation information to the public in line with the government policy on information accessibility.

The accurate and timely recording of dealings in land is fundamental to the Torrens system of land titles. Victoria's system of land administration and conveyancing is highly efficient in ensuring transactions in freehold land are registered promptly and accurately. This in turn provides for the integrity of property ownership and transactions.

Improving efficiency in conveyancing

A central element of Victoria's system for registering land is the conveyancing process. Conveyancing is the process of transacting in estates and interests in land and is increasingly being conducted electronically. Victoria has benefitted from and will continue to benefit from harmonising processes with other Australian jurisdictions to support a national electronic conveyancing network.

This bill amends the Transfer of Land Act 1958 to better align with other Australian jurisdictions. In 2014 priority notices were introduced by amendment to the Transfer of Land Act 1958. Priority notices are used to protect, for 60 days, the interest of a person intending to lodge dealings. For national consistency, it is now proposed to introduce an application to extend a priority notice so that it is effective for 90 days. Currently South Australia and New South Wales provide for an extension of priority notices and other jurisdictions are proposing to follow.

Bringing general law land under the act

General law land is the system of land ownership that predates the Torrens system of title by registration of estates and interests in land. In this system title to land is shown through demonstrating a chain of dealings in land from the current owner back to the original grant from the Crown. The Transfer of Land Act 1958 provides a superior means of transacting in land and better protects a person's interest in land. The bill introduces measures that enable the registrar to bring land under the act by requesting information that identifies who is a ratepayer or mortgagor of a parcel of land. This information will be used to assess whether the registrar's and registrar-general's records for general law land show the

correct owner and then enable the registrar to create a provisional title for that land. Provisional titles will be converted to full (ordinary) titles after 15 years.

Improvements to efficiency

Certain amendments to provisions of the Transfer of Land Act 1958 are needed to improve customer service and efficiency for both customers and the registrar's office.

One particular instance of where the Transfer of Land Act 1958 requires amendment to facilitate operational improvement relates to caveator's consents. Caveats operate as a mechanism to notify a claim to an interest in land and ensure the caveator is notified before any future dealing in that land is registered.

In some circumstances, a caveator's consent to the registration of an instrument is required. Currently the Transfer of Land Act 1958 requires a caveator's consent to be physically submitted to the registrar. This means a transaction requiring a caveator's consent cannot be fully processed electronically. The proposed change does not remove the requirement to obtain a caveator's consent but rather it allows the registrar to receive confirmation that consent has been obtained by paper or electronic means.

Streamlining processes and greater clarity for users

The bill introduces several amendments to improve the operation of the Transfer of Land Act 1958 and clarify existing functions and processes.

One example of this is the simplification of the process for registering changes in proprietorship due to the vesting of land by legislation or court orders. The streamlined process will provide efficiencies for customers and their representatives, and should result in quicker updates of ownership in the register.

The bill will also enable the registrar to make vesting orders, and remove mortgages, in some circumstances when proof of payment cannot be provided and the limitations of actions period has expired. These situations are rare and often arise many years after the property has been purchased or the mortgage has been paid. At this stage it may not be possible to obtain the necessary transfer of land or discharge of mortgage. The new provisions will greatly assist homeowners who find themselves in this position.

Registering plans of subdivision

Plans of subdivision under the Subdivision Act 1988 are registered by the registrar of titles and allow for a property to be subdivided into smaller parcels, shown as lots on a plan. On registration of a plan certain information must be provided to the registrar, as set out in the Subdivision Act 1988. A number of these items are currently provided in a separate document. To streamline the plan registration process, the bill amends the Subdivision Act 1988 to provide flexibility in the method of providing the required information and who is to provide it.

Valuation information

The valuer-general collects valuation information under the Valuation of Land Act 1960. The bill provides for this information to be supplied in the same way as property sales information. Property sales information is released under ministerial policy direction with fees being set by the valuer-general in line with government policy on information accessibility.

Conclusion

In conclusion, the Land Legislation Amendment Bill 2017 will improve the efficiency of transacting in interests in land. The bill will facilitate bringing more land under the Transfer of Land Act 1958 and offer the benefits, and safeguards, of Torrens system of title by registration to more members of the community.

The bill will improve the process for registration of plans of subdivision under the Subdivision Act 1988.

The bill will also facilitate an easier and more consistent method of making valuation information available by amending the Valuation of Land Act 1960.

I commend the bill to the house.

Debate adjourned for Mr DAVIS (Southern Metropolitan) on motion of Mr Rich-Phillips.

Debate adjourned until Friday, 30 June.

WORKSAFE LEGISLATION AMENDMENT BILL 2017

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms PULFORD (Minister for Agriculture); by leave, ordered to be read second time forthwith.

Statement of compatibility

Ms PULFORD (Minister for Agriculture) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

Opening paragraphs

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with the WorkSafe Legislation Amendment Bill 2017.

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

Human rights issues

There are no human rights protected under the charter that are relevant to this bill. I therefore consider that this bill is compatible with the charter.

Gavin Jennings, MLC
Special Minister of State

Second reading

Ms PULFORD (Minister for Agriculture) — I draw the attention of members to amendments that were made in the other place. The amendments correct an error identified by WorkSafe Victoria following the introduction of the bill. They make it clear that the amendment to section 132 of the Occupational Health and Safety Act 2004 is intended to apply only to indictable offences. As originally drafted, the amendment would have inadvertently extended this provision to summary offences. As there are no indictable offences in the occupational health and safety regulations, the amendment also removes references to the regulations. I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Andrews government is committed to improving the operation of the Victorian occupational health and safety and workers compensation laws.

The WorkSafe Legislation Amendment Bill 2017 (the bill) makes a range of amendments to improve the operation of the Victorian occupational health and safety and workers compensation legislation by:

improving workplace safety by strengthening compliance and enforcement tools;

ensuring penalties under health and safety laws act as a sufficient deterrent and breaches can be appropriately investigated;

ensuring that injured workers and their family members are entitled to fair and equitable compensation; and

improving the workability of the legislation.

The bill also makes a number of minor amendments that provide clarification, remove obsolete provisions, ensure continuation of current arrangements or are consequential to other legislative changes.

Occupational Health and Safety Act 2004

Extending the time for prosecuting indictable offences

The bill extends the time limit, in certain circumstances, for prosecuting indictable offences under the OHS act.

The current two-year limitation period prevents WorkSafe from appropriately prosecuting offences in situations where a coronial report identifies that an offence has been committed, where an enforceable undertaking is breached, or where new evidence comes to light, outside of the limitation period.

The government is committed to ensuring that employers and individuals in breach of the OHS laws face sanctions that appropriately reflect the vital role of the legislation in protecting Victorian workers. It is important that the sanctions act as sufficient deterrents against committing these offences.

The amendments proposed in this bill allow the time frames to be extended in these limited circumstances and will ensure corporations and individuals who breach the OHS laws can be appropriately prosecuted.

Amending the 12-month time limit for prosecution certain offences

It is an offence for a person to refuse or fail to comply with a request by an inspector for a document to be produced, or to refuse to answer questions asked by a WorkSafe inspector. The powers are integral tools which enable WorkSafe to investigate potential health and safety breaches.

Currently, the 12-month time limit for prosecuting these offences commences from the date that the offence is committed. However, often the failure to produce documents does not become apparent to WorkSafe until more than 12 months have passed.

This bill proposes to amend the 12-month time limit so that it commences from the date that WorkSafe becomes aware of the alleged offence. Again, this will ensure that corporations and individuals who breach these occupational health and safety laws can be appropriately prosecuted.

Strengthening offences which support enforcement and compliance with principal occupational health and safety duties

The bill proposes to make a series of amendments to offences in the OHS act, which support enforcement and compliance with principal occupational health and safety duties.

The OHS act places obligations on employers to notify WorkSafe of incidents and to preserve incident sites. These obligations are important as they enable WorkSafe to investigate and enforce occupational health and safety laws. If WorkSafe is not notified of health and safety incidents in a timely manner, this can lead to difficulties in investigating the circumstances surrounding health and safety incidents, and potentially lead to the avoidance of prosecution for indictable health and safety offences.

These obligations also enable WorkSafe to identify the cause of incidents and to take actions to prevent similar incidents from occurring in the future.

The offences of failing to notify WorkSafe of an incident and failing to preserve an incident site are currently summary offences with relatively low penalties, compared with those for breaches of ‘primary’ health and safety obligations.

This bill proposes to strengthen these offences by making them indictable and by increasing the associated penalties. These changes will create a more effective deterrent that more accurately reflects the gravity of the offences and aligns with other equivalent offences in the OHS act. A ‘reasonable excuse’ defence is also proposed to be included for these offences.

The bill also proposes to ensure that the notification duty applies where a person who is seriously injured receives treatment from a nurse. The amendment recognises that there may be circumstances where a person who has a serious injury may not always receive treatment from a doctor.

Consistent with these amendments, the bill also proposes to make the offences of giving false or misleading information

or producing a document that is false or misleading indictable rather than summary. Again, this reflects the serious nature of these offences.

Improving the enforcement of enforceable undertakings

WorkSafe may accept an enforceable undertaking given by an alleged offender in the event of an offence being committed under the OHS act or the regulations, rather than prosecuting in the first instance. The undertaking commits the person to taking certain steps to remedy the breach within a specified time frame.

The current provisions make it difficult to enforce undertakings. Once an undertaking is accepted, any charges against the applicant in respect of the contravention must be withdrawn by WorkSafe or struck out by the court, and the court has no jurisdiction to reinstate the charges, even when the undertaking is not met. This undermines WorkSafe's ability to enforce compliance with the OHS act.

For these reasons, this bill proposes to introduce a specific offence of contravening an enforceable undertaking. It also introduces a mechanism to allow WorkSafe to prosecute the offence which was originally the subject of the undertaking if the undertaking is breached or withdrawn.

Service by email

The bill proposes to allow for provisional improvement notice and notices issued by WorkSafe inspectors to be served by email. Currently, notices have to be served in person or via mail. This amendment introduces a more efficient response to contraventions of health and safety laws and reflects modern work and communication practices.

Dangerous Goods Act 1985

Expressly allow for the making of emergency asbestos orders

Emergency asbestos orders have previously been made by the Governor in Council in response to large-scale bushfire emergencies that have damaged or destroyed multiple asbestos-containing properties. Expedient and safe removal of asbestos-containing materials in these circumstances is necessary to ensure the health and safety of the public and to assist communities in getting back to normal as soon as possible. These orders have allowed class B asbestos removal licence holders to temporarily assist in removing asbestos that would otherwise only be removable by class A asbestos removal licence holders. Strict conditions are included in the orders, including training, supervision and waste disposal obligations, to ensure that this work is done safely.

This bill proposes to amend the DG act to include an express power to allow the Governor in Council to continue to issue emergency asbestos orders. The amendments are necessary as a result of the consolidation of various subordinate instruments governing asbestos removal into the proposed OHS regulations 2017. This is another example of the Andrews government ensuring Victoria is appropriately prepared to address natural disasters.

Workplace Injury Rehabilitation and Compensation Act 2013 and Accident Compensation Act 1985

Increase benefits for family members under the compensation legislation

The Transport Accident Act 1986 allows reasonable costs to be paid to family members of severely injured or deceased workers for travel and accommodation where a person's injury requires them to be hospitalised, or the burial or cremation is held more than 100 kilometres from their residence.

This bill proposes to amend Victoria's workers compensation legislation to ensure that similar entitlements are available under the WorkSafe scheme.

The amendment ensures that appropriate supports are provided to the families of severely injured workers and workers who have died as a result of a workplace injury.

Clarifying the inclusion of casual loadings in a worker's pre-injury average weekly earnings

The WIRC act sets out how a worker's pre-injury average weekly earnings are calculated for the purposes of determining their weekly payments.

This bill proposes to confirm that casual loadings which a worker was receiving prior to their injury are included in the calculation of their pre-injury average weekly earnings and are reflected in their weekly payments.

Confirm that workers impacted by the decision of Aucote are validly covered under the WorkSafe scheme

The decision of *Samson Maritime Pty Ltd v. Noel Aucote* (2014), the Aucote decision, expanded the ambit of the federal Seacare scheme to cover certain seafarer workers who were previously understood to be covered under state workers compensation schemes, including the WorkSafe scheme in Victoria. The federal government has subsequently passed legislation to reinstate how the Seacare scheme was previously understood to apply and retrospectively exclude these workers from coverage under that scheme.

This bill proposes to amend Victoria's workers compensation legislation, to confirm that impacted workers are validly covered under the WorkSafe scheme, as was previously understood to be the case.

Clarify that a member of a medical panel or an expert giving advice to a medical panel cannot be compelled to give evidence relating in any way to their role and function as a member or expert

The bill proposes to confirm an existing protection afforded to members of a medical panel and experts who give advice to a medical panel. The amendments will confirm that these members and experts cannot be compelled to give evidence relating in any way to their role and function as a member or expert. The rationale for the protection is to maintain the integrity of the panels and to encourage participation of medical panel members and experts. The protection is equivalent to protections afforded to members of the judiciary.

Expanding reasons to review the approval of an employer as a self-insurer

WorkSafe may review the approval of an employer as a self-insurer at any time. Without limiting this power, the WIRC act sets out specific triggers for those reviews, and a failure to notify WorkSafe of these events can constitute an offence under the WIRC act.

This bill proposes to expand the requirement to notify WorkSafe where the employer ceases to employ all workers. This is expected to improve compliance and awareness of changes to self-insurers operations that may affect their ongoing approval as a self-insurer under the WorkSafe scheme.

Amending the 12-month limitation period for prosecutions against self-insurers

The WIRC act requires self-insurers to provide accurate and timely information about their financial liabilities, information regarding workers claims and changes to their corporate structure.

As breaches of these requirements are summary offences, WorkSafe can only prosecute within 12 months from the date on which the offence is alleged to have been committed. Often the failure to produce this information is not known to WorkSafe until sometime later as the provisions relate to financial and other internal dealings of self-insured employers of which WorkSafe has limited oversight.

This bill proposes to amend the 12-month limitation period for prosecutions against self-insurers so that it commences from the date that WorkSafe becomes aware of the alleged offence. This will ensure that self-insurers who fail to comply with their legislative obligations to provide accurate and timely information can be appropriately prosecuted.

I commend the bill to the house.

Debate adjourned for Mr DAVIS (Southern Metropolitan) on motion of Mr Rich-Phillips.

Debate adjourned until Friday, 30 June.

PAPERS

Laid on table by Clerk:

Falls Creek Alpine Resort Management board — Report for the period 1 November 2015 to 31 December 2016.

Lake Mountain Alpine Resort Management board — Report for the period 1 November 2015 to 31 December 2016.

Mount Baw Baw Alpine Resort Management board — Report for the period 1 November 2015 to 31 December 2016.

Mount Buller and Mount Stirling Alpine Resort Management board — Report for the period 1 November 2015 to 31 December 2016.

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

Ballarat Planning Scheme — Amendment C206.

Cardinia Planning Scheme — Amendment C206.

East Gippsland Planning Scheme — Amendment C135.

Greater Bendigo Planning Scheme — Amendment C231.

Macedon Ranges Planning Scheme — Amendments C98, C99 and C100.

Manningham Planning Scheme — Amendment C107.

Melbourne Planning Scheme — Amendment C303.

Stonnington Planning Scheme — Amendments C207 and C222.

Wangaratta Planning Scheme — Amendment C66 (Part 1).

Yarra Planning Scheme — Amendment C183.

Statutory Rules under the following Acts of Parliament —

Education and Training Reform Act 2006 — No. 44.

Environment Protection Act 1970 — No. 45.

Subordinate Legislation Act 1994 — No. 47.

Traditional Owner Settlement Act 2010 — No. 43.

Transport (Compliance and Miscellaneous) Act 1983 — Nos. 48 to 51.

Victorian Energy Efficiency Target Act 2007 — No. 46.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule Nos. 44, 45 and 48 to 51.

BUSINESS OF THE HOUSE

Adjournment

Ms PULFORD (Minister for Agriculture) — I move:

That the Council, at its rising, adjourn until 12.00 p.m. on Tuesday, 8 August.

Motion agreed to.

MINISTERS STATEMENTS

Early childhood education

Ms MIKAKOS (Minister for Families and Children) — I rise to inform the house on the progress of the Andrews Labor government's record investment in early childhood infrastructure. The Andrews Labor government understands that the early years matter. In building the Education State we are getting on with the job of providing Victorian families and their children with access to high-quality, flexible and affordable early years services. That is why we have committed

$70 million to support local governments and other service providers in investing in early childhood infrastructure in order to provide kindergarten programs alongside other key services such as maternal and child health services and playgroups. This includes $10 million to address early years demand in high-growth areas and a further $10 million in this year's budget to co-locate early years infrastructure to school sites.

As part of the children's facilities capital program I am very pleased to inform the house that to date we have created more than 2500 kindergarten places. I am also pleased to advise the house that the 2017–18 children's facilities capital program major grants round is now open, and I would encourage local councils and service providers to consider applying for these grants. Applications close on Friday, 15 September.

Our investment contrasts starkly with the previous government, which appropriated only $37 million for kindergarten infrastructure during their entire term of office. In our first three budgets I am proud to say that we have almost doubled the previous government's investment in early childhood infrastructure. The Andrews Labor government is getting on with making sure that Victoria's kids are ready for kinder, ready for school and ready for life.

COMMERCIAL PASSENGER VEHICLE INDUSTRY BILL 2017

Second reading

Debate resumed from 22 June; motion of Ms TIERNEY (Minister for Training and Skills).

Mr DAVIS (Southern Metropolitan) — I am pleased to rise and make a contribution to the Commercial Passenger Vehicle Industry Bill 2017. This is a bill that has many flaws, and I will speak about those in a moment. I want to first put on the record that the coalition recognises the ridesharing economy is here and is here to stay and it does need to be regulated. Certainly we are very aware of those key points. It is clear that the peer-to-peer economy is going to become larger and larger over time and that in that context there will need to be a proper regulatory environment. There have been two inquiries that have touched on this bill: an earlier inquiry by this Parliament that looked at ridesharing more generally and a more recent inquiry by the Standing Committee on the Economy and Infrastructure, chaired by Mr Finn.

This bill reflects that the government does not understand, in my view, the historical position. It does not understand that there is a large number of community members out there, small business people, who have a huge stake in what occurs in this chamber today. They are people who for their whole life have worked hard. They are members of families who have invested, who have put in place their life savings and who have invested their superannuation in areas where they had a high level of surety.

I want to knock on the head some of the misinformation that the government has spread about this bill. It is very clear that taxi licences are property, real property — and the High Court has ruled so. Let us not claim for a moment that the licences that we are dealing with in this particular bill are not something that ought be compensable. The reality is that the government is stripping out people's livelihood. The reality is that by its decisions not to regulate the ridesharing economy earlier and its decisions not to prosecute what is clearly illegal activity by Uber and all of the associated ridesharing it has begun the process of destroying the value of people's licences.

Over many months I have had close contact with many people in the taxi industry. I have been moved by the stories I have heard, the decisions of people to invest their life savings, the members of many migrant families in particular who have worked very hard to build a nest egg for themselves and for their children. This government is now in the process of stripping away that nest egg. Make no mistake: if this bill goes through today in its current form, it will damage many of those families. There will be terrible consequences. There will be suicides, I am sad to say. There will be families who lose their superannuation.

Many of the families who are impacted by this bill are made up of people who are good, solid citizens who have done everything that this community would want of them. Many of the members of the taxi families and the plate holders that I have associated with, particularly over the last 12 months, are people who have come to this country, worked very hard and built that security, they thought, for themselves and their families. In this sense it is a very harsh bill, it is a very cruel bill and it is a bill that hurts these people — and we should make no mistake about what this bill is actually doing to these families.

It is all very well to hide behind 'It's all very modern for Uber'. We understand that that is the way of the future. But the fact is that the government has regulated these areas in this state since the early 1900s and people had legitimate views and legitimate understandings about the durability of that regulation.

Some say that it is like any business opportunity and businesses can go sour. I understand that. That is correct on one level. But this is not a business going sour simply due to competition; this is a business going sour because of a regulatory change made by the state government. This is a business opportunity that is going sour because of regulatory decisions of the state government and this Parliament. If this bill is passed in its current form, it will hurt all of those taxi families and it will hurt all of those community members that are very much the target of this legislation.

The government, it is true, seeks to establish a fund, or a source of revenue, to pay some recompense, but it is a false linkage. This government could compensate the taxi licence holders out of consolidated revenue if it chose. It received an enormous amount of money from the sale of the port lease — $10 billion — and taxi families are asking for millions, not billions.

I am in possession of correspondence received yesterday from Corrs Chamber Westgarth Lawyers under the signature of Bronwyn Lincoln, a partner, which puts into context the government's response to Mr Finn's committee's inquiry. I want to compliment that committee on its work. In very many respects it got to the essence of what is required, and it actually came forward with a bipartisan report, so I am not sure where that leaves the Labor members who signed off on those principles in the — —

Mr Finn — Mr Leane, Mr Eideh and Mr Elasmar.

Mr DAVIS — Exactly. Where does that leave those gentlemen in the context that they signed off on that report and now the government's bill is heading in quite a different direction? The government appears to have in effect rejected most of the recommendations of the report. It is probably worth me putting some points from the Corrs Chambers Westgarth Lawyers letter on the record. I only have a small period of time to do justice to this, and it is probably not possible to do it full justice. The letter says:

> The government has responded to the report …
>
> This letter sets out our client's observations …
>
> …
>
> For the reasons outlined in this letter, our client —

which is Victorian Taxi & Hire-car Families —

> rejects the response. Our client's position is that the bill still does not establish a fair foundation for industry reform. On behalf of our client, we ask you not to support the bill in its current form.

I think this is a persuasive and well-argued response. The letter goes on:

> The response states that the government's financial assistance package is the most generous in the nation. This suggests that comparisons can be made amongst the various states; in fact they cannot. The reform proposed in Victorian is different to the reforms proposed in other states; a blithe statement of this nature without proper examination of the different reform packages across Australia is irresponsible and misleading.
>
> References in the response to a fully funded generous financial assistance package for the existing industry are not accurate. Holders of perpetual licences who purchased these for many hundreds of thousands of dollars will lose their asset when the bill becomes law under the proposed section 360 … Where perpetual licence holders have given banks and financial institutions security over these assets for loans taken out to purchase them, the holders will face immediate action from those banks and financial institutions, either calling for further security or calling in the loans. Some licence-holders in this category are at real risk of losing their homes; a reform package with this consequence cannot in any sense of the word be described as having a generous financial package particularly where there is no right to assistance or compensation enshrined in the bill itself.
>
> The transitional financial assistance on the table at present is an ex gratia payment and the minister's failure to respond to our letter of 5 April 2017 requesting details of the modelling on which the financial assistance package was calculated suggests that it has been arbitrarily determined.

It is important to put on record here the behaviour of the Minister for Public Transport, Jacinta Allan, in this process. She has gone into hiding. She will not meet with taxi families. She will not meet with the associations. She is having her underlings meet with them, and her underlings are not the people who are the decision-makers. I say when you are depriving a family of its assets you should at least look them in the face, you should at least listen to them and you should at least hear what they have to say. This arrogant minister, a member of an arrogant government, is damaging these people's commercial and family prospects, and she is doing so without even having the decency to look those families in the eye and to listen to what they have to say. It is terrible.

Recommendation 1 made by the committee is:

> That the Victorian government amend the commercial passenger vehicle bill 2017 to:
>
> > recognise that the primary purpose of the levy is to provide support …

The Corrs Chambers Westgarth letter states:

> The response to this recommendation —

that is, the government's response —

> has no substance. It is incongruous that the bill has no enshrined right to compensation of any kind, yet the bill comprehensively deals with the collection of the levy, the primary purpose [of which] is to provide financial support …
>
> There has been no transparency from the government as to the calculation of the proposed transitional assistance … and no transparency from the government as to the distribution of funds from the Fairness Fund …

The Fairness Fund has been a sham. It is a shocker and it has paid out almost nothing. It is a complex, cumbersome and unfair fairness fund. As I have said, there is no transparency. The letter says:

> We note that our letters to the minister for transport dated 5 April 2017 and 8 May 2017 which requested, inter alia, details the modelling or calculations or assessment undertaken by the government and/or relevant and identified transport body to determine the amount and extent of transitional assistance remain unanswered.

The fact is the minister has gone into hiding. She will not release the modelling and she will not explain how these assessments are to be made because they are entirely capricious, entirely unfair and entirely arbitrary.

The second dot point in recommendation 1 recommends that the government amend the bill to:

> qualify the status of payments to ensure recipients are not financially disadvantaged.

This is a significant issue. I note the government has written to the commonwealth, and I welcome that step.

There is a Charter of Human Rights and Responsibilities issue here, and that charter issue has not been dealt with. I have been critical of the Scrutiny of Acts and Regulations Committee (SARC) in recent times. SARC is not doing its job of looking at the interests of those who have financial assets. It is not scrutinising bills sharply enough, and this bill is a case in point. It needs to get really rigorous. It needs to state up-front that 'This bill does infringe charter rights'. There is no question that this bill does infringe charter rights. I could speak much longer on this. However, I note that SARC seems to have missed the fundamental point that taxi licences are assets. The High Court has ruled on that, but that seemed to pass SARC by.

I say that SARC, and I am particularly pointing to the staff in this case, and I do not often do that, and the quality of the work that is done by this particular committee is actually extremely important to the Parliament. That is a broader point but in this instance I do not think they have served the people of Victoria as well as they should have, and I do not think they have served the Parliament and parliamentarians as well as they should have. Their job is to alert parliamentarians to human rights breaches and natural law breaches of various types and to point particularly to charter rights breaches, and they have not done that in a fulsome way in this particular case.

Recommendation 4 is:

> That the Victorian government provide compensation as lump sum payments at the outset of revocation of taxi licences.

It is a very clear recommendation and it was signed off by all members of the committee.

The Corrs Chambers Westgarth letter addressed to me says:

> The statement that transitional assistance payments will be made as a single lump sum is new information.

The government said in its response to the committee report that some transition assistance payments will be made as single lump sums. The letter in response from Corrs says that is a welcome step. The writers of this correspondence said:

> The government's previous position was that the transitional assistance would be made over a two-year period. A lump sum compensation payment, provided that the lump sum reflects the market value of the property rights which will be extinguished by the bill and is acknowledged as a capital payment, is a positive step.

The problem is that the amount the government is talking about paying does not cover the capital value of the licences in any fair or reasonable sense. This is a dog of a bill. It is an unfair bill. I accept the ridesharing developments, but I do not accept this bill is fair to the current licence-holders.

Dr CARLING-JENKINS (Western Metropolitan) — I rise this morning to speak briefly on the Commercial Passenger Vehicle Industry Bill 2017, and I would like to say quite simply that this bill is flawed. Fair and reasonable compensation for people who invested in good faith is a key element in the discussion around this legislation. I could say many things, but I do not want to take up too much time today. I could discuss a lot of technical aspects, but I am sure that my coalition colleagues will cover a lot of those today.

What I want to focus on is the human voice behind this legislation. I want to focus on those who are going to be affected the most by it. I want to look at how we can allow families to lose their homes to banks which no longer value their taxi licences and yet sit back while these same families are unable to obtain Centrelink or other benefits because this department continues to value those licences. That seems to me to be unfair.

Perhaps saying it is unfair is putting it too mildly; it is unjust.

I have listened to countless stories of people in need, in desperate need — families reliant on grandparents to put food on the table, families suffering ill health caused by or exacerbated by the stress they are under — and this is not just a handful of people who are whingers. These are hundreds of hardworking people who have sacrificed much and are being given little. I would like to read just a few excerpts of some correspondence I have received from the people who are affected most by this legislation. One email is from a woman who writes:

> I write this email on behalf of my 80-year-old father, whose dedication and passion for the taxi industry has never wavered. He worked his butt off for over 60 years and was supposed to live off that hard work in his final years by being a self-funded retiree. When each of you vote on the bill today, you will swipe a lifetime of work and effectively put the … nail in his coffin … The taxi business never failed, it was you who failed to innovate in this country, but my father is being asked to pay the ultimate price.

Another piece of correspondence states:

> My parents stand to lose the lot.

Not just a lot — the lot. It continues:

> My father has been sick and requires permanent care in an aged-care facility. This whole debacle has hindered his ability to get a place in aged care. His transitional care program has lapsed, due to Centrelink's inability to be able to assess the value of the licences fairly in the income and assets assessment.

And this correspondence is from an 81-year-old:

> I am an 81-year-old pensioner, my husband … and I purchased as taxi licence from the government in 1965 for 4900 pounds which at the time of purchase was approximately double the value of a home in Melbourne.

Later on this woman said:

> Since the dramatic drop in perpetual taxi licences and leasing income due to the taxi reforms I have not been contacted by social security to increase my pension. In fact, my son John has tried with no avail to have my pension and assets reviewed only to be told taxi licences are valued at $150 000 … and we all know the value at present is in fact —

basically —

> nil!

This correspondence just goes on and on. Here is another one:

> I am 72 years old and my wife is 69 and at present we owe the bank $156 000 for the second taxi we bought in 2003. We have always paid and are still paying our taxes and we've never asked or have we received any benefit from the Australian government or the Victorian government.
>
> We have only desired to be self-sufficient while living in Australia and we need our current income for living a normal life and not an extravagant one.
>
> However, this government is trying to make sure that we are going to finish with nothing but a bank debt in our name until such time that we receive payments for our existing taxi licences — do you expect me to sell my house to pay off my loan and to assist me with my day-to-day living? Is this fair?

The last one that I will read says:

> I am saddened and disheartened that my years of hard work to set myself up financially for the future have gone in vain by a decision instigated by this Victorian Labor government, who vowed they would support the taxi industry before they were voted in.

I am going to repeat that:

> … who vowed they would support the taxi industry before they were voted in.
>
> In their endeavour to regulate other ridesharing services and create a so-called 'level playing field' the current Victorian Labor government had decided without any consultation with us taxi owners to completely delete the taxi industry. This decision has rendered our licences worthless, with proposed compensation that is simply unfair.

I could go on, but these are the voices that should be heard above all others today — the voices of those who have been left in a vulnerable situation, the voices of proud, self-sufficient, hard workers now brought down by the stroke of a pen.

I will consider the amendments before the house today. I recognise them as an attempt to make a bad bill just a little bit better. However, I will vote against the bill as a whole and hope that many of my colleagues will do so as well. It is time for governments of all persuasions to consult with stakeholders in a meaningful way, to consider the needs of the wider community without bowing to the pressure of minority groups and, quite simply, to think and genuinely consult before they act. There must be a better way for Victoria. I will not be voting for this bill.

Ms FITZHERBERT (Southern Metropolitan) — It is good to be able to speak on this bill, which has been the subject of so much debate and discussion in the community. At the outset I want to acknowledge the many people who have contacted me regarding this contentious bill. I think all of us in this place have had many contacts from people in the community. We have received emails, phone calls, letters; we have been spoken to directly by people who have an intense interest in this bill and a lot of concern over its contents.

Can I say that even up until very late last night I was receiving communication, and I know that would have been the experience of all my colleagues as well. I want to say that I have read this communication. Many of them are extremely personal and quite heartfelt, and many of them go into explanations of personal circumstances and how this bill could detrimentally affect people's lives if enacted, so I concur with the comment made by Dr Carling-Jenkins that she wanted to focus on the personal impact of this legislation.

Last night I received an email from Christina Liosis, who I know well. It was sent not just to me; it was sent, I think, to every member of this Parliament. The words that she used were similar in tone to those that have been spoken by others. I am going to quote from them now as they struck a chord with me in a couple of ways. One was the heartfelt emotion and the second was that she was expressing themes that are similar to those that have been spoken by others in other places and at other times. I do not want anyone to take from that that this is some kind of form email; it is definitely not. It just makes a number of good points very clearly that are shared by others, and I will quote from it for that reason.

She starts off by saying:

> I write to you in desperation in the 12th hour.

I think she means the 11th hour; maybe it was the 12th hour; it was certainly well after 11 o'clock:

> Over 3000 families are mourning the potential loss of their livelihood tonight.
>
> The levy should not be used as an excuse to steal money from hardworking Australians.
>
> We are tired, our families are hurting, our relationships are failing and we are distraught.
>
> Some of us have committed suicide and many of us have died or have acquired mental and other serious health issues.

Further on in the email she asks:

> How can this happen in Australia?
>
> Many of the owners left their country to make Australia home because of this type of government-forced acquisition of their assets, and now it's happening again.

Later on she makes a very good point:

> We can't even provide psychologists, social workers and other support workers to help that are proficient in the languages and cultures of those affected.

Clearly this is a heartfelt plea.

It ends with a quote from former Premier Jeff Kennett who spoke at the inquiry, chaired by Mr Finn:

> Please treat these people as you would like to be treated or you would like your children to be treated.

That is a very, very reasonable comment.

I have looked at the report that was prepared by Mr Finn and his committee, and he and I have discussed the workings of the committee on a number of occasions. I know that it was a committee inquiry that had quite a strong effect on Mr Finn and others who were in the important position of being able to consider this bill. I think the most striking thing about that review was the fact that it was a unanimous report without any dissent and that it made some quite reasonable judgements about the deficiencies of the bill and how it can be improved.

What I do want to say is that this bill has been a very long time coming. The government sat on its hands, frankly, for a very long time before coming to a policy position, and that has only increased the uncertainty experienced by already worried families and licence-holders. Even today there is no certainty about what is going to happen with this bill. The government has a very big agenda, and it has some other legislation that simply must be passed today, so what will happen with the list of bills today is anybody's guess.

I think it was important that the bill went to Mr Finn's committee for review. It was a cross-party committee; a number of parties were represented. As I said earlier, there was no minority report and there was no dissent, but it is unfortunate that the government have chosen to ignore these recommendations. They should be called to account and asked to explain why. I do not have a clear understanding of why the government have chosen to ignore these recommendations, some of which were endorsed by their own members.

The bill before us has some very serious deficiencies, and I think these were ably identified by the committee. Mr Finn spoke on this the other day and reminded us that the committee believes that the government should consider increasing the compensation to primary and subsequent licence-holders in an independent, clearly articulated, transparent, equitable and non-arbitrary model for the valuation of perpetual licences and that this model should be based on current market valuation methodology. That seems to me to be eminently fair, and that was a unanimous finding of the committee. As Mr Finn said, that is a rarity. He was very proud that they were all able to come to that view. I say to Mr Finn: well done on leading that.

Very importantly the committee asked that the government consider reducing the levy applied to commercial passenger vehicle service transactions. They have also — and I strongly support this — recommended that there be a sunset clause on the levy. That is very important. At the moment there is no sunset clause. I think it is very brave of the Parliament to trust that it will sit there and continue to operate as it does and not simply see the proceeds disappear into consolidated revenue.

The committee also recommended that the government remove the $50 million cap on the ironically titled Fairness Fund. I think of it as the Unfairness Fund. I endorse the comments made by Mr Davis with his usual alliteration. He described it as a shame and a shocker. That is a very, very good description. The report specifically addresses this issue, and in particular the removal of the cap, which I think is an important thing.

The committee has also recommended that the Commercial Passenger Vehicle Industry Bill be amended to recognise that the primary purpose of the levy is to provide support to existing taxicab licence holders through the Fairness Fund and transitional financial assistance payments and to qualify the status of payments to ensure recipients are not financially disadvantaged. Thank you, Mr Finn, for focusing on the recipients, because they are the people who matter in all of this.

The levy is frankly a taxi tax. It breaks the promise that was made by the Premier when he was in opposition, on the very eve of the election, that there would be no new taxes. Now we see new taxes virtually before our eyes, cabs driving around Melbourne — mobile taxes, if I could put it that way — a symbol to everyone of the breaking of this promise. That is not the only time this promise has been broken, but they are a particularly visible bright yellow reminder of that broken promise, and they will be driving around Melbourne for a long time.

The other aspect I want to focus on is the highly inequitable nature of the tax which applies outside Melbourne to places where Uber is as distant as a latte in Fitzroy. It is an unreasonable way to be applying a tax to people who are not part of the Uber life, and it is unreasonable to expect people to pay this form of tax. It shows the highly urban, Melbourne-centric aspect of this government. It is certainly something that I have spoken to taxidrivers and taxi owners about outside of Melbourne with Ms Staley from the Assembly electorate of Ripon. I know this is an issue that is very top of mind for her, and she has been a vocal proponent of the argument that this is an unfair tax that unfairly burdens those outside Melbourne. She has made that argument to her colleagues over and over, as only Ms Staley can.

Honourable members interjecting.

Ms FITZHERBERT — She is a very friendly and personable member; the local paper says so, so it must be true.

Mr Finn — Papers never lie!

Ms FITZHERBERT — Papers never lie! All jokes aside, Ms Staley has been a ferocious advocate on this particular point. I do not think it is breaching confidences to say that she has made this argument forcefully to our party through formal processes in our party room; she has made it to us individually. She has ensured that all of us, especially in the upper house, when considering this bill are aware of this profound inequity.

I will leave my comments there but look forward to further contributions. I understand there are a number of amendments that seek to address some of the inequities, some of which I have addressed here, others of which I have not. The fact that these amendments have come from a number of different places shows the continuing concern about this bill and a view that, even though we are here at the 12th hour, in the words of Christina Liosis, there is still a lot of work to do on this bill to make it better than it is, if that is possible. I think it is making a bad bill better; that is probably the best thing that can be said for it.

I will finish where I started, which is to say that my primary concern in addressing this bill and its deficiencies is the effect that it has on people. These people have spent a lot of time making sure that we are aware of their concerns about this bill and how it will affect them. I want to say that we have listened and we are doing our best to address those concerns and where we can minimise the damage.

Ms PATTEN (Northern Metropolitan) — I too rise to speak to the Commercial Passenger Vehicle Industry Bill 2017. It has been 12 months since I introduced my ridesharing bill into this house, which was a response to this government's and the previous government's inactivity on this issue, and also in recognising these emerging technologies.

The ridesharing industry has been around for a number of years — about five years in Victoria or probably even slightly longer. But this industry is emerging, and this industry needs to be addressed. My bill would have

protected the ridesharing drivers from prosecution, it would have protected the passengers undertaking rideshare journeys and it would have ensured that our laws kept pace with innovative industries. It was also a bill that did not dissolve taxi licences and therefore did not necessitate compensation or a levy, and it preserved rank and hail work as the domain of taxis.

But on the same day, by chance, that I introduced my bill and started the second-reading debate the government announced that they too would be introducing legislation to regulate ridesharing by the end of 2016.

Mr Morris — 2016?

Ms PATTEN — The end of 2016, Mr Morris. So I — somewhat generously, I feel — adjourned the debate on my bill on that basis. Now in June 2017 we see the Commercial Passenger Vehicle Industry Bill 2017 in this chamber. It has been a long delay. In many ways that has found us lagging behind the rest of Australia. Victoria is one of the last jurisdictions, both in Australia and abroad, to address this disruptive technology and the emergence of ridesharing. This is a salutary point that we should note. The annual Global Innovation Index, released last week, saw Australia slip a further four places to 23rd in global rankings. We had already gone from 17 to 19 in 2016, so we are on a steady decline. I think this is a dangerous trend and one that I hope our Minister for Small Business, Innovation and Trade is taking a special interest in. He should be very, very concerned about it, because we know the Victorian economy is experiencing real declines in a lot of our traditional industries — in particular the automotive industry and other manufacturing industries — so this government should be driving innovation and that should be the lifeblood of our future prosperity.

I have to say I think the delay — the consistent, constant delays — in the passage of this legislation probably indicates that we are not addressing innovation with the speed and enthusiasm that we should be. Innovation in the commercial passenger vehicle industry is not new. We have seen disruptive technologies in the commercial passenger vehicle industry for almost centuries. I would like to remind members of some examples of disruption in this industry. It is interesting, because one was actually in San Francisco, which by coincidence is where Uber was first established. In the early 1900s the car became quite an affordable product. Cars were flooding the market in 1914, and there was a recession, so some innovative car owners would offer ridesharing to passengers of cable cars in San Francisco. For the same price as a cable car ticket, you could be a passenger in a vehicle that would take you up the steep hills of San Francisco. This craze — it was called 'jitney', for some reason; I have never discovered why — went across and within nine months the whole of America was offering jitney rides. This of course upset the established cable car industry, which colluded with government to prohibit these innovative drivers from using their own personal vehicles to provide ridesharing, as it were.

Then around World War II the US government, in response to the shortage of oil and rubber during the war, actually mandated ridesharing; it introduced legislation around this. There was a famous poster during World War II that said, 'When you ride alone, you ride with Hitler!'. They mandated the establishment of car clubs. They also established a ridesharing program called the Car Sharing Club Exchange and Self-dispatching System. This was an early example of an internet noticeboard, and it matched passengers to rides by bulletin boards in workplaces, churches and schools.

The next round of car sharing that was very encouraged by the government was in the late 1970s, and I was living in the United States at that time when there was the oil crisis of the late 1970s. I was a kid then. They did not mandate ridesharing but they certainly strongly encouraged ridesharing, and in fact at that time over 20 per cent — nearly 25 per cent — of US workers carpooled or rideshared to work, so it was a significant number.

I return to the bill. This Commercial Passenger Vehicle Industry Bill is very different from the light touch of my ridesharing bill that tried to recognise the new technologies and recognise the platform that was emerging within legislation so we would protect the drivers, the passengers and the people starting to work in that new form of commercial passenger vehicle industry. But this bill brings with it, as we have heard from many of the other speakers, some very upset taxi licence holders. I think 'upset' is an understatement. I have been very moved by my meetings with the taxi families, the taxi licence holders. I understand this extraordinary pain, and I am absolutely devastated by some of the emails that we have received from them about the pain that they are suffering, the hardship that they are feeling and the mental anguish that this is causing many of them.

This bill also requires a compensation package and, because of that, a levy. It is the first of two bills that will reform the commercial passenger vehicle industry. Taxi licences as we know them will be abolished. The

bill establishes a passenger vehicle service levy to provide the compensation to the existing industry affected by these changes. The commissioner of state revenue is responsible for the collection of the levy, which will be payable quarterly by providers.

The bill changes and broadens the definition of what we have called a booking service. When the legislation was first written in 1983 we did not have mobile phones and we certainly did not have the internet, so this is an overdue recognition of changes in technology, but as a result of this measure taxi and hire car licence fees will be abolished and their licences will be abolished. The net effect will be the creation of a fully open and competitive commercial passenger vehicle industry.

I know this is not a word that governments like to hear, but it is brave. I would like to commend the government on that because this really is a 21st century approach to this issue, and the government has really taken the bull by the horns here to recognise the innovation, recognise that this is only the first of many disruptions we will see in our vehicle industry and certainly in the way we as Victorians travel on our roads. We are already seeing the emergence of autonomous vehicles, and what role will they play in the commercial passenger vehicle industry? I think they will in all likelihood play a fairly significant role. So while I do think it is brave, I actually think it is good.

Many of the other states have really played around the edges. They have not taken this very holus-bolus approach to reforming the commercial passenger vehicle industry, but of course that sort of change creates many critics. The existing taxi licence holders have been very vocal, as we know, and I like many, as I mentioned before, have spoken to them and consulted with them widely. Again I reiterate that I have great, heartfelt sympathy for what many of them feel that they are experiencing.

I also speak to thousands of Uber passengers. It used to be that when people asked me what my favourite car was I said, 'It's a yellow one with a light on top'. I have always been a fan of commercial passenger vehicles. I have used taxis extensively, and I now use other ridesharing services extensively, both here and when I travel overseas. The convenience of having the apps on my phone has really made using these services very popular, not just with me but with hundreds of thousands of Victorians.

As a result of the very good lobbying work and the very significant information that the taxi licence holders have provided to us, the government has uncapped the Fairness Fund, and I think that is very fair. This is a big shakeup; this is a big disruption to the taxi industry and licence-holders, some of whom are multigenerational licence-holders — we have got people whose grandparents were driving taxis. This is a significant shakeup, and I am pleased that the government has uncapped that Fairness Fund. The funding for the transitional assistance payments has been allocated in the budget, and if this legislation passes before the end of June, those transitional assistance payments will be made as a single lump sum to eligible licence-holders when their licences are revoked, and I think that is very positive.

But I take issue with the levy as proposed. I do not have much of a problem with the government using the levy to recoup the cost of some of the assistance that we are providing to the licence-holders, but I think a $2 levy is too much. I made three Uber trips on the weekend, and they were all under $8. A $2 levy on that is a 25 per cent levy, and that is significant.

Mr Ramsay interjected.

Ms PATTEN — You try and walk in my heels, Mr Ramsay.

The levy will affect short fares and it will apply downward pressure on the market, so I am proposing a starting point for the levy of $1. Importantly the numbers show that the costs of compensation can easily be met at this rate, and I would like to step through that analysis. I wish I had PowerPoint or some sort of holographic system to show how this works, but maybe not in this term of Parliament; hopefully we will see things like that in the next — we are an innovative state.

On 22 February this year the Premier announced the total cost of the government's assistance package at about $494 million. This figure includes a $50 million Fairness Fund boost and $25 million for continued access for people with disabilities, both of which are already provided for in the budget outside of the levy. It was always understood that those payments were not to be recouped by the levy. However, the levy probably will, in the long run, recoup those. Whether the levy can recoup the necessary funds hinges on two key factors: the number of trips we make in Victoria and provider compliance, and we have heard a lot about the fact that the industry will not comply.

We know from the Victorian Taxi Association that there are about 40 million taxi rides per year. Even if we were ultraconservative in estimating the ridesharing trips at 10 million, that is 50 million rides per year in Victoria already. We know that 10 million ridesharing

trips is very conservative; the actual number is far higher.

But putting that reality aside, if we take this conservative combined figure of 50 million trips per year, applying a $1 levy gives $500 million over 10 years — and that is not accounting for any growth in the industry. I personally estimate that there are between 70 million and 80 million trips a year now. But working on a figure of 50 million, this looks at $500 million being recouped in 10 years.

Comparing the government's figures to the ones that I have just mentioned, it is plain that 28.8 million total trips per year is an incredible underestimate. It is 25 per cent less than the Victorian Taxi Association's report, let alone the combined total including the Uber trips or other ridesharing services. The government also estimates that out of the money they raise about 23.7 per cent will be spent on compliance. I actually think that is incredibly significant.

I do not think our ridesharing services will commit tax fraud to that degree. I do not think we will see a quarter of them not paying their taxes. If the levy is set at $1, I think we can ensure far greater compliance. From my conversations with Uber passengers, while they would like to see no levy, they are quite understanding of a $1 levy, so I believe a $1 point is absolutely sufficient to recoup the costs of the transitional assistance package. At that lower rate we will see very high compliance and we will see support from our community.

Acting President, at this point I ask that my proposed amendments be circulated.

Australian Sex Party amendments circulated by Ms PATTEN (Northern Metropolitan) pursuant to standing orders.

Ms PATTEN — This is a new and emerging technology and a new and emerging industry. While I think I can make some very good assessments of the number of rides we are going to see and the amount of compensation the levy will bring to the government, I am a practical person. I am aware that sometimes you do not know what is going to happen. You do not know what other disruptions may affect this commercial passenger vehicle industry and how it may be affected. My amendments build in some flexibility for the government to adjust the levy if need be, but only if it is recommended by an entirely independent Essential Services Commission. This is a decent and fair proposal. It will be popular with the community, but it also provides this government and future governments with some assurance that the levy will meet their requirements. I really hope that this house will agree to it.

I appreciate there is significant disagreement in the house around this bill, but I think the bill, with a $1 levy that is audited and assessed by an independent body, actually creates a very fair and practical system that ensures that those who have been affected by the disruption to the industry, those who have been affected by the changes to our commercial passenger vehicle industry and those who may be affected in the future by what changes will happen will be looked after and will be compensated. So I think my amendments make this bill a fairer bill while still keeping it a practical bill that recognises that this government will be paying out in excess of $500 million in compensation to the families and the licence-holders. I commend my amendments, and I look forward to hearing the rest of the contributions.

Mr MORRIS (Western Victoria) — I rise to make my contribution on the Commercial Passenger Vehicle Industry Bill 2017. As Ms Patten did make mention of in her contribution, there has been a significant period of time we have waited for this bill to come to this house, and it was Ms Patten who introduced the initial legislation. I would not put words into Ms Patten's mouth, but I think she may have been deceived by the government in some way because the government said they were going to do one thing and they did not. They did the opposite. They committed to introducing legislation before the end of 2016, was it?

Ms Patten — The end of 2016, Mr Morris.

Mr MORRIS — And that obviously did not occur. I do congratulate Ms Patten on helping to force the government's hand to actually act on this, and it was also the Standing Committee on the Economy and Infrastructure that, through frustration, set up an inquiry into ridesharing — —

Mr Ramsay — You were the chair of that committee.

Mr MORRIS — That was me, Mr Ramsay. Thank you for that. It was an inquiry that was a little difficult for the committee at the time because we did not have any legislation to consider but we did want to give an opportunity for those in the relevant industries to have their voices heard, hoping that the government would take on board what their views were with regard to the way forward with regulation for this industry.

It is unfortunate that the government did not listen to the very serious concerns of both Uber and the taxi industry. Indeed rather than pleasing one group or the

other, I think what the government has done with this legislation is upset everyone. The committee looked into a variety of different ways that this legislative change has occurred, not only in Australia but around the world, and it is my view that the government have chosen the worst model that has been attempted anywhere in the world. I think the fact that we have so many amendments in this house is testament to that — that this government have produced an extremely flawed bill, a bill that is patently unfair and one that is not going to serve the community well.

Being a Ballarat boy I was reflecting upon maybe a bit of an analogy for this bill, and I think the Eureka Stockade story is fairly symbolic of what is happening here, because we have a tyrannical government who are imposing an unfair tax upon a group of people who are not being listened to. It is the exact story of Eureka. The government have not learned the lessons from 1854, and I for one certainly feel that they will pay very dearly for this error when the election of November 2018 does indeed occur and Victoria receives the government that it deserves and the Premier it deserves in Mr Matthew Guy in the other place, who will actually lead our state in the right direction rather than the way this government is leading it at the moment.

In terms of this bill — and Ms Patten had a promise made to her broken by the government — this is just another example of Daniel Andrews breaking his promise not to introduce any new taxes or charges or increase them above CPI, as he said to every single Victorian the day before the election. We have an Uber tax of $2 being introduced by this government in an attempt to, one can only think, destroy an industry. This tax is completely and utterly unfair because it is going to impact upon the regional Victorians who at this point in time do not have access to ridesharing or ride-sourcing services such as Uber and the like. If you are in Ballarat, if you are in Warrnambool, if you are in Hamilton, if you are in Horsham — —

Ms Lovell — Shepparton.

Mr MORRIS — Indeed Shepparton, Ms Lovell, absolutely. If you are in any of these regional cities and towns, you cannot avail yourself of the services of Uber and the like; however, you will be paying a tax as a result of this legislation being introduced by the government. It is patently unfair that the government is imposing a tax upon people who are not receiving any of the benefit of the disruption that is occurring in this industry. Why it is that the government would ignore their own members' recommendations in the report of the committee chaired by Mr Finn inquiring into the Commercial Passenger Vehicle Industry Bill 2017 is beyond me.

Ms Crozier — How many members did they have on it?

Mr MORRIS — Three members, Ms Crozier, and I certainly — —

Ms Crozier — Four.

Mr MORRIS — Well, I do certainly commend Mr Finn on that inquiry because to be able to get a unanimous report out of a cross-party committee is not an easy thing to do. It was obviously achieved through a lot of hard work and by making sensible recommendations and findings. That is what the committee came up with. It was a good middle-of-the-road solution. It was not going to favour any group or body, but rather it tried to find a sensible way through a difficult issue. For the government's response to detail what it has is nothing short of remarkable. I can only wonder what the government committee members must be feeling at this point to have the recommendations they supported being completely ignored and indeed spoken down to by the government. For the government to be critical of the work that the committee did and to question the data that is being used fails to recognise that we have got these committees to do very important work. If the government is concerned about some of the data that they are using, of everybody and of any organisation it is the government that has the capacity to provide this data. It is unfortunate that they have made life very difficult.

I note one of the more important findings was finding 1, which was:

> Estimates of the revenue from the $2 levy are based on data from existing taxi trips and will likely underestimate the total revenue.

I think that is quite a reasonable finding to come up with. The lack of a sunset clause on this new tax has been discussed quite widely. If you have got a new tax that is going to fund compensation, you would imagine that once you have exhausted the compensation to be paid, you could remove the tax. That would be a logical and sensible position to take. However, we know that Labor governments love taxing. They love high taxes. They love to ensure that they are getting their pound of flesh irrespective of how fair or not that is. For them to not want to have a sunset clause on their new tax is just a cynical cash grab, which is what we have seen from this government on a regular basis. I note the government said in their response to finding 1 that:

> If the actual revenue being received is greater than forecast then the government has the option to reduce it under the current legislation.

It has the option to do that. So we are expected at this point to trust a Labor government that has imposed a tax to voluntarily reduce it. Call me cynical, but I cannot see that happening. I cannot see a Labor government choosing to reduce a tax from which they have an income stream.

Ms Shing interjected.

Mr MORRIS — Any government who introduces a new tax when they have said they would not has broken a promise. Ms Shing knows it is a broken promise to introduce a new tax. For Daniel Andrews to have said it the day before the election was just a cynical grab for votes, and a shocking one at that.

I will move on to recommendation 1.1 from what shall now be called Mr Finn's committee. It states:

> That the Victorian government amend the Commercial Passenger Vehicle Industry Bill 2017 to:
>
> > recognise that the primary purpose of the levy is to provide support to existing taxicab licence holders through the Fairness Fund and transitional financial assistance payments …

One would have thought that would be self-evident. However, it is an important recommendation from the committee.

Recommendation 1.3 is one that I am particularly interested in as a member who represents regional and rural Victoria in the great Western Victoria Region. It states:

> That the Victorian government amend the commercial passenger vehicle bill 2017 to:
>
> > …
> >
> > provide for a reduced rate of levy in rural and regional areas …

This is one that I am pleased the government members of the committee saw fit to support, because it is a simple matter of fairness. If a group is not receiving a benefit from something, they should not be paying tax so that their metropolitan cousins are benefiting. The response from the government on this particular recommendation is bitterly disappointing:

> The per trip levy replaces current annual licensing costs and will reduce costs for operators and fares for passengers.

That is debatable.

> There are currently 36 different types of CPV licences and the government acknowledges that the impact of the replacement of these licences with a levy will be different for each type of licence.

The government goes on to say:

> The members of the Legislative Council can support the bill and also commit to reducing the effective rate of the levy in rural and regional areas in the future, should they chose to do so.

The government should be accepting these recommendations, rather than trying to put it back on the house to do their work for them. They are the government. They have received a report, a specific recommendation. They should be responding to it by adopting it, rather than just saying, 'By the way, Legislative Council, you can do our work for us, and you can amend the legislation should you see fit'.

If you are living in regional Victoria, there is an impact, and I note that the member for Ripon in the Legislative Assembly, Ms Staley, has been a strong advocate on this particular point. She knows well that people in the townships and cities within her electorate of Ripon, in places like Ararat, Stawell and Maryborough, are typically taking quite short trips. People who are taking these quite short trips are often on very fixed incomes, whether they be age pensioners or the like. For people on very fixed incomes who are attending doctors appointments and the like, indeed multiple appointments in a short space of time, being expected to absorb a new tax that is going to benefit those living in metropolitan Melbourne is completely and utterly unfair. It was rightly pointed out by the committee that this simply should not occur.

The metro-centric Andrews government are yet again trying to favour metro Melbourne and leave regional Victoria behind, as they continue to do on a daily basis. They continue to favour metropolitan Melbourne over regional Victoria. It is something that we should not be surprised by, but it is something that I continue to be aghast at.

In summation, this is a bad bill. It is a terrible bill. It is one that is entirely and completely unfair. It is in my assessment an absolute dog's breakfast of a bill and one that I am not surprised we are seeing so many amendments to, because members in this house are attempting to fix the government's poor and shoddy work.

Ms Crozier — Shambles.

Mr MORRIS — It is an utter shambles and one that I certainly will not be able to support. I hope this house sees fit not to support this exceptionally flawed bill.

Ms LOVELL (Northern Victoria) — I rise to speak on the Commercial Passenger Vehicle Industry Bill 2017. In doing so I recognise that the commercial passenger vehicle industry has changed significantly over the past three or four years. Uber has been here for some time now and there is no doubt that it is here to stay. The app is on many Victorian phones and it actually seems to be the preferred option for many of our younger generation. However, the government through its incompetent minister has been slow to act and has caused significant concern and stress for those in the taxi industry. The minister has allowed the ridesharing industry to operate illegally in this state while at the same time she has been charging taxi licence holders significant annual fees to operate, which is completely unfair.

This bill discriminates not only against taxi licence holders but also importantly we recognise that it discriminates against country communities and taxi licence holders in country locations. Many country communities do not have access to Uber and ridesharing. In my home town of Shepparton we certainly do not have access to Uber. We have two taxi services, Shepparton Taxis and Greater Shepparton Taxis. These two services have served our community well, and many of their customers are some of the most vulnerable in our community. In particular they transport a lot of the elderly and the disabled. In Shepparton we have very limited access to public transport, particularly on weekends. In fact on weekends between Shepparton and Mooroopna there is one bus on a Saturday afternoon and there is no public transport on Sundays.

As I was saying, taxi services transport a significant number of the elderly and the disabled. Sometimes a taxi is the only option that people have to access doctors appointments and particularly to transport their groceries home after their weekly shop. Taxi operators have advised me that the average fare in Shepparton is actually somewhere between $7 and $9, a fairly low fare base. Yet what this government wants to do is to put a flat levy of $2 on all fares. This is particularly unfair on communities like Shepparton, Tatura, Numurkah, Cobram, Euroa — and I could go on and on naming country locations. It is particularly unfair not only because it represents a 22 to 30 per cent increase on the average fare in Shepparton but also because those who use taxis in these towns do not even have the option to use Uber. Under Labor's plans elderly pensioners in Shepparton will be slugged an additional $4 for a round trip to the doctors, to do their shopping, to visit their family or perhaps even to attend church on a Sunday. This is completely unacceptable.

The bill is also discriminatory because the government only plans to compensate taxi licence holders in country communities half of what the compensation level will be in metropolitan areas, regardless of what the licence-holders have paid for their licences, and many of those licence-holders have paid significantly higher purchase prices for their licences than the government is offering in compensation. They have taken out mortgages to purchase their licences, and they will be left with significant debt. The government's failure to deal with these issues swiftly has already caused these licence-holders significant grief. Many have already had their banks wanting to foreclose on their loans because their licences are no longer of the value needed to secure those loans.

I have spoken in this place several times about one of the taxi licence holders in my electorate, Mr Henning Rasmussen, who has found himself in significant financial difficulty because of Labor's failure on this issue. Mr Rasmussen paid over $200 000 for his licence in 2006. He still owes over $90 000. The compensation the government say they will pay will not even cover the remaining debt. Mr Rasmussen actually no longer drives his taxi as he has become a full-time carer for his wife, Martine, who is both unwell and has a severe mental disability. Mr Rasmussen leases out his taxi, but due to the government's failure to act swiftly on this matter he has been forced to lease the taxi at a lower rate. The payments no longer meet his repayments to the bank, and the bank is now wanting to foreclose on his loan.

For some months now Mr Rasmussen and his wife have been living off the generosity of family and friends and have been accessing food through Foodbank. They are in dire financial straits. They applied to the taxi Fairness Fund back in December. They had failed to hear anything from the Fairness Fund when Mr Rasmussen was in contact with me last on 19 May, five and a half months after they had submitted their application. They had not even had any feedback from the Fairness Fund, not even a letter to acknowledge that their application had been received. They have been unable to get any information.

I raised this in the house with the Minister for Public Transport, and the minister's answer sent back to me was disgraceful. It did not address Mr Rasmussen's issues. Mr Rasmussen is in significant financial difficulty, and all the minister gave me was a political response. It was an appalling political response that just

lauded the government's legislation and said that if I wanted him to be paid any compensation, I should vote for the bill. Voting for this bill is voting for flawed legislation.

Ms Crozier — Absolutely heartless.

Ms LOVELL — It was absolutely heartless. You are right, Ms Crozier. It was an absolutely heartless response from this minister. These are people in significant financial difficulty. The minister cannot even provide a phone number to people for them to get some information. She just gives a pure political response. In fact in her response she also lauded the member for Shepparton in the Assembly, Suzanna Sheed, who claims to be an Independent, for voting for this legislation in the lower house. Unfortunately for Mr Rasmussen, he actually contacted Suzanna Sheed's office for help, and he said in a letter to me that he was of the understanding that it would be a matter for Suzanna Sheed's office because of course she is the local member in Shepparton and she should be willing to help people. Mr Rasmussen did contact her office, but he wrote in his letter to me, 'They are not willing to help me find out what is going on'. That is absolutely disgraceful.

I think Suzanna Sheed is tying her colours more closely to the Labor Party as we progress through this Parliament. She certainly seems to support their philosophies and their point of view. She has supported not only this taxi bill, which is discriminatory towards her community, but also the Country Fire Authority (CFA) bill, which is not supported by her community. Her speech on the CFA bill was actually quite amusing. She went through all the reasons that her local CFA brigades had given her not to vote for the bill, and then she just said, 'I think this has gone on too long, so I will vote for this bill'. You do not vote for flawed legislation. The government has a long way to go in ensuring that this legislation for the commercial passenger vehicle industry is the correct legislation that should be before this house.

I certainly do not support the $2 levy in country Victoria. As I said, it is discriminatory. It is a significant increase and impost on those who use taxis in country Victoria. We have very little access to public transport. Taxis provide a very important service for our elderly and our disabled. This would place a significant impost on those people, the elderly and the disabled, who need to use the taxi services. This is not about people getting home from a nightclub on a Saturday night where an extra $2 may not seem much. This is about pensioners accessing doctors, pensioners getting to do their weekly shop, pensioners visiting their families and friends and pensioners attending church or perhaps the elderly citizens centre. The $4 on any return trip will soon add up, and if a pensioner were to have three or four trips a week, that is $12 to $16 out of their pension. This is something they cannot afford.

In Melbourne taxis are used for a wide variety of reasons, and the taxi fares are much, much higher, so $2 may not seem so significant when a taxi fare might be $45 or more. But certainly in country Victoria it is going to be a significant impost on people who do not even have the ability to access Uber services anyway. Country Victorians will be paying so that Melbourne has a greater variety of services available to them while services in country Victoria will remain the same.

I am not saying services in country Victoria are not good, because country taxidrivers do an absolutely amazing job. Both our local taxi firms in Shepparton — Shepparton Taxis and Greater Shepparton Taxis — have serviced our community admirably over the years. I know that they particularly do a fantastic job with the disabled. I have worked with them to get additional multipurpose taxi licences into Shepparton so they could deliver adequate service, because a few years ago these licences were very limited and they did not feel that they were offering a good enough service to our disabled people. They fought to get additional multipurpose taxi licences into Shepparton so they could offer a better service. These are the types of people you are dealing with in country communities. They are part of the community. They want to offer the best service possible. They certainly do not want to see their service priced out of the range of the pensioners and the disabled in country Victoria.

This legislation is flawed. It has been brought forward by an arrogant government and an even more arrogant minister, who needs to actually look at what she has been doing to the taxi industry. I am particularly concerned about the mental health of many in the taxi industry. I see that not only in my own community but also in the emails that I have been getting from taxi licence holders right around the state. We have people writing to us saying that they have contemplated suicide, saying that there have already been suicides amongst the taxi community and that people are significantly depressed and concerned about their financial future. This government is imposing a level of stress on these small business operators that is unnecessary.

Small businesses do it tough. I know; I was in small business myself. You put every cent you have on the line every morning to open the front door. With the taxidrivers it is every cent they have on the line to get in

their cab and go out and pick up their first fare. Small business is not an easy gig, and it is certainly something that the Labor Party do not understand. These people actually employ people, they provide a service to their community, they are good people and they deserve to be treated with a lot more respect than this government is treating them with. I would urge this government to also make available, in addition to any compensation to taxi licence holders, counselling for mental health, because this is taking a significant toll on many families in the taxi industry.

Many of these people are families who have come from overseas to build a better life in Australia. They have worked hard all of their lives driving taxis to provide for their retirement, and suddenly the value of their licences has been made worthless. The compensation that the government is offering will not provide for their retirement. This was people's superannuation. This is a government that is playing with people's lives, that is putting people's lives in jeopardy and causing significant stress to a whole range of small business operators in Victoria. I find this piece of legislation particularly concerning. With those few words I now come to the end of my contribution.

Ms Crozier — Deputy President, I draw your attention to the state of the house.

Quorum formed.

Mr FINN (Western Metropolitan) — I thank members for coming into the chamber to hear my contribution. It is very thoughtful and decent of them. After two and half years this is the best the government can come up with. They have been mucking around with the commercial vehicle legislation for two and a half years, and this is the best they can come up with. This legislation I reckon was drawn up by Ted and Patch, because this is a dog's breakfast. That is exactly what it is; it is a dog's breakfast. Is it any wonder that there is a flurry of amendments on this bill today? This bill is so flawed and has so many holes in it that it is just totally unacceptable to anybody. I find it extraordinary that after two and half years of thinking about — —

Mr Dalidakis — I find it extraordinary that they would preselect a buffoon like you.

Mr FINN — I find you extraordinary. Go and have a drink. I think it extraordinary that after two and a half years — —

Mr Dalidakis interjected.

The DEPUTY PRESIDENT — Order! Through the Chair, please.

Mr FINN — I am going through the Chair, Deputy President. He is not.

Mr Dalidakis interjected.

The DEPUTY PRESIDENT — Order! Mr Dalidakis!

Mr FINN — You started a bit early today. The government has had two and half years to consider this. They sat on their hands. We thought that they were actually going through a process of drawing up some decent legislation. Well, this bill certainly gives the lie to that, because this bill is a shocker. It is a shocker.

It is not as if we did not give them a way out. The committee that sat, the Standing Committee on the Economy and Infrastructure, was one that I was very, very proud to chair. It was a group of members of Parliament from five different parties who sat around, not playing politics, as the minister is doing at the minute, but actually trying to find a solution to an issue that would be fair to all. We did that, and everybody gave a little bit. I pay tribute to the members of the Labor Party on that committee: to Mr Leane, to you, Mr Deputy President, and to Mr Elasmar for — —

An honourable member — And Mr Melhem.

Mr FINN — Mr Melhem, were you there as well? Indeed you were from time to time.

I pay tribute to them because they came to us and sat around the table with goodwill and with a view to solving a problem. Now, we heard during the course of our deliberations from a number of witnesses, some of whom left me deeply distressed, I have to say, given the difficulties that they were facing as a result of this legislation and as a result of the mucking around over the past two and half years by this government. I was deeply affected, I have to say, by some of the heartbreaking stories that we heard — deep distress from some people. All they had ever done in their lives was work hard. All they had ever done was put in seven days a week. Some of them had not had holidays in years, and all they had ever wanted was to look after their families and to set themselves up for retirement without being a burden on the taxpayer. And what happens? This government comes along and screws them over monumentally.

As a committee we wanted to help them. We wanted to reach out to them and say, 'This bill is not fair, and we want to make it fair'. That is why some of the

recommendations put forward were indeed put forward. Of course we heard from former Premier Jeff Kennett, who I think had quite an impact on everybody on the committee. He said we just need certainty, we just need to sort this out, because yes, these people are not being treated properly. We need to fix this up, but we need to do it in a timely manner. Unfortunately the government has decided to reject almost all of the recommendations of the committee, and I think that is — —

Mr Melhem interjected.

Mr FINN — It is on the website. Have you had a look at the website, Mr Melhem? You should go and have a look at the website. I have got a copy here if you want to come over and have a look. The cabinet, or the Premier and the Minister for Public Transport, have decided to reject what are a group of eminently reasonable suggestions for amendments to this legislation to make it fairer, and that is what it is all about — making it fairer.

We had five political parties represented on that committee, and for five political parties to come to a common view on an issue such as this is absolutely extraordinary. In fact I would go as far as to say it is remarkable; it might never happen again. The view was that this legislation is not fair and the recommendations were made to ensure a degree of fairness in this bill, because this bill is anti-Australian. If there is one thing that you would say is at the core of Australia and Australians, it is wanting to give everybody a fair go. That is something that I think everybody on both sides of the house would agree on: that we need to give everybody a fair go.

This legislation does not do that. In fact this legislation strikes at the heart of a fair go. Those men and women who, some for decades, have worked hard, put in, looked after families and built a home — many from outside Australia have come here and done that — are the ones who will suffer as a result of this legislation.

Ms Crozier interjected.

Mr FINN — As Ms Crozier says, the Labor Party says they are the champion of the workers — well, we know that is a load of tish now. That is absolute nonsense given what this legislation does or what it intends to do. Having rejected the opportunity to make it better for working men and women — —

Ms Crozier — Families.

Mr FINN — And families, working families. I remember — Ms Crozier, you have brought back some memories for me. The working family caper: remember that? That was big in the Labor Party a few years back. Well, this legislation screws over working families royally. It just tells the community that this Labor Party, this Socialist Left government that we have here in Victoria, does not care about working people, does not care about working families and does not care about a fair go.

Mr Dalidakis interjected.

Mr FINN — That is the reality, and I can understand why they are defensive, because if I was them, if I was in their shoes, I would be ashamed too. I would be ashamed too of what I am doing. I would be ashamed too of what is about to happen to working men and women in this state. The Labor Party stands condemned.

Honourable members interjecting.

Ms Hartland — On a point of order, President, people are actually trying to listen to the debate. We cannot hear it if people are screaming at each other.

The DEPUTY PRESIDENT — Order! That is exactly right, Ms Hartland. Please, can we have some quiet?

Mr Dalidakis — You are a fraud.

The DEPUTY PRESIDENT — Order! Mr Dalidakis.

Honourable members interjecting.

Mr FINN — Mr Deputy President, I ask the minister to withdraw that remark.

Mr Dalidakis interjected.

The DEPUTY PRESIDENT — Order! Mr Dalidakis, I ask you to withdraw that word ‘fraud’.

Mr Dalidakis — Withdrawn.

Mr FINN — As I was saying, it gives the lie to the idea that the Labor Party cares about the little bloke.

Mr Dalidakis — You are exhibiting fraudulent behaviour.

Ms Crozier — On a point of order, Deputy President, the minister just defied your ruling. I would ask you to call him to order.

Mr Dalidakis — You look at the standing orders. That is perfectly within the standing orders, what I just said.

Ms Crozier — Clearly you are tired and emotional.

Mr Dalidakis interjected.

The DEPUTY PRESIDENT — Order! Mr Dalidakis, please. I want some quiet. Mr Finn to continue.

Mr FINN — Thank you, Deputy President. The fact of the matter is this legislation will cause untold human tragedy in this state, and this government does not care. With the exception of those members on the economy and infrastructure committee, the government does not care. The executive of the government, the cabinet, has rejected an attempt to make this legislation fair for ordinary working families, and for that this government stands condemned.

I know there are a lot of people the length and breadth of Victoria who feel enormous anger, as they should, toward this government for what it is doing to people whose only aim in life is to work hard and to provide for their families and for their own retirement. This government and this legislation will bury both of those aims. Unfortunately as a result of this legislation it will probably bury some of those people as well, because I know that some of them are pretty devastated by what they are going through. They do not understand why the government is doing to them what it is doing. We know change is coming, and they are not opposed to change, but all they want is fair compensation, and I think that is a reasonable thing.

I am not one for handing over taxpayers money willy-nilly, but when a government makes a decision which devastates businesses and working men and women, then I believe the government has a duty, an obligation, to pay the appropriate compensation to make up for the losses of those people. I find it extraordinary that this government is running away from that responsibility. It is in fact using the levy — the taxi tax, as I call it — as a revenue stream. The fact that it does not have a sunset clause tells me that as long as the Labor Party is in government in this state — thankfully that will end come November next year — this taxi tax will stay. Will it be used to compensate the people who need that compensation? Forget it. It will go into Uncle Fester's treasury. That is where it will go, and they will keep doing that for as long as they possibly can. That just adds to the gross unfairness of this legislation.

As my colleagues from the country point out, they have not got Uber. Most of the people in the outer suburbs, for that matter, do not have access to Uber, but they will still be paying the tax. This is one of the taxes, by the way, that Daniel Andrews said before the last election he would not be imposing, but that is something that we have come to expect from our Premier. He is no friend of the truth, and he is proving that again today with this legislation.

I appeal to the government to withdraw this legislation today and to have a rethink about the recommendations that have been put forward. If they care about fairness, equity and giving ordinary men and women a fair go, that is what they will do, because this bill as it currently stands is screwing over workers. To my understanding, that is not what the ALP is supposed to be about. Despite the fact that they do it far too often and quite freely, that is not what the ALP is supposed to be about. I ask the government to withdraw the bill and give ordinary working Victorians a fair go.

Mr RAMSAY (Western Victoria) — I rise to speak to the Commercial Passenger Vehicle Industry Bill 2017. In doing so I want to review some of the history of this issue. We have a dilemma, because we know we need to regulate the Uber industry. We know we have tried to provide a better ridesharing experience under the previous taxi industry model. Graeme Samuel was a key driver in trying to remove some of the non-competitive operators out of the taxi industry and allow greater competition and better service to those that were seeking the ridesharing experience. The previous government, through Graeme Samuel and Allan Fels, tried to put in place a structure that would try to fairly compensate those taxi service businesses.

In the Western Victoria Region we have Jan Uebergang up in Hamilton, who runs three plates. I know Steve Armstrong in Ballarat has a large group of small business taxi operators, most of whom have mortgaged their houses to purchase their licences, which at that time could cost anywhere up to $500 000. They were reliant on that value holding because they were borrowing money against it either to run their business or to buy further licences, so there was a big investment in taxi operators buying licences and obviously then paying back loans. Certainly in the past few years the industry really has been in turmoil: it wants to have an improvement in the service structure but also wants to retain the value of the investment that those small businesses in the ridesharing business have made. I certainly know from personal experience, through many of the operators around western Victoria coming to me, that they are very concerned about the devaluation of their investment in taxi licences.

It was not the coalition's wish at that time to have a major impact on that investment and those values. That is why the proposal to move to an annual licence fee,

certainly in regional areas, to a fee that values the small business operator and the special services they provide, is a good one. We have already heard in other contributions that in regional Victoria it is not just a taxi service; these small business people like Jan Uebergang, Steve Armstrong and taxi services in Geelong provide additional services both for the elderly and the disabled. They ferry groceries and help with medical appointments. They get out of their cabs and help with luggage transfer and all those sorts of things that are over and above the normal work of an operator. That is very much appreciated by regional people.

Yes, Mr Dalidakis is right, there has been history in relation to the readjustment of the taxi industry, both by the previous government and by this one. We knew in 2014 that Uber was coming, and as has been said, it has taken nearly three years to come to a point where we are now starting to regulate the industry into a competitive service industry.

The problem I see here — and there are a plethora of amendments that are before us now — is that there is no real bipartisan or consensual agreement on what is fair and equitable. I congratulate the members of the Standing Committee on the Economy and Infrastructure from all political parties on trying to find a space where there is fairness and equity for all. It is disappointing that the government has seen fit not to support the recommendations of that committee. The taxi tax — like Mr Finn, that is what I also call it because that is what is — particularly the proposed $2 charge on those in regional areas where short trips might amount to only $8 or $9, is nearly 30 per cent of the total fare. Even on an administrative level, which I understand costs around 20 or 30 per cent of the collection charge or the taxi tax charge, it is not profitable.

The Greens amendments and I think the amendment from the Shooters and Fishers party — I have not seen their amendment, but I presume it is coming — propose that there should be no charge, no levy, no taxi tax for regional areas. That is a good and fair proposal.

I see that the government has finally listened and will uncap the Fairness Fund. As I have said, the removal of the value of taxi licences, in which many, many small businesses have invested their life savings of $150 000 to $500 000, is not fair and equitable.

Mr Leane interjected.

Mr RAMSAY — I think Mr Leane would acknowledge this, because he is a fair person. He wants to see fairness and equity in any sort of legislation that might be brought to this house. He knows, given he was sitting on Mr Finn's committee, and he agreed that in fact it was not fair, and he supported the recommendations that the committee sent to the government.

To uncap and to sunset the levy is a fairer way to provide the balance between a regulated ridesharing market and support for those small businesses that have invested their life savings in buying taxi licences.

Like many others I also received correspondence from Corrs Chambers Westgarth, particularly from Bronwyn Lincoln, who is obviously the partner representing a number of those small businesses. They have raised a number of concerns in their letter in relation to the government's proposal. They have responded to each of the recommendations from the committee, but more so to the government's response. Obviously they have raised a considerable amount of concern about what the government is intending to do.

Some of the issues that were outlined to me by taxi operators included a concern around how, if in fact there is to be a tax — and I guess we will soon see when we debate the amendments — that is going to be administered, because we know that taxis, as distinct from Uber drivers who work mainly through apps and credit cards, are most likely to have to put the levy through the bailment charge. They are concerned that the administration and the compliance required for the government in relation to the collection of this taxi tax, or whatever it might be, if there is to be one, would almost outweigh the levy or tax that is charged.

From an economic point of view, if the government is looking from a Treasury perspective, particularly in regional Victoria, there is probably no net benefit of a taxi charge or taxi tax on those short visits that only bring in $8 or $10 per trip, and we know that that may well be totally swallowed up by compliance and administrative charges, so it does not make sense. The removal of the bulk of the annual licence fee in exchange for the taxi tax is also, given we are yet to know what the final costs associated with the payouts will be, unclear in the bill.

In summary, I just want to try and find a productive way forward in relation to how we can better manage the regulation of the industry, particularly of Uber. We must acknowledge the value of the taxi-operator businesses that have invested significantly in buying licence plates and the appliances that go with that service, recognise the value of the service that those small business taxi operators provide over and above the normal ridesharing experience that perhaps even

Uber offers and also acknowledge the fact that many parts of regional Victoria do not have the ability to access Uber and therefore rely solely on these small businesses which we just cannot afford, given the lack of public transport in many regional areas, to lose from the ridesharing system. They are an essential part of the social fabric of regional Victoria, and we must do everything we can to protect the viability of those businesses. Unfortunately the government's current proposed legislation does not do that.

I am putting the government on notice that this is an opportunity for it to relook at the drafting of this bill and put protection mechanisms in place to make sure we do not lose taxi services, particularly in regional areas where people do not have the opportunity to access Uber and where they do not have the opportunity to use public transport. A vast part of regional Victoria does not have trains, does not have bus connections, and certainly for the more elderly or those that are not able to use personal transport — cars and the like — not having a taxi service is really going to have a significant impact on livability.

The other issue I want to touch on that Mr Davis mentioned last night is that we have seen on the steps of Parliament the angst, concern and emotional upheaval of many of these families from the small business sector that provide ridesharing services — mainly from the taxi industry. It has been from a mental and psychological point of view very damaging. I admit that even through our term of government, when there were adjustments proposed, concerns were initially raised about the financial wellbeing of these small business owners, but now it is about their emotional and mental wellbeing as well. Many letters sent to my office raise concerns about the health and wellbeing of many of these families that are associated with ridesharing businesses. I plead with the government to go back, have a rethink and put in protection provisions, particularly for those small business families in regional Victoria who will be affected, but also for those that are going to use the service — the disabled, the elderly, those that do not have means other than public transport, those that do not have the capacity to access public transport who are dependent on a taxi service and also those that provide transport over and above services simply conveying people from one side of town to the other.

We have an opportunity today. I note that Mr Dalidakis has been quite active in criticising the position we are taking, yet apparently not so proactive in looking at opportunities for the government to reassess and come back with a bill that takes into account and acknowledges the things that I have raised in relation to protecting our small business taxi operators and at the same time acknowledging the difference between regional Victoria and metro Victoria in relation to service requirements and the impact that this taxi tax will have particularly on those short trips and also on the viability and profitability of those businesses.

Ms CROZIER (Southern Metropolitan) — I rise to speak on the Commercial Passenger Vehicle Industry Bill 2017. As others have said, it is a very important debate we are having in this house and the Parliament today. We are back here today after a normal sitting week to debate legislation that the government is desperate to get through. However, it is the role of this place to undertake a review of legislation and to provide input through various means, and one of those means was the Legislative Council's economy and infrastructure committee inquiry into the Commercial Passenger Vehicle Industry Bill 2017, whose report was tabled in this place not so very long ago by Mr Finn. Mr Finn, who chaired this very important committee, said in his foreword to the report:

> There is no question that the government's proposed Commercial Passenger Vehicle Industry Bill 2017 requires a number of amendments to reflect the reality of the plight of taxi licence holders in Victoria and the compensation that is owed them.

He goes on and makes some other points in the foreword, but I think the main issue here is that it is the reality of the plight and, as so many speakers have raised in their speeches, there is that human side and human toll. I congratulate Dr Carling-Jenkins on her contribution to this debate. I was listening to her speech in my office, and she outlined some of the concerns of the people that she had met with, that she had been listening to and that she had spoken with and received correspondence from. Like many of us, she received so much correspondence and so many emails and letters — I have personally, and I know other members have — in relation to the concerns of taxi licence owners, their family members and others.

This matter has been going on for months and, as other members have said, the government has made a complete shambles of this whole issue. I have met with many, many taxi owners and families and have listened to them, whether that has been in my electorate office, or whether that has been here in the Parliament, by having them come in here, so that I could try to understand the impacts of what the government proposes on their ability to manage their ongoing businesses and on their livelihoods. I think that has been extremely important for us all to understand. In fact I listened to some taxi owners and their families at

a demonstration outside Mr Dalidakis's electorate office just a few weeks ago.

The angst and the emotion of those people at that time were very, very considerable. I think they felt absolutely abandoned by the government. I do not know if Mr Dalidakis has met with them, but they were outside his office — and there were dozens of them. Mr Davis was also at that particular demonstration outside Mr Dalidakis's office. There were many, many concerned members who were trying to bring this issue to the attention of the minister, who ultimately has a lot of responsibility in this area, as these people are small business owners.

Mr Morris — He is ignoring them. He is ignoring small business people.

Ms CROZIER — Clearly they feel he is ignoring them. They feel very strongly that the minister is ignoring them in their plight in terms of being able to manage their business and what that is meaning to their business and to their families.

Business interrupted pursuant to sessional orders.

Mr Finn — On a point of order, President, last night at about 9.20 p.m. there was an incident involving the Minister for Small Business, Innovation and Trade in this house. I was in the President's chair at the time and you will recall you were called in to the chamber to deal with that incident. I state that upon reflection the behaviour of the minister was entirely inappropriate for not only any member of this house but particularly a minister of the Crown.

I am seeking that you may wish to consider viewing the audiovisual recording of the events last night and to decide whether it would be appropriate to take further action, as the minister did reflect upon the Chair at the time. I realise that some members may enjoy the Melbourne night life, but when a minister comes into this chamber and acts clearly in an aggressive manner, and possibly affected by alcohol, it does pose a very poor look for this Parliament and for this chamber.

Mr Dalidakis — On the point of order, President, I ask the member to withdraw. That is an appalling accusation. It is an appalling misuse of parliamentary privilege. If he was to say it outside of this chamber, it would be actionable, okay? We conduct ourselves professionally. All I did, at the time of Mr Finn being the Acting President, was call for you, President, to come into the chamber and relieve him, given his disposition. He abused his position as an Acting President in the chair. I called for you to come to the chamber to relieve him from the position because of his actions which were an abuse of his position as Acting President.

Mr O'Donohue — On the point of order, President, I happened to be in the chamber at the time and I must say I have to concur with Mr Finn's observations. I found the minister's incessant request for yourself, President, to attend to be extremely aggressive, hostile and unnecessary. I think the Acting President handled a very challenging situation in an appropriate way. So, for what it is worth on the point of order, I concur with the observations made by Mr Finn.

The PRESIDENT — Order! Can I indicate that that is not a point of order.

Mr Jennings — On the point of order, President, I ask that you to take up what was the legitimate element of Mr Finn's contribution, which was for you to review the footage and make your own assessment of the relative merits of this issue and make a determination. I was not in the chamber. I understand that the views of what actually occurred are highly contested between the two protagonists in this matter. I believe you should best resolve this matter by reflecting on it in the way that Mr Finn asked for, rather than making any salacious allegations about what was driving that encounter.

Mr Mulino — On the point of order, President, I just want to add that I was in the chamber at the time and was sitting next to Mr Dalidakis. I simply want to say that, further to reviewing *Hansard*, in terms of the tone of the debate that was occurring at the time and something which may not be captured in *Hansard*, Mr O'Donohue was making a lengthy contribution, much of which was very content rich but there were occasions when Mr O'Donohue was making comments which were eliciting comments from the government benches and from the other side. The point that I am making is that for some minutes there had been a number of interjections both ways, that they had been from this side and from that side. Mr O'Donohue had taken up some of those. He had accepted the fact that there were comments going both ways, as had the Chair.

The reason why there had been a reaction was that Mr Dalidakis entered the chamber and made one comment, which was very consistent with the spirit in which the debate had been occurring across the chamber for some minutes, and the Chair jumped on him in particular in a very aggressive way.
Mr Dalidakis was simply trying to say that there had been a singling out of him when the discussion had been going across the chamber.

Honourable members interjecting.

Mr Mulino — I am simply saying that a number of the interjections may or may not be in *Hansard*. I would simply give my recollection and ask that when you read *Hansard* you take that into account. Can I just also say that Mr Dalidakis calling for you to come in is in fact a highly appropriate way to reduce the temperature.

The PRESIDENT — Order! In respect of the points that have been made, not all of which are clearly points of order in terms of process matters, I concur with the Leader of the Government that the appropriate action at this point is for me to review the footage from last night and perhaps the written record as well to determine if there is any further need for me to pursue any matter. I think the discussion today has not been entirely helpful, and the appropriate course of action, to the extent that it has been raised in the chamber today, is for me to actually pursue the matter by checking the records, and I will do that.

In the course of the points of order Mr Dalidakis actually sought a withdrawal of one of the statements, and based on the fact that I will have an objective consideration of the matter, I would at this time seek a withdrawal of the comment about him possibly having consumed alcohol. As I said, then I will proceed to make a judgement based on what I see. Can I seek a withdrawal of that comment, please.

Mr Finn — I withdraw, President.

The PRESIDENT — Order! Thank you, Mr Finn.

Mr Dalidakis — On a point of order, President, it has been drawn to my attention that should Hansard have picked up comments by Ms Wooldridge and Mr Morris, I ask them to withdraw their allegations as well.

Mr Finn — What were they? What were the allegations?

Ms Shing — How much had he had to drink and that he was slurring his words.

Honourable members interjecting.

The PRESIDENT — Order! Mr Dalidakis has sought the withdrawal of those words. Interestingly enough, they are now on the record for sure. Sometimes it is better to say nothing. But at any rate on this basis I will seek a withdrawal of those two comments. As I said, this matter is best pursued by me, as Mr Finn had sought and as the Leader of the Government had pointed out.

Ms Wooldridge — I did ask how much Mr Dalidakis had had to drink, and I withdraw that comment.

The PRESIDENT — Order! Mr Morris.

Mr Morris — I believe there has been an accusation that I have said something that I did not say. If there was something that I said that was worthy of withdrawal, I would withdraw. However, I do not know what I am accused of saying and what I am being asked to withdraw.

The PRESIDENT — Order! On the basis that Mr Morris indicates that he does not believe that he said those words and that Mr Dalidakis has said it would only be if *Hansard* reflected those words that he would ask for a withdrawal, I think we will just let that matter rest at this point in time.

QUESTIONS WITHOUT NOTICE

Corrections system

Mr O'DONOHUE (Eastern Victoria) — My question is to the Minister for Corrections. Minister, why has convicted terrorist Abdul Nacer Benbrika been transferred from the super-maximum security Melaleuca and Olearia units to the less restrictive Hoya unit, allowing him to again seek to convert and radicalise fellow inmates?

Ms TIERNEY (Minister for Corrections) — I do thank the member for his question and the opportunity to address the issues he raises and indeed issues raised in the media this morning. Firstly, it is not appropriate that I discuss current specific circumstances of individual prisoners. In fact for a former Minister for Corrections to detail the current location of high-profile prisoners is extremely disappointing and puts the security of our prison system in jeopardy.

The second thing that should be raised is that apart from the short-sighted attempt to play politics with terrorism, Mr O'Donohue has got a very short memory. The particular prisoner he has raised was accommodated in the same unit under his watch as minister. Given that this prisoner is in the same unit now as he was under Mr O'Donohue's watch, I think Mr O'Donohue should explain himself.

I think Mr O'Donohue should — to use his words, and I quote:

> … explain why this well-known terrorist is not being held in super-maximum security, given his convictions and violence offences.

That is your quote — which leads me to the third point. The third point is that Victoria does not have supermax facilities. He implied it did in his media commentary. He has got his terminology all wrong. In Victoria we have maximum-security prisons. Barwon is just one. With maximum security we have high-security units. We have management units and protection units at Barwon, as well as other units. If the former minister does not understand the difference between these units, then I am happy to provide a briefing to him to clear up this matter.

In terms of the point on radicalism, this is a very important issue. All prisoners are managed according to the risk that they present, and those who present the greatest risks are subject to the closest monitoring, supervision and scrutiny. If any prisoner is believed to be attempting to radicalise others, Corrections Victoria is able to place them under very strict conditions where their influence over other prisoners is minimised.

In terms of the other issue that is mentioned in the media report, the issue of parole, Mr O'Donohue forgets that this particular prisoner was charged with federal terrorism offences, and while that prisoner is eligible for parole the decision to grant him parole is not a matter for the Premier — Mr O'Donohue suggested it is in his media statement — and it is not a matter for the state government. It is a matter that rests with the federal Attorney-General, George Brandis.

What I can say to those opposite is that they need to be a little bit more circumspect when it comes to the issue of terrorism. I would hope that the former corrections minister and those opposite could demonstrate more maturity when engaging in these issues. Terrorism issues must be a no-go zone for petty party politics, and if those opposite have genuine concerns about prisoners and terrorism, all I say is: if you have got a genuine concern, pick up the phone. This issue is too important for this sort of carry-on.

Mr Leane — On a point of order, President, during the minister's answer I was sitting right behind her and I found it very difficult to hear her answer. I think it was very important information that the minister was actually delivering, but because of the noise from the other side of the chamber it was very hard to hear. I wonder if she would be able to repeat what she has just said.

Mr O'Donohue — On the point of order, President, I could hear the minister's statement, but if there are any issues, I am more than happy for her to table her pre-prepared answer and statement for the benefit of all of us and Hansard.

The PRESIDENT — Order! I dismiss both points of order on this occasion. I think the minister's answer was conveyed adequately to the chamber. I do, however, take up the opportunity that Mr Leane's point of order provides to say that on this occasion the minister was providing a very fulsome response. To suggest, by way of interjection, a number of things about the way the minister was conveying that information to the Parliament was not appropriate.

This is quite a sensitive area that concerns all members of Parliament and indeed the community. As I indicated, the minister's answer was fulsome. She is often criticised by the opposition for not providing answers, but on this occasion there was no doubt that the minister provided a very strong answer and an answer that was apposite to the question. As Mr Leane really inferred with his point of order, she deserved the courtesy of the house to be heard in silence.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for her answer. Minister, noting that you have raised the issue of Mr Benbrika's eligibility for parole, what will you do, working with federal authorities and the federal government, to ensure that he remains behind bars in the most secure, super-maximum unit in the system?

Ms TIERNEY (Minister for Corrections) — I thank the member for his question. I do believe I did answer that in my answer to the substantive question in relation to this being a federal matter and that the actual decision lies with the federal Attorney-General, George Brandis.

Ordered that answers be considered next day on motion of Mr LEANE (Eastern Metropolitan).

Prison programs

Mrs PEULICH (South Eastern Metropolitan) — My question is to the Minister for Corrections. Minister, is convicted terrorist Abdul Nacer Benbrika currently participating in deradicalisation programs whilst in prison?

Ms TIERNEY (Minister for Corrections) — I thank the member for her question. As I also provided in my substantive answer to Mr O'Donohue, I do not believe

it is appropriate to discuss specific circumstances of individual prisoners.

Supplementary question

Mrs PEULICH (South Eastern Metropolitan) — We have a known terrorist in Benbrika, who has previously converted Islamic State fighters while in prison. We now find out that he has been moved to a less restrictive unit to again allow him to convert and radicalise fellow inmates. Minister, you have detailed that there are 22 persons currently participating in deradicalisation programs, 17 of whom are in Victoria's correction system and five in the community. Over 300 persons of interest are currently on the Victoria Police terrorism watchlist, meaning hundreds on Victoria's watchlist are not participating in anti-radicalisation programs, and of those, you are not informing the community of how many are in Victoria's corrections facilities. Given your previous statement that deradicalisation programs are at capacity and therefore clearly not adequate given the numbers, what action have you taken to ensure that the unmet demand for deradicalisation is being met within Victoria's corrections facilities, especially in the context of heightened concerns about terrorism?

Honourable members interjecting.

The PRESIDENT — Order! My concern with the supplementary question is that it goes to new material. It is quite expansive compared with the very specific issue about an individual and whether or not he was on a particular program. Then this question asks in fact a very broad question about that program. Again it is one of those cases where the supplementary question might well have been the substantive question and the other way around.

Mrs PEULICH — The purpose of the supplementary question is to inquire, first of all, whether Benbrika is participating in a program, and secondly, whether it is related to resourcing given the minister's previous statement that they were at capacity. I believe that the supplementary goes to the very heart of the issue — that is, the need to meet unmet demand for deradicalisation programs.

The PRESIDENT — Unfortunately I just cannot agree. I think that this is a totally different question.

Ms Wooldridge — Could she rephrase the question?

The PRESIDENT — Well, I will give you a chance to rephrase the question. One of the interesting things in saying that the supplementary question should have been the substantive question is that the supplementary text is quite long and the substantive text is quite short, which I think is an indicator in itself of the fact that the questions are the wrong way around. I will give you a chance to rephrase, but it really needs to come back to what the substantive question was.

Mrs PEULICH — President, if I may, I certainly will rephrase it, although I was using inductive reasoning as opposed to deductive reasoning in structuring the question.

Honourable members interjecting.

Mrs PEULICH — No, it was starting with the particular and moving to the general. Given the minister's statement previously that deradicalisation programs were at capacity and therefore clearly inadequate given the numbers that she has previously provided and the fact that there were 300 persons of interest on Victoria Police's terrorism watchlist — yet the minister has detailed that there are 22 people currently participating in deradicalisation programs, 17 of whom are in Victoria's correction system and five in the community — the question is: what action has the minister taken to ensure that the unmet demand for deradicalisation is being met within Victoria's corrections system?

The PRESIDENT — Sorry, Mrs Peulich, I gave you a chance to reword, but again it has gone to a new matter that is quite different from the substantive question.

Student disability services

Mr FINN (Western Metropolitan) — My question is to the Minister for Training and Skills. The most recent training market data released by the Andrews government shows that over the past 12 months the number of students with a disability in training across Australia increased by 10.5 per cent; however, during the same period in Victoria the number of students with a disability decreased by 7.1 per cent. Minister, the failure of the Andrews Labor government to support students with a disability in undertaking vocational education and training in Victoria is clearly significant, so I ask: why are numbers falling in Victoria despite significant increases across the rest of the country?

Ms TIERNEY (Minister for Training and Skills) — I thank the member for his question. Enrolments and increased participation of young people as well as retrenched workers and people with disabilities are really important and should be supported by all parties in this chamber and the other chamber. We have a

disability strategy here in Victoria, and we are absolutely committed to making sure that all students have the proper access to the courses that they choose. That is why we have brought in a new funding stream called Reconnect. Reconnect is specifically for those students who are vulnerable, those students who are disengaged and also those who have disabilities. So we actually have got a specific funding stream to ensure that those — —

Ms Wooldridge — Why has it fallen?

Ms TIERNEY — Because, Ms Wooldridge, this funding stream came into effect on 1 January this year, and I am looking forward to seeing the advance that we are making in this important area. It is important that we make sure that those who have disabilities, or different abilities, are provided with those opportunities that other people have in our society. Mr Finn, I can assure you that this government is absolutely committed to providing the best possible facilities and the best quality training to enable all people of all abilities to participate fully in this society.

Supplementary question

Mr FINN (Western Metropolitan) — Minister, this disturbing result in falling enrolment numbers for students with a disability in Victoria, despite the increases across the rest of the country, is only exacerbated by the fact — and I should say the disgraceful fact — that you, as minister, have never spoken about students with a disability in this house until today, nor have you ever issued a media release relating to students with a disability. Added to that, according to your answer just a moment ago, you have lumped students with disabilities in with a whole range of other people. Do you seriously regard students with a disability, as it would seem, as an afterthought?

Ms TIERNEY (Minister for Training and Skills) — I thank the member for his question. Clearly that is quite an unbelievable question. I have been in this house for some 11 years, and people know, regardless of what political flavour or political party they belong to, that I am absolutely a very strong advocate of inclusiveness. That is why a number of other groups were mentioned in my answer, because everyone should be treated equally in our society, Mr Finn. As I understand it, you do not treat certain cohorts in our society as equals.

In terms of inclusiveness we are making sure that no pocket of our society gets left behind. Not only are we supporting those that have got different types of disabilities — and I understand Mr Leane has been a serious advocate in his electorate and he brought a number of issues to this house when the previous government was in power — but also I am looking forward to having ongoing dialogue with students as well as staff in all of the TAFE institutes and registered training organisations, as well as the Australian Centre of Further Education and local learning and employment networks that I attend. I will be doing so again on Thursday of next week and the following Tuesday and Wednesday. But if you want to pick up the phone and have more of a conversation with me about disability access, I invite you to do so, Mr Finn, and I would look forward to having those conversations with you.

Corrections system

Mr O'DONOHUE (Eastern Victoria) — My question is to the Minister for Corrections. Minister, the government has had the Harper review for over 18 months, with one of the key recommendations being the establishment of a post-sentence scheme for violent offenders. You have previously confirmed that the decision to order a violent offender onto a new post-sentence scheme will be a matter for the court, taking into account each individual circumstance. As the responsible minister, can you describe to the house the test the court will apply in determining whether to make such an order?

Ms TIERNEY (Minister for Corrections) — I thank the member for his question. This is a question that he has raised several times before and the answer has not changed. The answer is that this will be in the bill when it comes before the house, and we are still deliberating the actual definition; we are still undertaking conversations and consultation with key stakeholders. I am looking forward to bringing that bill before the house because it will execute a number of the Harper recommendations, which I know all of us are looking forward to acquitting.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for her answer, noting that the test is yet to be settled, 19 months since receipt of the Harper review. I ask by way of supplementary: Minister, the Parliament is about to rise until August and still there has been no legislation brought forward to implement those key recommendations of the Harper review following Masa Vukotic's tragic murder. These delays are a risk to community safety. What is taking you so long?

Ms TIERNEY (Minister for Corrections) — This is a very complex piece of legislation. It deals with a whole range of issues, not to mention a substantial part of the Harper report. We are consulting with a range of stakeholders — a number of people. We are making sure that each part of the bill has an interconnected relationship. My question is: is the coalition walking away from Harper? Because this government is not, and I have always said that the bill would come before this house before the end of this year.

Corrections system

Ms WOOLDRIDGE (Eastern Metropolitan) — My question is to the Minister for Corrections. Minister, the maximum security prison estate continues to be in crisis. In recent weeks there has been a high-profile prisoner caught with racy photos in his cell of a female prison officer. Separately, a convicted murderer was found to have a mobile phone in his cell, and yesterday a prisoner at Barwon received serious stabs wounds and was rushed to hospital. Minister, what are you doing to bring these violent and flagrant breaches of prison security to an end?

Ms TIERNEY (Minister for Corrections) — I thank the member for her question. Mobile phones and assaults are absolutely unacceptable. The finding of a mobile phone at Port Phillip recently was a totally unacceptable breach of security, and that is subject to a police investigation. But can I say: prisons are very complex organisations and they hold very, very complex individuals, so unfortunately there are assaults and other behaviours that are exhibited from time to time. But of course you would know that because you were in government, and indeed when Mr O'Donohue was the minister we had five mobile phones, SIM cards, KFC, McDonald's and Subway delivered to prisons. We also had frozen chicken, frozen lamb, nuts, allen keys and tweezers. So do not come in here and lecture me about what is and is not in prisons, and do not try and paint a picture of a system that is out of control. The system was absolutely challenged and out of control when you were in government.

Supplementary question

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister for her response but note that she absolutely failed to talk about what she is doing to address these issues, and that is the basis of both my question and my supplementary question, because every single sitting week we come into this house and ask questions of the minister regarding her constant new and ongoing failures in the corrections system for which she is responsible. Whether it is assaults in prisons, record numbers of contraband being seized, recommendations from key reports just going into the minister's too-hard basket, parolees committing horrendous crimes or the more than 3500 violent offenders on community corrections orders, these are occurring under the minister's watch and the policies that the minister and the Andrews government have put in place. So I ask: will the minister now admit that both she and Daniel Andrews are simply out of their depth in managing the law and order issues that are happening in the corrections system in Victoria?

Ms TIERNEY (Minister for Corrections) — I thank the member for her question. The fact of the matter is we inherited a system that was full of problems. We had a community corrections system that was not properly resourced. We have put in millions of dollars with many, many further case managers, which now means that our case managers can concentrate on those who are a higher risk. I think in terms of the reforms that we have brought in in that area alone we should be congratulated. I know that most of the stakeholders in the justice system understand that.

In terms of the private prisons, we took hold of a situation and then renegotiated private prison — —

Mr O'Donohue — That is because the contracts are expiring.

Ms TIERNEY — They are expiring because they are being renewed. We have put more rigorous conditions on those contracts, and we have more options available to the state if there is a failure to meet the required standards.

Mr O'Donohue interjected.

Questions interrupted.

SUSPENSION OF MEMBER

Mr O'Donohue

The PRESIDENT — Order! Mr O'Donohue, 15 minutes, thank you. If anyone else wants to join him, let me know.

Mr O'Donohue withdrew from chamber.

QUESTIONS WITHOUT NOTICE

Corrections system

Supplementary question

Questions resumed.

The PRESIDENT — Order! Ms Tierney, your time has expired.

Supervised injecting facilities

Ms HARTLAND (Western Metropolitan) — My question today is for Ms Mikakos on behalf of Minister Foley. It has been reported this week that there have been extra sweeps for syringes in the North Richmond precinct. This has been done by providing extra funding to the service that currently does the syringe collection. This was required because street-based injecting use is out of control in the area and clearly the government continues to refuse to agree to a supervised injecting room trial. Yarra council was not informed of these extra sweeps, and they still have not been informed. Their concern is that data was not collected and that this will contaminate the figures regarding how many needles have been collected in the North Richmond precinct. My question is: why was Yarra council not informed by Minister Foley's office of the extra sweeps?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Hartland for the question that she has directed to Minister Foley. I will obviously take the specifics of her question and refer them to the relevant minister for a response. However, I do make the point to her that, as she would be well aware, Minister Foley has in fact made a number of investments to support people who are experiencing drug and alcohol issues. Our government has invested in a number of key harm reduction activities, including an $18.5 million investment providing initiatives such as the needle and syringe program, the opiate substitution treatment program and overdose response education and training on the use of the life-saving medication naloxone. The minister has also provided a package of $500 000 a year to establish six peer networks at key hotspots around the state to prevent overdose deaths from dangerous drug consumption.

I will be very happy to refer the specifics of the member's question to Minister Foley for response, but I do know that Mr Foley does have a range of initiatives and a very strong commitment to these issues. Clearly that was demonstrated through the cornerstone investment made in the budget this year of $81.1 million to address alcohol and other drug use. It was a very wideranging package, including nearly $35 million to address demand in alcohol and drug treatment.

Supplementary question

Ms HARTLAND (Western Metropolitan) — Considering that in the North Richmond precinct street drug use is out of control, when will the government actually step up to the mark and consider a trial of a supervised injecting room?

Ms MIKAKOS (Minister for Families and Children) — I am experiencing a bit of deja vu here. We have had this question in one form or another a number of times. Obviously I will refer the specifics of the question to the minister for a written response. However, I do know that the minister has indicated on a number of occasions that we have welcomed the parliamentary inquiry into illicit and synthetic drugs and prescription medication. It has commenced, and he is awaiting the findings of this inquiry. This gives the minister and the government an opportunity to provide a valuable forum in which to examine these issues in greater depth as well as providing appropriate time to consider the options.

Whilst there is a bit of a race going on between different parts of the crossbench to ask questions about these matters, I would be very happy to refer the specifics of Ms Hartland's question to Minister Foley.

The PRESIDENT — Order! For my edification, can you explain why Mr Foley is the minister in this case?

Ms MIKAKOS — As the Minister for Mental Health he has responsibility for drug and alcohol issues.

The PRESIDENT — Thank you.

Dinjerra Primary School

Ms HARTLAND (Western Metropolitan) — My question is for Minister Tierney in her capacity on behalf of the Minister for Education. I visited Dinjerra Primary School in Braybrook last week, and it is in desperate need of a rebuild. The school is literally falling apart. The school understood that they had been funded to put together plans for a rebuild, but then there was a failure to commit money to the project in the state budget. Parents and teachers at the school now find themselves trying to plan not just the rebuild but also their priority review without knowing when most of the school will be rebuilt and when the funding is going to be announced. My question is: will the minister reconsider the funding for this school and at least go to visit it? The school is literally falling apart. It is quite shocking.

Ms TIERNEY (Minister for Training and Skills) — I thank Ms Hartland for her question. I will refer this matter about a primary school in Braybrook to the Minister for Education.

Regional partnerships representation

Mr YOUNG (Northern Victoria) — My question today is for the Minister for Regional Development. We have recently heard a lot about concerns that there is a lack of consultation in Victoria, specifically in regional areas. Minister, in an answer to a question yesterday you talked about the regional partnerships, started nearly a year ago, being 'the most inclusive program of community involvement in government decision-making in our state's history'. Many people have raised issues about being unable to attend the gatherings in 2016 and 2017 as they are by invitation only. Minister, as a result, are the issues raised at these forums a true snapshot of the issues regions are facing, or do they only correspond with the government's agenda?

Ms PULFORD (Minister for Regional Development) — I thank Mr Young for this question. Mr Young is, on this occasion, not particularly well advised. The forums are open to all members of the public. People can go to the regions section of the Engage website and register. Literally anybody who wants to attend can attend. There are some people who are invited, but they would comprise certainly well less than half of all attendees. I would certainly encourage Mr Young to familiarise himself with the forums. We would very much love to see Mr Young in Swan Hill on Thursday of next week, where we will have the first of the regional assemblies of the 2017 cycle. We had up to a couple of hundred people at each of the nine assemblies that were held over the course of last year.

I answered a question along similar lines from Mr Purcell yesterday. This is a very significant reform and an opportunity for members of the government to hear from members of the community about the things that are of greatest priority to them. There has been no shortage of really interesting and I think surprising emphases on certain issues in different regions, and of course they are unique in each community. What we are doing this year that is slightly different to last year is using different locations. Now that is not the case in each of the nine regions, but in some regions it is. With the Swan Hill forum, its equivalent for that regional partnership was held in Mildura last year, so the scheduling takes into account the needs of different people so they are able to attend. I certainly look forward to you joining us on Thursday.

Supplementary question

Mr YOUNG (Northern Victoria) — I thank the minister for her answer. I have been advised that simply registering does not mean that you get to go, because spaces are limited and therefore those who are invited would obviously take up those spaces well before any random person who has registered. It is great to have that feedback, and I will be passing it back to those who have complained about this. By way of supplementary, Minister, the information found on the regional partnerships page on the Engage Victoria website is a list of high-level general statements. I ask: what is the reporting methodology used at regional meetings — that is, are there any minutes taken or is there public access to the submissions made?

Ms PULFORD (Minister for Agriculture) — Thank you. What will be a feature of the 2017 assemblies is a report back on work that has been undertaken to date. Only at one of the nine forums last year did we start to run into a capacity problem in the room. That was at Moe, where I think we got to 203 people, and that room was literally heaving it was so full. It was pretty squishy at Port Fairy as well. We will certainly be using footy club rooms and places like the Horsham town hall — spaces that can fit many, many people. If Mr Young knows of someone who has registered and been denied access because of a capacity issue, I would very much like to know the details of that, because I do not believe that that occurred in any instance. A number of members of this place did attend forums and regional assemblies throughout the course of last year — Mr Purcell did, Ms Lovell did, Mr Ramsay did — and a number of members from the other place did as well.

Building industry regulation

Ms PATTEN (Northern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade representing the Minister for Planning. At least 79 people are believed to have died in the inferno that engulfed the Grenfell Tower in London. Those pictures of the high-rise ablaze, I know, horrified us all. Worryingly Melbourne is not immune. In 2015 there was a fire in the 23-storey Lacrosse building in Docklands. It spread eight floors up in the building. The Melbourne Fire Brigade found the building's cladding was untested and contributed to the spread of the fire.

An article in the *Age* today says:

> … it has become clear that neither the Victorian government nor its agencies understand the full extent of the cladding threat across Melbourne.

The article then quotes the planning minister as slamming the Victorian Building Authority (VBA) for its response, but there is no information on what the government will do. My question is: what resources is

the government devoting to identifying the extent of dangerous cladding in Melbourne?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Ms Patten for her question. I will pass it on to the minister in the other place and seek a response.

Supplementary question

Ms PATTEN (Northern Metropolitan) — Thank you, Minister. The VBA has identified at least six buildings that will need to be stripped of their cladding, and action is likely to be required on a further 17 CBD buildings, but that might just be the tip of the iceberg. Does the government have a plan in place to inform affected residents and force quick remedial action when dangerous cladding is identified on buildings?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I again thank Ms Patten for her question. I understand this is probably the last answer in question time today, so I take the opportunity to wish everyone well on their break, including you, Mr Finn. Ms Patten, I will seek an answer from the minister in the other place on this question as well.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) — I have two written answers to the following questions on notice, and the good news, Ms Crozier, is that they are the two that you wrote to me about earlier in the week in relation to a response from the Premier: 11 095, 11 096.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Order! In respect of today's questions: Mrs Peulich's substantive question to Ms Tierney, one day; Ms Wooldridge's question to Ms Tierney, the substantive question only, one day; Ms Hartland's question to Ms Mikakos, both the substantive and supplementary questions involving a minister in another place, two days; Ms Hartland's question to Ms Tierney, the substantive question only to a minister in another place, again, two days; and Ms Patten's questions to Mr Dalidakis in his role representing a minister in another place, both the substantive and supplementary questions, two days.

CONSTITUENCY QUESTIONS

Eastern Victoria Region

Ms BATH (Eastern Victoria) — My constituency question is for the Minister for Agriculture. The Wild Dog Advisory Committee is very important to the people of Eastern Victoria Region, and many, many farmers have to put up with horrendous conditions and scraping up the entrails and remains of stock lost through wild dogs. Minister, in this place yesterday you commented on the members who have been recently appointed to the Wild Dog Control Advisory Committee. What was glaringly obvious from your comments is the absence of a female voice on the committee. Noting that there has been a 20 per cent increase in female representation on the Game Management Authority board, and noting too that Ms Shing, a Labor MP, has stood down as chair of the committee, citing her reason as being too busy, my constituents are asking: why did the minister not follow her own Labor government's much-lauded gender diversity policy with regard to the Wild Dog Advisory Committee? Minister, why did you fail to implement your own policy and include female representatives on the Wild Dog Advisory Committee?

Northern Victoria Region

Mr GEPP (Northern Victoria) — My constituency question is to the Minister for Education and is in regard to the latest round of funding for the inclusive schools program. The Swan Hill Specialist School received $200 000 to develop the middle years yard into an engaging, inclusive and physically challenging play space for students. Additionally, a section of the space will be allocated to provide a calming sensory garden environment for the students. There are 103 students at the school, some of whom are on the road from 6.30 a.m. They come from all over northern Victoria, and they do so because they and their families want to be there. Can the minister inform the house on the progress of this project and let the people of Swan Hill know when the upgraded space will be ready for the students at the Swan Hill Specialist School?

Southern Metropolitan Region

Mr DAVIS (Southern Metropolitan) — My constituency question today is for the Minister for Education, and it relates to South Yarra Primary School, an important and high-performing primary school. It has around 380 students currently, but that number is growing rapidly. More apartments are being built in this high-density area, so those numbers are growing very rapidly indeed. There are fears that there

will need to be a narrowing of the catchment. What is required here is a full process to develop a master plan that will enable the redevelopment of part of the school building in a way that respects the area but also has the additional capacity that will enable the school to deal with this huge growth in population. It is all right for Daniel Andrews to increase density and Mr Wynne to force more people into an area, but that does not work if you do not provide the services, including schools. I seek that information on a master plan development process be released by the minister, including figures relating to student enrolments at South Yarra Primary School.

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My question is for the Minister for Public Transport. Once again I am forced to call the minister out over her mismanagement of the maintenance of the VicTrack culverts between Numurkah and Wunghnu. The culverts have been overgrown, which amongst other things presents a flood risk to the area. In March this year it appeared that her department had finally resolved the issue, with works undertaken. On the surface it looked really good; however, it has become apparent that the problem cumbungi plants were just cut back, when they need to be dug out to stop regrowth. Further, quite a bit of rail ballast has built up underneath the culverts, which is stopping water passing through, and quite a bit of flooding has been sitting in the area because of this. Will the minister advise her department as a matter of priority to resolve the situation properly and also refer to VicRoads the need for the culvert under the road to be cleaned out?

Northern Metropolitan Region

Ms PATTEN (Northern Metropolitan) — My constituency question is to the Attorney-General. I have a significant number of licensed venues in my region as well as the training headquarters of a large private security company. They are concerned about terrorism and the training given to security guards. While more than 50 temporary concrete bollards were installed overnight across the CBD, a quick reflection on recent terror attacks across the globe shows that vehicles are not the only method terrorists use. We can see from the Orlando mass shooting, the targeting of the Ariana Grande concert and the football stadium bombings in France that the smuggling of devices and weapons into venues is a massive concern. Licensed security officers are on the front line. They are also first responders in the event that something occurs. However, counterterrorism training for licensed security guards is lacking. My question is: will the government, in its current counterterrorism law reform, look into the licence criteria for security officers and crowd controllers with a view to recommending further training?

Eastern Victoria Region

Mr O'DONOHUE (Eastern Victoria) — My constituency question is to the Minister for Public Transport, and it relates to the proposed level crossing removal — —

Ms Symes — Are you allowed back in?

Mr O'DONOHUE — Yes, I am, I understand; I was told I was.

My question relates to the level crossing at Clyde Road in Berwick, which is an intersection in my electorate. Earlier this week there was some conjecture in this place about exactly what format that level crossing removal may take. The question I have is: what is the community consultation process that the minister proposes through the level crossing program to ensure that the community is fully and properly apprised of any plans and has the opportunity to give proper and full input and feedback to make sure that that level crossing is removed in a way that is consistent with community expectations and delivers the best outcome for that community, including the model that the Level Crossing Removal Authority proposes to use?

Western Metropolitan Region

Mr FINN (Western Metropolitan) — My constituency question today is for the Minister for Public Transport. My office has been besieged by constituents from Essendon furious with the government's attitude toward the removal of the Buckley Street level crossing. They are coming to me because, as they tell me, 'Labor won't listen'. The minister and the member for Essendon in the Assembly have put up their shutters, refused to speak to concerned residents and informed them that the Andrews government's deeply flawed plan for Buckley Street will go ahead. Does the minister have any intention of opening any form of dialogue with the Essendon community on this vital issue?

Southern Metropolitan Region

Ms CROZIER (Southern Metropolitan) — My constituency question is directed to the Minister for Sport, Mr Eren. There has been an extensive and passionate campaign about Ryans Reserve in the Assembly seat of Richmond involving netballers not only from Richmond but also from other neighbouring

areas. In fact there are dozens of girls from my electorate of Southern Metropolitan Region who cross the river and play at Ryans Reserve on a regular basis. Many of their parents have contacted me via email and spoken to me about their concerns, and this has led to the backflipping of the Minister for Planning, Mr Wynne, on his decision to develop the site. My question to the minister is: will he guarantee that he and his government will provide ongoing support to the local netball club to ensure that the facility is preserved and that the government will keep their word so that hundreds of netballers can continue to enjoy and play their sport?

Sitting suspended 1.00 p.m. until 2.03 p.m.

COMMERCIAL PASSENGER VEHICLE INDUSTRY BILL 2017

Second reading

Debate resumed.

Ms CROZIER (Southern Metropolitan) — I was speaking just before question time on the Commercial Passenger Vehicle Industry Bill 2017, and I was talking about the concerns that various taxidrivers and owners and their families have raised with me. I was particularly taking note of the demonstration that was held outside Mr Dalidakis's office. There were quite literally dozens — hundreds — of people there expressing their anger and disappointment at the government's stance. After all it was the government that went to the last election saying, 'We'll fix it', and these people have been let down in spades.

We have heard that from other speakers here who have been talking about their own areas. Mr Ramsay and Ms Lovell talked about regional areas, and Ms Lovell made some very good points in relation to the taxi fares in Shepparton and how placing a tax on a relatively short fare is going to be a significant impost. I think that is the point in terms of what the government has failed to recognise — that is, the impost on those passengers and others who use taxis in a legitimate form, especially the elderly. Members of my family use taxis because they are elderly. For people who live in regional areas taxis are a very necessary form of transport.

I would like to go back to this issue of the $2 levy. Of course it is another tax. Just prior to the last election, as we have heard on a number of occasions, the Premier looked down the barrel of a Channel 7 camera and said there would be no new taxes or increases in taxes. He said, 'I give you my word' — or words to that effect. Either the man was being disingenuous or he lied to the Victorian community, or maybe it was both. Nevertheless, that is what he said.

This is just another tax, and I want to make note of a particular contribution to the inquiry I referred to earlier that was conducted into this bill. It was evidence given by the Secretary of the Department of Economic Development, Jobs, Transport and Resources. I know Acting President Dunn was part of this committee. As has been said, four government members supported the recommendations made in this report, yet the government has not supported their views, the committee's views or, dare I say, the views of the taxi industry community.

I am just going to read a passage into the record. It comes from page 3 of the transcript of evidence included in the report and is talking about the levy. What the secretary, Mr Bolt, said is, and I quote:

> There are questions that have been raised in respect of the bill that I should address, which is the size of the levy. You will have heard words of this kind before, but I will repeat them to open the discussion. The $2 amount strikes a balance between the immediate impact on consumers, bearing in mind that with the removal of licence fees and other costs and the impact of competition the net effect on trip costs is not simply a question of adding $2 per trip.

I am not sure if he fully grasps what this will mean to some of those people. Nevertheless, he went on:

> In fact we would expect that there is a good argument or indeed reasonable expectation that trip costs in net terms should not go up and should in fact on average go down. That is not a guarantee we can provide —

which is another point, in terms of his words in this report —

> but there is good analysis to support that, or a good expectation that that would occur. So on the one hand it strikes a balance between the immediate impact on consumers, on customers, on travellers, and on the other hand it provides recovery of a fair and reasonable package of assistance that I have just outlined to ensure that industry participants, some of whom are clearly going to be affected adversely by the reforms in total, get some assistance — significant assistance — to go through what is a significant transition for them. So it is a balance between those two. It is a matter of policy judgement …

He went on to talk about other areas in this report. I will paraphrase what I think are some of the concerns the secretary himself has raised. He said there are no guarantees with this. He said that there are clearly people who are going to be affected adversely by the reforms. They will get some assistance — and he said significant assistance. That is where there is a dispute. Taxidrivers, owners and their families would say 'Well,

what is fair?'. The government has not listened to their concerns.

I have received emails today that are talking about this very issue. In fact I got one over the lunch break — and I am sure other members did as well — raising concerns about the effect of the financial implications. One email I received this morning states:

> I feel a dark and dreary cloud has descended on our Victoria. Is it fascism? Is it communism? It certainly isn't a democracy if the government can confiscate a hard-earned asset without due recompense.

This person goes on to say:

> I feel perplexed and desperate. How do I explain to my four children aged five to 17 what the state government is doing to us and thousands of other families too?

This is the emotional toll, the financial impacts of what the government is proposing. Dare I say it, I think the government has not listened to these people in full. I am not sure whether government members have spent much time with taxi owners and operators on a one-to-one basis like I and other members have. We have sat down and listened to them. I have had many men very desperate and in tears in my office. When I have met with them they have pleaded with me not to support the government's proposed changes. These are fellow Victorians who have worked sometimes for decades to get their families into a position where they feel secure. They feel absolutely ripped off and betrayed by this government. It is an absolute shame that there are not just a handful of individuals in this plight but many hundreds.

In my area of Southern Metropolitan Region I spoke with taxi owners in Bentleigh not long ago and there is significant concern. I know that they have been putting pressure on the local member in the Legislative Assembly, Nick Staikos, but clearly his pleas have fallen on the deaf ears of the minister. In other areas, such as in Oakleigh, the electorate of Assembly member Mr Dimopoulos, again clearly his pleas have fallen on the deaf ears of the minister. They are getting nowhere. Those local members have got absolutely no clout whatsoever. The minister has rejected the recommendations of the parliamentary committee that looked into this bill.

I go back to the start of my contribution. Mr Finn said in his foreword to the report:

> There is no question that the government's proposed Commercial Passenger Vehicle Industry Bill 2017 requires a number of amendments to reflect the reality of the plight of taxi licence holders in Victoria and the compensation that is owed them.

What some of these people have indicated to me is that they are angry. They are so angry knowing that the government tore up the contract for the east–west link and wasted more than $1 billion — another demonstration of the Premier and the government saying one thing before the election and carrying through after it with a completely different outlook. These people are so angry that $1.2 billion has been wasted and they get a pittance from this government. That goes to the heart and core of the anger that has been expressed to me. They feel desperate, they feel powerless, they feel absolutely betrayed. They have been law-abiding, legitimate taxpayers who have paid their dues, yet this government wastes $1.2 billion and they get what they feel is a disproportionate and inadequate amount in compensation for the licences they have for the businesses they have built up.

I think that is another demonstration of how members of this government have behaved. They have not listened; I am not sure they have wanted to listen. They have got into such a shambles. If it is not this bill, if it is not this issue, there are so many other areas where they have not been able to bring about a proper and conclusive response to issues that have arisen. We have seen that in so many different areas. Whether it is crime, law and order, the youth justice system or the corrections system, there are ongoing issues.

In my electorate there is sky rail and St Kilda Road, where things are just being rammed through with no consultation and no consideration. Whether it is sky rail or whether it is the Metro Tunnel, people and businesses are being absolutely devastated. The taxi licence owners and their families feel absolutely devastated as well, and it is an absolute shame that the government has not listened to their concerns. I, like my other colleagues, will not be supporting the government's bill.

Ms BATH (Eastern Victoria) — I rise this afternoon to speak on the Commercial Passenger Vehicle Industry Bill 2017. As I do this, I would like to read from an email that has come to me and I am sure to all members in this house in relation to one family's view of the taxi industry, what is happening to it and basically how their lives are being changed, potentially forever, through no fault of their own, other than their being hardworking.

I have met with Linda De Melis on a number of occasions. She has come into Parliament to meet with me and many others, I am sure, and she and her family are characteristic I think of hardworking families that have come from overseas to make this land their home. They have come with a work ethic that is to be applauded and acknowledged for the keenness they

have shown in making sure their lives and those of their families are healthy and wealthy through putting in long, long hours.

I come from a dairy farm, and I know that for many small businesses the number of hours you need to put in just to pay back what is often a very large debt are countless. It is very important to acknowledge that these people have often made it their life's work to create a business and to create wealth.

Ms De Melis has written to all of us, and I would like to read out her comments as an example of how many people who own taxis and taxi licences and have built up a business over decades are feeling.

This was written last night after hearing last night's debate on the bill. I will change it ever so slightly so that particular people are not identified.

> What is this all about — taxi barons? There have been no billionaires in the taxi industry until now. Only people who have worked tirelessly using their own energy, time and funds. No venture capital funding in this industry — just people slaving for generations to get ahead. Utter rubbish — taxi barons!

To the Greens member who made those comments about taxi barons last night she says:

> … if what you mean by 'taxi barons' is that the industry has some success stories, I take your point, but are these people to be punished? Why should we steal from these people? Nonsense. Do you own property …

to the Greens member —

> Do you own multiple properties? Are you a baron? Look to either side of you in Parliament — are they barons? Please spare me the garbage.
>
> I have asked time and again, can you all nominate an income-bearing asset that you currently own which you would be happy to part with for nothing in 40 years time.

I make a small comment on that, in that I acknowledge the fact that the taxi industry is not being paid 'nothing', but they certainly feel that they are not being recompensed to the degree they should be for their assets and their life's work. I return to quoting Ms De Melis:

> Never mind that you may not have planned your financial affairs with this in mind. Never mind that you have made financial decisions along the way under the impression that you will own these assets and derive income from them forever. Never mind!
>
> Remember that those people who bought licences many years ago bought at the equivalent value of a home in inner-city Melbourne at that time. The sum people quote to suggest licences were purchased for a pittance years ago must be put into perspective even though it is irrelevant what the purchase price was.
>
> To the points presented by the government in response to the …

economy and infrastructure committee —

> inquiry into the … bill 2017.
>
> Have we already overlooked that the findings of the inquiry were unanimous?

She stated very clearly, as others have in this place, that the report was unanimous. Mr Finn, as chair, rightly identified that there were five different parties represented on that economy and infrastructure committee inquiry, and they all agreed, in a unanimous vote, on the findings. Ms De Melis started with finding 1, which was:

> Estimates of the revenue from the $2 levy are based on data from existing taxi trips and will likely underestimate the total revenue.

The government's response was:

> Witnesses to the public hearings provided estimates on the number of taxi trips within wide margins.

Ms De Melis said:

> 13CABS gave a range with a 25 per cent margin, Victorian Taxi and Hire-Car Families gave a range within a 10 per cent margin. The government responds by saying their estimate accounting for barely 50 per cent of the number of trips actually taken in the industry is reasonable. Sure, that sounds logical!

Recommendation 1.2 is:

> That the Victorian government amend the commercial passenger vehicle bill 2017 to:
>
> …
>
> qualify the status of payments to ensure recipients are not financially disadvantaged …

What does the government say? The government says it has:

> … written to both the commonwealth Treasurer and the Australian Taxation Office to point out that any payments made as a result of the government's reforms should not be considered assessable income for tax purposes.

Ms De Melis commented:

> The only way to ensure that the payments are not taxable is to conduct a full and proper capital buyback. One hundred per cent guaranteed that the payments will not be treated as income then.

She went on to comment on recommendation 3, which is:

> That the Victorian government consider increasing compensation to primary and subsequent licence-holders in an independent and clearly articulated, transparent, equitable and non-arbitrary model for the valuation of perpetual licences and that this model be based on market value valuation methodology.

The government responded:

> The government does not agree to this recommendation because it is not consistent with the government's desire to ensure these payments are directed to those who need it most, through a combination of the Fairness Fund … and transition assistance payments paid to eligible licence-holders for up to four licences. Ninety-eight per cent of all licence-holders own four licences or less.

Ms De Melis commented:

> Who said this should be about playing Robin Hood? This is not about wealth redistribution, this is about seizing people's privately held assets. That is stealing — whether you are a millionaire or otherwise it is stealing. Why should anyone who has worked harder and taken on more responsibility deserve any less than due recompense for their property? Don't hide behind a tree wearing tights and call it justified.
>
> Ninety-eight per cent of all licence-holders own four licences or less, so why would you not compensate them all? There are many people in this industry who own multiple plates. Some in the wife's name, some in the husband's, the kids, the company, the super fund, the trust. But then there are some who hold them all in the one entity. The cap on licences rewards those individuals who by fluke arranged their financial affairs favourably under this model. I know a family with 20 licences in the one entity supporting the parents, three kids, their partners and their children. There are also many who have intricate family arrangements for which there is no formal detail supporting the actual ownership of licences.

The government's response to the committee report states:

> Providing financial assistance based on a market value approach would redirect the assistance available away from those who need it most. Some licence-holders purchased their licence for under $25 000 forty years ago and have been earning income from it ever since. Others paid over half a million only six years ago and have had far less time to get a return from their investment.

Ms De Melis commented in response to this:

> Some of the homes compulsorily acquired for the east–west link were also purchased for $25 000 forty years ago. Was this argument used then? What is the point of this comparison? I refer to the income-bearing asset you all own today that you are happy to relinquish in 40 years time. Also, who said anyone should be guaranteed a return on their investment? If a licence was valued fairly and independently, many people who purchased at peak would be looked after just like all the other licence-holders who are relying on their licences for their income now that their debts are paid.

Ms De Melis also went on to identify that licences have been privately traded:

> … just as houses have been privately traded and all other privately held assets. We do not refer to the original price of the government land allocation when we acquire real estate … Licences have traded well in excess of the government allocated prices because — guess what? A licence has value under the existing structure.

She went on and on, but I will not continue. You can tell from this that she has incredible knowledge in this field and it has been her family's work, and she is indicative of countless numbers of family-owned businesses.

She finished off:

> Vic Labor must stop the spin. Their constant insult by perpetuating untruths about this industry will get them nowhere certainly not past the next election —

hear, hear to that —

> So too for those who choose to get sucked in by their smoke and mirrors.
>
> Let us focus on the committee recommendations — all of them, not just those to do with the levy. The recommendations were unanimous. Buy back each and every licence at a fair and independently derived value to replace the equity and income stream that a licence represents. Pay the amount in capital, up-front and there will be a significantly reduced need for the Fairness Fund.

She concluded with a comment from a former Premier, Mr Jeff Kennett, who talked about treating licence-holders 'as you would treat yourself or want to be treated'.

In closing, this bill does not serve people well; it serves people ill. It does not serve country people who rely on taxi services. Many of our elderly in rural and regional Victoria rely on taxi services to maintain their independence, to get up the street and go to doctors appointments or shopping. We do not have Uber in downtown Meeniyan or Orbost. We rely very heavily on our taxi industry. People who use taxis should not be slugged with levies just as an income-raising avenue for the government, and I will not be supporting this bill as a result.

Mr BOURMAN (Eastern Victoria) — I rise to speak against this bill today. I am going to put it out there that we are not supporting it. Why we are not supporting it is a matter of fairness from our perspective. I have had a lot to do with the issue with two inquiries under my belt now, and I think I have got a fair idea of what people's problems are, and it gets down to fairness. It gets down to what is a taxi licence worth? There are many opinions on that ranging from

that of the High Court to the tax department to the government.

There is no disputing that a taxi licence is property. People have borrowed against their licences. People, as Ms Bath said, have complex financial arrangements, both formal and informal, all based on these things, and that is how their lives have been structured. We know that the cost of a taxi licence has changed over time. They have been traded privately for amounts that are a lot larger than the amounts they were originally sold for because that is how it works. That is what a commodity does. People's lives are like that. Their retirements are built on this, their income is built on this and they expect to get back at least what they feel is a reasonable amount.

I have been deluged with letters. I have met with people. Obviously I have also been through the — —

The ACTING PRESIDENT (**Ms Dunn**) — Order! If you could hold fire, Mr Bourman, I remind members of the gallery that they are not permitted to take photos under any circumstances, and I would ask that they delete those photos immediately.

Mr BOURMAN — I kind of forgot where I am at, but if I cover old ground, so be it. People have got their financial arrangements, and at this stage what we have is a situation where something that might have been worth an arbitrary half a million dollars one day is now worth nothing. People are quite rightly feeling quite aggrieved by that.

There are different sorts of people who hold licences. There are people who hold a single licence, there are people who hold multiple licences, such as 13CABS which holds a lot of licences, and there are other individuals who hold a lot of licences. They should all be treated the same. Whether they have got four licences or 40 licences, a licence is worth what a licence is worth. New South Wales has made a similar change with a completely different system which may or may not be better. It is a case of getting to the point where someone who is having their property taken from them — they may not be happy with having to roll with the times and they may not be happy with having to change their financial situation — does not feel like they have been ripped off, for want of a better term.

That brings us to where we are now. There are a lot of people hanging on the outcome of this debate today and the subsequent vote. Regional people will feel it a little differently, I think. Regional people take a lot of shorter trips, meaning that the current $2 levy — and I understand there are amendments proposed to change that — will hurt them a lot more. Average wages in regional areas are generally a lot lower than in urban areas, so the dollar amount may be the same but it will have an extremely different effect on the individual — a difference that at this stage, other than with a potential rebate, has not been addressed. The amount is being dealt with by someone else's amendments, but I am going to propose some amendments of my own that actually exclude regional areas from the levy. I ask that the amendments be circulated.

Shooters, Fishers and Farmers Party suggested amendments circulated by Mr BOURMAN (Eastern Victoria) pursuant to standing orders.

Mr BOURMAN — In a nutshell, my amendments separate the Melbourne metropolitan zone from the rest of Victoria. They do not separate out larger regional towns because — —

Mr Barber — Are you building a wall?

Mr BOURMAN — We could build a wall if you would like. I am unsure as to why the Greens would propose building a wall; I thought they were against that sort of thing. A bit of Trumpism from Mr Barber there.

It separates the Melbourne metropolitan zone as set out in the Transport (Compliance and Miscellaneous) Act 1983. From my point of view at some point in time you have got to draw a line in the sand, and that line in the sand is set by regulation. But this line says that if you start a trip in regional areas, no matter where it finishes, it is deemed to be a regional trip and will not attract the levy. I have been told that that could be difficult to administer.

Ms Bath — So is the whole thing.

Mr BOURMAN — Yes, there are lots of things about this whole bill that will be difficult to administer, but we have a lovely bureaucracy to work these things out, and I am pretty sure it can.

This is about equity for the regional areas and making sure that the regional areas, which are generally a bit lower on the socio-economic scale, are treated in a manner consistent with what is fair. I urge the parties to support my amendment because it is about fairness. I am putting this amendment up in case the bill gets through — I am not sure how it is going to go yet. I will finish by saying that as it stands I understand that the ridesharing arrangement is already there; it is a matter of moving with the times, but I do not think this bill deals with it fairly. Again, we will not be supporting it.

Ms PULFORD (Minister for Agriculture) — I thank all members for their contribution to the debate on this very complex issue which has been taking place in the Victorian community over a long period of time, including through two parliamentary committee inquiries. It is, I think, now time for the Parliament to do its job and provide some certainty and resolution to the matters that affect so many people in Victoria.

As members are aware, the bill creates a level playing field for taxis, hire cars and ridesharing services, and it represents the first stage of a two-stage process to deregulate the market. It will remove licensing costs, which are up to $23 000 a year, and introduce a levy to fund a financial assistance package for people who have been impacted by a dramatic shift in their work with the advent of changes that have come about from new technology.

I will just make some brief remarks before we head into a detailed consideration of the legislation in the committee stage. I note that the most recent parliamentary committee inquiry did endorse the government's framework to regulate ridesharing and to fund financial assistance for the existing industry via a levy. I note that the opposition have indicated their opposition to this bill, but for those who have an interest in this issue — and a great many people have a very personal interest in this issue — I note that the Liberal Party opposition are yet to commit to any financial assistance or indicate how compensation for the transition that is occurring would be paid. All they have said is that they have ruled out it being funded by a levy.

When the former government was in power in Victoria licence values dropped by half, from over $500 000 to around $250 000, and throughout this period no attempt was made to tackle this very complex area of reform and not a cent of financial assistance was paid. We note that the opposition supported the legislation that was put forward by Ms Patten from the Sex Party seeking to regulate Uber, but that did not include financial assistance to the industry. I do fear that whilst the opposition is declaring today their opposition to this reform, they have presented no alternative at all.

We do thank people for their contribution to the debate. We do recognise the significant disruption that has occurred to the commercial passenger vehicle industry over recent years. We look forward to the Parliament doing what it is that we are all elected to do, what we are all sent here to do, and providing some certainty to the people who are impacted by this and some resolution to these matters. I commend the bill to the house.

House divided on motion:

Ayes, 19

Barber, Mr	Mulino, Mr
Dalidakis, Mr (*Teller*)	Patten, Ms
Dunn, Ms	Pennicuik, Ms
Eideh, Mr	Pulford, Ms
Gepp, Mr	Purcell, Mr (*Teller*)
Hartland, Ms	Shing, Ms
Jennings, Mr	Somyurek, Mr
Leane, Mr	Springle, Ms
Melhem, Mr	Tierney, Ms
Mikakos, Ms	

Noes, 17

Bath, Ms	Morris, Mr
Bourman, Mr	O'Donohue, Mr
Carling-Jenkins, Dr	O'Sullivan, Mr (*Teller*)
Crozier, Ms (*Teller*)	Peulich, Mrs
Dalla-Riva, Mr	Ramsay, Mr
Davis, Mr	Rich-Phillips, Mr
Finn, Mr	Wooldridge, Ms
Fitzherbert, Ms	Young, Mr
Lovell, Ms	

Pairs

Elasmar, Mr	Ondarchie, Mr
Symes, Ms	Atkinson, Mr

Motion agreed to.

Read second time.

Committed.

Committee

The DEPUTY PRESIDENT — Order! Members, we are now dealing with the Commercial Passenger Vehicle Industry Bill 2017. Because some of the clauses in the bill are subject to section 64 of the Constitution Act 1975, I remind the committee that under standing order 14.15, where no amendment is proposed on such a clause no question will be put.

Clause 1

Mr O'Donohue — On a point of order, Deputy President, can you clarify for the committee the issues raised by section 64 of the Constitution Act that you just referred to?

The DEPUTY PRESIDENT — Order! Because this bill imposes a levy, it falls under section 64, so we cannot make amendments; we can only suggest them.

Mr O'DONOHUE (Eastern Victoria) — Just taking the minister to the purposes clause, which is clause 1:

> The main purposes of this Act are—
>
> (a) to impose a levy on the carrying out of commercial passenger vehicle service transactions …

Just for clarity of debate, Minister, can you confirm that the funds from the collection as proposed will be receipted in the Consolidated Fund?

Ms PULFORD (Minister for Agriculture) — Yes, that is the case.

Mr O'DONOHUE (Eastern Victoria) — Thank you for that answer, Minister. I take it from that answer that there is no hypothecation to quarantine these funds that are raised in any way.

Ms PULFORD (Minister for Agriculture) — Yes, that is also correct; there is not.

Mr O'DONOHUE (Eastern Victoria) — So, Minister, with these funds being levied going straight to the Consolidated Fund and not being hypothecated, they in effect form part of the general taxation revenue of the state.

Ms PULFORD (Minister for Agriculture) — The purpose of the levy, as the government has made clear, is to support the funding to assist people who are impacted by the transition.

Mr O'DONOHUE (Eastern Victoria) — I appreciate that, but there is no actual nexus between the revenue collected and any payments to licence-holders, is there?

Ms PULFORD (Minister for Agriculture) — I think you are asking the same question. You asked if the funds were hypothecated. The answer is no, they are not.

Mr O'DONOHUE (Eastern Victoria) — So the arrangements for compensation payments for the licence-holders and for the industry are not tied to the creation of this levy?

Ms PULFORD (Minister for Agriculture) — Not as a matter of law as such, but the government's public commitment on many occasions and certainly the government's clear intention, which I am happy to confirm for you again today, is that they are.

Mr O'DONOHUE (Eastern Victoria) — Thank you, Minister, for that answer. How much do you anticipate will be raised in the coming financial year if the bill passes and the suggestions made to the other place become law in August?

Ms PULFORD (Minister for Agriculture) — In answer to Mr O'Donohue's question, that depends on the date of proclamation and when the changes come into effect. The bill provides for any date up to 30 June 2018, but in regard to the question Mr O'Donohue is particularly interested in, the answer is that with a $2 levy the net revenue in the first year is $44 million. Can I also indicate for context that our revenue forecasts are appropriately conservative, and as my colleague Minister Allan has stated — and these issues have been canvassed in debates here and elsewhere — if revenue exceeds forecasts, then the levy can be reduced. This is difficult because there is limited verifiable data on current trip numbers. There is no data on Uber or hire car trips, and even trips in taxis have really large variations, so current trip numbers are very difficult to ascertain. Future trip numbers in a deregulated environment are even harder to ascertain, so that is as precise as we believe we can be.

Mr O'DONOHUE (Eastern Victoria) — Thank you, Minister; that is helpful information. I appreciate the challenges in forecasting and the variables in the marketplace, but presumably the government has used some modelling and some process to identify the $44 million in revenue that will be generated in the first year of this proposed levy?

Ms PULFORD (Minister for Agriculture) — Yes, that is correct, but as I indicated, they are conservative assumptions and there is a great deal that we do not know about trip frequency, particularly for all the people who are taking trips in the non-regulated part of the commercial passenger vehicle activity sector. That information is just not available to government.

Mr O'DONOHUE (Eastern Victoria) — Minister, thank you for the information. Accepting the challenges you have identified in forecasting, but noting you have come up with an anticipated $44 million full-year first-year revenue stream, albeit in conservative modelling, based on that modelling the government has done, how long will it take to repay the payouts pursuant to this proposed model?

Ms PULFORD (Minister for Agriculture) — I am advised that this information was provided to the parliamentary committee during its deliberations, so you might know the answer to this in spite of you asking it here. But I can certainly confirm that we believe it will take approximately eight years.

Mr FINN (Western Metropolitan) — Minister, where in this legislation can we find the information as to where the money raised from this levy will be spent?

Ms PULFORD (Minister for Agriculture) — I thank Mr Finn for his question. This is not dissimilar to Mr O'Donohue's question. The legislation has no specific provision that links that. Mr O'Donohue asked

about whether or not the funds were hypothecated, and I already provided an answer to that question. But the government's intention is that the funds raised will be used for the stated purpose.

Mr FINN (Western Metropolitan) — Why do we have a situation in which where the money is going is not actually dictated in the legislation?

Ms PULFORD (Minister for Agriculture) — It is because it is not required to be in legislation.

Mr FINN (Western Metropolitan) — How can we trust the government to spend the money in the way they say they will?

Mr Davis — Or a future government.

Mr FINN — Or indeed, as Mr Davis says, how can we trust any future government? Given that how the money is to be spent is not actually in the legislation, how can we trust any government to spend the money in the way you suggest?

Ms PULFORD (Minister for Agriculture) — Our government, like many others before us and no doubt future governments as well, makes a number of commitments on the expenditure of public funds that are not contingent on the funds being hypothecated. For example, across my own two portfolios I think one area where funds are hypothecated is fishing licences. It is actually an exception to the norm rather than a regular feature of the way the state's finances are arranged for funds to be hypothecated.

Mr FINN (Western Metropolitan) — Given that in this legislation you are introducing a new tax, how can we believe that you will spend the money as you say given the fact that the Premier has already broken a commitment that he will not introduce any new taxes, and the government is most certainly doing so in the legislation we have before the house today?

Ms PULFORD (Minister for Agriculture) — The government has made its intention clear. I am more than happy to undertake today — in fact I already have once in this committee stage on behalf of the government — and confirm that our intention and our expectation is absolutely that the levy will be used to provide support for industry transition. As to your personal views or any other member of the Victorian community's personal views about the government, that is perhaps a matter for you. As the minister representing the government in the carriage of this legislation in this particular part of our Parliament's proceedings, I can absolutely confirm that that is what the levy will be used for.

Mr FINN (Western Metropolitan) — But given that commitments with this government seem to go by the board with relative ease, how can we be assured that the money that is raised by this levy will actually go to where you say it is going to go? If it is not in the legislation, how can we believe you, given that you have broken all these other commitments — and when I say 'you', I am talking about the government — when you say that you are going to direct this money to where you say you are going to direct it?

Ms PULFORD (Minister for Agriculture) — I have already provided an answer to that question.

Mr O'DONOHUE (Eastern Victoria) — Minister, I have just received advice that anticipated trip numbers have been provided from Uber, so I wonder whether the information that you provided about an eight-year timetable needs to be revised, because if my memory is correct, you said you did not have estimates of trip numbers from Uber.

Ms PULFORD (Minister for Agriculture) — What I said is that we have limited verifiable data. There are limits to the data that is available on more traditional forms of commercial passenger vehicle trip activity. Whilst current trip numbers are difficult to ascertain, future trips are even harder to ascertain. There is no exact science in calculating the number of people that will jump in a hire car, jump in a taxi or jump in an Uber. It would be affected by so many variables in different people's lives each and every day of the week.

Mr O'DONOHUE (Eastern Victoria) — Thank you, Minister, for that answer. Perhaps a more direct question on this issue: does the eight-year time frame that you referenced before take into consideration the data that Uber has provided to the Department of Treasury and Finance (DTF)?

Ms PULFORD (Minister for Agriculture) — Uber has not provided trip numbers to the government.

Mr O'DONOHUE (Eastern Victoria) — That is contrary to the advice that I have just received that trip numbers were provided to DTF by Uber earlier this week. That calls into question the figures and the timing that has been proposed. The period of time that this tax may be imposed, even accepting the assurances you provided, is obviously a very live and important issue in this debate.

Ms PULFORD (Minister for Agriculture) — On this point, Mr O'Donohue is absolutely spot-on. Having data from Uber would be helpful, but we do not. What was provided at a meeting earlier this week was — in fact it was not provided; our officials were shown a

graph, and the graph was then taken away. So no information has been provided on trip numbers and no data, verifiable or otherwise. Yes, it would be very helpful, but it has not been provided. I believe it was also not provided to the committee.

Mr O'DONOHUE (Eastern Victoria) — Thank you, Minister, for that answer. Can you detail to the committee the dialogue the government has had with Uber to ascertain this information?

Ms PULFORD (Minister for Agriculture) — I can advise Mr O'Donohue and the house that in relation to the question of trip numbers there has been one meeting between Uber and the government. It was earlier this week. The government officials were shown a graph, and the graph was taken away. That is the extent of the dialogue on trip numbers.

Mr O'DONOHUE (Eastern Victoria) — So, Minister, did the DTF officials obtain any data from that graph or any other data from Uber themselves?

Ms PULFORD (Minister for Agriculture) — The DTF officials do not have the graph; the graph was taken away at the end of the meeting.

Mr O'DONOHUE (Eastern Victoria) — Yes, I appreciated that from your earlier answer, but the question was: what information was taken from the meeting? Because presumably the data that formed the graph, the other data that is relevant, was discussed and the DTF officials wrote some of those figures down. I take it from your answers that that has not formed part of the calculations you provided to the committee earlier.

Ms PULFORD (Minister for Agriculture) — The government has not been provided with any data on trip numbers by Uber. It would definitely be a useful thing for them to provide; it would also have been useful for them to have provided it to the committee, but it seems they are reluctant to provide that information. A graph was shown, but you are asking about the modelling that sits behind this legislation and assumptions that have been made to inform that model. That is a very long way from a glance at a graph in a meeting, Mr O'Donohue, but I will take a moment to see if anybody wrote any notes down from the graph that we were not allowed to keep.

Mr O'DONOHUE (Eastern Victoria) — Thank you, Minister. Just while you seek that information, I am advised that Uber provided a total of 12 months of total trips across Victoria and committed to having those numbers audited, so I think that is perhaps a little different to the presentation you made just before.

Ms PULFORD (Minister for Agriculture) — No notes were taken at the meeting because our officials were asked by Uber to not take notes at the meeting. When questions were asked about the graph, answers were not forthcoming. There was a conversation about them being willing to discuss possible future provision of data — so we are a long way from actual data here — but Mr O'Donohue, if you have that information available, and I am told it was a confidential briefing between Uber and our Treasury officials, the government would be pleased to see it. We would be very happy if you would like to table it now.

Mr O'DONOHUE (Eastern Victoria) — Thank you, Minister, for the question in return. I do not have that data. Let me perhaps ask a separate question and then return to this issue of the Uber data. What processes does the government have to measure trips by rideshare companies such as Uber that is not provided by them? What independent mechanism does the government have to check or provide that sort of information?

Ms PULFORD (Minister for Agriculture) — The government's access to this information, as Mr O'Donohue will no doubt appreciate, is very, very limited. Because they have been operating outside the law, because they are not accredited as a network service provider, that is not information we have access to. What this bill will enable, if its passage is successful today, is for the government to have that data in future.

Mr O'DONOHUE (Eastern Victoria) — Thank you, Minister. I do not think anyone is questioning the need to provide a regulatory platform for the ridesharing industry. I think the questions are around the compensation, the length of time, the level of compensation, the tax, the size of the tax, whether there should be a sunset clause, whether the review should be mandated as part of the legislation — I think they are the questions that are live to the committee today, not whether ridesharing in and of itself should be regulated. I think that is something that has been well accepted now for a considerable period, particularly as other jurisdictions have left Victoria behind by having regulated ridesharing industries some time ago.

I will just to go back to the issue of the data, though, because this is very important and it calls into question the government's modelling on the revenue projections and the time it will take to repay or meet the compensation payments made. Could I have some more detail about the efforts the Victorian government made to ascertain this information from Uber, because it does seem curious that after this bill has passed the other place, after this issue has been live for so long, the

one and only meeting between Uber and DTF happened this very week.

Ms PULFORD (Minister for Agriculture) — Firstly, just to clarify, I did not say that the government had not had other meetings with Uber. I said the meeting this week was the only meeting that has occurred on the question of trip data. On your question, Mr O'Donohue, I am sort of saying the same thing for about the 20th time. The numbers are uncertain because of the lack of available data. That is why the modelling is conservative and why the legislation contains a mechanism for the levy to be reduced if the revenue from the levy exceeds what is required for its stated purpose.

Mr O'DONOHUE (Eastern Victoria) — Minister, Uber offered to provide figures to DTF during the parliamentary inquiry process. I assume from your answer that that opportunity was not pursued?

Ms PULFORD (Minister for Agriculture) — Uber have not provided trip data to the parliamentary committee. They have not provided it to the government.

Mr O'DONOHUE (Eastern Victoria) — That is not what I said. I said that through the parliamentary committee Uber offered to provide DTF with their trip data. Was that offer that was made, as I understand it on the record, taken up and pursued?

Ms PULFORD (Minister for Agriculture) — The offer that was made in the parliamentary committee inquiry about providing further information to DTF was taken up. That is the meeting that was earlier this week that we have been talking about.

Mr O'DONOHUE (Eastern Victoria) — It took however many weeks — several weeks anyway — for that meeting to occur, obviously?

Ms PULFORD (Minister for Agriculture) — I have no reason to doubt your claim about the number of days between one conversation happening and the other, but what is consistent is that Uber have not provided their data to the committee or to the government. The undertaking that was made to the committee has, I suppose, been followed through in a small part in that there was a meeting and a graph was shown that we were not allowed to keep, but we still do not have detailed data information.

Mr O'DONOHUE (Eastern Victoria) — Minister, I appreciate the challenges for government and the government officials in the data projections and understanding the revenue that will flow from those trip numbers that are difficult to ascertain et cetera, but I suppose I just ask that you understand the challenges for the committee to pass this legislation when, as Mr Finn's questions identified, there is no connection between the revenue, the tax and the regulation that is being put in place. There is no guaranteed sunset clause; there is an undertaking. I have no question as to your intent, but things change and in three years time you might not be the minister and someone else might be et cetera. I think it puts the committee in a very difficult position when that is the base, and then on top of that the modelling that is done is done with perhaps half the available data. It makes the revenue projections and the time line for the delivery of that revenue guesstimates at best, and I think that puts the committee in an invidious position. I think these issues should be clarified before the committee passes this bill.

Ms PULFORD (Minister for Agriculture) — As I indicated in a response to earlier questions, the information that Mr O'Donohue seeks about trip data will not and cannot be available prior to the passage of this legislation. It is this new framework that will enable that information to be more readily available to government and all that to be much clearer, whereas at the moment, as I have indicated on many occasions this afternoon, there are limits to what is available, because this is unregulated.

Mr O'DONOHUE (Eastern Victoria) — Yes, that is true, Minister, but it appears from the information that I have that perhaps many of those unanswered questions about the data could be resolved. To put this in a personalised context for someone on a fixed income from Orbost in my electorate, you are telling the committee that they will pay for eight years the $2 taxi tax when Uber is unlikely to be in Orbost for the foreseeable future and that that eight-year horizon is a rough guesstimate based on some figures and others that are unknowns — nothing reliable. I think that puts this committee in a very difficult position. We can have disputes about policy and disputes about the best way to resolve policy issues, but when we do not even have a clear set of facts upon which to base things, it makes this debate very, very difficult.

Ms PULFORD (Minister for Agriculture) — I think that was probably much more a series of comments than a question. But if I could just respond in relation to the Orbost scenario you posed, Mr O'Donohue, we believe that this reform will cut the cost of trips in regional Victoria. Annual licence fees will be abolished. In some areas, some zones, that is in the order of $23 000 while in others it is $11 000. This is a barrier to entry for new entrants into this industry. I think there are potentially opportunities for people in

Orbost who are seeking to use commercial passenger vehicles to fulfil their transport needs.

Mr O'DONOHUE (Eastern Victoria) — Minister, can you provide any modelling to the committee to back up your assertion?

Ms PULFORD (Minister for Agriculture) — The new fee for participants in the sector will be $50. It is currently, depending on the region, either approximately $23 000 or around $11 000. One figure is clearly far smaller than the other. There is also, I think, plenty of evidence to suggest that having more entrants creates a more competitive environment and having new entrants in the market is likely to place downward pressure on prices.

Mr O'DONOHUE (Eastern Victoria) — I repeat my question, Minister. Do you have any modelling to back up your assertion? The response to that question was basically generalised comments about market forces and competition.

Ms PULFORD (Minister for Agriculture) — We do not have town-specific modelling, no.

Mr O'DONOHUE (Eastern Victoria) — What about modelling for country Victoria?

Ms PULFORD (Minister for Agriculture) — The modelling and scenarios on trip numbers were provided to the parliamentary committee inquiry. In terms of specific modelling on new entrants, we do not have any other than to say that the barrier to entry for potential new participants in the industry will be largely removed by the abolition of the current fee.

Mr MORRIS (Western Victoria) — I want to ask a question in relation to some comments made about the government's assertion that this new tax may, in the government's view, reduce the cost of using commercial passenger vehicles in regional Victoria. I find that curious, because one would imagine that for that to be true the amount of a fare that goes towards the annual licence fee presently would need to be at or above $2. So in effect if there is not $2 from each fare currently being spent on the annual licence fee, then the introduction of a $2 tax would indeed cause upward pressure on the costs of trips in regional Victoria. So the question I am hoping to get some clarity around is: how is it that the government can possibly even attempt to contend that this would place downward pressure on fees in regional Victoria when the numbers just do not add up?

Ms PULFORD (Minister for Agriculture) — The licence cost in many regional areas, particularly in the areas where Mr Morris and I would typically catch a taxi, is around $23 000 a year. An average taxi does between 5000 and 6000 trips a year, so that means $10 000 to $12 000 at a $2 levy rate.

Mr MORRIS (Western Victoria) — I was hoping to go back to the $44 million that is expected to be raised in the first year of operation of this legislation. Can you indicate when that is expected? Are you talking about a calendar year, or is there a specific start date that you are talking about? When does the government anticipate that $44 million will start being collected?

Ms PULFORD (Minister for Agriculture) — I already answered this question for Mr O'Donohue.

Mr MORRIS (Western Victoria) — Can the minister indicate the exact time frame? I was listening to the questions that Mr O'Donohue asked, and I did not hear a specific start date on which the government may expect this bill to come into operation and collect those funds.

Ms PULFORD (Minister for Agriculture) — In a very similar vein — in fact, identical — to my answer to Mr O'Donohue, the legislation will be enacted by proclamation, and the net revenue is $44 million in the first year of operation. If I could just anticipate your next question about what determines when it will be proclaimed, it will not be proclaimed until the second tranche of the legislation, and it will not be proclaimed until industry is ready to comply.

Mr O'DONOHUE (Eastern Victoria) — Minister, so there is actually no urgency then for this bill to pass today because its operation will not commence until a future piece of legislation comes before this place?

Ms PULFORD (Minister for Agriculture) — I know it was the desire of the former government not to address this very important issue, but it is the desire of our government to get on with this very challenging and difficult reform to enable the people who have been particularly impacted by the change in commercial passenger vehicle activity to be assured of what will happen next for them. We have had two parliamentary committee inquiries, we have — —

Mr O'Donohue — We still don't have the answers.

Ms PULFORD — You are asking for data that the government does not have available to it, as it has indicated. We have had two parliamentary committee inquiries. The opposition have indicated their

opposition to the bill, but there are many, many people in the Victorian community who need a resolution to this matter, and my view is that we should do the job that we have been sent here to do today.

Mr DAVIS (Southern Metropolitan) — I have a long series of my own questions, but I am following this debate intently. Essentially what the minister is telling us is that there is a second tranche of legislation that relates to these matters, and I wonder if she would outline the full scope of that tranche of legislation.

Ms PULFORD (Minister for Agriculture) — Is that beyond the scope of this bill? The question is about future legislation.

Mr DAVIS (Southern Metropolitan) — You have introduced that concept. The start date of this legislation is linked with the second tranche of legislation, as you have just announced to the committee, so in that sense I am trying to understand precisely what is intended at this point to be in the second tranche of legislation.

Ms PULFORD (Minister for Agriculture) — It was on 23 August last year that the government announced it would be progressing this reform through legislation in two stages. That may be new information to Mr Davis, but that is not new information to anybody else. What this bill does is enable financial payment to those who are experiencing hardship as a result of the changes that have occurred in their industry, and it is our very strong desire for that to be enabled sooner rather than later. There are people who are experiencing very significant financial distress as a result of this reform, and so that is why it is important to provide some resolution for this today.

I will just provide further information about what will be included in the second legislative change. The second bill that will come in in mid-2017 will deregulate fares and repeal parts of the existing Transport (Compliance and Miscellaneous) Act 1983, which covers the regulation of commercial passenger vehicle services. Additional parts will be added to the Commercial Passenger Vehicle Industry Act 2017, which will provide for new regulatory requirements. This will complete the new Commercial Passenger Vehicle Industry Act. Once fully implemented the changes will provide the level playing field that we are seeking to provide through this reform by lowering those barriers to entry that we have been talking about this afternoon and removing excessive vehicle licensing requirements. The changes are complex, and they do require substantial legislative amendment. That is why they are being introduced progressively to make sure that we get it right for the taxi, hire car and rideshare industry and the entire travelling community.

Mr DAVIS (Southern Metropolitan) — Just to understand that, you say it is to get it right and the changes are complex; it is about reducing the barriers to entry and deregulating fares completely?

Ms PULFORD (Minister for Agriculture) — I am sorry, your question is what?

Mr DAVIS (Southern Metropolitan) — I am just saying you mentioned deregulation of fares. That means completely deregulating fares?

Ms PULFORD (Minister for Agriculture) — No, not completely. I am conscious that we are straying a bit of a distance from this bill, but it is in the interests of helping Mr Davis with his question. There will be protections under the law that governs this industry and under consumer protection law for passengers. There will be a place for passengers to take complaints and there will be a requirement for all industry participants to publish their rates and to provide information about their rates.

Mr DAVIS (Southern Metropolitan) — Thank you. The other point that you made was around hardship and wanting to pay that sooner rather than later. That capacity for hardship payments, as I understand, already exists in part.

Ms PULFORD (Minister for Agriculture) — As I have indicated in previous answers, this legislation provides the framework by which the levy can exist to ensure that there is funding available for payment of compensation and to support people through transition. There were many questions from your colleagues earlier today about the relationship between the two, which we have canvassed extensively.

Mr DAVIS (Southern Metropolitan) — And on that point, I just want to return to the point that was made earlier on exactly that matter, the question of hypothecation. You said, 'There is no hypothecation, not as a matter of law as such'. That is my direct write from what you said. I just want to confirm that that is the case.

Ms PULFORD (Minister for Agriculture) — Yes, that has not changed since I indicated that was the case.

Mr DAVIS (Southern Metropolitan) — So in effect you are saying it is a matter of policy?

Ms PULFORD (Minister for Agriculture) — The government's policy intentions I think are well known. We are seeking to provide support for those who are impacted by this change and we are instituting a levy as part of this suite of reforms to enable that compensation to be made available.

Mr DAVIS (Southern Metropolitan) — Essentially, as a matter of policy you could change the arrangements or the minister could change the arrangements at any point. The legislation could be passed, the collection could start and the next day the minister or the Treasurer could direct that that money go to an entirely different cause. It could go to your portfolio of regional development, for example.

Ms PULFORD (Minister for Agriculture) — I have already answered this question about three times. The funds are not hypothecated but the government's intention is clear, and I have already restated it at least a handful of times this afternoon.

Mr DAVIS (Southern Metropolitan) — I think this worries people. That is why people keep coming back to it. It is now clear that it is not in any way linked to the collection; that it is just simply a matter of policy. A minister or the Treasurer could change the destination of that money through an order at any time. A future Treasurer — I am not even accusing this Treasurer; I am just saying a future Treasurer — or a future minister could do that. There is absolutely no security that this money will be used for those compensation purposes. I think many in the community will be very concerned to understand that in full. I just want to make this point quite clear, that as a matter of policy that is a problem and as a matter of law that is a problem. The community would want to see, when they are getting a new tax of this type, that there is some security that these flows of money will actually be used for the purpose for which the government says they are being raised.

Ms PULFORD (Minister for Agriculture) — I have already answered this on many occasions in this committee stage, but what I will indicate is that if Mr Davis is concerned about what a future Treasurer might do, he need not be too concerned about that because the payments will all be made in the 2017–18 financial year, when the levy will be collected over a longer period of time — eight years, as Mr O'Donohue knows.

Ms DUNN (Eastern Metropolitan) — My question is in relation to the effect on low-income earners and with particular reference to pensioners. I know that other members have cited specific instances in country Victoria around this cohort of people, but recognising that pensioners not only in the country but in the outer suburbs of Melbourne are heavily reliant on taxis to get them to their local shopping centres and have very few public transport options, what I am wondering is: has the government done any work on the effect of a $2 levy on this cohort of pensioners and low-income people in the community?

Ms PULFORD (Minister for Agriculture) — Ms Dunn's question includes a presumption that fares will increase as a result of the levy. The removal of the licence fee more than offsets the levy, as we have discussed already.

Ms DUNN (Eastern Metropolitan) — Thank you, Minister, for your answer in relation to that. I know as part of my contribution to the debate yesterday I talked about evidence received at the inquiry in terms of the operators we saw there as witnesses. They indicated that they would indeed be passing the levy on to passengers and would not use the fact that they are no longer paying licence lease fees as a mechanism to not do that. I know that this has probably been canvassed to a degree by other members. I am just wondering how you can be so sure that that is the case when the evidence in that inquiry was completely to the contrary to the idea that that was going to be the likelihood.

Ms PULFORD (Minister for Agriculture) — The taxi industry is supportive of these reforms so that it can be more competitive. As we discussed earlier, what the average number of trips that occur in one vehicle or on one licence in any given year tells us is that whilst this legislation will impose a levy, it will also reduce a greater value licensing cost. So the impact on fares will be a decrease as a result of the licence costs and an increase as a result of the levy, but the two offset one another in fact in the manner in which the overall result for the overwhelming majority of vehicles is significant — $23 000 down to $10 000 to $12 000 on those average trip numbers that we talked about earlier.

Ms DUNN (Eastern Metropolitan) — Thank you, Minister. Minister, are you able to advise whether the government will be putting something in place to monitor the effect of any levy that may be passed on to those passengers, particularly pensioners and low-income earners?

Ms PULFORD (Minister for Agriculture) — There is price monitoring that already occurs, particularly in relation to country fares, which are already deregulated. That price monitoring will be expanded, and clearly we will monitor this particularly closely during this period

of transition. But there is an existing monitoring arrangement in place that will be expanded.

Ms DUNN (Eastern Metropolitan) — Thank you, Minister, for your answer. The Greens are particularly concerned about the impacts of the changes on rural and regional Victoria. I certainly spoke to those concerns as part of my contribution to the debate yesterday in the house. The Greens have in fact been in discussions with the Minister for Public Transport in the other place about a series of undertakings and commitments in relation to people in rural and regional Victoria. Minister, I am wondering if you can confirm for the public record those undertakings and those discussions between the Minister for Public Transport and the Greens?

Ms PULFORD (Minister for Agriculture) — Certainly, and thank you for the opportunity to do so, Ms Dunn. We support the principle of geographic equity, and want the impact of removing the licence fee and introducing the levy to be consistent across the state. As members know, this was raised through the inquiry and the government's response was tabled on Wednesday. If I could provide for Ms Dunn, for the record and for the benefit of other members, the text of a letter from the Minister for Public Transport, Jacinta Allan, to Ms Dunn. It reads:

> The per trip levy contained within the Commercial Passenger Vehicle Industry Bill … does not come into effect until the legislation to implement the second stage of the government's commercial passenger vehicle reforms has been passed by the Parliament.
>
> The recent parliamentary inquiry into the CPVI bill recommended that there be a reduced levy for regional and rural areas.
>
> The government is aware that the Greens have circulated an amendment in response to rural and regional issues raised in the inquiry.
>
> The government's response to the inquiry, attached, outlined a preferred approach to ensuring that any geographic inequities that result from licensing costs being replaced by a per trip levy are addressed.
>
> If the Parliament supports the CPVI bill without the Greens amendment, the government will commit to putting in place a rebate scheme that will provide for geographic equity before the passage of the second bill.

What is attached to this, as referred to in the text of the letter, is the government's response to recommendation 1.3 from the parliamentary committee's report, which it says is:

> That the Victorian government amend the commercial passenger vehicle bill 2017 to provide for a reduced rate of levy in rural and regional areas.

The government's response was:

> The per trip levy replaces current annual licensing costs and will reduce costs for operators and fares for passengers. There are currently 36 different types of CPV licences and the government acknowledges that the impact of the replacement of these licences with a levy will be different for each type of licence.
>
> The government's intention is that the implications of replacing licensing costs with a per trip levy is consistent across Victoria. There are currently three different regional and rural CPV zones which each have different licensing costs and fare structures.
>
> It would be both legally and administratively problematic to have a different levy amount based on where in the state a trip was booked, or took place. The Victorian Taxi Association and other major network providers have advised government that they do not support a multitiered levy.
>
> The government is willing to have an independent agency, such as the Essential Services Commission, monitor and report on the impact on service provider costs and fares of replacing licence costs with the levy across different regions.
>
> A rebate scheme could be considered to address any circumstances where the implications of replacing licence costs with a levy has led to geographically inequitable operating costs and fare structures.
>
> The members of the Legislative Council can support the bill and also commit to reducing the effective rate of the levy in rural and regional areas in the future, should they choose to do so.

Ms DUNN (Eastern Metropolitan) — Thank you, Minister, for that confirmation. I wanted to go to the levy. Can you advise if there are any guarantees in place that the levy will not continue beyond eight years?

Ms PULFORD (Minister for Agriculture) — Thank you, Ms Dunn, for your question. Once the compensation has been recouped through the levy, the government will undertake a review on all aspects of the reform, including the efficacy of the levy. This was confirmed in the government's response to the parliamentary committee inquiry as well.

Business interrupted pursuant to standing orders.

Sitting extended pursuant to standing orders.

Ms DUNN (Eastern Metropolitan) — Following on from my last question, and I appreciate that response, in the event that we might see a change of government over the period of eight years — and I am certainly not going to predict the outcome of that — is there any mechanism in place that ensures that review is undertaken and we do not see advantage taken of this levy being in place?

Ms PULFORD (Minister for Agriculture) — I am only qualified to speak on behalf of this government. It is this government's intention to undertake this review, but there is no formal mechanism to require it. It is certainly our intention to do that.

Ms DUNN (Eastern Metropolitan) — Thank you, Minister. I want to turn briefly to the issue of wheelchair-accessible taxis. I just want to understand from the government how Victorians can be assured of ongoing wheelchair-accessible taxi services. In doing so, I note that both the London Rides and Uber ridesharing services, which both talk about providing transport for people with a disability, are in fact non-compliant with the Disability Discrimination Act 1992, so my concerns are around how we continue to offer those services to community members, particularly those who require the space of a vehicle that has two-powered wheelchair capacity.

Ms PULFORD (Minister for Agriculture) — I thank Ms Dunn for her interest in this aspect of this reform for passengers who have these particular needs with their travel. Current service levels are inadequate, and it is particularly the case for wheelchair services. This reform will encourage innovation and enable providers to target this customer base. The legislation includes a new disability commissioner, who will play an important role in overseeing this. I am advised that Shebah and London Rides are ready to go, and London Rides has 20 vehicles ready for when it is able to enter the market. This legislation will allow — and this reform will allow — for national disability insurance scheme reforms. There is already an increase in the lift fee to $20 and the provision of the $40 000 subsidy to purchase new wheelchair-accessible taxis in regional areas.

Ms BATH (Eastern Victoria) — Minister, you mentioned before — and I am paraphrasing — that the legislation will make rides fairer and more competitive, and I note that you answered a question from my colleague in relation to Orbost. My question is: how many Uber drivers are there in Orbost?

Ms PULFORD (Minister for Agriculture) — Uber have not provided trip data to the government.

Ms BATH (Eastern Victoria) — Have they provided any trip data as to how many there are in Warragul?

Ms PULFORD (Minister for Agriculture) — I have already answered this question.

Ms BATH (Eastern Victoria) — Can I ask the minister, for clarity, will people who take a one-way fare in Orbost to go up the street from their home to the hospital still be expected to pay $2 per ride?

Ms PULFORD (Minister for Agriculture) — I feel like we are going over some ground that we already covered in great detail earlier, but for Ms Bath's benefit and to re-explain this, the legislation enables the establishment of the levy. This is an important part of the reform and is very much about ensuring compensation for those who have been significantly impacted by the change that is occurring in commercial passenger vehicle use across the state. Ms Dunn asked some questions, and I provided her with some answers as well, on the issue of whether it is advisable to make a geographical distinction. I have already provided those answers as well.

Ms BATH (Eastern Victoria) — I thank the minister for her response. Just for clarity, there could be retired people living in Warragul, Leongatha, Orbost, Rosedale or Bairnsdale who may need to pay the maximum $2 per levy but there might not actually be any Uber operators working in those towns. Is that correct, Minister?

Ms PULFORD (Minister for Agriculture) — What I can indicate to Ms Bath is that the licence fee that is currently being paid of up to $23 000 — $11 000 for some — will be abolished in each and every one of those towns.

Mr O'SULLIVAN (Northern Victoria) — My question, Minister, follows on from the answer that you just gave in relation to the licence fee of $23 000 — or $11 000, you say, in some other instances. What is the break-up in terms of which groups are charged the $23 000 against which ones are charged the $11 000?

Ms PULFORD (Minister for Agriculture) — There are four regions. If Mr O'Sullivan is interested in looking at this further, this information is all available on www.taxi.vic.gov.au. The four regions are metro, urban and large regional, regional and country, so different rates apply. As indicated in Minister Allan's correspondence to Ms Dunn's question, the government is determined that there be geographical equity in the evolution and the rollout of this reform. Again, as I indicated, I have already provided that answer to the committee.

Mr O'SULLIVAN (Northern Victoria) — In terms of the perpetual licences, does the $23 000 licence fee apply to all perpetual licences?

Ms PULFORD (Minister for Agriculture) — No.

Mr O'SULLIVAN (Northern Victoria) — In terms of bringing downward pressure on fares as a result of the abolition of the licence fees, if the $23 000 licence fee does not apply to everyone, how do the fares come down?

Ms PULFORD (Minister for Agriculture) — I have already provided a response to this question earlier in the committee stage, but if I could read again the last part of Minister Allan's letter to Ms Dunn:

> If the Parliament supports the CPVI bill without the Greens amendment, the government will commit to putting in place a rebate scheme that will provide for geographic equity before the passage of the second bill.

Mr O'DONOHUE (Eastern Victoria) — Minister, could you table that letter? It had a lot of information contained in it, and it is something that other members have not seen. Whilst the Greens have been provided with that correspondence by the minister, the rest of the committee has not seen that letter. I cannot recite all the information that was contained within it, so I seek that the government table that correspondence.

The ACTING PRESIDENT (**Mr Melhem**) — Order! Is the minister prepared to make the letter available to the house?

Ms PULFORD (Minister for Agriculture) — Yes, that is fine. It is a short letter. I read it in its entirety before. The attachment is the government's response to recommendation 1.3, which was tabled in the house a couple of days ago.

Mr O'SULLIVAN (Northern Victoria) — Perpetual licences, I understand, do not get charged the $23 000 licence fee, so is it true that it is only the government-leased licences that have a $23 000 fee applied?

Ms PULFORD (Minister for Agriculture) — I am just seeking some further information on that, so we could move on and come back to that in a minute if everybody would like or we could just wait a couple of minutes.

The ACTING PRESIDENT (**Mr Melhem**) — Order! We will move on to the next speaker or the next question and come back to Mr O'Sullivan's question shortly.

Mr O'DONOHUE (Eastern Victoria) — I am happy to intercede, if I may. Minister, again, I do not want to go over ground we have covered, but just to be clear: the government is anticipating an extra $44 million of revenue from this new tax in the first full year of its operation. The government is abolishing the licence fees and there will be a minor administrative charge. So just to put it in very simple terms, Minister, is it correct to say that the $44 million represents the difference between the revenue anticipated from the collection of the $2 tax minus the revenue impact on Treasury of the removal of those licence fees?

Ms PULFORD (Minister for Agriculture) — No, there is no relationship between the two.

Mr O'DONOHUE (Eastern Victoria) — That is interesting, Minister. What is the revenue impact on the budget of the abolition of the licence fees?

Ms PULFORD (Minister for Agriculture) — The estimate on forgone revenue over the forward estimates is $112 million.

Mr O'DONOHUE (Eastern Victoria) — Can you just reconcile for me the net revenue impact on the budget of the forgone $112 million and the revenue collection from this new $2 tax?

Ms PULFORD (Minister for Agriculture) — Can I ask Mr O'Donohue to ask his question again, and perhaps give us a better sense of what it is that he is asking?

Mr O'DONOHUE (Eastern Victoria) — Sure. I am looking for the effect.

Ms PULFORD (Minister for Agriculture) — The revenue from the levy, which we have talked about, in the first full year will be $44 million. The forgone revenue over the forward estimates resulting from the current licence no longer providing that revenue is $112 million. You are asking about the relationship between the two, are you?

Mr O'DONOHUE (Eastern Victoria) — I am. Am I right in saying that the net impact on the budget is the forgone $112 million and the positive $178 million? Is that what is embedded in the budget papers?

Ms PULFORD (Minister for Agriculture) — The levy is set to recover $494 million over the eight years, which is the total package that has been announced by the government and canvassed as underpinning this reform. So $494 million includes forgone revenue of $112 million, as we have just discussed, $332 million for the transitional assistance package and $50 million for the Fairness Fund. The government's response that was tabled earlier this week to the parliamentary committee report has now also confirmed that the Fairness Fund will be uncapped.

Mr O'DONOHUE (Eastern Victoria) — Thanks, Minister, I appreciate that. Just to be clear: is $494 million the net revenue taking into account the forgone licence revenue? You are saying $494 million is over eight years, but I think you said $112 million is over four years. Is that correct for the forgone revenue?

Ms PULFORD (Minister for Agriculture) — The levy exists to fund $494 million, which includes the forgone revenue, which we have kind of answered a few times before.

Mr O'DONOHUE (Eastern Victoria) — Great. So that includes $112 million. Is the total revenue that is anticipated to be collected $494 million plus $112 million? Is there anything else that is forgone? You mentioned another figure, which I did not get down. I am just trying to understand what the total revenue is and what the total forgone revenue is. What is the total new revenue from this $2 tax, and what is the total forgone revenue?

Ms PULFORD (Minister for Agriculture) — The levy will raise $494 million. That includes the $332 million transitional assistance package, $112 million in forgone revenue and $50 million for the Fairness Fund. But, as I indicated earlier, the government earlier this week indicated that it would remove the cap on that $50 million, so we anticipate the expenditure may exceed the amount that will be raised by the levy.

If Mr O'Donohue is done for the moment, I have the answer to Mr O'Sullivan's question from before. The answer is yes: only government licensees pay $23 000 directly to the government. However, the vast majority, approximately 3000 of the 4000 licences — perpetual licences — are assigned to operators for a cost of between $15 000 and $23 000 a year. This licensing cost is removed through the reforms. The effect of the reforms is to remove licensing costs across the board, not just for annual licences issued by the government.

Mr O'SULLIVAN (Northern Victoria) — That is slightly different to the information that I have on hand. I want to move down a slightly different path in terms of some of the impacts of the tax in relation to regional areas, and particularly those areas along the Murray River where you have taxis that operate in Victoria and into New South Wales. If a passenger books a Victorian-plated taxi to come and pick them up in New South Wales and then drive them back into Victoria, do they pay the $2 tax at that time?

Ms PULFORD (Minister for Agriculture) — The levy will apply to trips that commence in Victoria.

Mr O'SULLIVAN (Northern Victoria) — If there is a taxi owner who leases their licence out to a proprietor in New South Wales, will that taxi be eligible to pay the $2 fee in trips that are in Victoria?

Ms PULFORD (Minister for Agriculture) — Yes.

Mr O'SULLIVAN (Northern Victoria) — The $2 tax will be collected and obviously used to pay out the compensation and for the Fairness Fund. In country towns paying out the compensation and potentially the relevant Fairness Fund payments to the local operators will take under a year. Is that reasonable, or will those passengers continue to have to pay that $2 tax for the remaining seven years?

Ms PULFORD (Minister for Agriculture) — I have already answered this one as well. The compensation will be paid in 2017–18. We estimate that it will take eight years for the levy to recoup the costs.

Ms FITZHERBERT (Southern Metropolitan) — This question may have been answered when I was briefly outside the chamber, but I wanted to ask the minister: when exactly will payments be made to owners and start to be made to the sector?

Ms PULFORD (Minister for Agriculture) — There are two answers to Ms Fitzherbert's question because there are two types of payment. In relation to the payments that come from the Fairness Fund, they will be able to start to be made once the legislation has received assent. They are each being assessed as quickly as possible, and as they are able to be assessed. I think that question was really about transitional assistance, which will be coordinated with the proclamation and commencement arrangements for this legislation. All payments will be made in the 2017–18 financial year — well, it is certainly our intention that this happen as quickly as possible.

The way this is envisaged to work is that when a current licence goes from one form into the new arrangements, as that transition is occurring for that individual licence-holder, the transition assistance payments would occur in basically the same time frame — within weeks. We are obviously very conscious of the financial pressures that people are facing and indeed some of the conversations that people who are impacted by this are having with their banks. So the idea is that the change occurs and the payment for compensation occurs within a very short time frame of one another.

Ms FITZHERBERT (Southern Metropolitan) — Could you clarify then — because you referred earlier to the linkage between this bill and the forthcoming

legislation that you anticipate will commence around the middle of next year, if I heard you correctly — the linkage of payments, if any, to the next legislation?

Ms PULFORD (Minister for Agriculture) — There is not really a relationship between the compensation and the second tranche of legislation. I provided some information about the parts of the reform that will be for the Parliament to consider as part of the second stage. The proposed commencement date for the second part of the reform is, as you said, towards the middle of 2018, by which stage compensation will have been largely or all paid to people who are eligible to receive it.

Ms FITZHERBERT (Southern Metropolitan) — I understand that applications to the Fairness Fund have closed within recent weeks. When might people who have made applications expect a decision to be made on their application and when might they expect payment?

Ms PULFORD (Minister for Agriculture) — I thank Ms Fitzherbert for her question. The earliest of them will be made within weeks. They are not all being processed in the same time frame. Some came in earlier and have been assessed earlier, some have come in more recently and are still being assessed and there are some where further information needs to be sought from the applicants to support their claims. So it is not that every payment will be made on the same day, but the earliest ones will be made within weeks.

Ms FITZHERBERT (Southern Metropolitan) — I have a further question about the levy — and you may have covered this earlier. Given the additional tax revenue that the government has through a range of sources, why is it necessary to have a levy at all? Why is it that the government has decided to do that?

Ms PULFORD (Minister for Agriculture) — We have covered this pretty extensively already this afternoon. The government is embarking on this reform. This legislation will enable the establishment of a levy. The levy will, over approximately eight years, raise funding to provide for compensation, but the compensation will be paid in the 2017–18 financial year.

Mr FINN (Western Metropolitan) — Minister, you said earlier that the reason there is no hypothecation — there is no purpose of the levy included in the bill — is that you did not have to include it. My concern is very much for the participants — the stakeholders, if you will — in the industry who are being, quite frankly, screwed over by the government with this legislation — —

Mr Somyurek — That's not parliamentary.

Mr FINN — Nor is what the government is doing parliamentary. My concern is for those operators who are going to lose their assets and maybe even lose their homes, their retirement and so forth. My very great concern is that they actually have no guarantee that the money raised by the levy will go to them, apart from the word of the government. Quite frankly, I do not have a great regard for the word of any government, but particularly this one, given what has happened — —

The ACTING PRESIDENT (**Mr Melhem**) — Order! Mr Finn — —

Mr FINN — I am getting there, Chair — —

The ACTING PRESIDENT (**Mr Melhem**) — Order! Mr Finn, I am speaking. The committee stage is not about making statements; it is about asking questions. I ask you to get on with asking your question.

Mr FINN — I am doing that, Chair; I just wanted to put it into context. What I am actually asking is: what detrimental impact would an amendment to hypothecate the levy's moneys have on this bill? What damage would be caused to the bill if such an amendment was included?

Ms PULFORD (Minister for Agriculture) — Can I clarify, are you seeking to move an amendment to that effect, Mr Finn?

Mr FINN (Western Metropolitan) — I am asking you, because the government has made clear in its response to the economy and infrastructure committee that they will reject an amendment to hypothecate or declare what the money is there for, why we are actually having the levy — the taxi tax. Earlier this afternoon you said in answer to a question from me that the government is not including a reason because you do not have to. What I am asking is: what damage to the bill or what detrimental effect to the bill would the inclusion of the reason for the levy cause?

Ms PULFORD (Minister for Agriculture) — This question about a hypothetical amendment — —

Mr Finn — It is not too hypothetical for the drivers and the operators.

Ms PULFORD — It is hypothetical in that there are two sets of amendments that I am aware of that have been circulated and that this committee stage will be considering. If Mr Finn is foreshadowing an amendment, then I would be very interested to see it so

that I can show it to the Minister for Public Transport, but to the best of my knowledge there is no such amendment.

Mr FINN (Western Metropolitan) — Perhaps what the minister has done here is latch on to something and is hanging on for dear life as we speak. What I want to know is: if — and I will not use the word 'amendment' because that would give her another lifeboat — the reason for the levy was included in the bill, what detrimental effect would that have on the legislation, if any?

Ms PULFORD (Minister for Agriculture) — I will respond by saying this: we are not in the habit of including in legislation unnecessary features.

Mr Finn — You think they are unnecessary, do you?

Ms PULFORD — Mr Finn, I am not sure if you have been listening or not, but the compensation will be paid in 2017–18. The levy will be raising funds for the compensation in the years after the compensation has been paid, so if you have an amendment, please circulate it; otherwise we could perhaps move on to the amendments that actually exist, rather than the one that Mr Finn has perhaps had as a late afterthought this afternoon.

Mr FINN (Western Metropolitan) — I am not foreshadowing an amendment. Listen very carefully. I was going to say that I will say this only once, but I am saying it for the third time. Listen very carefully: if the reason for the levy was included in the legislation, what detrimental effect would that have on the bill?

Ms PULFORD (Minister for Agriculture) — I have already answered the question.

Mr Finn — You have not answered the question.

The ACTING PRESIDENT (**Mr Melhem**) — Order! Mr Finn, the question has been asked three times. The minister has answered the question. The member might not like the answer, but we will move on.

Mr O'DONOHUE (Eastern Victoria) — To follow on from the point Mr Finn is making and to pick up the issue in my desire to understand the revenue implications of the tax and the removal of the licence fees, this tax in effect is more than just a tax for compensation; it is a recovery mechanism to cover the loss of revenue from the licence fees. Is that correct, Minister?

Ms PULFORD (Minister for Agriculture) — I have already answered that as well.

Ms BATH (Eastern Victoria) — My question to the minister is in relation to taxi licence fees. In the past they have funded disability subsidies. With the fees being gone, what will replace them once licensing is scrapped and the levy is solely used for compensation?

Ms PULFORD (Minister for Agriculture) — I have already provided an answer to this question as well.

Mr O'DONOHUE (Eastern Victoria) — Minister, I thank you for circulating the letter from the Minister for Public Transport to Ms Dunn. Can you describe to me how the rebate scheme will work, what it will cost and how regularly, for example, regular taxi users will have their money rebated? Obviously for pensioners who are on a fixed income having to pay up-front and recoup later has cash flow implications. Can you address all of those issues?

Ms PULFORD (Minister for Agriculture) — The rebate will be payable to the operators. I think Mr O'Donohue's question suggested it would be payable to the consumers. The levy is on the trip, and it is up to the operators how they offset that against the reduced licence fee. The way that it will work is that when operators provide their quarterly return they will provide their information about trips and the rebate will be paid directly to the operators.

Mr O'DONOHUE (Eastern Victoria) — So that will be paid based on the geographical location — where those trips take place. Is any reference to the customer base that use those trips a relevant factor in the rebate scheme — that is, pensioners, people with healthcare cards et cetera?

Ms PULFORD (Minister for Agriculture) — The rebate will be available for all trips within the geographical area, so yes, it will be available for trips for those types of customers, but it will not be limited to those types of customers.

Ms BATH (Eastern Victoria) — Minister, in relation to the purpose of the levy, how will the government consider one booking that may have 10 trips associated with it as opposed to 10 separate bookings? Sometimes hire cars take bulk corporate bookings for many jobs.

Ms PULFORD (Minister for Agriculture) — The levy is imposed on a commercial passenger vehicle service transaction, which is defined in the bill as being the provision of service for a single fare.

Ms BATH (Eastern Victoria) — Sorry, Minister, you said that most delightfully, but I could not hear. Would you mind repeating it?

Ms PULFORD (Minister for Agriculture) — The answer to Ms Bath's question is that the levy is imposed on a commercial passenger vehicle service transaction, which is defined in the bill as being the provision of service for a single fare.

Mr MORRIS (Western Victoria) — I was hoping to ask about the side letter that you have provided to the Greens. I am wondering why it is that the rest of the house has not had access to that side letter before today.

Ms PULFORD (Minister for Agriculture) — Ms Dunn, on behalf of the Greens, had been concerned about a couple of aspects of the bill and she sought from Minister Allan an undertaking. Minister Allan has provided that to Ms Dunn in writing and she has provided it to me. Ms Dunn asked that that be read into the record of these proceedings, which I happily did. Mr O'Donohue asked for that to be tabled and circulated to members, which it now has been. Some of this goes to the government's response to recommendation 1.3, but there is an undertaking that is made there by Minister Allan to put in place a rebate scheme — the government's commitment to do so — in circumstances where the Parliament supports the bill without the Greens amendment.

Mr MORRIS (Western Victoria) — I am concerned that this side letter may not be worth the paper it is written on. I am specifically hoping that you might be able to go into some more detail about how it is that this rebate scheme that is discussed in the letter will operate. Is this a scheme that has been thoroughly developed? Have the mechanisms, the timing of payments and the rebates being paid back to the operators been developed, or is this just a rebate scheme in name only without full development?

Ms PULFORD (Minister for Agriculture) — I provided further detail on the rebate scheme in response to earlier questions in the committee stage. As for the value Ms Dunn places on the letter that she has received from Minister Allan, that is probably a question for Ms Dunn.

Mr MORRIS (Western Victoria) — I was hoping that the minister might be able to give some further detail on how the rebate scheme is going to work, whether or not — —

Ms Pulford — I did that. I did that just before.

Mr MORRIS — The detail I was hoping to ascertain from the minister is how it is that the operator will pay. Are they going to be paying on a weekly, monthly, quarterly — —

Ms PULFORD (Minister for Agriculture) — I answered that before.

Mr MORRIS (Western Victoria) — When will the rebates be paid back to the operators?

Ms PULFORD (Minister for Agriculture) — I answered all of that before.

Mr MORRIS (Western Victoria) — That was to Mr O'Donohue?

The ACTING PRESIDENT (**Mr Melhem**) — Order! That has been answered. Can I just remind members that there has been a fair bit of repetition because members may walk in and out of the chamber and not hear some questions and answers.

Mr O'SULLIVAN (Northern Victoria) — Minister, how will the goods and services tax be treated in terms of the $2 tax that will be applied?

Ms PULFORD (Minister for Agriculture) — I am not sure that you are talking to the right tier of government about the GST, but let me just check.

We are not the federal government here and I am not the Treasurer, but let us have a go. The goods and services tax is levied on the total cost of a good or service, in this case the total cost of the fare. Now, the total cost of the fare at the moment is comprised of the licence fee and the cost of providing the service. The licence fee will be gone and the levy will be in its place.

Mr O'SULLIVAN (Northern Victoria) — So in terms of the $2 tax, will the GST be applied after that is added to the cost of the trip, so in essence $2.20 will be the tax? I must admit this is my first time in committee asking questions, so I am trying to learn. But I understand my job is to ask you the questions so that I can get the information back to understand it better.

Ms PULFORD (Minister for Agriculture) — Yes, that is right. Welcome to your first committee stage, Mr O'Sullivan. Part of the job of all of us here is to try and canvass in great detail all of the issues and all of the concerns, but there has been a lot of repetition. The levy applies to trips, not to fares. At the moment what we have in place is a quite costly licence fee. That will be gone. There will be a levy applied to the total number of trips. As for the commonwealth government's goods and services tax and the way that it applies, it will apply

in exactly the same way that it does now to the total cost of the fare.

Mr O'SULLIVAN (Northern Victoria) — Just so I can get this clear in my own mind, you have the full fare, which encompasses all those things that you have mentioned, and then the GST is included there and then $2 is added, or if the $2 is added as part of the fare, in essence it is really a $2.20 fee that applies.

Ms PULFORD (Minister for Agriculture) — No, that is not right at all. The levy will replace the licence fee, which will comprise part of the operator's costs of running the service that they are running, which would include things like the wear and tear on their car and fuel costs and the like. The goods and services tax, I might add, Chair, is quite some way out of the scope of the bill, but I am trying to be helpful here. The goods and services tax that is levied by the commonwealth government on goods and services, as its name suggests, applies to the total cost of the fare now and will apply to the total cost of the fare later. So if fares go down, then yes, one might expect that there will be an impact on commonwealth tax revenues, but that is really a matter for the commonwealth Treasurer.

Mr O'SULLIVAN (Northern Victoria) — I still do not understand completely what you are saying, so bear with me if we are covering some of the same ground in relation to the GST, but I think it is important for the people out there who will have to pay this $2 to actually understand where the GST is. Is it subtracted from the $2 when they pay it, is it added on top or is it actually applied to the whole of the cost of the fare?

Ms PULFORD (Minister for Agriculture) — I am doing my very best to explain this to Mr O'Sullivan — I really am. The trip levy will be part of the cost of the fare insofar as operators will be required to apply the levy. Perhaps I can give you an example. At the moment a commercial passenger vehicle service provider is paying a licence fee of $23 000 a year. When that $23 000 a year has gone, if they have an average use of their vehicle of around 5000 trips a year, then the levy would be $10 000. So that is $13 000 less than would have otherwise been the case. If there is an impact on GST as a result of these reforms, then it is likely to be a decrease in revenue available to the commonwealth.

Mr O'SULLIVAN (Northern Victoria) — I will move on, but it is in a similar vein in terms of taxation. Minister, in terms of the compensation that will be paid to licence-holders, one of the concerns that certainly has come through, and I do not have a complete understanding of it in precise terms, is how that will be treated by the Australian Taxation Office (ATO) once it is received by the licence-holder. The government said in its response to the report that was tabled that they have written to the ATO to point that out. Is there a more technical or better explanation that we can get in terms of exactly what was the communication between the Victorian government, the federal Treasurer and the ATO in terms of how that payment will be treated?

Business interrupted pursuant to standing orders.

Sitting extended pursuant to standing orders.

Mr O'SULLIVAN (Northern Victoria) — Is Mr Dalidakis now the minister at the table?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Just temporarily.

Honourable members interjecting.

Mr Davis — On a point of order, Acting President, has the minister been briefed on this bill in preparation for handling a committee stage?

The ACTING PRESIDENT (**Mr Melhem**) — Order! There is no point of order. Mr O'Sullivan, please ask your question.

Mr O'SULLIVAN (Northern Victoria) — Minister, in terms of the compensation that is going to be paid to licence-holders, the government in the response that was tabled this week to the committee report indicated that there had been communications between the federal Treasurer and also the ATO pointing out the way the money would be treated when it came to the licence-holder for the purposes of tax. Is there more detailed information that the minister could provide in terms of what that correspondence was? Because what we do not want is for that money that is received by the licence-holders to be treated as income that they would have to pay income tax on.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Can I just seek clarification? Are you wanting the release of the correspondence, or are you wanting advice in relation to the tax treatment of the payment? Which is it that you are asking for, Mr O'Sullivan?

Mr O'SULLIVAN (Northern Victoria) — I think both would be handy. It is a very important point for the people who would receive compensation, and potentially also for those people who receive money through the Fairness Fund, to actually understand what the implications would be once that money hits their accounts and what the ATO might say in relation to

how that money would be treated, because when they purchased their licence in the first instance the money that was paid was probably after-tax money. They would not want to be in a position where they have had to borrow the money or pay the money after tax and then be charged tax on any money that they do receive as a part of the compensation.

Ms PULFORD (Minister for Agriculture) — I thank Mr O'Sullivan for his interest in the tax treatment of these payments. The government provided some information about this in the response that was tabled in Parliament earlier in the week, and it has had no further advice from the ATO since then.

Mr O'SULLIVAN (Northern Victoria) — I understand that the government has probably not got a response from the ATO as yet because that correspondence was probably only done late last week, or even this week, but in terms of what information was actually contained in that correspondence, what information or what assurances can you give those people who may receive that compensation as to how that money would be treated? Essentially the way I look at it is that the Victorian government should not just handball this to the ATO and say, 'You deal with this'. I would imagine that Treasury or the Treasurer here in Victoria — the government — would have actually gone through it in detail to ensure that the structure of the payments in relation to that compensation did not trigger anything that would see it becoming income once it was received by the licence-holder.

Ms PULFORD (Minister for Agriculture) — Questions as to whether compensation payments are treated as income or not are very much a matter for the ATO. Mr O'Sullivan may recall the ban on commercial netting in Port Phillip and Corio bays where there was an analogous situation where there were compensation payments made available to people and similar questions, very legitimate questions, raised about what the tax treatment was. That information was sought from the ATO. The ATO in my experience always provides advice to people in a timely manner. But it is not a question of the Victorian government or the Victorian Treasurer or the Minister for Public Transport handballing responsibility for this. The levying of income tax, the determination of what is income and what are other types of payments, including compensation, and the income tax treatment of those is very much a matter for the ATO.

Mr O'SULLIVAN (Northern Victoria) — Minister, are you saying that the government did not provide any guidance to the ATO in terms of how that money would be treated? I am sure that the government would have structured those payments in a way that would not have a negative impact on those licence-holders when they do get the compensation paid.

Ms PULFORD (Minister for Agriculture) — I am not sure I have a great deal more to add than what we have already canvassed, because this is very much a matter for the ATO. We have certainly made the case to the ATO. It is now something that I imagine they are considering, and we hope they will be able to provide that advice to people in a timely manner. I can assure Mr O'Sullivan that it is something that we were conscious of in the design of the compensation scheme. But we just cannot, even with the best will in the world, make a tax ruling on this.

Mr O'SULLIVAN (Northern Victoria) — I would not expect you to be able to make a tax ruling, but in terms of the licence-holders who would receive that money, they are looking for some certainty, and the government has said all the way through that they want to provide certainty to those licence-holders. So would you be in a position to release the correspondence that you sent to the federal Treasurer and to the ATO so that the committee, but more importantly the people involved — those licence-holders — can actually see what representations you have made on their behalf to ensure that the compensation money that they receive is not taxable?

Ms PULFORD (Minister for Agriculture) — I will take that question on notice.

Mr MORRIS (Western Victoria) — I was hoping to follow on from what Mr O'Sullivan was asking before and just ask whether or not the government sought guidance from the ATO about how it should structure the compensation scheme so that any compensation is not all liable to be classified as taxable income.

Ms PULFORD (Minister for Agriculture) — This might surprise everybody, but it seems that the tax office does not provide a lot of advice to people wanting to minimise their tax. But there was certainly correspondence between our department and the tax office, and we engaged our own taxation experts to provide advice to support the way the government has structured the package.

Ms DUNN (Eastern Metropolitan) — As recently as 6 minutes ago we were still receiving many, many emails in relation to this bill suggesting that it not be supported. I am just wondering if the minister can clarify: should this bill not proceed, what are the

consequences for people who are current licence holders? I just need to understand that a little bit more.

Honourable members interjecting.

The ACTING PRESIDENT (**Mr Melhem**) — Order! If people want to have a chat, can they please leave the chamber.

Ms PULFORD (Minister for Agriculture) — I thank Ms Dunn for her very pertinent question about what happens if this bill does not pass today. A couple of things happen, really. Obviously the legislative situation will be exactly as it was yesterday and as it is today as we stand here and talk about this. The framework for the transition support package will not exist, so those payments that people are no doubt keen to access will not be made available as the legislation proposes. The other thing that will happen for those people who are current taxi licence holders is that the level playing field they seek and the reduction in that really quite onerous annual licence fee will not come about; it will be exactly as it is now.

Ms DUNN (Eastern Metropolitan) — Thank you, Minister. Just as a follow-on to that, there was certainly evidence in the inquiry, and we have received multiple emails around this as well, that many people are in quite dire financial circumstances because of the timing of when they purchased their licences — they have had them for a relatively short period of time so have not been able to exercise the greater benefits of income off them. I am just wondering what might be in place for them, and does the passing or not of this bill impact on what might be available to those people in severe financial crisis?

Ms PULFORD (Minister for Agriculture) — This really goes to some questions we had earlier in the day about why we need to pass this legislation this week, and it was suggested that this first tranche of legislation for this reform could wait until the second tranche. The reason we want to pass this legislation today is to put in place those arrangements and provide the certainty that people need around being able to access those payments. That is what is motivating us. That is certainly one of the reasons — perhaps the main reason — that we are here on I think the first Friday that the Parliament has sat since 2010. We want to be able to provide that certainty to people.

We certainly know that there are people who are experiencing severe financial distress, and we know that there are lenders with whom those people carry significant debts who are watching very closely what we do today. We are very, very conscious of that, so I think it is incredibly important. It is a very, very complex reform; I think everybody understands that. We have had two parliamentary committee inquiries. We have had an extensive discussion around many, many different issues in the chamber again today. There has been a global change that has severely disrupted the livelihoods of these people, and we are seeking to provide support for them to change the way they work in this new world in which we all find ourselves.

Mr DAVIS (Southern Metropolitan) — Minister, as I understand it there are at least three sets of proposed amendments that have been circulated. If any of those — —

An honourable member interjected.

Mr DAVIS — I thought it was four, but I think there are three sitting on the table. I could be wrong on that; I stand to be corrected. But my point is that if any of those amendments are passed, the reality is that the bill will need to return to the Legislative Assembly, and unless the Legislative Assembly intends to return in July, it will be August before the bill in its final form can be passed.

Ms PULFORD (Minister for Agriculture) — The sitting of the Assembly is very much a matter for the Assembly. The legislation has already passed the lower house. The government's intentions have been made clear in any number of different ways: indeed in correspondence to Ms Dunn, in any number of statements I have made to the house on behalf of the government today and in statements from the Minister for Public Transport. What the passage of this legislation will do, if it is to pass this afternoon in the Legislative Council, is send a very powerful signal to those lenders who are waiting for the Parliament to act for those licence-holders who desperately need to know what is going to happen next.

Mr MORRIS (Western Victoria) — Again with regard to Ms Dunn's side letter, I was hoping that the minister might be able to detail the cost of the rebate scheme detailed in the letter. What is the projected cost of facilitating that scheme?

Ms PULFORD (Minister for Agriculture) — I thank Mr Morris for his question. As I indicated in response to earlier questions, from I think Mr O'Donohue, the way in which this will operate is through the existing quarterly return process. It is not an onerous thing to establish it, and we believe that the costs will be minimal. As the first part of this committee stage laboured for some time the point on some of the assumptions that are difficult to make

because of the things that we do not know about the unregulated part of the market and future passenger trips, I am unable to give you a precise dollar amount.

Mr MORRIS (Western Victoria) — Who will be responsible for the administration of the rebate scheme?

Ms PULFORD (Minister for Agriculture) — There are a number of options available to government for who will administer the scheme, including the department, so the secretary of the department; the State Revenue Office; and the Taxi Services Commission. We will consider what is the best option and make that decision in due course. It is worth noting that this will not be in place for some time and it will be guided by what is going to be most effective.

Mr MORRIS (Western Victoria) — Thank you, Minister, for that response. However, it does raise a serious concern: if the government does not yet know who is going to administer this rebate scheme or in fact how it is going to operate, how is it that the operators themselves can have certainty about how it would operate into the future? Minister, can you detail why it is that the government have not thought who it is that is going to administer this scheme?

Ms PULFORD (Minister for Agriculture) — It is not that it has not been thought through; it is that it has not been completely decided.

Mr MORRIS (Western Victoria) — Thank you, Minister. With regard to the rebate scheme, at the moment there are a range of different categories of licence. We have the metro, the urban and large regional, the regional, and the country. Are those categories going to be used to determine eligibility for the rebate scheme?

Ms PULFORD (Minister for Agriculture) — The purpose of the rebate scheme is to overcome geographical inequity, and so it will need to be responsive to that. I am resisting putting hard boundaries around that when there is a lot for us still to know about future trip movements.

Mr MORRIS (Western Victoria) — Thank you, Minister. So would it be fair to say there are still a lot of moving parts in how this rebate scheme is going to be administered and where it is going to apply?

Ms PULFORD (Minister for Agriculture) — No, not really, and I provided further information on how the rebate scheme will apply. Through the quarterly returns it will seek to provide rebates directly to the operators, and as I indicated earlier, no, I still do not think that is the case at all.

Mr MORRIS (Western Victoria) — Thank you, Minister. Will the rebate scheme be operated on a sliding scale? In effect, I would imagine there would be no rebate for those operators within metropolitan Melbourne but there may be rebates for a taxi service operating out of, say, Minyip that may be at a higher level than for a regional city like Ballarat or Warrnambool. Is that the case, that there will be a sliding scale for determining if you are eligible or not? How is this going to operate?

Ms PULFORD (Minister for Agriculture) — Yes, that is right. I think the difference between Minyip and a regional city is a good example of why there is likely to be a different way that this will operate in different settings, which is what it is designed to do.

Mr MORRIS (Western Victoria) — Thank you, Minister. In terms of that, then, will it be a sliding scale? Would it be, for example, that in Minyip you would get a 100 per cent rebate, in Ballarat you might get a 50 per cent rebate and in metropolitan Melbourne you would get a 0 per cent rebate, or is it going to be determined based upon individual service providers? Is it going to be geographically based? How is that going to work?

Ms PULFORD (Minister for Agriculture) — The rebate will be based on the observable impact of the levy in different areas, so in all the areas where the levy results in a reduction in fares, the rebate will not be payable.

Mr MORRIS (Western Victoria) — Thank you, Minister. When you refer to an observable impact, one might contend that there might be an efficient operator in Ballarat that is seeing a lot of fares and there is an inefficient operator in Ballarat that is not receiving the same amount of fares. Are their rebates going to be different because one is more efficient and receiving more fares than the other who is not because of the inefficient nature of running their business?

Ms PULFORD (Minister for Agriculture) — The impact of fare deregulation in regional areas in country Victoria has been for fares to be very similar. That is, you know, the nature of competition, so we do not expect there to be wildly divergent experiences within that same geographical area. Again you are assuming that there will be operators who will be disadvantaged by the change from the licence to the levy. You talked about a particularly efficient driver or commercial passenger vehicle operator and you talked about Ballarat. The Ballarat licence fee is $23 000 and the average number of trips and the average levy are between $5000 and $6000, so $10 000 to $12 000; so

any operator that is performing in any way near average is not going to be disadvantaged by the levy.

Mr MORRIS (Western Victoria) — Thank you, Minister. This is what I am trying to get to the bottom of. Let us say, for example, that in Ballarat there are two taxi companies, one called Pulford and Co., which is a very efficient operator, and another called Morris and Co., which is not an efficient operator. Is the fact that Pulford and Co. is an efficient operator that is getting a lot of fares, so it appears to be less impacted by the levy, going to mean that it will have a lesser rebate than Morris and Co., which is inefficient and receiving less fares and therefore may be determined to be more in need of rebates through the scheme?

Ms PULFORD (Minister for Agriculture) — Either Morris and Co. or Pulford and Co. would need to be undertaking basically double the average number of trips that are currently being taken, so I think the answer to your question is that it is likely that neither of them would be eligible for the rebate in any event. As these two hypothetical companies would be operating in the same market, then their fares would likely be very similar, I would have thought.

Mr MORRIS (Western Victoria) — Thank you, Minister. What I am trying to get to the bottom of is if the number of passenger rides — so when I refer to an inefficient company I am talking about a company that is going to receive less fares — —

Mr Leane interjected.

Mr MORRIS — This is quite serious, Mr Leane. What I am trying to get to the bottom of is whether efficient operators are going to be in effect worse off through this rebate scheme because they receive more fares than an operator who receives less fares, because on an overall look at them one would say, 'Well, they are doing worse under this new system'. Why is it that they should not receive more rebates for the work that they are doing?

Ms PULFORD (Minister for Agriculture) — Referring to my earlier response about the observable fare, the purpose of the rebate is to respond to any operators that are at a disadvantage as a result of the levy, when in fact this is not our expectation given what we know about the average number of trips and what we know about the licence fees that people are currently paying. With Morris and Co. and Pulford and Co., whether or not one parks the vehicle in the driveway and sits at home on the couch for the afternoon will not impact it. So it is not going to be able to be rorted by people who are deliberately seeking to have their businesses underperform, if that is what you are getting at.

Mr MORRIS (Western Victoria) — Yes, that is what I was trying to get at. I thank you for that clarification. I was just hoping that you might be able to help me. When you refer to an observable fare, can you maybe provide a definition of what an observable fare is in the context you just used it in your previous answer?

Ms PULFORD (Minister for Agriculture) — They are actual fares that will be able to be reported through the quarterly reporting mechanism rather than theoretical fares, I suppose, is the point. The rebate scheme will be able to respond to the response of deregulation of the industry, of the sector. So it will not be based on hypotheticals; it will be based on actual lived experience.

Mr RAMSAY (Western Victoria) — Deputy President, I just flag with you that you need to look this way because I have a number of questions in relation to this bill which I need clarification on even though some of these matters have been covered by Ms Pulford and, albeit briefly, Mr Dalidakis. Minister, I am sorry to rehash the area around the identified levy. When I get a taxi receipt I have the cost of service, which is the charge, and then a GST service charge. Where on that receipt does the $2 levy appear? Does it appear prior to the GST and service charge or post the GST and service charge?

Ms PULFORD (Minister for Agriculture) — I had a long discussion with Mr O'Sullivan earlier about the goods and services tax.

Mr RAMSAY (Western Victoria) — It was not clear.

Ms PULFORD (Minister for Agriculture) — Well, it was pretty clear. It is actually not that complicated. The GST applies to the total cost of the fare.

Mr RAMSAY (Western Victoria) — Where does it appear on the receipt?

Ms PULFORD (Minister for Agriculture) — It does not.

Mr RAMSAY (Western Victoria) — It does not appear on the receipt that someone receives at all?

Ms PULFORD (Minister for Agriculture) — In the same way that the licence fee does not appear on your receipt.

Mr RAMSAY (Western Victoria) — But taxi operators do not collect licence fees. They collect a service fee, a GST fee and a cost of service. My understanding is that the onus is on the operator-driver to collect the $2. Surely the person that is paying that must receive something for the payment of that amount. Normally when I pay anything I get a list of costs associated with that service, and part of that service is the $2 levy.

Ms PULFORD (Minister for Agriculture) — For Mr Ramsay's benefit, it is not a point-of-sale levy. It is a levy that needs to be provided by the operator. It is not a levy that is directly paid by the end user — by the customer in the vehicle.

Mr RAMSAY (Western Victoria) — As I have indicated to you, Deputy President, I have a number of questions. I certainly encourage others that perhaps wish to ask questions to also do so. I need further clarification on this. The $2 levy is actually incorporated in the cost of the service. I do not see it, but the operator will charge it to me as a cost of service, and then they have to identify that to the Australian Taxation Office in relation to the normal charges that may be required to be notified to the tax office in relation to that service, even though it is not identified — like the GST and the service charges are — on the document. It is just incorporated in the general cost of providing that service.

Ms PULFORD (Minister for Agriculture) — Yes, I have already answered this a couple of times — a bunch of times — during the course of the afternoon, and already for Mr Ramsay. In the same way that the licence fee is currently part of the cost of operating a commercial passenger vehicle, that will be gone and it will be replaced by a trip levy. In the overwhelming majority of cases there will actually be a significantly lesser cost for the operator, because at the risk of tedious repetition, when the fee is $23 000 and the levy is $10 000 to $12 000, that is a considerable saving. What it will do is it will enable existing taxi licence holders to offer more competitive prices, which will place them on the level playing field that the sector so clearly needs and that this legislation is designed to give effect to.

Mr RAMSAY (Western Victoria) — Look, I am not convinced about that. I suspect that where there is limited competition in regional areas the consumer will wear that $2 levy because the viability of many of those small business operators will not allow them to be able to afford to incorporate it regardless of the licence fee. The other question I would like to ask the minister is in relation to the financial payments, which I understand are staged over a period of time. Assuming the bill is passed and the financial payments are progressed — and I understand the first payment is $150 000 and then there is $100 000 for the second plate — at what stage will those payments to licence plate holders be made in full?

Ms PULFORD (Minister for Agriculture) — They will be made at the earliest possible opportunity, as I indicated earlier in answers to questions from other members. If Mr Ramsay had been here at the beginning of the committee stage, he might have heard that.

Mr RAMSAY (Western Victoria) — I ask that question, Minister — and you are being rather flippant in your answer — because there are taxi plate holders in this gallery who have paid $500 000 to $600 000 for the privilege of having the plate, and now you are telling me their value is only worth $150 000. They then have to go back to their bank and say, 'Look, I'm sorry, I've mortgaged my home on the basis of a half-million-dollar value of a plate. Now it's worth only $150 000'. I am sure they would like to know at what time and at what stage they may get some financial support, given that no doubt the banks are more than likely to say, 'Well, we need to reassess your loan portfolio or your financial arrangements'. That is why I ask what the timing of the payment is, because it would be very important to those who have actually taken out significant loans against the value of their plates.

Ms PULFORD (Minister for Agriculture) — Yes, and the people who are in the gallery I think have in the main been here for the entire duration of the committee stage, so they do know the answer to this question.

Mr Ramsay interjected.

The DEPUTY PRESIDENT — Order, Mr Ramsay!

Ms PULFORD — I am not sure that the committee stage really is designed for us to go over and over and over again things that I have already provided answers to. I am trying to be as helpful as I possibly can, but we have had numbers of questions that have been answered up to half a dozen different times. I have provided an answer to the question. I am sure the people in the gallery know the answer to the question.

We are incredibly conscious of the discussions that people with current taxi licences are having with their banks, which is why we are so very, very keen for this legislation to pass this house today, so that those people can provide that certainty to their lenders. We also

know that some of these lenders are watching very closely what we are doing in this place today. Every time I am asked to repeat an answer, particularly when for the sixth or seventh time the answer has already been provided, it is another 5 minutes of uncertainty for these people. We are very conscious of that. We are wanting these arrangements to be confirmed by the house today and for the compensation payments to be made.

For Mr Ramsay's benefit, I say that these will be paid at the earliest possible opportunity following the passage of this legislation. We desperately want to get on with doing that. We have had two parliamentary committee inquiries and we have had extensive debate in the community. This legislation has been developed very carefully. We know that the taxi industry wants this legislation to pass so that they can have that level playing field that they so desperately need. It is a considered reform. As I indicated at the outset, and several dozen times since then, the legislation is progressing in two tranches, but this today is about getting compensation to those people at the earliest possible opportunity.

Progress reported.

APPROPRIATION (PARLIAMENT 2017–2018) BILL 2017

Second reading

Debate resumed from 11 May; motion of Mr JENNINGS (Special Minister of State).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise this evening for the debate on the Appropriation (Parliament 2017–2018) Bill 2017. As members of the house know, it is now 5.44 p.m. on the last scheduled sitting day for the autumn session of 2017. In accordance with our standing orders the house is due to adjourn in 16 minutes time. With 16 minutes to go before the house is due to adjourn for the final sitting day of the session and with the government having already determined that after the house adjourns today we will not return until 8 August this year, we are in a position where we have only just started the appropriation bill for Parliament.

As many members of the chamber will be aware, the general appropriation bill is a special bill. It is a bill which, due to the changes made to the constitution in 2003, actually does not require passage through the Legislative Council to receive royal assent. If the government does not bring the bill to conclusion in the Council, it is deemed to have passed the Parliament and can receive royal assent even without passage through the Legislative Council.

At this late hour it appears as though the general appropriation bill will, for the first time in its history, not be passed through the Council and will receive royal assent having only passed the Legislative Assembly, which says a lot about the management of the house by the government — that for the first time ever, not through the bill being blocked or amended but simply through the government not managing its program, we will not be seeing an appropriation bill passed for the 2017–18 financial year.

The bill we are talking about at the moment, though, the parliamentary appropriation bill, is different. It is not a bill which can receive deemed passage through the Parliament, it is not a bill which having passed the Assembly only can go for royal assent. It is a bill which must be passed by the Legislative Council, and it is an indictment of the government that we are now 15 minutes from the statutory adjournment of the house for a seven-week period that the government is only just starting the debate on the parliamentary appropriation bill.

This is a bill which appropriates, in this instance, $146 million for the management of the Parliament. It is a bill which provides funding to the Department of the Legislative Assembly, the Department of the Legislative Council, the Department of Parliamentary Services, which provides the electorate offices — being staff and physical infrastructure — for members of Parliament and of course provides funding to parliamentary committees as well as some statutory officers of Parliament, being the Auditor-General and now the Parliamentary Budget Office. So it is an important piece of legislation for the operation of our democracy and for the operation of this institution. It must be passed by the Parliament before 30 June, and this 15 minutes is in theory the last available opportunity.

I only intend to speak briefly on the bill this afternoon, in particular to talk about the issue of funding for the Legislative Council. The Legislative Council over the last several years has had an interesting history with respect to its funding. As all members of this place know, since the 2014 election the Legislative Council has had a very active committee system. Be it the economy and infrastructure, legal and social, and planning and environment standing committees, or be it the select committees which have been established — obviously the select committee into the Port of Melbourne and more recently this week the

establishment of a select committee into the Country Fire Authority (CFA) restructure — the Legislative Council undertakes a very substantial amount of committee work. It receives very substantial numbers of submissions on any number of issues, be they in relation to legislation or general references, and carries a very high workload. Certainly they are active committees in comparison to many of the more traditional joint committees of this Parliament.

It is appropriate therefore that they receive adequate resourcing. This has been an ongoing issue for the Legislative Council for a number of years. Prior to the last financial year the Legislative Council sought a Treasurer's advance for additional funding for the Department of the Legislative Council which was not supported by the Treasurer and the government. Last year in consideration of the 2016–17 parliamentary appropriation bill this house determined that it was appropriate to seek additional funding for the Council committees. It determined that $600 000 should be transferred from the joint committees to fund the three standing committees of the Legislative Council — $200 000 per committee, $600 000 in total.

Last year the Council passed an amendment to the parliamentary appropriation bill which shifted $600 000 from the line item for parliamentary investigatory committees to the Department of the Legislative Council with the intent that those funds would go into the three Legislative Council committees. That was supported, obviously, in the Council, but it returned to the Legislative Assembly, at which point the government in the Legislative Assembly indicated that its preference at the time was not to agree to the amendment from the Council but rather to support that funding transfer from joint committees to the Legislative Council by way of an exchange of letters between the Speaker and the President.

Accepting on face value that undertaking from the government, when the message returned from the Legislative Assembly the Council did not insist upon its amendment. It did that on the basis and with the expectation that the agreement which led to that extra $600 000 being provided to Council committees would become a feature of ongoing budgets. Yet, unfortunately, when we move forward 12 months to consideration of the 2017–18 parliamentary appropriation bill we see — and it has been disclosed through the public accounts process — that the Department of the Legislative Council made an expenditure review committee of cabinet bid for additional funding for Council committees, consistent with what had been agreed by an exchange of letters last year, and that was rejected out of hand by the Treasury and the government.

As a consequence the parliamentary appropriation bill before the house today does not reflect the $600 000 increase for Council committees which was agreed by an exchange of letters by the Presiding Officers last year. In fact on the face of it the actual appropriation for the Legislative Council in 2017–18 is lower than it was in 2016–17. It falls from $3.737 million in 2016–17 to $3.688 million in 2017–18. So the government has not honoured the undertaking given last year to provide funding on an ongoing basis for those Legislative Council committees.

So again I find on behalf of the coalition we are in a situation where we again need to seek to propose amendments to the parliamentary appropriation bill, and I would ask that the amendment be circulated.

Opposition suggested amendments circulated by Mr RICH-PHILLIPS (South Eastern Metropolitan) pursuant to standing orders.

Mr RICH-PHILLIPS — The amendment which is now being circulated provides for, this year, the transfer of $700 000 from the parliamentary investigatory committees to the Department of the Legislative Council. In relation to the schedule of the bill, it seeks to change the Legislative Council line item, increasing it to $4.388 million, and reducing the parliamentary investigatory committee line item to $6.563 million.

The purpose of this amendment is to deliver upon what was the budget and expenditure review committee request from the Council to the government this year, which was $700 000, reflecting the increasing costs of operating the committees for the 2017–18 financial year. It gives effect to what this side of the chamber, and I think the non-government parties generally, believe was the undertaking from the government last year — that is, that the parliamentary appropriation bill would reflect an ongoing and permanent allocation of funds for those committees, a reversal of funds from the joint committees to the Council committees. Obviously as a net change it has no effect on the overall appropriation to the Parliament, which remains $146 286 000, but it reflects the need for ongoing funding for the Council committees, and it reflects our understanding of the undertaking given last year that increased funding that was made by way of an exchange of letters would become a feature of the actual parliamentary appropriation bill.

At this late hour I will conclude on that point. This is an important piece of legislation. The fact that it is being

passed now, 5 minutes before the statutory end of this sitting before the house adjourns, is very unfortunate and reflects the disarray we have seen in the government and have seen in the government for months. The fact that the budget bill, the general appropriation bill itself, will not pass the Parliament before it adjourns for the winter recess is a disgrace, and the fact that this parliamentary appropriation bill is literally being dealt with for the first time in the last 5 minutes of this sitting is also regrettable. This amendment that we will consider in committee is an important one. We relied last year on assurances given by the government, and they have not been honoured in the bill this year. It is important that this matter is settled in favour of the Legislative Council once and for all.

Mr LEANE (Eastern Metropolitan) — Obviously the government supports the Appropriation (Parliament 2017–2018) Bill 2017, and we want to take the opportunity to praise all members of the staff of the Parliament, who do a fantastic job supporting us. As far as Mr Rich-Phillips understands it, Mr Jennings will speak on these amendments, and he will be able to give Mr Rich-Phillips some assurance around the exchange of letters between the Speaker and this house around acquitting what he is looking for in his amendments.

Ms PENNICUIK (Southern Metropolitan) — I am very pleased to be speaking on the Appropriation (Parliament 2017–2018) Bill 2017 and that we are actually dealing with it, notwithstanding it being very late in the day, as mentioned by Mr Rich-Phillips. I agree that there is no reason why we could not have dealt with this bill and the Appropriation (2017–2018) Bill 2017 yesterday. No, we dealt with a very important bill yesterday — the Bail Amendment (Stage One) Bill 2017, which has a commencement date of 1 July 2018 so is not in any way an urgent bill.

However, quite apart from the detail that is in the schedules of the bill with regard to funding, I just want to go to the issue raised by Mr Rich-Phillips with regard to committees, particularly upper house committees. At their appearance at the Public Accounts and Estimates Committee's budget estimates hearings, the presiding officers produced a PowerPoint which outlined the work of the Legislative Council standing committees as opposed to the joint investigatory committees. The Legislative Council's three standing committees ran 14 inquiries, tabled seven reports, received 5639 submissions and held 195 public hearings, as opposed to the nine joint investigatory committees, which held 15 inquiries and tabled 18 reports but only received 825 submissions and held 222 public hearings, so you can see the difference in the workload. The secretariat support for the Legislative Council committees is just over 20 per cent of the number of staff allocated to the joint investigatory committees — 7.6 staff as opposed to 34.2.

I would also say that in terms of the joint investigatory committees they do a lot of predictable work. The work that they do every year, important and onerous as it might be — the Public Accounts and Estimates Committee, the Scrutiny of Acts and Regulations Committee and the Electoral Matters Committee — is pretty well the same work. It is good to see that there is some funding, and there will probably need to be even more funding, directed to the Legislative Council standing committees to perform their scrutiny function, so we will support the amendment for that.

Mr JENNINGS (Special Minister of State) — A couple of threshold questions have been raised by Mr Rich-Phillips during the course of this discussion on the parliamentary appropriation bill. Ms Pennicuik is sympathetic in wanting to make sure that there is a degree of support for committees in the Legislative Council, for them to acquit their responsibilities and for there to be adequate funding within the allocations of the Legislative Council. In light of that concern of the Legislative Council, and as has been argued previously, subject to Mr Rich-Phillips's amendments and the expectation perhaps of the chamber today, earlier in the week, on 20 June, the Presiding Officers wrote to the Treasurer.

Business interrupted pursuant to standing orders.

Sitting extended pursuant to standing orders.

Mr JENNINGS — Thank you, Acting President, your sense of where the second hand was and mine were slightly different. Nonetheless, I thank the chamber for the opportunity to continue my contribution. I want it to be brief.

I was in the middle of a sentence indicating that earlier in the week, on 20 June, the Presiding Officers wrote to the Treasurer and indicated to the Treasurer that they have approved:

> … a transfer of $600 000 from the parliamentary investigative committees appropriation to the Legislative Council appropriation pursuant to section 31(1)(a) of the Financial Management Act 1994. This transfer will be effective from 1 July 2017 until 30 June 2018.
>
> We are writing to you pursuant to section 31(3) of the Financial Management Act 1994 notifying you of this transfer, which is for additional funding of the Legislative Council standing committees.

The Treasurer subsequently wrote to the Presiding Officers on 22 June, and in that correspondence the Treasurer said:

> Thank you for your letter informing me of the Parliament's intent to transfer $600 000 in the 2017–18 appropriation to the Legislative Council under section 31 of the Financial Management Act 1994 (FMA).
>
> As a gesture of goodwill, the government guarantees to provide $700 000 to the Legislative Council investigative committees for the 2018–19 financial year in the 2018–19 budget. I trust this will be welcomed, noting that Parliament already has the power under the FMA to transfer appropriation between departments of Parliament.
>
> If officials of your department have any queries they can contact —

the appropriate officer within the portfolio.

In terms of what is being sought to be achieved in relation to a shift in the appropriation, the Treasurer has agreed to shift that in the budget papers next year. I am happy to confirm that it is the government's intention to embed that within the cost structures of the Legislative Council and to index that amount appropriately into the forward estimates.

I believe that will provide the certainty and the confidence that the chamber has actually expressed. This is a big day in the Clerk's working life in relation to making sure that there is ongoing resource allocation to make sure this chamber can acquit its responsibilities. I look forward to it acquitting its responsibilities in an appropriate fashion in terms of recognising due process and acquitting its responsibilities with the highest degree of professional and parliamentary acumen. I look forward to that being the process by which committees complete that work, as they have now been appropriately supported through this resource allocation. I therefore recommend the bill to the chamber.

Mr RICH-PHILLIPS (South Eastern Metropolitan) (*By leave)* — I thank the house for its indulgence. Noting the minister has put on the record the letter written by the Treasurer to the Presiding Officers confirming, firstly, the transfer for the 2017–18 financial year of $600 000, as agreed between the Speaker and the President, and more importantly that there will be $700 000 allocated for the 2018–19 financial year in the budget, and that that will be represented across the forward estimates period and indexed in the ordinary way across the forward estimates period, it is my intention not to proceed with the amendment previously foreshadowed.

Given that we have the house's indulgence, I take this opportunity to thank the parliamentary staff, the Department of Legislative Council and the other parliamentary departments for all their hard work and support of members throughout the financial year, and I look forward to seeing the benefits of this increased appropriation for the Legislative Council in the coming years.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

COMMERCIAL PASSENGER VEHICLE INDUSTRY BILL 2017

Committee

Resumed from earlier this day; further discussion of clause 1.

Mr DAVIS (Southern Metropolitan) — Minister, earlier on you made some commentary about the annual licence fee, and I have had some legal advice provided in the interim from Corrs. They say to me:

> The minister has just answered a question regarding the annual licence fee. The minister has misled the house.

And I just want to check that with you.

> The Taxi Services Commission has not charged full annual licence fees since at least August last year and rebated licence fees paid before that date.

That seems to be at variance with what you said earlier.

Ms PULFORD (Minister for Agriculture) — In response to Mr Davis's question, what I can indicate and confirm is that the legislation still requires annual licences to be paid. If you open up the legislation as it stands right now, you will see that that is a requirement.

Mr DAVIS (Southern Metropolitan) — But the point that I made a moment ago, that there have not been collections, is that correct or not?

Ms PULFORD (Minister for Agriculture) — There has been a rebate in place since the government announced these reforms, but the annual licences are still required by legislation to be paid. One of the things that we are seeking to do with this legislation is require

them to no longer be paid, but right now they are required to be paid.

Mr DAVIS (Southern Metropolitan) — But they are not going to be collected in the way that was outlined, I think I take from what you have said.

I have another question here. Some of the assistance package total includes refunds to existing government-issued licence holders. People who do not own a perpetual licence had their annual fee refunded — $23 000. Is that part of the package or not?

Ms Pulford — Sorry, can you ask that again?

Mr DAVIS — Some of the assistance package total includes refunds to existing government-issued annual licence holders. People who do not own a perpetual licence had their annual fee refunded to the tune of $23 000; is that correct?

Ms PULFORD (Minister for Agriculture) — So just to confirm — and we are sort of going over old ground again — it is included in the $112 million of forgone revenue, as I have indicated in earlier answers.

Mr DAVIS (Southern Metropolitan) — So that is: yes is the answer, I think. For purposes of the levy, how will you consider one booking for 10 separate trips, as opposed to 10 separate bookings? When people book, will this apply for the number of trips or the number of bookings?

Ms PULFORD (Minister for Agriculture) — I have already provided an answer to that question.

Mr Davis — So the answer is? Ten?

Ms PULFORD — I am not sure. It is really cute that the Liberal Party are running a roster for who is asking the same questions over and over and over again. The levy applies to each trip, and Ms Bath can help you with that because I provided the answer to her an hour or so ago.

Mr Davis — You refused to answer it.

Ms PULFORD — On a point of order, Deputy President, Mr Davis has just indicated that I have refused to answer the question. I have answered the question on multiple occasions before. They can keep asking, but we are going nowhere. We want the people for whom this reform is incredibly important to have the certainty that they need, and indeed that their banks need, going forward. I know the Liberal Party is playing some funny little game today where its members are taking it in turns to ask the same dozen questions. We have provided answers to all of them. If they have new content, that would be excellent, but if they were not here earlier when I answered the question for their colleagues, then I am sorry. This is a ridiculous use of the Parliament's time.

As earlier speakers have reflected, there are people in the gallery who have been here for most of the day and there are people watching this online with great interest. People who have watched this committee stage for its duration can see what the opposition is doing and they know that the answers have already been provided. I am trying to be as helpful as I possibly can, but just because we had a break for a few minutes while there was another bit of legislation, I do not think that is an opportunity for the opposition to start again with every question that they asked over the 3½ hours preceding the break.

Ms DUNN (Eastern Metropolitan) — My question for the minister is: does this bill allow the Governor in Council to provide for voucher systems, discounts or levy refunds for specified commercial passenger vehicle passengers? I am thinking of, for example, people who use wheelchairs. Is there an ability in this bill for the Governor in Council to provide that voucher system?

Ms PULFORD (Minister for Agriculture) — I thank Ms Dunn for her question. As we canvassed earlier, providers that we know are ready to enter the market to fill what is currently an inadequate service level for people with disabilities and particularly people in wheelchairs. I know Ms Dunn has actually been here the whole time, so I will not repeat what I said in an earlier answer.

I suppose the short answer to the question is no, the bill does not make provision for that. The multipurpose taxi program, however, provides the support that people in that situation would need and actually enables a rebate to be provided in the event that there was a need. But one of the things that we do know is that as a consequence of the reform that we are proposing and hoping to make some progress on tonight there are a whole lot of new entrants in what would be a future Victorian deregulated industry that would actually provide better service and greater service for people in these circumstances.

Mr DAVIS (Southern Metropolitan) — I want to move to the issue of wedding cars, if I can, Minister. Many do relatively small numbers of trips each year, and I wonder if you can explain how they can absorb the compliance costs of collecting and reporting on the levy.

Ms PULFORD (Minister for Agriculture) — This reminds me of my own wedding day when the wedding car broke down and did not turn up at all. For the people whose wedding cars actually do turn up, that is obviously a relatively high cost — put the word 'wedding' on anything and the price does fly through the roof a bit. Wedding cars, as I think everyone would know, do a small number of trips and do them at a relatively higher cost. The trip from home to the venue or from a bridesmaid's place to the venue is likely to come at a much lower cost in other forms of commercial passenger transport. But wedding cars are a special service and part of a special day. This is actually a very good example that Mr Davis has provided of a part of the industry where there will be little to no impact.

Mr DAVIS (Southern Metropolitan) — I thank the minister for the trip down memory lane. I think the reality is that there will be a burden, and I do not think the minister has explained it. She may want to add more to actually explain how it will be no burden at all, but please explain.

Ms PULFORD (Minister for Agriculture) — I have not booked a wedding car since 1995, so I cannot profess to having a very good idea of the going rate for a wedding car. I would have thought it would relate to all manner of things like whether there was an ice bucket and champagne in the back seat, how many people were seated, what colour the ribbons were, all kinds of things. If this is where we are getting to, then maybe the opposition has run out of questions. To the best of my knowledge about the rental of wedding cars, which I confess is thin, they are higher than usual cost trips when compared to, say, a taxi or other vehicle hire, so by comparison the impact will be far less for the work that they do.

Mr DAVIS (Southern Metropolitan) — That did not explain but asserted — —

Ms PULFORD (Minister for Agriculture) — I would like to take on notice Mr Davis's question about the wedding cars.

Mr DAVIS (Southern Metropolitan) — Thank you. That is a good idea. Just returning to the earlier point that we made about the issue of the Taxi Services Commission not charging full annual licence fees since August of last year, I am now in the possession of a letter dated 22 February from Corrs Chambers Westgarth Lawyers to the Taxi Services Commission commissioners — to Yehudi Blacher, the chair of the Taxi Services Commission, and others. I just want to read a small amount of that into the record. This is at paragraph 4.2 in that letter which was sent to government authorities:

> We are instructed that the manner in which the TSC administers — —

Ms Pulford — On a point of order, Acting President, is Mr Davis able to table the document that he is referring to?

Mr DAVIS — It was sent to me electronically, but I can very quickly do so. I have given a very precise reference.

Ms Pulford — You have not told us to whom it is written.

Mr DAVIS — I did. I actually went through a long list of people: the taxi services commissioners Janet Dore, Monique Conheady and Yehudi Blacher, chair and taxi services commissioner, Taxi Services Commission. It is from Corrs Chambers Westgarth and dated 22 February this year. I would have thought that was fairly precise. I am happy to send it electronically.

Ms Pulford — Well, you did not say that earlier.

Mr DAVIS — I actually did mention the exact names. You may not have heard them, but I think the record will show that I was pretty precise.

Paragraph 4.2 on page 4 of the letter says:

> Administration of licences
>
> We are instructed that the manner in which the TSC administers licences has changed since the reforms were announced in August 2016.
>
> Specifically, as we understand it:
>
> (a) prior to 23 August 2016, the fee payable for either purchase or renewal of an annual taxi licence was $23 017.00 plus an administrative fee of $538.40; however,
>
> (b) after 23 August 2016:
>
> (i) holders of annual licences, when renewing those licences, were instructed to pay only the administrative fees due (rather than the full licence fee which had been imposed prior to August 2016);
>
> (ii) holders of annual licences who renewed their licence prior to August 2016 have received 'rebates' of the amount paid … and
>
> (iii) persons or entities purchasing new annual licences are required to pay the full annual licence fee plus the administrative fee.

There is actually some policy decision that has been taken by government, and it does seem at variance with

your earlier comments. The government is not charging the full licence fees. I just wonder whether you want to reflect on your earlier commentary, because we will look at *Hansard* quite closely when it is available.

Ms PULFORD (Minister for Agriculture) — My answer is the same as the answer that I provided Mr Davis earlier. The legislation requires that licence fee to be paid. That is one of the things that this bill seeks to change, but it is required to be paid, and so the rebate has been provided since the government announced the policy framework for this reform. If this reform is unable to be progressed, then the status quo remains and the legislation says very clearly that the $23 000 has to be paid.

Mr DAVIS (Southern Metropolitan) — I want to, Minister, also take you to some matters that come out of the Scrutiny of Acts and Regulations Committee (SARC) reports, *Alert Digest* No. 3 of 2017 and also *Alert Digest* No. 4 of 2017. The second report contains the minister's response to questions raised by SARC in its earlier report. At point 2 of her letter, under the heading 'Revocation of taxi licences and grant of new taxicab licences', the minister stated:

> Even if the first two criteria of section 20 of the charter are satisfied, any deprivation of property occasioned by clauses 31 and 34 of the bill is 'in accordance with law'. The bill converts all existing types of taxi licences to 'new taxicab licences', and removes the annual licence fees …

It goes on with some of the machinery, but the minister said just prior to that:

> Moreover, I note that comparative jurisdictions have held that measures resulting in a diminution in the value of property do not amount to 'deprivation'.

The minister, at an earlier point, stated:

> … clauses 31 and 34 of the bill do not engage the right to property under the charter because the effect of these clauses does not satisfy all three criteria of section 20. There is some doubt as to whether a perpetual taxicab licence, as a licence subject to the terms and conditions of the statutory scheme under the Transport (Compliance and Miscellaneous) Act 1983, constitutes 'property' within the meaning of the charter.

I think this is a very important point, because the government and some other parties have moved around with the suggestion that this is not property — that it is not a property right and there is no actual loss of property that is going on here. In fact that is really not true. It is a fact, Minister, I think that the High Court has indeed found that licences of the type, and specifically taxi licences, are property.

I am indebted to Mann Lawyers for providing a brief on these matters. They note in a paper headed 'The licences are perhaps not property':

> The minister has asserted that there is some doubt as to whether the existing licences are property. With the greatest respect to the minister, there is no doubt in law whatsoever that the existing licences are property. This was determined by the High Court in the case of *Federal Commissioner of Taxation v. Murry* (1998) … The majority of the High Court held in that case that:
>
> > The licence is property … A taxi licence is a valuable item of property because it has economic potential. It allows its holder to conduct a profitable business and it may be sold or leased for reward to a third party.

The document from Mann Lawyers goes on to say:

> As such, the minister's representation to the committee that there is doubt as to whether the existing licences is property is simply untrue.

This is a broader point but an important one because some certainly believe that there may be legal actions possible with respect to this bill. I just wonder whether you would in the first instance actually concede in line with the High Court that taxi licences are indeed property.

The DEPUTY PRESIDENT — Is that a question, Mr Davis?

Mr DAVIS — It is, and I have referenced the SARC report that relates to the minister's second-reading — —

Ms Pulford interjected.

The DEPUTY PRESIDENT — Order! I notify members that there is a buffet dinner in the members dining room. We are not breaking for dinner, but we can take it in turns.

Mr Davis — On a point of order, Deputy President, I just want to understand how this arrangement will apply with the multiple extensions that have occurred and how it will relate to the staff, who obviously need a proper break. Running through like this without proper breaks is a problem.

The DEPUTY PRESIDENT — Order! I have been advised that management will make arrangements for the staff.

Mr Davis — What are those arrangements?

The DEPUTY PRESIDENT — Order! It is irrelevant to the proceedings, Mr Davis.

Mr Melhem — On the point of order, Deputy President, if the opposition are concerned about the wellbeing of the staff, the best thing they can do is stop asking repetitive questions and wasting everyone's time by repeating question after question. I think that would be the best way to actually look after the staff. You could be a little bit more efficient and productive in how this place runs and basically get on with it. That is the best way to look after the staff.

Ms PULFORD (Minister for Agriculture) — The answer to the question is no. The government's response was based on expert advice and that is its position.

Mr DAVIS (Southern Metropolitan) — As I understand it, the case that was referenced in the government's response to SARC actually relates to a planning case in the United Kingdom. It does not relate to the settled law of the High Court of Australia. I want to understand whether the minister is aware of that case and whether she understands the error that the Minister for Public Transport made in her response to SARC, as she steps forward to tear property rights away from people under the fig leaf that they are not property rights.

Ms PULFORD (Minister for Agriculture) — I have provided my answer to Mr Davis about the government's position on this and I am really not very interested in indulging his ridiculous filibuster. There have been comments earlier about the wellbeing of the staff who work for the Parliament, and I concur with Mr Melhem's comments. But my concern and the government's concern is very much about those who want to see this legislation pass so they can have some certainty about their future. If you want to go and pretend to be a constitutional law expert for the rest of the night, knock your socks off.

Mr DAVIS (Southern Metropolitan) — You might regard the deprivation of property as something that should be undertaken lightly. I have read the SARC report carefully and I have actually compared it to other legal opinions that I am aware of. You might want to dismiss those legal opinions and you might want to harshly trample over people in terms of their property rights — —

Ms Pulford — Why don't we talk about the wedding cars again?

Mr DAVIS — No, I am not talking about that; I am talking about perpetual licences here, as I outlined and quoted the Minister for Public Transport's flawed response to SARC. My point here is that I think you — —

Ms Dunn — What is the question?

Mr DAVIS — I am responding to the minister's — —

Ms Hartland — On a point of order, Deputy President, I seek some advice. I understood that the committee of the whole was to ask questions rather than pontificate for a great deal of time. I am wondering whether you could call the member back to actually asking a question.

Mr DAVIS — Would the minister like to indicate which cases the government relied upon in its decision that perpetual taxi licences were not property rights?

Ms PULFORD (Minister for Agriculture) — As I said earlier, the government's position is based on expert advice. If I am able to provide further information for Mr Davis to help him with his newfound interest in these matters, I will take it on notice. We can provide that if further information is able to be provided.

Ms DUNN (Eastern Metropolitan) — I note that the bill provides a definition for 'commercial passenger vehicle service transaction'. It talks about the provision of a single fare as a booked commercial passenger vehicle service or an unbooked commercial passenger vehicle service. In terms of the bill I am wondering how that sits with the provision of different multiple fares. Specifically in terms of services that provide carpooling, how is that accommodated within this definition and the broader bill?

Ms PULFORD (Minister for Agriculture) — Just perhaps a bit of a procedural question back to you, Ms Dunn: do you want to discuss clause 3 definitions?

Ms DUNN (Eastern Metropolitan) — I recognise definitions are within clause 3, but I am just asking the question under the scope of clause 1.

Ms PULFORD (Minister for Agriculture) — The liability to pay the levy is incurred for each commercial passenger vehicle service transaction that is undertaken. A transaction occurs when a booked or unbooked service is undertaken for a single fare. When multiple fares are charged for commercial passenger vehicle services provided to different persons, then multiple transactions have been taken. The levy is payable in respect of each of these transactions.

In relation to carpooling arrangements, which was also part of Ms Dunn's question, if the carpooling

arrangement is not undertaken for commercial purposes or only recovers the cost of fuel, then no levy is payable. The reason is that this type of service is not a commercial passenger vehicle service because it is not undertaken for reward.

Mr DAVIS (Southern Metropolitan) — I have one further question. I just want to hear from the minister how this bill will affect quality and how it will affect the safety of passengers, in particular with taxis.

Ms PULFORD (Minister for Agriculture) — In relation to Mr Davis's question about quality, we certainly support the well-worn, well-understood notion that greater competition drives greater quality. In relation to Mr Davis's question about safety, there are aspects of this that will be more a feature of the second bill rather than the first, but what I can indicate is that for the first time all commercial passenger vehicle drivers will be required to have a police check. That is just one example.

Ms DUNN (Eastern Metropolitan) — I would like to advise members of the house that I will be withdrawing my amendment. In speaking to the reasons why, there is no doubt for the Greens that the impact of the levy on rural and regional Victoria is of great concern to us. We believe that it is patently unfair to shift the burden onto the country disproportionately. It is a matter that I first raised with the minister back in March this year. In terms of the undertakings we have received from the government, we are thankful for the government's commitment to ensure geographic equity as this legislation is rolled out. What we would hope is that, with the second tranche of legislation coming before this house, there will be opportunities to have meaningful conversations a lot sooner than the 11th hour. We will be withdrawing our amendment based on the commitment from the government. What we do want to do is guarantee country Victorians that we will be heavily scrutinising the next bill to make sure that those impacts on rural and regional Victoria are mitigated.

The DEPUTY PRESIDENT — Order! Ms Dunn, are you withdrawing all your amendments?

Ms DUNN — I am withdrawing the amendment in relation to zoning issues.

The DEPUTY PRESIDENT — Order! I ask Mr Bourman to move his amendment no. 1.

Mr BOURMAN (Eastern Victoria) — I move:

1. **Suggested amendment to the Legislative Assembly** —

   Clause 1, line 6, omit "transactions;" and insert "transactions for journeys that begin or end in the Melbourne Metropolitan Zone;".

Pretty well what the Greens member said just then is what I thought, except maybe I am not so trusting. My amendments as a whole are about establishing a Melbourne metropolitan zone and a non-metropolitan zone so that the levy would not apply in any journey beginning in the non-metropolitan zone.

Ms PULFORD (Minister for Agriculture) — Thank you. I disagree with Mr Bourman's assessment that he is not a trusting fellow; that has not been my experience at all. If I could just acknowledge Ms Dunn's earlier comments as well, and her withdrawal of her amendments on this question — they do very much relate to similar concerns. Ms Dunn has had some constructive discussions with Minister Allan over recent days, and we canvassed that earlier in the committee stage.

I will just quickly explain to Mr Bourman the reasons that the government is not able to support his amendment. Mr Bourman's amendment goes to the question of zones. It is very much our intention that in the future zones will not exist, and we do not believe that in a deregulated market they will be necessary. What Mr Bourman's amendment does is prescribe a zonal system, which in effect has people from one zone subsidising the activity in other zones. We actually believe — and this context is important — that our reform will cut the cost of trips in regional Victoria for reasons that we have all canvassed in great detail over the last few hours.

In relation to the abolition of the annual licence fee, we believe it is currently a barrier to entry for new participants in the industry, and with the average trip experience that I have cited on many occasions this evening it really comes at twice the cost of a levy — for average trip use of 5000 or 6000 a year. The change that Mr Bourman is seeking to make would also introduce an administrative and compliance burden. At the moment reporting is required for the number of trips. This would also require information to be collected and provided about pick-up and drop-off locations. We are also concerned that it would lead to inadvertent and potentially intentional tax avoidance.

Whilst we do not support the amendment, we do very much support the principle that Mr Bourman is seeking to advance, which is that of geographic equity. We

want the impact of removing the licence fee and introducing the levy to apply consistently across the state. This is something that has, as everyone knows, been raised through the inquiry, and the government tabled a response to that inquiry's report on Wednesday of this week and a further response in the form of correspondence to Ms Dunn, which I have read into *Hansard* during the course of this discussion. I think we are trying to get to the same place; we just have a different view about what is going to be the most effective and equitable way to get there.

Mr O'DONOHUE (Eastern Victoria) — On behalf of the opposition, we will be supporting Mr Bourman's amendment. We support quarantining this new tax, and we are concerned about the geographical inequality that may flow from these changes. Whilst we note the correspondence to Ms Dunn from Minister Allan and the assurances of the minister, we think it would be a better protection to have this legislative change.

If I could just make one other point, the minister has, in response to questions from me earlier this evening and now in her answer to Mr Bourman, talked about freeing up the marketplace, in effect, and creating new competitors to drive down the price to make sure the marketplace is cost competitive. While cost is definitely a factor in creating extra competition and removing barriers to entry, so is geographic isolation. To return to the example that the minister and I had an interchange about some hours ago now, the reality is that in Orbost, Cann River or Mallacoota the geographic barriers to entry are probably just as big as or bigger than the cost of entry. For all the reasons I have just outlined, the opposition will be supporting the amendment moved by Mr Bourman.

Committee divided on suggested amendment:

Ayes, 18

Atkinson, Mr	Lovell, Ms
Bath, Ms	Morris, Mr
Bourman, Mr	O'Donohue, Mr
Carling-Jenkins, Dr	O'Sullivan, Mr (*Teller*)
Crozier, Ms	Peulich, Mrs
Dalla-Riva, Mr	Ramsay, Mr
Davis, Mr	Rich-Phillips, Mr
Finn, Mr	Wooldridge, Ms
Fitzherbert, Ms (*Teller*)	Young, Mr

Noes, 20

Barber, Mr	Mikakos, Ms
Dalidakis, Mr	Mulino, Mr
Dunn, Ms	Patten, Ms (*Teller*)
Eideh, Mr	Pennicuik, Ms
Elasmar, Mr	Pulford, Ms
Gepp, Mr	Purcell, Mr
Hartland, Ms	Shing, Ms
Jennings, Mr	Springle, Ms
Leane, Mr	Symes, Ms
Melhem, Mr	Tierney, Ms (*Teller*)

Pairs

Ondarchie, Mr	Somyurek, Mr

Suggested amendment negatived.

Ms PATTEN (Northern Metropolitan) — I move:

1. Clause 1, line 6, omit "transactions; and" and insert "transactions— ".

2. Clause 1, after line 6 insert—

"(i) to recover the cost of transitional assistance provided to certain participants in the commercial passenger vehicle industry; and

(ii) to partly fund the regulation of the commercial passenger vehicle industry; and".

These amendments, in essence, effectively hypothecate the levy, which we have heard an awful lot about this afternoon. They really are to ensure that we define a clearer purpose for which the levy is collected, that being to recover the costs of transitional assistance and to partly fund the regulation of the commercial passenger vehicle industry.

I think, as we have heard through the committee process, knowing where the levy is going and that the legislation is ensuring that the levy will go to where it is supposed to go is very important. These amendments clarify that within the legislation and ensure that the levy we raise goes to the people who need it and helps fund the compensation for those who are being affected by this very disruptive time in our commercial passenger vehicle industry. Having listened to the conversations about that lack of clarity, I think this will help us ensure that there is complete clarity about the levy and the purpose for which it will be used. I commend my amendments.

Ms PULFORD (Minister for Agriculture) — I briefly indicate for the record that the government will support Ms Patten's amendments.

Mr O'DONOHUE (Eastern Victoria) — The opposition will be supporting Ms Patten's amendments because we believe fundamentally that the new tax is unfair, so we would support a reduction in that tax, but a new tax still does breach the unequivocal promise of the then opposition leader, now Premier. I am interested to learn more about how this hypothecates the revenue that will flow from this tax.

Ms PATTEN (Northern Metropolitan) — In response to Mr O'Donohue, these two amendments insert in line 6 of clause 1 — straight into the purposes clause of this bill — that it is:

> "(i) to recover the cost of transitional assistance provided to certain participants in the commercial passenger vehicle industry; and
>
> (ii) to partly fund the regulation of the … vehicle industry; and".

It very clearly clarifies within the purposes clause of the bill what this levy will be used for.

Ms DUNN (Eastern Metropolitan) — I rise to indicate that the Greens will be supporting these amendments.

Mr O'DONOHUE (Eastern Victoria) — I appreciate Ms Patten's response to my question and I did note the changes to the purposes clause, but as I understand it, this does not hypothecate any of the revenue.

Mr DAVIS (Southern Metropolitan) — No, it does not. In fact not only does it not hypothecate, but it actually introduces a sinister new element. Let me be quite clear about this — —

An honourable member interjected.

Mr DAVIS (Southern Metropolitan) — On balance we support the reduction but there is a real risk here and I want to hear from the minister that this is not going to be misused.

Paragraph (ii) of Ms Patten's amendment 2 says, 'to partly fund the regulation of the commercial passenger vehicle industry'. One of the things that Treasury likes to do from time to time is to make industries self-fund, and that means the collection of resources to fund the administrative and departmental costs or any costs that are associated with a particular agency that might be associated with that particular industry and the effort at regulation. Whilst the opposition will support this, I sound a note of caution here that this could be used to fund the agency, the bureaucracy or even the department itself in part with respect to this.

Ms PATTEN (Northern Metropolitan) — To clarify, these two amendments, as part of the raft of amendments that I am hoping to make to this bill, also connect this bill back to the Essential Services Commission, which will have some oversight of the levy to ensure that the levy is at its lowest and is there for compensation to the transitional assistance. I have faith that having the Essential Services Commission involved in this will ensure that this levy is not misused.

Mr DAVIS (Southern Metropolitan) — Let me be quite clear: I think that Ms Patten has brought this in very good faith to the chamber, but the plain words here, 'to partly fund the regulation of the commercial passenger vehicle industry', make it clear that the Treasurer, who is collecting this non-hypothecated money into consolidated revenue, could disperse that for purposes other than compensation.

Mr Mulino interjected.

Mr DAVIS — No. It is actually a quite serious point about one of the amendments here. My fear is that, as Ms Patten has outlined, the Essential Services Commission activities will be partially funded by this and that the industry, if it wanted to reduce, for example, the levy at a future point, would be forced to fund those Essential Services Commission appearances according to the plain English as set out here. It might not be Ms Patten's intent, and I understand that. It might not even be the government's intent, but a future Treasurer could drive a truck through that.

Amendments agreed to; amended clause agreed to; clause 2 agreed to.

Clause 3

Ms PATTEN (Northern Metropolitan) — I move:

3. Clause 3, page 5, after line 12 insert—

> "***ESC*** means the Essential Services Commission established by section 7 of the **Essential Services Commission Act 2001**;".

My third amendment inserts a definition of the Essential Services Commission which, as I mentioned in my previous comments, will help to oversee, audit, regulate, ensure that the levy is used appropriately and provide an independent eye over the levy as it becomes instilled into this legislation. I commend my amendment to the committee.

Mr O'DONOHUE (Eastern Victoria) — The opposition will support the amendment.

Ms PULFORD (Minister for Agriculture) — So will the government.

Ms DUNN (Eastern Metropolitan) — The Greens support this amendment.

Amendment agreed to; amended clause agreed to; clauses 4 and 5 agreed to.

Clause 6 — no question put pursuant to standing order 14.15(2).

Clauses 7 and 8 agreed to.

Clause 9 to 11 — no question put pursuant to standing order 14.15(2).

Clause 12

Ms DUNN (Eastern Metropolitan) — In relation to the amendments proposed by the Greens, I just note that Ms Patten's amendment 3 that passed was in fact a test in relation to subsequent amendments circulated by her. Ms Patten's amendments from this point on are in fact similar in their intent and their wording in most cases with the amendments that I circulated as part of my second-reading contribution. Given the alignment with Ms Patten's amendments, the Greens will be withdrawing our amendments.

Ms PATTEN (Northern Metropolitan) — I move:

4. **Suggested amendment to the Legislative Assembly** —

   Clause 12, line 29, omit "$2" and insert "$1".

5. **Suggested amendment to the Legislative Assembly** —

   Clause 12, page 10, line 1, omit "regulations" and insert "regulations, in accordance with section 20(2),".

6. **Suggested amendment to the Legislative Assembly** —

   Clause 12, page 10, line 8, omit "$2" and insert "$1".

Effectively my suggested amendments 4, 5 and 6 reduce the levy in the bill from $2 to $1. I think there has been much discussion during the second-reading debate and also during the committee process about the right point at which to put this levy. I have made no secret since the introduction of this bill — it seems like a terribly long time ago — in the lower house quite some months ago that I felt that a $2 levy was too high. It would reduce compliance, it may also affect the market and the most important thing, going by industry figures, is that we could meet the transitional assistance for those people who will be affected by these changes as a result of significant disruption to our commercial passenger vehicle industry. We are going through significant change. We must ensure that these people are compensated and that we are doing that well. I note that the government has already budgeted for much of that compensation, but I feel very comfortable that $1, on the very conservative figures that I went through in my second-reading debate speech, will ensure compliance, ensure fairness and ensure that the compensation is paid and that transitional assistance, as the Premier has announced, of some $500 million can be met.

This further links to my inclusion of the Essential Services Commission, which will ensure oversight and review of that levy to ensure that the levy is meeting that goal of compensating the people affected by this significant change to legislation, but also to ensure that the government is not trying to take advantage of this levy and trying to increase it. I think having an independent assessment and review will ensure this, and I do not think anybody is in any doubt that a $1 levy is fairer, will create far greater compliance and will also address the needs of those seeking the transitional assistance. I commend the amendments.

Ms DUNN (Eastern Metropolitan) — In relation to the suggested amendments proposed by Ms Patten to reduce the levy to $1, as I outlined in my contribution on this bill last night, we are very concerned about the impact a $2 levy would have on people. It was certainly a recurrent theme in the inquiry into this bill, particularly for those people who make many short trips. Often the people who are making these trips are pensioners or low-income earners or indeed young people who are students, and $2 on a short trip with a low value is a high impost, so I think it is a sensible amendment. One dollar strikes a compromise position between no levy at all and $2, which is far too much in the Greens view in relation to this. We will certainly be supporting these amendments, which of course are in line with what the Greens had proposed.

Ms PULFORD (Minister for Agriculture) — The government is supporting these suggested amendments.

Mr O'DONOHUE (Eastern Victoria) — Similarly, the opposition will be supporting these suggested amendments. We do not agree with the creation of a new tax, but $1 is better than $2.

Suggested amendments agreed to; clause postponed.

Clauses 13 and 14 agreed to.

Clauses 15 to 19 — no question put pursuant to standing order 14.15(2).

Clause 20

Ms PATTEN (Northern Metropolitan) — I move:

7. **Suggested amendment to the Legislative Assembly** —

   Clause 20, line 6, after "(b)" insert "subject to subsection (2),".

8. **Suggested amendment to the Legislative Assembly** —

Clause 20, after line 13 insert—

"( ) The Minister must not recommend the making of regulations specifying an amount of $1 or more as the amount of the levy unless the ESC recommends the specification of that amount in accordance with subsection (3).

( ) The ESC must not recommend the specification of an amount unless the ESC is satisfied that it is the lowest amount that is reasonably likely to result in the total amount of the levy collected within 8 years of the commencement of this Part being equal to the money spent on transitional assistance.

( ) For the purposes of subsection (3), the ***money spent on transitional assistance*** is the total amount paid by the State (whether as compensation or otherwise) to participants in the commercial passenger vehicle industry to assist those participants in relation to changes to the law that applies to that industry as compared with that law as in force immediately before the commencement of this Act.".

My suggested amendments 7 and 8 really clarify the making of the regulations set out there, but they also ensure that this levy is kept at the lowest level possible. As Ms Dunn and the Greens have stated, the concern we have for low-income users, the concerns we have for students and for people with disabilities mean it is very important to manage this level. My amendments 7 and 8, which are my final amendments, ensure that the minister cannot increase the levy without a recommendation from the independent Essential Services Commission and that any increase in the levy may only be to the lowest amount required to repay the transition assistance package within eight years.

It also goes on to further define transitional assistance and what we mean by transitional assistance. If I may, I will just say I think this ensures, as we have been debating in our second-reading contributions and within the committee, that we acknowledge that we need to pay assistance to the people who have been hugely affected by the changes in this industry, the disruptive nature of technology in our 21st century, and how these are changing. But it provides an oversight through the Essential Services Commission to ensure that this levy stays for as short a period as possible and remains as low as possible. I hope people agree that this adds to the bill and will hopefully provide some assurance both to low-income people in Victoria and also to those who will be receiving transitional assistance. I commend the suggested amendments to the committee.

Ms DUNN (Eastern Metropolitan) — I thank Ms Patten for her suggested amendments 7 and 8. Certainly I think that review process lends more rigour in terms of assessment of the levy, quarantines the recovery of those funds to eight years and provides independent oversight into how that levy might be determined into the future. What I do find extraordinary is in fact that a suggested amendment by Ms Patten is required to achieve this and that this was not a provision of the bill. I commend Ms Patten on this particular amendment. I think it adds greatly in terms of passengers in the future and what they may expect to pay in relation to this levy. The Greens will be supporting these suggested amendments.

Suggested amendments agreed to; clause postponed.

Clauses 21 to 80 agreed to.

Progress reported.

Suggested amendments and amendments reported to house.

Report adopted.

Ordered to be returned to Assembly with message informing them of decision of house.

ADJOURNMENT

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

That the house do now adjourn.

Frankston police numbers

Mr O'DONOHUE (Eastern Victoria) — I raise a matter for the attention of the Minister for Police. I have recently received representations from the mayor of the City of Frankston, Cr Brian Cunial, who has brought to my attention and indeed the attention of the Minister for Police and other members of the Parliament the shortage of police in Frankston. As we know, there has been a significant increase in crime right throughout Victoria in the last two years, and Frankston has not been immune to this crime wave. We have also seen in recent times under the Andrews government the hours of the Carrum Downs police station cut, which has caused concern among members of the community.

The action I seek is that the minister take heed of the mayor's request for additional police resources and raise this request with the Chief Commissioner of Police with a view to securing the extra police that Frankston needs. We have had two lost years under the Andrews government, when police numbers have

virtually remained unchanged. The police numbers as they stand today still have been cut per capita and the number of frontline police at stations around Victoria is only up by eight since the change of government in November 2014.

Clearly there is a lot of work to be done to deliver the extra police that the government has promised, and the action I seek is that the minister talk and work with the chief commissioner to deliver the extra police resources to Frankston that it needs.

Nathalia Recreation Reserve

Ms LOVELL (Northern Victoria) — My adjournment matter is to the Minister for Sport, and it is regarding the need for lighting for the Nathalia Recreation Reserve. My request of the minister is that he supports a grant application from the Nathalia community for lighting at the Nathalia Recreation Reserve and provides a state government financial contribution to assist in implementing lighting at the reserve.

The Nathalia Football and Netball Club is seeking state government funding support to have lighting installed at the Nathalia Recreation Reserve. The project would be a major upgrade to the lighting so that it can meet the AFL standards required for training and night games. Currently the club advises that lighting is 'extremely substandard' and does not reach the minimum requirement for training, restricting the ability for use of the facilities.

There are nine netball and four football sides that use the grounds, including the Northern Angels women's football team, which the Nathalia and district football club would like to showcase in night games. Football and netball players train two nights a week but are restricted with early nightfall in the winter. If lighting is installed, the club would be able to host evening and night matches and would be the only one in the Murray Football League within the Shire of Moira with the capacity to host such games.

The Nathalia Football and Netball Club says that Nathalia is the ideal spot for interleague training, as it is centrally located. The project will increase safety at the reserve and will open up more community opportunities there, which would be a drawcard for the small township. Other user groups, including Little Athletics, Nathalia Agricultural Society and the Show N Shine car show have also flagged interest in using the space for evening events.

The project, which comprises four towers on the oval and two on the netball courts, has been quoted at around $230 000. The club itself has spent years fundraising and has raised $65 000 towards the project. The Nathalia Football and Netball Club hopes Moira shire will match the $65 000 the club has raised, and it wishes to secure the balance through Victorian sports grants. Moira shire has committed to working with the club to prepare applications under the government's sport and recreation funding programs.

My request to the minister is that he supports the grant application from the Nathalia community for lighting at the Nathalia Recreation Reserve and provides a state government financial contribution to assist in implementing lighting at the reserve.

Port Phillip police numbers

Ms FITZHERBERT (Southern Metropolitan) — My adjournment matter is for the Minister for Police. It relates to Carlisle Street in my electorate. There have been reports and concerns raised about crime and antisocial behaviour on Carlisle Street. A very troubling report has come to light from Acting Inspector Stuart Bailey of Victoria Police, who has been quoted in the local *Leader* as saying he is:

> 'struggling' to provide enough members to tackle crime in the area.

He said:

> We're smashed with jobs to go to and the truth is, at times, we're struggling to meet demands …
>
> Everyone wants to see visible policing but I am struggling to provide that at the moment.

He went on to say:

> I'd be lying to say I could put a foot patrol in because I just haven't got the resources.

And there are reports from residents who have called for police attention but have been unable to receive this quickly, even when they have serious concerns about their physical safety. One resident named Christine gives an example of barricading herself in a shop in an area with children, calling 000 and the police being unable to turn up.

I want to stress that nobody is blaming the police for this state of affairs. They are doing their best in very, very difficult circumstances. This is an issue that we hear time and time again in relation to police resources and people calling for assistance when they desperately need it being unable to get.

The article continues:

> Acting Inspector Bailey said he was 'greatly embarrassed' officers had failed to show up to emergency calls.

I am concerned because although he has welcomed reports of additional police resources being put onto the streets over the next five years, he says that most are likely to go to growth areas. He said:

> More cops will be sent to population boom areas, but I believe (Port Phillip) is pretty low in the pecking order …

So the action I am seeking from the Minister for Police is an explanation of where Port Phillip will be in terms of the allocation of police resources that have been promised by the government over the next five years.

Sunbury police station

Mr FINN (Western Metropolitan) — I wish to raise a matter this evening for the attention of the Minister for Police. I have very great concern about law and order and the safety of the community in Sunbury and surrounds. The Sunbury police station is slated as a 24-hour police station, but I have received reports in very recent times from constituents who tell me that they have attempted to contact the Sunbury police station by phone without success. On other occasions others have actually gone to the police station and it has been locked. So obviously the claim that it is a 24-hour police station does not hold water.

This obviously impacts the safety of the local community, and I know in my own area, Bulla, the crime rate of recent years has just gone through the roof, so we really do need to ensure that the Sunbury police station is up and operating on a 24-hour-a-day basis, seven days a week. It concerns me enormously when I hear these stories that that is actually not the case.

The minister has announced that there will be, I understand, 36 new police officers for Hume in the not-too-distant future. I am asking the minister tonight, along with the Chief Commissioner of Police of course, to ensure that of those 36 police officers there are at least enough of them allocated to the Sunbury police station to ensure that Sunbury is a 24/7 station. I think this is an extraordinarily important issue. Sunbury unfortunately is not immune from the crime tsunami that is sweeping Victoria, and we really do need that 24-hour presence to ensure that Sunbury people are properly protected.

I ask the minister to speak to the chief commissioner and to deal with the chief commissioner in whatever way she feels necessary to ensure that the Sunbury police station is provided with the necessary officers so that indeed it is open 24 hours a day, seven days a week.

Marine rescue services

Ms BATH (Eastern Victoria) — My adjournment matter this evening is for the Minister for Emergency Services, the Honourable James Merlino, in the other place. The action I seek from the minister is to provide funding assistance to support up to 20 flotillas for the marine rescue services along our wonderful coast of Victoria. Disappointingly there was a big black hole when it came to funding support for coastguards in the 2017–18 budget, and many coastguards in Eastern Victoria Region, my patch, are feeling it.

The coastguards in my patch exist in the areas of Port Welshpool, Port Albert, Paynesville, Mallacoota and Marlo, and whilst we have the most magnificent coastline in Gippsland, we also have some treacherous waters, we have currents that fluctuate, we can have changing weather conditions and we have a number of estuaries and our inland lakes. In fact across Victoria we have 170 000 current recreational boat users — that is both motor and sailboats — and with projected increases we are expecting up to 200 000 recreational boat users in the next five to 10 years. So as to why on earth there is no proper recurrent funding in the budget, I am gobsmacked, as are many of my constituents.

In actual fact there are important maintenance operations that they need to conduct on a regular basis to keep their service craft in operation. They have operational and maintenance costs, and they need fuel and ongoing training. This is not being provided for by the current government in the current system, and it needs to change. They do not need to be going cap in hand to the government for support. They do not need to be running chook raffles or barbecues for a volunteer service that provides so much benefit to our people across Victoria, but particularly those in the coastal Victoria region, and promotes safety in our holiday zones. Again I ask the minister — and I identify that it is very important — that he provide funding assistance, whether it be in the form of grants this year, for our coastguards so that they can continue doing the fantastic work that they do to keep us safe.

Building industry regulation

Mr DAVIS (Southern Metropolitan) — My matter for the adjournment tonight is for the attention of the Minister for Planning in the other place. We have all been shocked by what we have seen with respect to the Grenfell Tower fire and the terrible toll that has

occurred there, whatever the final number. It is a reminder that these building standards and the structure that we have in terms of our regulation are incredibly important and that in the end lives depend on it.

Of course we had our own Lacrosse building fire here, which was a significant wake-up call. I know the Victorian Building Authority (VBA) did significant work following that. The work that the VBA did showed that a number of buildings were non-compliant in terms of their use of cladding. I understand there is the national code, I understand there is also the role of architects and building surveyors and it is a complex process, but the point here is that this is not something that can wait.

I think the minister has got himself into a bit of trouble on some of these matters in recent days. There was an interview on Radio National, which I do not think was a glorious interview, and the *Age* has editorialised to say:

> We have scant confidence in Victorian Planning Minister Richard Wynne's brazen assurance that a fire of a similar size to the one at Grenfell Tower is not possible in Melbourne or elsewhere in Australia because we have 'the best building codes of any First World country'. The best codes in the world are useless unless complied with. Again, given the potential consequences, we urge the authorities to be extremely cautious.

These are timely warnings. There is really a very significant risk. We have seen what has happened in England, and we now know that the situation is not perfect here. The minister seems to have made some movement in the last 24 hours as he has woken up with a bit of a jolt. The truth of the matter is that there are risks and there are buildings here that do not comply, we know that from the audit that has been done.

The action I am seeking from the minister is that he order a further and comprehensive audit to provide the assurance that the Victorian people need. Buildings need to be checked carefully. There needs to be a proper audit. We cannot take the risk. I for one am quite concerned, as I think are many others. We have seen those images, and we know the risk, so we need to have that assurance. As I say, I am not convinced that the minister has taken action quickly enough, nor I think has the VBA. The VBA has got to move more swiftly. In the end, the minister is responsible, and he must order a further comprehensive audit to provide the assurance that is needed.

Voluntary assisted dying

Mrs PEULICH (South Eastern Metropolitan) — I wish to raise a matter for the attention of the Minister for Health in another place. It is in relation to a petition that I received yesterday by mail that I would have liked to have tabled here in the Parliament, but regrettably on the advice of the Legislative Council table officers and the clerks, it was not in the correct format. The petition, which is in relation to assisted suicide and euthanasia, has in excess of 1000 signatories drawn predominantly from the Holy Family parish in Doveton. The petition's covering letter says:

> These signatures were gathered over two weekends from our community.
>
> In short, we oppose the introduction of assisted suicide and euthanasia in Victoria.
>
> Euthanasia is the deliberate destruction of human life; assisted suicide is helping someone to destroy their own life. Our community opposes homicide and suicide and affirms the laws against such actions that now protect all Victorians.
>
> We urge you to support the further development and access to quality palliative care services. We know that we have the ability to relieve suffering at the end of life. We also know that not everyone currently has access to this kind of care on an equal basis.
>
> We acknowledge that not all members of our community will necessarily reside in your electorate.

That is because it is directed to me.

> Our intention is simply to raise the concerns of our community with you for consideration.
>
> Please support better care and please vote 'No' to euthanasia and assisted suicide.

The petition says:

> Proposal of the government of Victoria to introduce legislation to legalise voluntary assisted dying (suicide) euthanasia.
>
> I wish to express my total disagreement with the notion of euthanasia or assisted suicide —

which is being considered by the government of Victoria. Most of the signatories are from South Eastern Metropolitan Region, but there are quite a few also from Eastern Metropolitan Region and Southern Metropolitan Region.

I ask the minister to ensure that those who were not included in the consultation for the first committee report, and subsequently those from faith communities, be invited to have a proper briefing and be given an opportunity to ask questions on this issue that is obviously of enormous concern to them as the spiritual guides of our faith communities who have significant concerns about the introduction of euthanasia in Victoria.

Responses

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I have adjournment matters from Mr O'Donohue for the Minister for Police regarding more police for Frankston; from Ms Lovell to the Minister for Sport regarding funding for a local netball club to improve its lighting; from Ms Fitzherbert to the Minister for Police regarding the allocation of police resources in Port Phillip; from Mr Finn to the Minister for Police asking for enough resources to be provided to Sunbury to ensure that the 24-hour police station remains a 24-hour police station; from Ms Bath to the Minister for Emergency Services seeking that he fund up to 24 services for coastguards along the Eastern Victoria Region coastline; from Mr Davis to the Minister for Planning asking for a building audit of compliance; and from Mrs Peulich to the Minister for Health requesting further consultation for faith communities in relation to the proposed euthanasia legislation.

On top of that I have a written response to the adjournment matter raised by Mr Morris on 24 May.

RULINGS BY THE CHAIR

Member conduct

The PRESIDENT — Order! I was asked by way of a point of order at the outset of the day to review the Hansard footage from last evening. I undertook to do that and also to check the written record.

On that basis I would indicate that from my perspective Mr Dalidakis, as minister, did not act inappropriately. His remarks by way of interjection were not unparliamentary as they were captured by Hansard, and there was nothing to suggest that his behaviour in any way reflected badly on the Parliament. The minister seeking to have me come into the chamber at the time was probably appropriate given a remark made from the chair which I thought was, in reviewing the tape, the most serious issue that came to me as part of that review.

The house is now adjourned until Tuesday, 8 August.

House adjourned 7.47 p.m. until Tuesday, 8 August.